

Kitsap County Shoreline Master Program

Consistency Analysis Report

Prepared on behalf of:



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November 25, 2020

The Watershed Company Reference Number:
190347

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1. Introduction

In accordance with the Washington State Shoreline Management Act (SMA), local jurisdictions with “Shorelines of the State” are required to conduct a periodic review of their Shoreline Master Programs (SMPs) (Washington Administrative Code [WAC] 173-26-090). The periodic review is intended to keep SMPs current with amendments to state laws, changes to local plans and regulations, and provide clarifications to existing code to improve functionality and clarity.

Shoreline jurisdiction in Kitsap County (County) includes marine and freshwater shorelines (lakes and streams) listed in Kitsap County’s *2010 Shoreline Inventory and Characterization Report*. The Hood Canal and Puget Sound are designated as shorelines of statewide significance.

The Department of Community Development (DCD) manages the Kitsap County Shoreline Master Program (SMP). The most recent comprehensive review of the SMP was completed in December 2014 (Ord.519-14). The goals and policies of the SMP are located in chapter 22.300 of Kitsap County Code (KCC) but are a part of Kitsap County’s Comprehensive Plan in accordance with RCW 36.70A.480. The remainder of the SMP is in the implementing development regulations that are located in title 22 KCC, ‘Shoreline Master Program,’ and its detailed appendices.

One of the appendices incorporated select provisions of the County’s 2007 Critical Areas Ordinance (CAO), Title 19 KCC. This was done following the legislature’s clarification in 2010 regarding the responsibility for protecting critical areas as between the Growth Management Act (GMA) and the SMA. Under RCW 36.70A.480, as modified in 2010, GMA was to regulate critical areas under critical area ordinances until a jurisdiction adopted a comprehensive SMP update. The 2014 SMP was the County’s comprehensive update and preparations for it started in 2009 shortly after the 2007 CAO was adopted. It was also adopted a mere two years after litigation on the CAO was finally complete in 2012. It was thus determined that no substantive updates were needed to the CAO for critical areas in the shoreline and it was best to just incorporate by reference the relevant CAO provisions into the 2014 SMP.

As a first step in the periodic review process, the County’s current SMP was reviewed by staff and the consultant. The purpose of this Consistency Analysis Report is to provide a summary of the review and inform updates to the SMP with input from County staff and legal review. This report is organized into the following sections:

- **Section 2** identifies gaps the SMP has in consistency with state laws. This analysis is based on a list of amendments between 2007 and 2019 as summarized by the Washington State Department of Ecology (Ecology) Periodic Review Checklist.
- **Section 3** identifies sections in the SMP that needs updating to be consistent with current critical areas regulations (KCC Title 19) and Ecology’s updated guidance. Select sections of KCC Title 19 are incorporated by reference into the current SMP.

- **Section 4** identifies gaps in consistency with the County’s Comprehensive Plan, and with implementing sections of the County’s development regulations, except critical areas regulations that are addressed in Section 3.
- **Section 5** identifies other issues to consider as part of the periodic update process to produce a more effective SMP, including those issues identified by planning staff since implementation of the 2014 SMP.

This report includes several tables that identify potential revision actions. Where potential revision actions are identified, they are classified as follows:

- **“Mandatory”** indicates revisions that are required for consistency with state laws.
- **“Recommended”** indicates revisions that would improve consistency with state laws but are not strictly required.
- **“Optional”** indicates legislative amendments or updated Ecology guidance can be adopted at the County’s preference but are not required.
- **“No action necessary”** indicates the current SMP meets the intent of or already contains listed legislative updates, changes to critical areas, comprehensive plan or zoning code.

This document attempts to minimize the use of abbreviations; however, a select few are used to keep the document concise. These abbreviations are found below in Table 1-1.

Table 1-1. Abbreviations used in this document.

Abbreviation	Meaning
BAS	Best Available Science
CAO	Critical Areas Ordinance
County	Kitsap County
DCD	Department of Community Development
Ecology	Washington State Department of Ecology
KCC	Kitsap County Code
RCW	Revised Code of Washington
SMP	Shoreline Master Program
SED	Shoreline Environment Designations
SDP	Shoreline Substantial Development Permit
WAC	Washington Administrative Code

2. Consistency with Legislative Amendments

Table 2-1 summarizes potential revisions to the County’s SMP based on a review of consistency with amendments to state laws identified in the Periodic Review Checklist provided by Ecology. Topics are organized chronologically by year.

Overall, few mandatory revisions are identified as the SMP was updated in 2014, with several more indicated as recommended or optional. In general, the potential revisions identified in the Periodic Review Checklist are minor in nature. They primarily concern cost thresholds revisions, definitions, and administrative procedures.

Table 2-1. Summary of consistency with amendments to state laws and potential revisions.

Row	Summary of change	Review	Department Recommendation
2019			
a.	Washington State Office of Financial Management (OFM) adjusted the cost threshold for building freshwater docks	<p>In addition to the general Shoreline Substantial Development Permit (SDP) cost threshold (see item 2017a below), the SMA includes a separate dollar threshold when freshwater docks trigger an SDP.</p> <p>KCC 22.500.100.C.3.h references out of date dollar figures for new and replaced docks.</p>	<p>Mandatory: The County should update the single-family freshwater dock cost thresholds as follows:</p> <p>KCC 22.500.100.C.3.h <i><u>(ii) In fresh waters, the fair market value of the dock does not exceed \$22,500 for docks that are constructed to replace existing docks, are of equal or lesser square footage than the existing dock being replaced.</u></i></p> <p><i><u>(iii) In fresh waters, the fair market value does not exceed \$11,200 dollars for all other docks constructed.</u></i></p> <p><i><u>(iv) In relation to subsections (ii) and (iii), if subsequent construction occurs within five years of completion of the prior construction and the combined fair market value of the subsequent and prior construction exceeds the amount specified above, the subsequent construction shall be considered a substantial development for the purpose of this chapter.</u></i></p>

Row	Summary of change	Review	Department Recommendation
			<p><u>(v) the dollar thresholds established in this subsection is adjusted for inflation by the Washington State Office of Financial Management every five years.</u></p> <p>Optional:</p> <p>SMP may reference WAC 173-27-040 which lists exemptions from the requirement to obtain a shoreline substantial development permit (SDP).</p> <p>Staff may also revise applications at the permit center with a new cost threshold.</p>
b.	<p>The Legislature removed the requirement for a shoreline permit for disposal of dredged materials at Dredged Material Management Program sites (<i>applies to 9 jurisdictions</i>)</p>	<p>No Dredged Material Management Program sites are located within Kitsap County’s shoreline jurisdiction. The legislative amendment does not apply.</p>	<p>No action necessary.</p>
c.	<p>The Legislature added restoring native kelp, eelgrass beds and native oysters as fish habitat enhancement projects.</p>	<p>Habitat enhancement project exemptions are discussed in KCC 22.500.100.C.3.p which references RCW 77.55. The existing regulation captures this update.</p>	<p>No action necessary.</p>

Row	Summary of change	Review	Department Recommendation
2017			
a.	OFM adjusted the cost threshold for substantial development to \$7,047.	<p>KCC 22.500.100.C.3.a references an out of date dollar figure but does provide an indication that the dollar threshold changes periodically for inflation.</p> <p>KCC 22.150.605 'Substantial Development' also references an out of date dollar threshold for exemptions.</p>	<p>Mandatory:</p> <p>Update the cost threshold in the shoreline exemptions and definitions; adding 'as amended'.</p>
b.	Ecology permit rules clarified the definition of "development" to not include dismantling or removing structures, consistent with 1992 case law.	KCC 22.150.230 'Development', does not capture the legislative update.	<p>Recommended:</p> <p>The County should consider amending the definition of 'Development' with Ecology's recommended language:</p> <p><i><u>"Development" does not include dismantling or removing structures if there is no other associated development or re-development.</u></i></p>
c.	Ecology adopted a new rule consolidating exceptions to local review under the SMA found in other laws.	The SMP does not address exceptions to local review under WAC 173-27-044 and -045.	<p>Recommended:</p> <p>Add WAC 173-27-044 and -045 reference and list all exceptions in the SMP.</p>
d.	Ecology amended rules clarifying permit filing procedures	The SMP adopts the provisions of WAC 173-27-130 by	No action necessary.

Row	Summary of change	Review	Department Recommendation
	consistent with a 2011 statute.	reference in KCC 22.500.105.A.9. KCC 22.500.100.B.5 also references permit filing but does not detail process.	
e.	Ecology amended forestry use regulations to clarify that forest practices that only involves timber cutting are not SMA “developments” and do not require SDPs.	KCC 22.600.145.A, states that standard Forest Practice activities without development do not require a shoreline permit.	<p>Recommended:</p> <p>It is not necessary to amend local SMPs to reflect the legislative action, however the following addition may improve clarity in the County’s SMP, Section 22.600.145:</p> <p><u><i>A forest practice that only involves timber harvesting is not a development under the act and does not require a shoreline substantial development permit or a shoreline exemption. A forest practice that includes activities other than timber cutting, such as new or recommissioned roads, grading, culvert and stream crossings, may be considered development. Therefore, these activities require a substantial development permit per WAC 222-50-020.</i></u></p>
f.	Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction	SMP Section 22.100.120(B) and (C) discusses SMA applicability to federal lands but does not clarify federal lands are SMA exempt.	<p>Recommended:</p> <p>The County contains federally owned shoreline. Add the following language to Section 22.100.120(D):</p> <p><u><i>Lands Under Exclusive Federal Jurisdiction. Areas and uses in those areas that are under exclusive Federal jurisdiction as established through federal or state statutes are not subject to Chapter 90.58 RCW or KCC Title 22.</i></u></p>

Row	Summary of change	Review	Department Recommendation
g.	Ecology clarified “default” provisions for nonconforming uses and development .	The SMP includes tailored provisions for existing development added during comprehensive SMP update in 2014 .	No action necessary.
h.	Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews .	This is optional and the current SMP does not address the periodic review scope or procedure in detail, but directly references RCW 90.58.080 and WAC 173-26-090. It is not necessary to consider reviewing sections of code for consistency.	No action necessary.
i.	Ecology adopted a new rule creating an optional SMP amendment process that allows for a shared local/state public comment period.	The SMP does not address the optional consolidated amendment process, nor is it required to. This is already included in WAC 173-26-104.	No action necessary.
j.	Submittal to Ecology of proposed SMP amendments.	KCC 22.500.105. I.1-2 generally describes the amendment process and criteria. This is already included in WAC 173-26-110 and WAC 173-26-120.	No action necessary.

Row	Summary of change	Review	Department Recommendation
2016			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structures to comply with the Americans with Disabilities Act (ADA) .	Shoreline exemption summary list does not capture update.	<p>Mandatory:</p> <p>The County should add the following exemption language:</p> <p><i><u>The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.</u></i></p>
b.	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	The County adopted their critical areas ordinance (CAO) in July 2017 but did not update the SMP at the same time. The SMP references the 2004 wetland rating system.	<p>Mandatory:</p> <p>Revise SMP Appendix E by incorporating the July 2017 CAO update by reference. See section 3 below for discussion.</p>
2015			
a.	The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects.	SMP does not address the review of WSDOT projects. While it is not required to include these provisions in the SMP, clear direction in the code may be valuable given WSDOT's significant presence.	<p>Recommended:</p> <p>Consider amending SMP to define special procedures for WSDOT projects per WAC 173-27-125 under Section 22.500.</p>

Row	Summary of change	Review	Department Recommendation
2014			
a.	The Legislature created a new definition and policy for floating on-water residences (FOWRs) legally established before 7/1/2014.	The County's SMP already addresses live-aboards by definition (KCC 22.150.375) and regulation within marinas (KCC 22.600.125.C.2).	No action necessary.
2012			
a.	The Legislature amended the SMA to clarify SMP appeal procedures.	SMP does not contain specific steps or language for appealing amendments. This is already addressed in RCW 90.58.190.	No action necessary.
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual.	Addressed in 2014 comprehensive update. The critical areas ordinance (2017) incorporates the approved federal wetland delineation manual.	Recommended: Update Appendix E, to adopt current CAO by reference. Note, the 2017 CAO includes reference to use of future amended delineation manuals.
b.	Ecology adopted rules for new commercial geoduck aquaculture.	Addressed in 2014 comprehensive update.	No action necessary.
c.	The Legislature created a new definition and	Addressed in 2014 comprehensive update.	Recommended:

Row	Summary of change	Review	Department Recommendation
	policy for floating homes permitted or legally established prior to January 1, 2011.	“Floating home” is undefined. SMP should incorporate Ecology recommended definitions.	<p>Add clarification to legislative update in Section 22.600.170.B.4:</p> <p><i>A floating home permitted or legally established prior to January 1, 2011 is considered a conforming use.</i></p> <p>Add state recommended definition for ‘Floating homes’ to Section 22.150.</p>
d.	The Legislature authorized a new option to classify existing residential structures as conforming.	Section 22.400.100 ‘Existing Development’ provisions, establish when and how nonconforming structures can be continued, expanded, maintained, or repaired.	No action necessary.
2010			
a.	The Legislature adopted Growth Management Act – Shoreline Management Act clarifications.	The SMP regulates critical areas in shoreline jurisdiction by reference to a specific, dated critical areas ordinance (CAO). Modifications and exclusions for implementation of the CAO within shoreline jurisdiction are included in the SMP.	<p>Mandatory:</p> <p>Revise shoreline critical area reference in Appendix E and Sections 22.400.115(B)-(G) as necessary for SMA compatibility.</p>

Row	Summary of change	Review	Department Recommendation
2009			
a.	The Legislature created new “relief” procedures for instances in which a shoreline restoration project within a UGA creates a shift in Ordinary High Water Mark.	Addressed in the 2014 comprehensive update. SMP includes reference to RCW 90.58.580 but does not include regulatory criteria for relief or reference to WAC 173-27-215.	Recommended: Modify language with direct reference to criteria in WAC 173-27-215.
b.	Ecology adopted a rule for certifying wetland mitigation banks .	Adopted by reference into the SMP, allows the use of certified wetland mitigation banks under KCC19.200.230, ‘Wetland Mitigation Requirements’.	No action necessary.
c.	The Legislature added moratoria authority and procedures to the SMA.	Moratoria procedures are not required in the SMP and the County may rely on WAC 173-27-085, if they choose to use moratoria provisions.	No action necessary.
2007			
a.	The Legislature clarified options for defining "floodway" as either the area that has been	The current SMP references Title 15, Flood Hazard Areas, which defines “Floodway.” However, this	Recommended : Revise the existing ‘Floodway’ definition found in Title 15(KCC 15.08.140) to reference the FEMA maps:

Row	Summary of change	Review	Department Recommendation
	<p>established in FEMA maps, or the floodway criteria set in the SMA.</p>	<p>floodway definition does not meet the criteria established in the statute. Options include using the FEMA maps to define the floodway or use the SMA biological definition.</p>	<p><u><i>"Floodway" means the area that has been established in effective federal emergency management agency flood insurance rate maps or floodway maps. The floodway does not include lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.</i></u></p> <p>Reconcile definitions in Title 15 and Title 22 for floodways.</p>
<p>b.</p>	<p>Ecology amended rules to clarify that comprehensively updated SMPs shall include a list and map of streams and lakes in shoreline jurisdiction.</p>	<p>SMP Section 22.200.100 describes areas 'in shoreline jurisdiction' but the SMP does not contain a comprehensive list of waterbodies. Per County staff several lakes and stream segments in shoreline jurisdiction are unnamed.</p>	<p>Mandatory: Insert a table listing all streams and lakes in shoreline jurisdiction from the 2010 Kitsap County Shoreline Inventory and Characterization Report (Pgs. 430-447), to 'Appendix A' or Section 22.200.100.A.</p>
<p>c.</p>	<p>Ecology's rule listing statutory exemptions from the requirement for an SDP was amended to include fish habitat enhancement projects that conform to the provisions of RCW 77.55.181.</p>	<p>Addressed in 2014 comprehensive update.</p>	<p>No action necessary.</p>

3. Critical Areas Regulations Consistency Analysis

As noted above, the current SMP incorporated by reference certain provisions of the County’s critical areas ordinance (CAO) (KCC Title 19) that were in effect during the 2014 SMP update in order to regulate critical areas in the shoreline jurisdiction. During this periodic review, it is thus necessary to determine whether and how to further integrate and update these CAO provisions in to the SMP. A complex approach is to craft new regulations for the critical areas within the SMP regulations itself. A simple approach is to update Appendix E to adopt the 2017 CAO by reference in the SMP. Both options must satisfy the SMA’s no net loss requirements. Table 3-1 summarizes potential updates to the SMP related to critical areas regulations.

Table 3-1. Consistency Review of County SMP and CAOliting potential revisions.

#	Issue	Review	Department Recommendation
1	SMP currently references an older version of the CAO	The SMP adopts by reference (as SMP Appendix E) the former critical area regulations in KCC Title 19, dated February 26, 2007.	Recommended: Update the cross reference in Appendix E to reference the most current CAO provided all provisions meet the SMA’s no net loss standard.
2	July 2018 Ecology Wetland Buffer Guidance Update	Ecology updated their wetland rating guidance in July 2018. Changes include modified habitat score ranges in wetland buffer tables.	Recommended: The updated wetland rating guidance must be included in the SMP, but merely updating the Appendix E reference to the 2017 CAO does not fix this. It is thus recommended to also revise KCC 19.200.220 wetland buffer tables to be consistent with current Ecology guidance and then incorporate by reference the updated CAO by in the SMP.
3	Review Modified SMP CAO Provisions	KCC 22.400.115 describes which provisions of the countywide CAO apply to the SMP. This section may be streamlined and further analyzed for consistency with the 2017 CAO update.	Recommended: Review SMP Section 22.400.115 for policy consistency with current CAO.

#	Issue	Review	Department Recommendation
4	Update KCC Cross-References	Since the critical area regulation update in 2017, the CAO references in KCC 22.400.115 have changed.	Recommended: Revise KCC Title 19 cross-references and remove any SMP provisions that do not comply with Ecology wetland guidance in SMP Section 22.400.115.F.

Ecology Wetland Buffer Guidance

In July 2018, Ecology updated its guidance for wetland buffers. The change in guidance is the result of Ecology’s continued evaluation of the 2014 wetland rating system as it relates to the 2004 wetland rating system. Ecology’s intent was that the change from the 2004 to 2014 rating system would not significantly affect resulting buffers. According to Ecology’s 2018 calibration, their guidance suggests that wetlands with a habitat score of 5 should be considered “low” functioning rather than “low/medium” functioning. This generally results in a smaller wetland buffer for those with a habitat score of 5 when compared to the County’s current critical area regulations in KCC 19.200. Notably, no changes will occur to wetlands scoring high in habitat function.

If adopted, new wetland buffers may differ slightly from the existing tables in KCC (see Tables 3-2 and 3-3 below). Three factors will continue to determine the wetland buffer widths aligning with state law: the wetland category, the intensity of the land use impacts, and the wetland functions or special characteristics that need to be protected.

Table 3-2 Existing KCC 19.200.220(B)-(E) wetland buffer summary table (in feet)

KCC 200.220(B)-(E)	Buffer Width by Impact of Proposed Land Use		
Wetland Category & Characteristics	<i>Low</i>	<i>Moderate</i>	<i>High</i>
Category I: Wetlands of high conservation value and Bogs	125	190	250
Category I: Estuarine and Wetlands in coastal lagoons	100	150	200
Category I: High level of function for habitat or Interdunal wetland with high level of function for habitat (8 – 9 points)	150	225	300
Category I: Moderate level of function for habitat (5–7 points)	75	100	150
Category I: High level of function for water quality improvement (8 – 9 points) and low for habitat (less than 5 points) or Not meeting any of the above Cat. I characteristics	50	75	100
Category II: High level of function for habitat (score 8 – 9 points)	150	225	300
Category II: Moderate level of function for habitat (5 – 7 points), Estuarine, and Interdunal	75	110	150
Category II: High level of function for water quality improvement (8 – 9 points) and low for habitat (less than 5 points) or Does not meet any of the above Cat. II characteristics	50	75	100
Category III: Moderate level of function for habitat (5– 7 points)	75	110	150
Category III: Score for habitat 3 – 4 points	40	60	80
Category IV (all)	25	40	50

Table 3-3 Wetland buffer widths (in feet) under Ecology’s 2018 Guidance (changes highlighted)

KCC 200.220(B)-(E)	Buffer Width by Impact of Proposed Land Use		
Wetland Category & Characteristics	<i>Low</i>	<i>Moderate</i>	<i>High</i>
Category I: Wetlands of high conservation value and Bogs	125	190	250
Category I: Estuarine and Wetlands in coastal lagoons	100	150	200
Category I: High level of function for habitat or Interdunal wetland with high level of function for habitat (8 – 9 points)	150	225	300
Category I: Moderate level of function for habitat (56– 7 points)	75	100	150
Category I: High level of function for water quality improvement (8 – 9 points) and low for habitat (less than 56 points) or Not meeting any of the above Cat. I characteristics	50	75	100
Category II: High level of function for habitat (score 8 – 9 points)	150	225	300
Category II: Moderate level of function for habitat (56– 7 points), Estuarine, and Interdunal	75	110	150
Category II: High level of function for water quality improvement (8 – 9 points) and low for habitat (less than 56 points) or Does not meet any of the above Cat. II characteristics	50	75	100
Category III: Moderate level of function for habitat (56– 7 points)	75	110	150
Category III: Score for habitat 3 – 45 points	40	60	80
Category IV (all)	25	40	50

4. Consistency with Comprehensive Plan & Other Development Regulations

Based on a review of the 2016 Kitsap County Comprehensive Plan, 2014 SMP, and KCC Title 22 ‘Shoreline Master Program’, there are no major inconsistencies found in the Comprehensive Plan and the development regulations.

5. Other Issues for Consideration

The following recommendations (Table 5-1) from The Watershed Company and County staff are primarily to improve clarity and functionality of the SMP and shoreline permit processes.

Table 5-1. Other Issues for Consideration

#	Issue	Review / SMP Location	Department Recommendation
Definitions			
1	View blockage definition too specific	Clarity is needed for the accessory structure view blockage definition KCC 22.150.100	Recommended: For internal consistency, remove or amend the definition of ‘Accessory Structure – View Blockage’ to align with changes to KCC 22.400.135 ‘View Blockage Standards’
2	Building Line definition requires clarification as to what ‘principal building’ refers to	Clarity is needed to specify that Principal Building does not include other shoreline accessory structures. KCC 22.150.190 and 22.150.485	Recommended: Consider adding clarification to definition of ‘Principal Building’ to exclude boathouses, converted boathouses, and ADUs.
Existing Development			
3	Timeline to rebuild after accidental destruction or damage is not long enough	Six months is not enough time to file insurance claims, proceed with design, prepare permit materials, and submit to the county KCC 22.400.100.B.1.d	Recommended: Revise to 365 days, consistent with Title 17, to submit complete applications to the County.
Vegetation Conservation Buffers			

#	Issue	Review / SMP Location	Department Recommendation
4	Buffer reduction review criteria is applied inconsistently across SEDs	Currently, only a shoreline mitigation plan is required for designations other than Rural Conservancy and Natural. For a Type 1 buffer reduction (with building permit), all designations should be required to provide a narrative demonstrating compliance with the variance criteria, rather than moving straight to compensatory mitigation. Additional standards for RC and N should still apply	Recommended: Revise buffer reduction minimum review criteria and apply to all SEDs. Criteria must include a demonstration of need, analysis and proof the applicant has not created or exacerbated the condition on the site necessitating the buffer reduction
5	SMP does not include regulations to address beach trams within buffers	The SMP is silent on use of beach trams within shoreline buffers KCC 22.400.120.D KCC 22.150	Recommended: Add tram provisions to beach stairs section or as a separate section to 400.120. D.1 and define 'Tram'.
6	The SMP lacks standards for stair platforms or deck landings typically proposed on sites with bluffs or high banks	Sites with bluffs or high banks tend to propose stairs to beach descending parallel to the shore. The County currently applies pier standards KCC 22.400.120.D	Recommended: Revise Section KCC 22.400.120.D.1.c to include standards limiting the size and materials consistent with 22.600.160. All new provisions for deck landings/stair platforms shall be consistent with no net loss.
7	Decks and viewing platforms. The intent to provide for small viewing decks or platforms is not always clear	Due to lack of clarity, this section can be misconstrued, resulting in large decks and viewing platforms attached to structures.	Decks and viewing platforms. The intent to provide for small viewing decks or platforms is not always clear
8	Clarity is needed to state that gravel	Currently, within buffers, pervious surfaces shall be used where feasible.	Recommended: Indicate gravel is an impervious surface per KCC Title 12 '. Staff

#	Issue	Review / SMP Location	Department Recommendation
	trails are not pervious surfaces	However, it is not clear that gravel trails are not pervious surfaces. KCC 22.400.120.D.1.a	recommends noting 'when possible mulch and organic materials encouraged'.
9	Allowed uses. It is not always clear that allowed uses listed in the SMP still require permit review	Clarity is needed to note that the allowed uses may still require permit review, including shoreline exemptions. KCC 22.400.120.D	Recommended: Clarify in preamble that activities in the vegetation conservation buffer areas are allowed, but in many instances trigger site/shoreline permit review by the County.
10	Expansions. Lateral expansions within shoreline buffers require variances	Currently, lateral expansion into a shoreline buffer, even when it is existing lawn, requires a shoreline variance. The added procedure provides no additional benefit for SMP implementation. KCC 22.400.120(C)(2)	Recommended: Consider establishing an expansion threshold over legally cleared areas and no closer to the water, subject to mitigation to ensure no net loss. Such an expansion could be approved through administrative land use permits. This will add clarification for applicants and reviewers on appropriate process.
Water Quality and Quantity			
11	Impervious surface limits are not consistent with rest of County code	There is still a 5,000 square foot limit for Site Development Activity Permit (SDAP) used for land disturbing activities KCC 22.400.125(A)	Recommended: For consistency, amend this section to current impervious surface limit in KCC Title 12 or cross-reference citation for SDAPs.
View Blockage			
12	View Blockage regulations are dated and unclear, including the purpose and intent.	Current planning staff note that the section and code language are difficult to implement and communicate to applicants.	Recommended: The SMP section is discretionary. For applicant and reviewer clarity, the County should streamline and revise regulations in plain language, clarify provisions, remove or replace

#	Issue	Review / SMP Location	Department Recommendation
		KCC 22.400.135	diagrams, and clearly define the section's intent.
Bulk and Dimensional Standards			
13	Development Standards Chart conflicts with Title 17 in certain areas	Development Standards Chart conflicts with Title 17 for lot coverage. Side setbacks for Aquatic designation are an issue for shared docks. KCC 22.400.140(A) KCC 22.600.105, Note 2	Recommended: Compare 'Development Standards' chart for consistency with KCC Title 17 'Zoning'; consider eliminating unnecessary footnotes and cross-reference bulk and dimension tables in KCC Title17 while assuring no net loss.
Permit Process & Enforcement			
14	Hearing Examiner Review for all Shoreline Permits.	Staff note that all SDPs require Hearing Examiner review. This is not common among other local jurisdictions, and unnecessary for processing stand-alone SDPs under the SMA.	Recommended: Update SMP language to remove the Hearing Examiner review cycle for SDPs and Shoreline Exemption applications. This will save applicant and reviewer time and expense.
15	Exemptions from SDPs	Clarity is needed to specify that an exemption still requires a submittal KCC 22.500.100(C)	Recommended: Clarify that a "shoreline exemption" is a still a permit application and requires minimum submittal requirements clearly in all applicable places in SMP.
16	Shoreline Application Flow Chart is difficult to follow and may not be inclusive enough	Flow chart needs review. Either simplify the chart and re-insert into code or remove the chart from the code and use as a handout for applicants. Figure 22.500.105(A)(7)	Recommended: Consider either to simplify the chart in the code or remove it entirely and create an assistance handout/ clarify a shoreline permit submittal checklist for application completeness. In either case, this would provide an improved resource for applicant and reviewer.
17	Minimum Application Requirements	Currently, the list of minimum requirements does not include all	Recommended: For consistency with site plan requirements, amend existing code

#	Issue	Review / SMP Location	Department Recommendation
	listing needs expanded	shoreline and critical area information KCC 22.500.105(C).11	and permit checklists to include 'all critical areas and buffers' on site development plans.
18	Time Requirements and Expiration does not address exemptions	This section does not include a shoreline exemption timeline for review. KCC 22.500.105(H)	Recommended: State law does not regulate time requirements of shoreline exemptions. The County should cross reference Title 21 'Land Use and Development Procedures', section 21.040.270
Shoreline Use and Modification Development Standards			
19	Aquaculture updates may be needed to address net pens decisions at state level	State law updated in 2018 to address recent release of non-native salmon into the Puget Sound - see HB2957 KCC 22.600.115	Recommended: To ensure consistency with HB 2957, add state law commercial net pen provisions.
20	Moorage Pilings spacing requirement is only applicable to new piles	Replacement pilings for a replacement structure(s) should meet the spacing standards for new moorage piles KCC 22.600.160(C)(3)(b)	Recommended: To ensure ecological benefits and consistency with intent of SMA, add that 'replacement pilings' should meet the same spacing standards as new piling when they support a replaced structure.
21	Subdivision outside of shoreline jurisdiction	Clarify when SDPs are required during subdivision review. SMP requires an SDP for <i>any</i> subdivision with land in shoreline jurisdiction, regardless of a new parcel line's location, even if outside of shoreline	Recommended: Review and revise regulations to exempt certain subdivisions and short subdivisions from an SDP. Clarify <i>when</i> an SDP is triggered in the development process. This revision will provide benefit to applicant and reviewer. Ecology staff have

#	Issue	Review / SMP Location	Department Recommendation
		<p>jurisdiction. An SDP is triggered and would be required on submitting permits for plat construction if any activities occur within 200 feet of a shoreline of the state. Current requirement is onerous for applicants and staff with no value added on the outcomes for shoreline protection.</p> <p>KCC 22.600.170(A)(3)</p>	<p>previously concurred with this recommended change.</p>
22	<p>Soft Shoreline Stabilization language is not clear to understand threshold between hard and soft stabilization methods</p>	<p>The County currently receives many applications for hybrid structures where part of the proposal is soft stabilization and other parts are hard stabilization. Staff and applicants need clearer guidance as to when a project meets the soft shoreline stabilization metrics. Current code does not define a hybrid structure</p> <p>KCC 22.600.175 (A)</p>	<p>Recommended: For improved clarity, consider enhancing Section 600 and expand 150.570 'Shoreline Stabilization' definition per implementation guidance (Ecology Publication 14-06-009) to emphasize bookends of what meets soft shore design criteria. Revise use and modification matrix per Ecology guidance.</p>
Special Reports			
23	<p>Shoreline Mitigation Plans does not require "qualified specialist" as other reports do.</p>	<p>The intent of not including this requirement was that with the use of Appendix B, an applicant could realistically put together their own plan. However,</p>	<p>Recommended: To ensure consistency with internal code, insert requirement for 'qualified professional' to prepare mitigation plan and no net loss reports pursuant to KCC 22.150.505(B) and include</p>

#	Issue	Review / SMP Location	Department Recommendation
		staff conclude mitigation plans submitted do not meet minimum requirements KCC 22.700.140	requirement throughout SMP as necessary.
Miscellaneous			
24	Fix minor typos, grammar, scrivener's errors in the SMP	Located throughout SMP	<p>Recommended:</p> <p>Revise text to improve clarity and flow. Fix typos, grammar, scrivener's errors, and cross-references. Others to be addressed during the amendment process. Specific items noted in Title 22 include:</p> <p>Revise 150.470, 'Pier' Definition: ...<u>typically</u> used as a landing place for marine transport or for recreational purposes.</p> <p>Revise 150.545 'Setback' Definition: the distance a use or development must be from the edge of a buffer to prevent construction and other activities from intruding into the buffer <u>or view setback</u>.</p> <p>Change "critical area" to "shoreline" in 400.120(D).</p> <p>Fix 500.100(C) (b), (p) and (q) typos.</p> <p>Revise 600.160, 'Mooring Structures', change reference to <u>22.700.145</u>.</p> <p>700, update KCC references</p> <p>Strike-out 'semi-annual' in 700.140</p>

6 References

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