COMMITTEE ACTION

*Proposed Substitute Ordinance 2017-0244.2, making omnibus changes to the County’s shoreline development code, passed out of committee on July 3, 2018, with a “Do Pass” recommendation. The Ordinance was amended in committee with Amendment S1 to make clarifying changes and respond to comments from the Department of Ecology.*

SUBJECT

Proposed Ordinance 2017-0244 would modify the development regulations related to the shoreline master program.

SUMMARY

Proposed Ordinance 2017-0244 would make omnibus changes to K.C.C. chapter 21A.25, Shorelines, as well as other related code sections that address shoreline zone development regulations. Since transmittal of the Proposed Ordinance, Executive staff and Council staff have worked on a striking amendment that would incorporate requested edits from the Washington State Department of Ecology.

Substantive policy changes in the striking amendment include changes to definitions, permitted alterations in critical areas, alteration exceptions and setbacks from critical areas, permitted shoreline modifications, requirements for docks, permit and procedural requirements, nonconformances, and the elements of the SMP.

BACKGROUND

The Washington State Shoreline Management Act (SMA) was adopted by public referendum in 1972. The SMA recognizes that “the shorelines of the state are among the most valuable and fragile of its natural resources.” In order to protect this resource, the SMA requires counties and cities to develop plans and adopt regulations to "prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines."
The SMA applies to marine shorelines, such as Puget Sound, lakes 20 acres or larger, and streams and rivers with a mean annual flow greater than 20 cubic feet per second. It also applies to upland areas within 200 feet of the shoreline edge, the 100-year floodplain, and wetlands associated with shorelines and floodplains.

The SMA has three broad policy directives:

1. **Shoreline use**: "uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the states' shorelines..."

2. **Environmental protection**, including "...the land and its vegetation and wildlife, and the water of the state and their aquatic life..."

3. **Public access**: "the public’s opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally."

The SMA is administered through a cooperative program between local governments and Washington State Department of Ecology. Cities and counties develop shoreline master programs that regulate development along larger streams, lakes, and marine waters, and Ecology provides technical assistance, and reviews and approves local master programs and permit decisions.

The SMA places a strong emphasis on public participation in developing local shoreline programs and in the local permit process.

King County’s first SMP was adopted in 1978 and was not substantively revised until 2010.\(^1\) Since that time, the County has made minor revisions to the SMP, the most substantive of which was related to a demonstration project for alluvial fans adopted in 2014.\(^2\)

The next major SMP update is due on or before June 30, 2019.

**ANALYSIS**

Proposed Ordinance 2017-0244 was transmitted in July 2017. Since that time, the Department of Ecology has provided comments on the Proposed Ordinance. Council staff has worked with Executive staff and the Prosecuting Attorney’s Office to develop a striking amendment that incorporates Ecology’s comments and makes other technical corrections.

**AMENDMENT**

\(^1\) Ordinance 16985. Ecology approved the County’s SMP in 2013, following further amendments adopted by Ordinance 17485.

\(^2\) Ordinance 17878
Attachment 2 in the packet is a striking amendment, S1, developed jointly between Executive staff and Council staff. Overall, the Proposed Ordinance + Striking Amendment make changes to address issues that have arisen during the Department of Permitting and Environmental Review (DPER) administering the code and SMP adopted in 2010.

Substantive changes include:

- Definitions: Modifies specific definitions (public access, shoreline conditional use, trails, water dependent use) and incorporates other adopted definitions by reference.
- Permitted Alterations to Critical Areas: Requires that a farm pad, where allowed, conform to an approved farm management plan.
- Alteration Exceptions to Critical Areas/Setbacks from Critical Areas: Clarifies that setbacks are measured from the building to the approved site disturbance (and not from the property line), when the building is within the normal buffer area.
- Permitted Shoreline Modifications: Modifies the requirements for flood protection facilities, to allow modifications to existing facilities within the Natural Environment, and allow new facilities if consistent with the salmon recovery plan.
- Dock, Pier, Moorage Pile or Buoy, Float or Launching Facility: Removes a prohibition on “other covered structures” to be built waterward of the ordinary high water mark.
- Shoreline Permit Requirements: Allows an outright exemption (with no documentation required at the County) for agricultural ditch maintenance projects required by federal water quality laws; Clarifies that other non-shoreline code permits may be required for a project.
- Shoreline Nonconformances: Adds an allowance for modification and re-establishment, in addition to expansion and replacement, of nonconforming uses and developments.
- Procedural Requirements and SMP Elements: Consolidates K.C.C. 20.12.205 and K.C.C. 20.12.200 so that the elements of the SMP are listed in one code section. It also eliminates references to review procedural, administrative and enforcement references, and states that they are not specifically included in the SMP but do conform to the requirements of the state Shoreline Management Act.

There is also a Title Amendment, T1, which is Attachment 3 to the staff report.

Executive staff rationale for the changes are included in Attachment 7, and Council staff’s review of the policy changes and consistency with Chapter 6 of the King County Comprehensive Plan is included in Attachment 4.