



Skagit County Planning & Development Services

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Memorandum

To: Planning Commission
From: Betsy Stevenson
Date: February 24, 2015
Re: SMP Final Planning Commission Pre-Release Review, Part 1

Background

The County has been working on the SMP since 2011. Visioning workshops were held in Concrete, Lyman, Mount Vernon and Anacortes in June and July 2011. The Board of County Commissioners appointed a 17-member advisory committee to review draft materials and advise County staff throughout the process. The Department accepted comments on the first working draft document in May-June 2012. Open houses were held in May and June 2013 in Mount Vernon, Anacortes, Lyman and Concrete to discuss the SMP with the public and receive comments. The Department accepted comments on the first working draft document in May-June 2012. The Planning Commission has held two rounds of study sessions on drafts of the SMP.

Process Going Forward

As we complete revisions to various sections of the draft plan, we are bringing those sections to the Planning Commission for your final review and comment before we release them as the complete proposal for public comment. We hope that you will review the sections attached to this memo and send us comments and questions on typos, incorrect cross-references, or other minor issues in advance; save only substantial questions or discussion points for the Planning Commission meeting so that we can stay on schedule. New PC members who are unfamiliar with the document and the process should feel free to arrange a meeting with me so that we can prepare you for the meetings and hearings.

We anticipate bringing the remaining sections to the Planning Commission for final pre-release review on April 21. We are *tentatively* scheduling release of the SMP Update for public comment in early May, with a public hearing in early June, with close of the written comment period 60 days after release. The Planning Commission will have at least two work sessions after the public comment period to generate its recommendation on the SMP; the Board of Commissioners will then approve the draft SMP for forwarding to Ecology for their approval before it will return to the Board for final adoption.

Where We Are Now

Since completion of last year's annual Comprehensive Plan amendments, staff have returned attention to the SMP Update and have been working through the Planning Commission's comments from last year as well as general organization and streamlining.

We have completed for the PC's final review prior to release for public comment the following sections:

- **Part II: Shoreline Environment Designations**

This section is now quite short because we removed all of the designation criteria that were duplicated in the SMP policies (chapter 6B, which is their proper location). The Part includes empty sections for each of the shoreline designations so that we have an appropriate place to put regulations that should apply throughout the entire environment designation in case we determine that's appropriate during this process or a future SMP update.

- **Part III: General Regulations**

We added a new Applicability section at the beginning of this Part to make it clear that the standards in this Part apply to all shoreline activities. The Dimensional Standards section now follows the General Provisions. The view preservation regulations in General Provisions were moved to the Shoreline Variances section in Part VII.

After discussion with the Guemes Island Planning Advisory Committee, we have removed the special Guemes-only setbacks diagram from SCC 14.26.300. We plan to propose those Guemes setbacks island-wide as part of the Comprehensive Plan 2016 Update.

SCC 14.26.340, Environmental Protection, including mitigation requirements and mitigation sequencing that duplicated provisions in the Critical Areas code (SCC Chapter 14.24); those are now deleted. The Mitigation Plan section will get added to the Critical Areas code. That left almost no text in Environmental Protection, so we deleted the section and moved the remaining code to the Applicability section.

We realized that we had not incorporated the regulations on outdoor advertising and signs in our existing SMP, so we added a new section to Part III with the existing regulations copied almost verbatim. We added sign dimensional standards to the table in section .330.

Section .370 Public Access and Section .380 Vegetation Conservation are not quite ready and not included in this packet.

- **Part V: Critical Areas Regulations in Shoreline Jurisdiction**

We also anticipate further streamlining of Part V, Critical Areas, so that nearly all of the SMP's critical areas protections are identical to the County's existing critical areas ordinance. The table in SCC 14.24.530(2), Lake and Marine Shoreline Buffers, will be deleted because the table needs to be updated for the new shoreline designations and will be included in the dimensional standards table in SCC 14.26.300. The buffer widths do not change in the update, but properties that have new shoreline designations may end up with different buffer widths.

- **Part VI: Legally Established Pre-Existing Uses and Structures**

This section did not require significant changes. We have adjusted the applicability language a bit to improve organization and believe it is ready for release.

- **Part VII: Administration**

We are proposing greater integration of Part VII with SCC Chapter 14.06, Permit Procedures, so that all the *procedural* aspects of shoreline permits are found in SCC Chapter 14.06 with the processes for other permits. The remaining sections in Part VII relate to the substantive aspects of shoreline permits, e.g. criteria for approval. An additional benefit of this reorganization is that we can make additional changes to permit procedures later without the need for an SMP amendment. This will require some minor simultaneous code amendments to SCC Chapter 14.06.

What's Next?

At your next Shoreline work session, we plan to provide you with the following updated sections:

- **Part I: Authority Purpose and Jurisdiction**
- **Part III, Sections .370 Public Access and .380 Vegetation Conservation**
- **Part IV: Shoreline Uses and Modifications Regulations**
- **Part VIII: Definitions**

Reminder: all the RCW and WAC references that are in brackets at the end of various sections will be removed when the final document is assembled.

As always, if you have questions or thoughts you'd like to share, please feel free to contact me. betsyds@co.skagit.wa.us or (360) 336-9410 ext 5879. Thank you for your time and thoughtful consideration. It has been very valuable.

Part II: Shoreline Environment Designations

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14.26.200 Overview

- (1) Defined. Shoreline environment designations are classifications of shoreline areas that reflect local shoreline conditions, including ecological functions and shoreline development. WAC 173-26-191(1)(d) notes that environment designations provide “the framework for implementing shoreline policies and regulatory measures specific to the environment designation.” Environment designations are the principal tools for applying and tailoring the Shoreline Management Act’s general policies to local shorelines. Classifying shorelines into specific designations provides the means of adapting broad policies to shoreline reaches with distinctively different conditions and resources.
- (2) Components. For each environment designation:
 - (a) The purpose statement (in Comprehensive Plan Chapter 6B) describes the unique shoreline management objectives of the designation in a manner that distinguishes it from other designations.
 - (b) Designation criteria (in Comprehensive Plan Chapter 6B) describe the basis for assigning the particular designation to specific sections of the shoreline.
 - (c) Management policies (in Comprehensive Plan Chapter 6B) are the basis for the environment regulations and should be sufficient in detail to assist in their interpretation.
 - (d) Regulations (in this Part of SCC Chapter 14.26) impose requirements on uses and modifications specific to each environment designation.
- (3) Map. Shoreline jurisdiction, shoreline environment designations, and use environments in unincorporated areas and pre-designated use environments in urban growth areas are shown on the Shoreline Environment Designation map available at www.skagitcounty.net/smp.

14.26.210 Interpretation.

- (1) Any areas within shoreline jurisdiction that are not mapped or designated due to mapping inaccuracies in the lateral extent of shoreline jurisdiction from the shoreline water body related to site-specific surveys of OHWM are automatically assigned the category of the contiguous waterward shoreline environment designation.
- (2) All other areas that were not mapped in shoreline jurisdiction, but which do meet criteria in SCC 14.26.140, Shoreline Jurisdiction, must be assigned a Rural Conservancy designation until the shoreline can be re-designated through an SMP amendment.
- (3) Areas mapped in shoreline jurisdiction that do not meet the applicability criteria in SCC 14.26.140, Shoreline Jurisdiction, are not subject to the requirements of this SMP. The actual location of the OHWM must be determined at the time a development is proposed.
- (4) If there is an environment designation mapping error, the Administrative Official may use the environment designation criteria in SMP Part II to establish an appropriate shoreline environment designation.

14.26.220 Boundary Line Determination.

- (1) Where uncertainty or a conflict exists in determining the location of a jurisdiction boundary, or an environment designation boundary, the Administrative Official may resolve the uncertainty by applying the environment designation criteria and the following:
 - (a) Boundaries indicated as approximately following the centerlines of streets, highways or alleys must be construed to follow such lines.
 - (b) Boundaries indicated as approximately following platted lot lines must be construed as following such lot lines.
 - (c) Boundaries indicated as following railroad lines must be construed to be halfway between railroad right-of-way lines.
 - (d) In the event of a physical change in a shoreline, channel migration zone, or wetland feature, boundaries must be construed as moving with the actual shoreline, channel migration zone, floodway, or floodplain.
 - (e) Boundaries indicated as parallel to or an extension of features indicated in subsections (a) through (d) must be so construed.
 - (f) Boundaries may be determined by field survey conducted by a State of Washington licensed surveyor of the features described and delineated above, at the discretion of the Administrator.

Where resolution is not possible using the criteria above, the Administrative Official has authority to determine the boundaries.

14.26.230 Aquatic

Reserved.

14.26.240 Natural

Reserved.

14.26.250 Rural Conservancy

Reserved.

14.26.260 Rural Conservancy – Skagit Floodway

Reserved.

14.26.270 Urban Conservancy

Reserved.

14.26.280 Shoreline Residential

Reserved.

14.26.290 High-Intensity

Reserved.

Part III: General Regulations

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14.26.300 Applicability

- (1) All shoreline uses and modifications must comply with the relevant regulations in this Part, as well as the sections in Part IV specific to the use or modification, and with the critical areas regulations in Part V and incorporated by reference in SCC Chapter 14.24.
- (2) No Net Loss of Ecological Functions. Uses and developments on shorelines must be designed, located, sized, constructed, and maintained to achieve no net loss of shoreline ecological functions necessary to sustain shoreline natural resources.
- (3) Uses and developments must not have an unmitigated significant adverse impact on other shoreline uses. [Based on WAC 173-26-201(2)(c) and (e) and 173-26-186(8)]

14.26.310 General Provisions Applicable Upland of the OHWM

- (1) Location of upland development.
 - (a) New development must be located and designed to avoid the need for future shoreline stabilization to the extent feasible.
 - (b) Land divisions must be designed to ensure that future development of the created lots will not require shoreline stabilization for reasonable development to occur or cause foreseeable risk from geological conditions.
 - (c) New development on steep slopes or bluffs must be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical site assessment and supported by the best scientific and technical information available, in accordance with SCC 14.26.475, 14.26.485, and 14.26.540.

- (d) New development that would require shoreline stabilization which causes potential significant adverse impacts to adjacent or down-current properties and shoreline areas is not allowed. (WAC 173-26-231(3)(a)(iii)(A))
- (2) Design features for compatibility. Shoreline use and development must be designed to complement the character and setting of the property, minimize noise and glare, and avoid impacts to view corridors, where feasible.
- (3) Screening.
 - (a) Building mechanical equipment must be incorporated into building architectural features, such as pitched roofs, to the maximum extent possible. Where mechanical equipment cannot be incorporated into architectural features, a visual screen must be provided consistent with building exterior materials that obstructs views of such equipment.
 - (b) Outdoor storage must be screened from public view. Screening techniques may include landscaping, berming, fencing, or other equivalent measures.
- (4) Preference for water-oriented facility location. Shoreline developments must locate all non-water oriented facilities landward of water-oriented uses, or outside shoreline jurisdiction, unless no other location is feasible. (based on use preferences in RCW 90.58.020, WAC 173-26-241 (2)(a)(iii) and 173-26-211(3)(b))
- (5) Changes to topography. To the extent feasible, proposed new shoreline development must conform to natural contours. (based on principles of environmental impact mitigation in WAC 173-26-201(2)(e), vegetation conservation in WAC 173-26-221(5), low impact development principles, and example SMPs)
- (6) Soil disturbance.
 - (a) Development must minimize disturbance to soils and native vegetation and natural features.
 - (b) Any disturbed area must be restored and protected from erosion using vegetation and other approved means to permanently stabilize soil exposed during construction.
 - (c) For any proposed grading activity, a temporary erosion and sedimentation control plan must clearly indicate the construction sequence for establishment of all erosion and sedimentation control work, both temporary and permanent.
 - (d) Stream bank erosion control BMPs must be selected, designed, and maintained according to the Stormwater Design Manual.
- (7) View preservation. Development that complies with dimensional standards is assumed to be protective of shoreline views and view corridors.

- (8) Lighting. Interior and exterior lighting must be designed and operated to avoid illuminating nearby properties or public areas; prevent glare on adjacent properties, public areas or roadways to avoid infringing on the use and enjoyment of such areas; and to prevent hazards. Methods of controlling spillover light include, but are not limited to, limits on height of structure, limits on light levels of fixtures, light shields, setbacks, buffer areas and screening. Lighting must be directed away from critical areas, unless necessary for public health and safety. (WAC 173-26-211(4)(a)(iv))
- (9) Development near aquaculture. Applicants proposing development in upland areas must address potential impacts and conflicts with existing aquaculture or areas with a high potential for aquaculture.
 - (a) New development or redevelopment within the shoreline jurisdiction adjacent to areas with existing aquaculture or areas with a high potential for aquaculture must practice strict pollution control procedures to ensure water quality will not be adversely impacted.
 - (b) New residential development adjacent to a water body supporting aquaculture operations must install drainage and stormwater treatment facilities to prevent any adverse impact to aquaculture operations. Such measures include but are not limited to vegetated swales, retention ponds, and use of artificial or natural wetlands, provided no adverse impacts to the receiving wetlands would occur.
 - (c) New residential development dependent on a septic system must be conditioned for routine inspection and maintenance of such system.
 - (d) New marinas that provide overnight or long-term moorage must not be located in areas with recreational or commercial shellfish beds.
 - (e) Site preparation in the vicinity of aquaculture operations must not result in any off-site erosion, siltation, or reductions in water quality.

14.26.320 General Provisions Applicable Waterward of the OHWM

- (1) Siting and design requirements. In-water structures and activities must be sited and designed to avoid the need for future shoreline stabilization activities and maintenance dredging, giving due consideration to watershed functions and processes, with special emphasis on protecting and restoring priority habitat and species. Modifications and uses located in the Aquatic environment must be the minimum size necessary.
- (2) Buffers. Water-dependent in-water structures, activities, and uses are not subject to the shoreline buffers established in this SMP.
- (3) Required permits. Projects involving in-water work must obtain all applicable local, state, and federal permits or approvals, e.g. those from the U.S. Army Corps of Engineers, Washington Department of Ecology, Washington Department of Fish and Wildlife, Washington Department of Natural Resources.

- (4) Timing restrictions. Projects involving in-water work must comply with timing restrictions as set forth by state and federal project approvals.
- (5) Structure removal. Removal of existing structures must be accomplished so the structure and associated material does not re-enter the water body.
- (6) Disposal of waste material.
 - (a) Waste material, such as construction debris, silt, excess dirt, or overburden resulting from in-water structure installation, must be deposited outside of shoreline jurisdiction in an approved upland disposal site.
 - (b) Proposals to temporarily store waste material or re-use waste materials within shoreline jurisdiction may be approved provided that use of best management practices is adequate to prevent erosion or water quality degradation and that an on-site location outside of shoreline jurisdiction is not available.
- (7) Hazardous materials.
 - (a) Extreme care must be taken to ensure that no petroleum products, hydraulic fluid, fresh cement, sediments, sediment-laden water, chemicals, or any other toxic or deleterious materials are allowed to enter or leach into the water body during in-water activities.
 - (b) Necessary refueling of motorized equipment, other than watercraft, must be conducted outside of shoreline buffers.
 - (c) Appropriate spill clean-up materials must be on-site at all times, and any spills must be contained and cleaned immediately after discovery.
- (8) Prevent siltation of adjacent areas.
 - (a) In-water work must be conducted in a manner that causes little or no siltation to adjacent areas.
 - (b) A sediment control curtain must be deployed and maintained in a functional manner during the project installation in those instances where siltation is anticipated.
- (9) Excavations. Any trenches, depressions, or holes created below the OHWM must be backfilled prior to inundation by high water or wave action.
- (10) Concrete.
 - (a) Fresh concrete or concrete by-products must not be allowed to enter the water body at any time during in-water installation.
 - (b) All concrete forms must be completely sealed to prevent the possibility of un-cured concrete entering the water body.

- (11) Protection of bank and vegetation.
- (a) Alteration or disturbance of the bank and bank vegetation must be limited to that necessary to perform the in-water work.
 - (b) All disturbed areas must be restored and protected from erosion using vegetation or other means.
- (12) Trash and unauthorized fill removal required.
- (a) All trash and unauthorized fill, including concrete blocks or pieces, bricks, asphalt, metal, treated wood, glass, and paper, found below the OHWM at the time of project implementation must be removed if the project includes use of equipment suited for that purpose.
 - (b) Where the trash or fill is visibly providing some habitat function, consultation with Washington Department of Fish and Wildlife or the U.S. Army Corps of Engineers, or both, should occur before removal.
 - (c) Disposal should occur in an approved upland disposal location, outside of shoreline jurisdiction if feasible, but at a minimum landward of the OHWM and the channel migration zone. See SCCs 14.26.435, Dredging and Dredge Material Disposal and 14.26.440, Fill, Excavation and Grading for potentially applicable policies and regulations regarding dredging, fill and disposal.
- (13) Notification when fish harmed. If at any time, as a result of in-water work, fish are observed to be in distress or killed, immediate notification must be made to any appropriate local, state, or federal agency.
- (14) Notification of water quality problems. If at any time, as a result of in-water work, water quality problems develop, immediate notification must be made to any appropriate local, state, or federal agency.
- (15) Natural features. Natural in-water features such as snags, uprooted trees, or stumps must be left in place unless it can be demonstrated that they are actually causing bank erosion, higher flood stages, a hazard to navigation or human safety, or interfering with otherwise authorized aquaculture activities.
- (16) Flotation materials.
- (a) Flotation material (e.g., floats, buoys) must be encapsulated within a commercially manufactured shell, including polyethylene, encapsulated concrete, or another material specifically approved by applicable federal or state agencies for use in aquatic environments, that prevents breakup or loss of the flotation material into the water, and is not readily subject to damage by ultraviolet radiation or abrasion.
 - (b) During maintenance, existing un-encapsulated flotation material must be replaced.

- (17) Tire use. Tires are prohibited as part of above- or below-water structures or where tires could potentially come in contact with the water (e.g., flotation, fenders). Existing tires used for flotation must be replaced with inert or encapsulated materials such as plastic or encased foam during maintenance or repair of the structure.
- (18) Anchors. Floats, rafts, mooring buoys, and navigational aids, such as channel markers or buoys, must use helical screw anchors or other embedded anchors and midline floats or other technologies to prevent anchors or lines from dragging or scouring, if feasible given local conditions and water depths. Floats and rafts may also be anchored with piles as provided in SCC 14.26.420.
- (19) Maintain safe structures.
 - (a) All over and in-water structures must be constructed and maintained in a safe and sound condition.
 - (b) Abandoned or unsafe structures or materials, including treated wood, pilings, derelict structures, vessels, buoys, and equipment must be repaired promptly by the owner or removed after obtaining any necessary permits or approvals.
- (20) Lighting. Lighting associated with over and in-water structures must be beamed, hooded, or directed to avoid causing glare on adjacent properties or water bodies. Illumination levels must not exceed the minimum necessary for safety.

14.26.330 Dimensional Standards

- (1) To preserve the existing and planned character of the shoreline consistent with the purposes of the shoreline environment designations, dimensional standards are provided in Table 14.26.300-1. In addition, shoreline developments must comply with all other dimensional requirements of SCC Chapter 14.16.
- (2) When a development or use is proposed that does not comply with the dimensional standards of this SMP, such development or use can only be authorized by approval of a Shoreline Variance. If a proposal meets requirements allowing administrative reductions or modifications, it is considered compliant with the SMP and does not require a Shoreline Variance.
- (3) Water-dependent uses do not require buffers.

Table 14.26.330-1 Dimensional Standards

The following table sets out minimum buffer widths and other dimensional standards for each shoreline environment designation. For dimensional standards for mooring structures, see SCC 14.26.420.

Dimensional Standard	Shoreline Environment Designation					
	Natural	Rural Conservancy	Urban Conservancy	Shoreline Residential	High Intensity	Aquatic
Buffers for Upland Uses						
from marine or lake shorelines	200 ft	150 ft	150 ft	100 ft	140 ft	n/a
from river or stream shorelines	200 ft	200 ft	200 ft	200 ft	200 ft	n/a
Height Limits for Residential Uses						
for uses waterward of the OHWM	n/a	n/a	n/a	n/a	n/a	n/a
for upland uses within required buffer	25 ft	25 ft	25 ft	25 ft	25 ft	n/a
for upland uses outside required buffer	35 ft	35 ft	35 ft	35 ft	35 ft	n/a
Height Limits for All Other Uses						
for uses waterward of the OHWM	n/a	n/a	n/a	n/a	n/a	5 ft
for upland uses within required buffer	25 ft	25 ft	25 ft	25 ft	25 ft	n/a
for upland uses outside required buffer	35 ft	35 ft	35 ft	35 ft	35 ft	n/a
Hard Surface Limits						
for all commercial and industrial upland uses	n/a	30%	70%	n/a	70%	n/a
recreational uses	5%	25%	30%	30%	40%	n/a
for all other upland uses	5%	30%	30%	30%	40%	n/a
Signs and Outdoor Advertising						
Max Height	n/a	5	5	10	25	5
Max sign area per side	n/a	15	15	20	100	6

14.26.340 Archaeological, Historic, and Scientific Resources

- (1) Stop work and notification. Whenever resources of potential archaeological, historic, or scientific value are uncovered during shoreline development or use, developers and property owners must immediately stop work and notify Skagit County. Additionally, if archaeological resources are uncovered, developers and property owners must also immediately notify the Washington Department of Archaeology and Historic Preservation and affected Indian tribes. [WAC 197-26-221(1)(c)(i); SMP 7.14(2)(B)(1)(a)]
 - (a) Skagit County will notify appropriate agencies or qualified personnel and request an immediate site evaluation and determination of significance. If a positive determination is not received within ten days of receipt of such request, or if a negative determination is received, stopped work may resume. [SMP 7.14(2)(B)(1)(b)]
 - (b) If a positive determination of significance is found, provisions must be made for appropriate evaluation, recovery, or preservation of materials with arrangements

established for compensation due to work, materials or property loss. [SMP 7.14(2)(B)(1)(c)]

- (2) Compliance with other applicable laws. Proposals for shoreline development or use must comply with all applicable laws related to archaeological, historic, or scientific resources. Archaeological sites are subject to RCW 27.44, Indian graves and records, and RCW 27.53, Archaeological sites and resources, and development or use that may impact such sites must comply with WAC 25-48, Archaeological excavation and removal permit, as well as the provisions of this SMP. [SMP 7.14(1)(A)(1)]; WAC 197-26-221(1)(a)]
- (3) Site inspection and evaluation. Proposals for shoreline development or use in or on areas documented to contain archaeological, historic, or scientific resources require site inspection and evaluation by qualified personnel prior to any development activity in or on the site. In areas documented to contain archaeological resources, site inspection and evaluation must be performed by a professional archaeologist in coordination with affected Indian tribes. [SMP 7.14(2)(B)(2)(a); WAC 197-26-221(1)(c)(ii)]
- (4) Adverse impacts. Proposals for shoreline development or use in or on areas documented to contain archaeological, historic, or scientific resources that would adversely impact such resources are prohibited, with the following exception:
 - (a) Such proposals may be approved through a Shoreline Conditional Use Permit if documentation from qualified personnel indicates that the resources are recoverable and transferable, and that no adverse impacts to either the resources, the site, or value of the resources and site when considered together will result. [SMP 7.14(2)(B)(2)(b)]
- (5) Adjacent and nearby development. Proposals for shoreline development or use adjacent to or nearby areas documented to contain archaeological, historic, or scientific resources must be located, designed, and operated to not adversely affect the purpose, character, or value of such resources. [SMP 7.14(2)(B)(4)]
- (6) Enhancement. Proposals to enhance areas documented to contain archaeological, historic, or scientific resources (e.g. interpretive facilities, preservation and restoration activities) may be approved through a Shoreline Conditional Use Permit. [SMP 7.14(2)(B)(3)]
- (7) Archaeological excavations. Archaeological excavations may be approved through a Shoreline Conditional Use Permit. [SMP 7.14(2)(A)]

14.26.350 Flood Hazard Reduction.

- (1) Applicability.
 - (a) This section applies to actions taken to reduce flood damage or hazard and to uses, development, and shoreline modifications that may increase flood hazards. Flood hazard reduction measures include nonstructural measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures, and stormwater management programs, and structural measures, such as dikes, levees, revetments, floodwalls, channel realignment, and elevation of

structures consistent with the National Flood Insurance Program. [Based on WAC 173-26-221(3)(a)]

- (b) Although some flood hazard reduction measures may serve a dual function as shoreline stabilization, their primary purpose is to control the location of floodwaters directly. Alternatively, the primary purpose of shoreline stabilization measures is to prevent erosion of land from currents and waves originating in the shoreline water body (rather than upland sources of erosion), which is a more indirect control of the location of flood and non-flood waters. Shoreline stabilization is addressed in SMP Part IV.
- (2) Application Requirements. In addition to the general application requirements, all applications for new structural flood hazard reduction measures in shoreline jurisdiction must demonstrate all of the following: [Based on WAC 173-26-221(3)(c)(ii)]
- (a) That the measures are necessary to protect existing development and that nonstructural measures are not feasible, as documented in a scientific and engineering analysis;
 - (b) That potential adverse impacts on ecological functions and priority species and habitats can be successfully mitigated;
 - (c) That appropriate vegetation conservation actions will be undertaken consistent with the Shoreline Vegetation Conservation provisions of SCC 14.26.370; and
 - (d) That structural flood hazard reduction measures are consistent with any adopted comprehensive flood hazard management plan approved by Ecology that evaluates cumulative impacts to the watershed system.
- (3) Development Standards.
- (a) New development or uses in shoreline jurisdiction, including the subdivision of land, are prohibited when it is reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway during the life of the development or use. [Based on WAC 173-26-221(3)(c)(i)]
 - (b) The following uses and activities may be authorized where appropriate and necessary within the channel migration zone or floodway, provided they comply with the regulations of SCC 14.34, Flood Damage Prevention:
 - (i) Actions that protect or restore the ecosystem-wide processes or ecological functions, including development with a primary purpose of protecting or restoring ecosystem-wide processes or ecological functions;
 - (ii) Forest practices in compliance with the Forest Practices Act and its implementing rules;

- (iii) Existing and ongoing agricultural practices, provided that no new restrictions to channel movement occur;
 - (iv) Mining when conducted in a manner consistent with the environment designation and SCC 14.26.465, Mining;
 - (v) Bridges, utility lines, outfalls, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate costs. Where such structures are allowed, mitigation must address impacted functions and processes in the affected section of the watershed or drift cell;
 - (vi) Development in incorporated municipalities and designated urban growth areas where structures exist that prevent active channel movement and flooding; and
 - (vii) Measures to reduce shoreline erosion, provided that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measure does not interfere with fluvial hydrological and geomorphological processes normally acting in natural conditions, and that the measure includes appropriate mitigation of impacts to ecological functions associated with the river or stream. [Based on WAC 173-26-221(3)(c)(i)]
- (c) New structural flood hazard reduction measures must be placed landward of associated wetlands and designated shoreline buffers, except for actions that increase ecological functions, such as wetland restoration; provided that such flood hazard reduction projects may be authorized if it is determined that no other alternative to reduce flood hazard to existing development is feasible. The need for, and analysis of, feasible alternatives to structural improvements must be documented through a geotechnical and hydrological analysis. [Based on WAC 173-26-221(3)(c)(iii)]
 - (d) New public structural flood hazard reduction measures, such as dikes and levees, must provide public access when required by SCC 14.26.360.
 - (e) The removal of gravel for flood management purposes must be consistent with SCC Chapter 14.34, Flood Hazard Reduction, and the Dredging and Dredge Material Disposal provisions of this SMP, and be allowed only after a biological and geomorphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution. [Based on WAC 173-26-221(3)(c)(v)]

14.26.360 Outdoor Advertising and Signs

- (1) **Applicability.** This section applies to “outdoor advertising” including all publicly displayed messages such as signs, billboards, placards, pennants, or posters, whose purpose is to provide official or commercial information, direction, or advertising.

- (2) **When Allowed.** Outdoor advertising is allowed in all Environment Designations except:
- (a) Natural. Outdoor advertising is prohibited in the Natural Environment Designation except for official signs necessary for trail or boat launch markings, hazard warnings, public facilities, or educational and interpretive purposes. Such signs shall be limited in number, size, and design so as to adequately fulfill their stated purposes within minimal impact to the Natural Environment Designation.
 - (b) Aquatic. Outdoor advertising is prohibited except for one flush-mounted wall sign is allowed for shoreline dependent uses.
 - (c) Off-premises advertising is prohibited, except that a limited number of consolidated, community gateway identification or direction signs may be allowed by a Conditional Use Permit.
 - (d) Freestanding signs must be located upland of rights-of-way and roadways in shoreline areas except for on premise signs for enterprises located waterward of roadways and rights-of-way.
 - (e) Roof-mounted signs are prohibited.
- (3) **Application Requirements.** In addition to the general application requirements, applications for outdoor advertising must demonstrate:
- (a) Applications for freestanding signs must demonstrate that it is unfeasible to mount the sign on an exterior wall of the applicant's building.
- (4) **Development Standards.**
- (a) Number. A public or private enterprise, development, or service may have no more than two on-premises advertising devices or signs, except:
 - (i) Temporary signs may be posted on private property by the owner for the purpose of selling or renting such property, except that no such sign may exceeds four square feet in area.
 - (b) Height. On-premise signs and advertising, whether freestanding or wall-mounted, must comply with the Dimensional Standards in SCC 14.26.330 and may not extend in height above the highest exterior wall of the building to which the sign relates. Measurement is taken from the average elevation occupied by the structure to sign top.
 - (c) Total sign area. The maximum sign area for each face of a double or single-faced sign is provided in the Dimensional Standards in SCC 14.26.330.
 - (d) Lighting. Outdoor advertising may not move or fluctuate in lighting or position in any manner.

- (e) Setbacks. Freestanding signs allowed in shoreline areas and other on-premises outdoor advertising must be setback the same distance from OHWM and side property lines as the building or development to which it relates.

14.26.390 Water Quality, Stormwater, and Nonpoint Pollution

- (1) Shoreline use and development must incorporate measures to protect and maintain surface and groundwater quantity and quality in accordance with all applicable local, state, and federal laws, including but not limited to:
 - (a) SCC Chapter 14.32, Drainage
 - (b) SCC Chapter 12.05, On-Site Sewage Code
 - (c) RCW Chapter 70.118B, Large On-Site Sewage Disposal Systems, as administered by state departments of Health and Ecology
 - (d) RCW Chapter 76.09, Forest Practices, as administered by the State Department of Natural Resources
 - (e) RCW Chapter 77.55, Construction Projects in State Waters, as administered by State Department of Fish and Wildlife
- (2) Construction materials. All development that may come in contact with surface or ground water must be constructed of materials that will not adversely affect water quality or aquatic plants or animals, such as untreated or approved treated wood, concrete, approved plastic composites, or steel. Decking or other structural materials must be used consistent with state or federal standards for contact with water to avoid discharge of pollutants from leaching, wave splash, rain, or runoff. Wood treated with creosote or pentachlorophenol is prohibited in shoreline water bodies and other waters.

Part VI: Legally Established Pre-Existing Uses and Structures

14.26.610 Purpose and Applicability.....	Error! Bookmark not defined.
14.26.620 Pre-Existing Single-Family Residences and Appurtenant Structures.....	Error! Bookmark not defined.
14.26.630 Pre-Existing Structures	Error! Bookmark not defined.
14.26.640 Other Pre-Existing Uses	Error! Bookmark not defined.
14.26.650 Abandonment.....	Error! Bookmark not defined.

14.26.610 Purpose and Applicability

- (1) Purpose. Consistent with RCW 90.58.620 and WAC 173-27-080, shoreline uses and developments that were legally established prior to the effective date of this SMP, but do not conform to the regulations of this SMP, enjoy certain limited rights to continuation, maintenance, and expansion. Single-family residences and appurtenant structures, located landward of the OHWM, that were legally established prior to the effective date of this SMP but do not conform to the regulations of this SMP, are considered conforming structures and uses for purposes of this SMP.
- (2) Applicability. This Part applies to structures and uses legally established prior to the effective date of this SMP but that do not conform to the regulations of this SMP, except:
 - (a) Aquaculture legally established prior to the effective date of this SMP that does not conform to the regulations of this SMP is regulated by SCC 14.26.410.
 - (b) Lots legally divided prior to the effective date of this SMP that do not conform to the regulations of this SMP are regulated by SCC 14.16.850.

14.26.620 Pre-Existing Single-Family Residences and Appurtenant Structures

- (1) Applicability. This section applies only to pre-existing single-family residences and their appurtenant structures.
- (2) Routine repair and maintenance is allowed, unless precluded by other provisions of Skagit County Code.
- (3) Enlargement or Expansion.
 - (a) A pre-existing residential or appurtenant structure, that is nonconforming with respect to dimensional standards, may be enlarged provided that such enlargement does not increase the extent of the nonconformity.
 - (b) Minor. Enlargement or expansion that would not otherwise be allowed under this SMP, by the addition of space to the main structure, or by the addition of space to an

appurtenant structure, may be approved by the Administrative Official if all of the following criteria are met:

- (i) the enlargement does not extend farther waterward than the existing primary residential structure or farther into the minimum side yard setback;
 - (ii) the enlargement does not expand the footprint of the existing structure by more than 200 square feet;
 - (iii) the enlargement does not increase the height of the existing structure;
 - (iv) potential adverse impacts to shoreline or critical area ecological functions or processes from the expansion are mitigated on site, in accordance with SCC 14.26.310.
 - (v) any applicable requirements of SCC 14.34 are met.
- (c) Major. Proposed enlargements or expansions that do not meet all of the criteria above require a variance pursuant to SCC 14.26.735.
- (4) Replacement is authorized consistent with the provisions of 14.26.630(4) for replacement of other pre-existing structures.

14.26.630 Pre-Existing Structures

- (1) Applicability. This section applies to pre-existing structures other than single-family residences and their appurtenant structures.
- (2) Routine repair and maintenance is allowed by this SMP, unless precluded by other provisions of Skagit County Code.
- (3) Enlargement or expansion.
 - (a) A structure used for a conforming use, but that is nonconforming with respect to dimensional standards, may be enlarged provided that such enlargement does not increase the extent of the nonconformity.
 - (b) A nonconforming structure that is moved by the landowner any distance must be brought into conformance with this SMP.
 - (c) Enlargement or expansion of a nonconforming structure in a way that would increase the nonconformity requires a Variance.
- (4) Replacement. A structure damaged or destroyed by fire, natural disaster, or other casualty may be reconstructed to the configuration existing immediately prior to the time the development was damaged, if all of the following occur:
 - (a) The applicant submits a complete application for reconstruction or replacement within 12 months of the date the damage occurred. The applicant may request a 12-month extension of the period to submit application for reconstruction or

replacement prior to the expiration of the original 12-month period. Such a request is a Level 1 application. The County may grant the extension if the applicant has made a good faith effort to submit a complete application, and extenuating circumstances beyond the applicant's control (not market conditions or financing delays) have delayed submittal of a complete application.

- (b) The applicant obtains all permits and completes construction within five years.

14.26.640 Other Pre-Existing Uses

- (1) Applicability. This section applies to any pre-existing land uses except single-family residences and their appurtenant structures.
- (2) Enlargement and expansion of the use is not allowed except that a nonconforming use may be expanded into any part of its existing structure.
- (3) Change of the use to another nonconforming use requires a Conditional Use Permit, which may be approved only upon findings that:
 - (a) no reasonable alternative conforming use is practical;
 - (b) the proposed use will be at least as consistent with the policies and provisions of the SMA and this SMP and as compatible with the uses in the area as the preexisting use; and
 - (c) the use demonstrates consistency with the review criteria in SCC 14.26.730.

14.26.650 Abandonment.

- (1) If a legally established pre-existing use of land or a structure ceases for any reason for 12 consecutive months or for 12 months during any two-year period, the rights under this Part expire and any subsequent use must conform to current law.
- (2) The Department must use the procedure for verifying abandonment described in SCC 14.16.880.

Part VII: Administration

14.26.700 Purpose	Error! Bookmark not defined.
14.26.710 Applications	Error! Bookmark not defined.
14.26.715 Shoreline Permits	Error! Bookmark not defined.
14.26.720 Exemption from Substantial Development Permit.....	Error! Bookmark not defined.
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14.26.730 Conditional Use Permit.....	Error! Bookmark not defined.
14.26.735 Shoreline Variance	Error! Bookmark not defined.
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14.26.760 Enforcement.....	Error! Bookmark not defined.
14.26.780 Permit Appeals.....	Error! Bookmark not defined.
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14.26.700 Purpose

- (1) RCW 90.58.140(3) requires local governments to establish an SMP, consistent with the rules adopted by the Washington Department of Ecology, for the administration and enforcement of shoreline development. Also, in accordance with RCW 90.58.050, which provides that this SMP is intended to establish a cooperative program between Skagit County and the State, Skagit County has the primary responsibility for administering the regulatory program and Ecology acts primarily in a supportive and review capacity.
- (2) The application of this SMP is intended to be consistent with constitutional and other legal limitations on the regulation of private property. The Administrative Official must give adequate consideration to mitigation measures, dimensional variances, and other possible methods to prevent undue or unreasonable hardships upon property owners.
- (3) Pursuant to the Shoreline Management Act at RCW 90.58.080 and the Growth Management Act at RCW 36.70A.130, local governments must periodically review, and where appropriate, amend their Shoreline Master Program. Consistent with state law, Skagit County has established a process to evaluate and consider amendments to this Master Program.

14.26.710 Applications

- (1) Procedures. Applications are processed per SCC Chapter 14.06, Permit Procedures, as now adopted or hereafter amended. Where this Part requires procedures different than those in SCC Chapter 14.06, the provisions of this Part control.

- (2) Application Level. Shoreline applications are classified by application level in SCC Chapter 14.06 Permit Procedures.

[this table will get deleted in the final SMP because it'll be in 14.06]

Shoreline Application Type	Application Level
Substantial Development Permit	Level I
Substantial Development Permit Letter of Exemption	Level I
Conditional Use Permit	Level II
Variance, Administrative	Level I
Variance, Hearing Examiner	Level II
Permit Revision	Level I

- (3) Application Requirements. Permit applications must be consistent with SCC 14.06.090 Application Requirements; additional application requirements in this SMP; and WAC 173-27-180.
- (a) Where this SMP requires more information than the minimum required by WAC 173-27-180, the Administrator may vary or waive requirements beyond WAC 173-27-180 if the information is unnecessary to process the application.
 - (b) The Administrative Official may require additional specific information if required by the nature of the proposal or the presence of sensitive ecological features, to ensure compliance with other local requirements or the provisions of this SMP.
 - (c) The applicant must submit a mitigation sequencing analysis if required by 14.26.340 Environmental Protection.
- (4) Fees. The applicant must pay the application fee at the time of application.

14.26.715 Shoreline Permits

- (1) Initiation of Development. As set forth in WAC 173-27-190, each Substantial Development Permit, Conditional Use Permit, or Shoreline Variance, issued by local government must contain a provision that construction pursuant to the permit may not begin and is not authorized until 21 days from the date of filing as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within 21 days from the date of such filing have terminated.
- (2) Complete Compliance Required. Except as specified in SCC 14.26.820, Revisions to Permits, the applicant must comply with all aspects of an approval granted under this Chapter, including conditions and restrictions.
- (3) Time Limits. Construction and activities authorized by a Shoreline Substantial Development Permit are subject to the time limitations of RCW 90.58.143 and WAC 173-27-090.

- (4) Per WAC 173-27-130, the County's final decision on a Shoreline Permit is the order or ruling, whether approval or denial, established after all administrative appeals related to the permit have concluded or the opportunity to initiate such appeals has lapsed.

14.26.720 Exemption from Substantial Development Permit

- (1) Purpose. Some development, such as construction of a single-family residence or development less than a specified dollar threshold, is categorically exempt from the requirement to obtain a Shoreline Substantial Development Permit. Permit-exempt development must still comply with the substantive requirements of the SMA and this SMP.
- (2) What qualifies for a permit exemption? A development listed in WAC 173-27-040 or RCW 90.58.030(3)(e), 90.58.140(9), 90.58.147, 90.58.355, or 90.58.515 is exempt from the requirement to obtain a Substantial Development Permit.
 - (a) Per WAC 173-27-040(1)(d), if any part of a proposed development is not eligible for exemption, then a Shoreline Substantial Development Permit is required for the entire proposed development project.
 - (b) Per WAC 173-27-040(1)(b), exemption from the permit requirement is not an exemption from the substantive requirements of the SMA or this SMP.
- (3) Letter of Exemption.
 - (a) A letter of exemption is required for all development qualifying for a Substantial Development Permit exemption.
 - (b) Contents. Consistent with WAC 173-27-050, a letter of exemption must contain the following:
 - (i) the specific exemption provision from the WAC or RCW that is being applied to the development;
 - (ii) a summary of the County's analysis of the consistency of the project with this SMP and the SMA;
 - (iii) any conditions to the approval of an exemption that the Administrative Official determines are necessary to ensure consistency of the project with this SMP and the SMA; and
 - (iv) a statement that the exemption is not effective unless and until the applicant obtains all other necessary local, state, and federal permits.
 - (c) Per WAC 173-27-050, for any project qualifying for a permit exemption that requires a Federal Rivers & Harbors Act §10 permit, Federal Clean Water Act §404 permit, or State Hydraulic Project Approval, the Administrative Official must transmit the permit exemption letter to the Department of Ecology.
- (4) Application and Interpretation of Exemptions.

- (a) Per WAC 173-27-040(1)(a), permit exemptions are construed narrowly. Only a development that meets the precise terms of one or more of the listed exemptions is exempt from the Shoreline Substantial Development Permit process.
- (b) Per WAC 173-27-040(1)(c), the burden of proof that a development or use is exempt from the permit process is on the applicant.
- (c) A development or use that qualifies for a permit exemption must still obtain any required Shoreline Conditional Use Permit or Shoreline Variance.

14.26.725 Substantial Development Permit

- (1) Purpose. A Shoreline Substantial Development Permit is required for all development of shorelines, unless the proposal is specifically exempt per SCC 14.26.720 Exemption from Substantial Development Permit.
- (2) Review Criteria. A Substantial Development Permit may be granted only when the development proposed is consistent with the following:
 - (a) the policies and procedures of the SMA;
 - (b) the provisions of WAC 173-27-150; and
 - (c) this SMP.
- (3) An application for a limited utility extension, or the construction of a bulkhead or other measure to protect a single-family residence and its appurtenant structures from shoreline erosion must be processed consistent with the special time periods and procedures in WAC 173-27-120.
- (4) Skagit County may attach conditions to the approval of permits as necessary to ensure consistency of the project with the SMA and this SMP.
- (5) Filing with Ecology.
 - (a) Per WAC 173-27-130, after the County's final decision on a Substantial Development Permit application, the Administrative Official must submit the permit to the Department of Ecology. The County's final decision does not require Ecology's approval.
 - (b) "Date of filing" of the County's final decision involving approval or denial of a substantial development permit is the date of actual receipt by Ecology of the County's final decision on the permit.

14.26.730 Conditional Use Permit

- (1) Purpose. The purpose of a Conditional Use Permit is to provide flexibility in authorizing uses in a manner consistent with RCW 90.58.020. Accordingly, special conditions may be imposed to prevent undesirable effects of the proposed use and ensure consistency of the project with the SMA and this SMP.

- (2) Review Criteria. A Shoreline Conditional Use Permit may be granted only if the applicant can demonstrate all of the following:
 - (a) That the proposed use will be consistent with the policies of RCW 90.58.020, WAC 173-27-160, and the policies of this SMP; and with the regulations in any applicable use sections in Part IV;
 - (b) That the proposed use will not interfere with the normal public use of public shorelines;
 - (c) That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and this SMP;
 - (d) That the proposed use will result in no significant adverse effects or a net loss to the shoreline environment in which it is to be located;
 - (e) That the public interest will suffer no substantial detrimental effect; and
 - (f) That the proposed use will not result in substantial adverse effects or net loss of shoreline ecosystem functions and that consideration has been given to the cumulative impact of additional requests for like actions in the area.
- (3) Uses that are not classified, listed, or set forth in this SMP may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in this SMP.
- (4) Uses that are specifically prohibited by this SMP may not be authorized as a conditional uses.
- (5) Filing with Ecology.
 - (a) Pursuant to WAC 173-27-200, after County's final decision on a Conditional Use Permit application, the Administrative Official must submit the permit to the Department of Ecology for its approval, approval with conditions, or denial.
 - (b) "Date of filing" of the County's final decision involving approval or denial of a conditional use permit is the date Ecology transmits its final decision on the conditional use permit to the County and the applicant.
- (6) Notice. Pursuant to WAC 173-27-200, upon receipt of Ecology's decision, the Administrative Official must notify those interested persons who requested notification of such decision.

14.26.735 Shoreline Variance

- (1) Purpose. The purpose of a variance is to grant relief from specific bulk, dimensional, or performance standards set forth in this SMP where there are extraordinary circumstances related to the property such that the strict implementation of this SMP would impose

unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. Variances from the use regulations of the SMP are prohibited.

- (2) Types. There are two types of variances: administrative variances and Hearing Examiner variances.
 - (a) Administrative variance. An application to reduce a standard buffer width by 50% or less is an administrative variance.
 - (b) Hearing Examiner variance. Any other variance application, e.g. for relief from specific bulk, dimensional, or performance standards of this SMP, is a Hearing Examiner variance.
- (3) Application Requirements. In addition to the general application requirements, a Shoreline Variance application must include a view analysis.
 - (a) The view analysis must include photographs, videos, photo-based simulations, computer-generated simulations, or some combination thereof, demonstrating projected view obstruction within a 1,000-foot radius of the proposed development.
 - (b) For phased developments, the view analysis must be prepared in the first phase and include all proposed buildings.
 - (c) The view analysis must demonstrate how the site design provides for view corridors between buildings through the use of building separation, setbacks, upper story setbacks, pitched roofs, or other methods.
- (4) Review Criteria. These criteria apply to the review of both administrative and Hearing Examiner variances.
 - (a) The Shoreline Variance may be authorized only if the structure will not obstruct views from public property or a substantial number of residences, as informed by the view analysis.
 - (b) Per WAC 173-27-170(2), for development or a use to be located landward of the OHWM, or landward of any wetland as defined in RCW 90.58.030(2)(h), a variance may be authorized if the applicant can demonstrate all of the following:
 - (i) That the strict application of the bulk, dimensional, or performance standards set forth in this SMP precludes, or significantly interferes with, reasonable use of the property;
 - (ii) That the hardship described in criterion (i) of this subsection is specifically related to the property, and is the result of extraordinary conditions such as irregular lot shape, size, or natural features and the application of this SMP, and not, for example, from deed restrictions or the applicant's own actions;
 - (iii) That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan

and this SMP and will not cause adverse impacts to the shoreline environment;

- (iv) That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
 - (v) That the variance requested is the minimum necessary to afford relief; and
 - (vi) That the public interest will suffer no substantial detrimental effect.
- (c) Per WAC 173-27-170(3), for development or a use to be located waterward of the OHWM, or within any wetland as defined in RCW 90.58.030(2)(h), a variance may be authorized if the applicant can demonstrate all of the following:
- (i) That the strict application of the bulk, dimensional, or performance standards set forth in the applicable master program precludes all reasonable use of the property;
 - (ii) That the proposal is consistent with the other review criteria of paragraph (a) above; and
 - (iii) That the public rights of navigation and use of the shorelines will not be adversely affected.
- (d) Any variance request that includes a buffer reduction must also address the requirements of SCC 14.24.140(3).
- (e) Cumulative impacts. Per WAC 173-27-170(4), in the granting of all variances, consideration must be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments or uses in the area where similar circumstances exist, the total of the variances must also remain consistent with the policies of RCW 90.58.020 and must not cause substantial adverse effects to the shoreline environment.
- (5) Filing with Ecology.
- (a) Administrative variance. The Administrative Official must send a copy of the Notice of Decision to Ecology at the time the decision is issued.
 - (b) Hearing Examiner variance.
 - (i) Per WAC 173-27-200(1), after the County's final decision on a variance application, the Administrative Official must submit the permit to the Department of Ecology for final approval, approval with conditions, or denial.
 - (ii) "Date of filing" of the County's final decision involving approval or denial of a Hearing Examiner variance is the date Ecology transmits its final decision on the variance to the County and the applicant.

14.26.740 Permit Revision

- (1) A revision to an approved shoreline permit is required whenever an applicant proposes substantive changes to the design, terms, or conditions of the permit. Changes that are not substantive in effect do not require a revision.
 - (a) Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, this SMP, the policies and provisions of RCW Chapter 90.58, or both.
 - (b) The Administrative Official must determine that the proposed revision is within the scope and intent (as defined in WAC 173-27-100(2)) of the original permit, and the revision is consistent with this SMP and the SMA, prior to approving the revision.
 - (c) If the sum of the revision and any previously approved revisions exceed the scope and intent (as defined in WAC 173-27-100(2)) of the original permit, the applicant must apply for a new permit.
 - (d) A revision may not extend the time requirements or authorize substantial development beyond the time limits of the original permit.
- (2) Application Requirements. An application for a revision must include detailed plans and text describing the proposed changes.
- (3) A Notice of Application and a comment period are not required for a shoreline permit revision.
- (4) Contents of Revision. The decision of the Administrative Official on a revision must include the revised site plans and text consistent with the provisions of WAC 173-27-180 as necessary to clearly indicate the authorized changes.
- (5) Filing with Ecology.
 - (a) Revision to a Substantial Development Permit. After the County's final decision on an application for a revision to a Substantial Development Permit, the Administrative Official must submit the revision to the Department of Ecology. The revision is effective immediately upon final decision by the Administrative Official.
 - (b) Revision to a variance or conditional use permit. After the County's final decision on an application for a revision to a variance or conditional use permit, the Administrative Official must submit the revision to Ecology for approval, approval with conditions, or denial, and must indicate that the revision is being submitted under the requirements of WAC 173-27-100. The revision is effective upon final action by Ecology.
- (6) Notice. The Administrative Official must notify all parties of record of the revision.
- (7) Administrative appeals.

- (a) Issues on appeal are limited to whether the revision is within the scope and intent of the original permit.
- (b) If an appeal is successful in proving that a revision is not within the scope and intent of the original permit, the decision does not affect the validity of the original permit.

14.26.760 Enforcement

Whenever a person has violated any provision of the SMA, any provision of this SMP, or any other regulation promulgated under the SMA, Skagit County may take enforcement action pursuant to SCC Chapter 14.44, Enforcement/Penalties, consistent with RCW 90.58.210-230 and WAC 173-27-240 through 310. The Department of Ecology may also take enforcement action pursuant to WAC 173-27-240 through 310.

14.26.780 Permit Appeals

- (1) Administrative appeals must be in accordance with SCC Chapter 14.06. Where standards or procedures in this Part differ from those in SCC Chapter 14.06, the provisions of this Part control.
- (2) Appeals of the County's final decisions must be in accordance with RCW 90.58.180.

14.26.785 Interpretations

- (1) The Administrative Official may issue interpretations of this SMP consistent with SCC 14.06.040 Administration and Interpretation.
- (2) Consistent with WAC 173-26-140, the Administrative Official must consult with Ecology to ensure that any formal written interpretations are consistent with the purpose and intent of RCW Chapter 90.58 and WAC Chapter 173-26.

14.26.790 Monitoring

- (1) Skagit County must track all shoreline permits and exemption activities to evaluate whether this SMP is achieving no net loss of shoreline ecological functions.
- (2) Consistent with WAC 173-26-201(2)(b), Skagit County must conduct system-wide monitoring of shoreline conditions and development activity that occur in shoreline jurisdiction outside of critical areas and their buffers, whenever practical. Such monitoring should include permit tracking of development, conservation, restoration, and mitigation, such as:
 - (a) new shoreline development;
 - (b) Shoreline Variances and the nature of the variance;
 - (c) compliance issues;
 - (d) net changes in impervious surface areas, including associated stormwater management;

- (e) net changes in fill or armoring;
 - (f) net change in linear feet of levee and distance between OHWM and any levees;
 - (g) net changes in vegetation including in area and character.
- (3) Using this information and information about the outcomes of other actions and programs of other County departments, the Administrative Official must prepare a no-net-loss report every eight years as part of the SMP evaluation or Comprehensive Plan Update process. If the no-net-loss report shows degradation of the baseline condition documented in the County's Shoreline Analysis Report (2012), the Administrative Official must propose changes to this SMP, or Shoreline Restoration Plan, or both, at the time of the eight-year update to prevent further degradation and address the loss of ecological function.

14.26.795 SMP Amendments

- (1) General Provisions.
 - (a) Consistent with the review schedule required by the SMA, the County must review and amend this SMP to ensure:
 - (i) that this SMP complies with applicable law and guidelines in effect at the time of the review; and
 - (ii) consistency among this SMP and the County's comprehensive plan and development regulations and other local requirements.
 - (b) This SMP and all amendments to it become effective in accordance with RCW 90.58.090(7).
 - (c) The SMP may be amended annually or more frequently as needed per RCW 36.70A.130(2)(a)(iii).
- (2) Types of Amendments.
 - (a) Limited Master Program Amendment: an amendment to this SMP that addresses specific procedural and/or substantive topics and that is not intended to meet the complete requirements of a comprehensive master program update.
 - (b) Comprehensive Master Program Update: a periodic update to this SMP that fully achieves the procedural and substantive requirements of Ecology's shoreline master program guidelines.
- (3) Limited Master Program Amendment Process and Criteria.
 - (a) Petition. Any person or organization or the Department may suggest amendments to this SMP by filing a petition on forms provided by the Department.

- (b) Initiation of review. To initiate review of a petition to amend the SMP, the Board of County Commissioners must adopt a resolution adding the proposed amendment project to the Department's legislative work program.
- (c) Review process. The County must review the proposed amendment consistent with the public participation process described in SCC Chapter 14.08 with the docketing exception described in SCC 14.08.050, and the procedures of the SMA and implementing rules, including but not limited to, RCW 90.58.080, WAC 173-26-100, RCW 36.70A.106 and 130, and WAC Chapter 365-196.
- (d) Required findings. To approve the amendment, the County must make findings that the amendment would accomplish the following:
 - (i) The proposed amendment would make this SMP more consistent with the SMA, or applicable Ecology Guidelines, or both;
 - (ii) The proposed amendment would make this SMP more equitable in its application to persons or property due to changed conditions in an area;
 - (iii) The proposed amendment would ensure no net loss of shoreline ecological functions and processes on a programmatic basis in accordance with the baseline functions present as of the effective date of this SMP.
- (e) Upon adoption by the Board of County Commissioners, the Administrative Official must forward the amendment to Ecology for review and approval in accordance with RCW Chapter 90.58 and WAC 173-26-110.