



Skagit County

Shoreline Master Program

Planning Commission Working Draft #2

February 4, 2014

ReadMe » About this Document

What is the Shoreline Master Program?

Skagit County's Shoreline Master Program ("the SMP") is a combined planning and regulatory document that contains policies, goals, and specific land-use regulations for shorelines. The SMP balances development, public access, and shoreline protection. The SMP is required by the state Shoreline Management Act, which was approved by Washington voters in a 1972 referendum.

What are "shorelines"?

Shorelines are special water bodies that meet certain flow criteria, and their adjacent uplands, including:

- all marine waters
- rivers with a flow greater than 20 cubic feet per second
- lakes larger than 20 acres
- upland areas within 200 feet of these water bodies, and portions of the floodplains and wetlands associated with these shorelines.

How is this document structured?

This document is split into two principal sections: ¹

- Chapter 6 of the Skagit County Comprehensive Plan, with general goals, objectives, and policies to guide the creation of development regulations.
- Chapter 14.26 of Skagit County Code, with explicit rules and criteria for development, divided into eight parts.

How do I use this document?

Follow the steps below to find out how the Shoreline Master Program affects how you can develop your property:

1. **First, does the SMP apply to your property?** "Shoreline jurisdiction" is generally within 200 feet of a shoreline, and is described fully in SCC 14.26.140 Shoreline Jurisdiction on page 50. If your property is outside of shoreline jurisdiction, this SMP doesn't apply. Also, this SMP only applies to unincorporated areas of the county; if you live in a city or town, this SMP doesn't apply.
2. **If so, which Shoreline Environment Designation applies to your property?** Look up your property on the SMP Environment Designation maps at www.skagitcounty.net/smp. If

¹ Per RCW 36.70A.480(1), the goals and policies of a shoreline master program of a city or county are "considered an element of the county or city's comprehensive plan" adopted under the Growth Management Act. In addition, all other portions of the shoreline master program, including use regulations, are considered part of a city or county's development regulations.

you want, you can read about why your property received its Shoreline Environment Designation in Part II of this SMP, which begins on page 50. In the electronic version of this document, the table of contents for each section lets you jump to the part you want to read about.

3. **Then, what do you want to do?** Read Part III, starting on page 61, for general rules for development in all environment designations. Then turn to Part IV on page 85 for rules for specific uses. For a quick reference as to which uses are permitted in each designation, see SCC 14.26.400 General on page 85. For height and lot coverage limits, see SCC 14.26.405 Dimensional Standards on page 90.
4. **What if you just want to repair or expand an existing use?** The SMP has special rules for uses that already exist within shoreline jurisdiction, especially single-family residences. See Part VI starting on page 161.
5. **Finally, how do you get approval to do it?** Part VII on page 164 describes the steps for applying for whatever type of shoreline review you might need.

Shoreline Review

Where this document refers to **shoreline review**, it means the use or activity needs to obtain either a “shoreline permit” or a written statement of exemption. Both are described below.

Shoreline Permits

There are three types of “**shoreline permits**” that you might need under the rules of this SMP.

Type of Shoreline Permit	You need it if your proposed activity or development...	Process
Substantial Development Permit	qualifies as “substantial development”; see ___	SCC 14.26.720 (pg 166)
Conditional Use Permit	is not specifically allowed by this SMP, or if this SMP otherwise requires a Conditional Use Permit.	SCC 14.26.730 (pg 168)
Variance	doesn’t comply with the specific use or dimensional criteria in this SMP.	SCC 14.26.750 (pg 169)

Exemptions

There are two kinds of exemptions defined in state law that lessen the regulatory impact of the Shoreline Management Act (“the SMA”).

- **Exemption from a Shoreline Substantial Development Permit:** Some activities or developments have to comply with the rules of the SMP, but do not require a Substantial Development Permit; for example, some single-family residences (see Appendix 1). You still have to obtain a “written statement of exemption” (described above) for these activities. See SCC 14.26.760 (pg 166) for information on the process.
- **Exemption from the SMA:** A few activities are completely exempt from shoreline rules, for example, existing agricultural activities (see page 93). These activities require no shoreline permit or letter of exemption, and do not have to comply with SMP regulations.

Guide to Acronyms, Initialisms, and other Abbreviations

Term	Expansion
BMP	best management practice
cfs	cubic feet per second
cfsmaf	cubic feet per second mean annual flow
CUP	Conditional Use Permit
Department	Skagit County Planning and Development Services Department
Director	Skagit County Planning and Development Services Department Director
Ecology	Washington State Department of Ecology
JARPA	Joint Aquatic Resources Permit Application
LAMIRD	Limited Area of More Intense Rural Development
LID	low impact development
LWD	large woody debris
MLLW	mean lower low water
OHWM	Ordinary High Water Mark
RCW	Revised Code of Washington
SCC	Skagit County Code
SEPA	State Environmental Policy Act
SMA	Shoreline Management Act of 1971
SMP	this Shoreline Master Program
State	State of Washington
UGA	Urban Growth Area
WAC	Washington Administrative Code
WDFW	Washington Department of Fish and Wildlife

Shoreline Master Program

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Comprehensive Plan Chapter 6

Shoreline Master Program Element

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6A – Introduction

The shorelines of the state are among the most valuable and fragile of our natural resources and there is great concern throughout the state relating to their utilization, protection, restoration, and preservation. In addition, ever-increasing pressures of additional uses are being placed on the shorelines necessitating increased coordination in their management and development.

Furthermore, many of the shorelines and adjacent uplands are in private ownership; unrestricted construction on the privately owned or publicly owned shorelines is not in the best public interest; and, therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines while, at the same time, recognizing and protecting private property rights consistent with the public interest. There is, therefore, a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by local, state, and federal governments, to prevent the inherent harm in uncoordinated and piecemeal development of shorelines.

By ratifying Initiative 43B in the 1972 General Election, the people of the state approved the Shoreline Management Act of 1971 (RCW 90.58). This law vests counties and cities with the primary responsibility for comprehensively planning and reasonably regulating shoreline development and use. The goals, shoreline area designations, policies, regulations, and procedures set forth in the shoreline management master program are essential to the protection of the public health, safety, and general welfare of the people of Skagit County.

The Growth Management Act requires counties with an adopted shoreline master program to include the goals and policies of such program in the county’s comprehensive plan. The shoreline

master program goals and policies are to be considered an element of the comprehensive plan and the regulations are to be considered a part of the county's development regulations (RCW 36.70A.480). Therefore, the Skagit County Shoreline Master Program goals and policies, which were adopted pursuant to RCW 90.58, are included in the comprehensive plan as required. Future amendments to this chapter of the comprehensive plan must also follow the amendment procedures of RCW 90.58.

6A-1. Purpose

The purposes of this Master Program are:

- a. To promote the public health, safety and general welfare by providing long range, comprehensive policies and effective, reasonable regulations for development and use of Skagit County shorelines.
- b. To implement this program in a positive, effective, and equitable manner.
- c. To further assume and carry out the responsibilities established by the Act for Skagit County, and to foster by adoption the policy contained in RCW 90.58.020 for shorelines of the state: It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure [sic] the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto. The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The Department of Ecology, while adopting guidelines for shorelines of statewide significance, and local government, while developing master programs for shorelines of statewide significance, shall give preference to uses, in the following order which:
 - i. recognize and protect the statewide interest over local interest;
 - ii. preserve the natural character of the shoreline;
 - iii. result in long-term over short-term benefit;
 - iv. protect the resources and ecology of the shoreline;
 - v. increase public access to publicly owned areas of the shorelines;
 - vi. increase recreational opportunities for the public in the shoreline;

- vii. provide for any other element as defined in RCW 90 58 100 deemed appropriate or necessary.

In the implementation of this policy, 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. To this end, 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 state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single-family residences, ports, and shoreline recreational uses. These recreational uses include, but are not limited to, parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or their use of the shorelines of the state, and other developments that will provide an opportunity for substantial numbers of people to enjoy the shorelines of the state. Permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

6A-2. Overarching Shoreline Goals

In addition to the purpose stated above, the development of the Master Program was guided by the following nine goal statements pursuant to the program elements specified in RCW 90.58.100(2). These goals are intended to provide an overall, comprehensive foundation and sense of direction upon which the policies, regulations, shoreline area designations, and administrative procedures would be based. These goals will provide overall guidance for the management of the shorelines of Skagit County.

- a. Shoreline use—To allow for compatible uses of the shorelines in relation to the limitations of their physical and environmental characteristics. Such uses should enhance rather than detract from, or adversely impact, the existing shoreline environment.
- b. Conservation—To preserve, protect, and restore the natural resources of Skagit County's shorelines in the public interest and for future generations. These natural resources include but are not necessarily limited to fish, wildlife, vegetation, and natural features found in shoreline regions. Only renewable resources should be extracted and in a manner that will not adversely affect the shoreline environment.
- c. Public access—To provide a comprehensive system for physical, visual, and cultural access to Skagit County shorelines. (Edits based on SAC draft and as presented to the Planning Commission)
- d. Circulation—To promote safe, adequate, and diversified transportation systems that are compatible with the shoreline environment, uses, and ecological functions necessary to sustain shoreline natural resources.

- e. Economic development—To promote and encourage the optimum use of existing industrial and economic areas for users which are shoreline dependent and shoreline related and can harmoniously coexist with the natural and human environments; and, subsequently, to create similar areas as need arises with minimum disruption of the shorelines.
- f. Recreation—To encourage the provision and improvement of private and public recreation along the shorelines of Skagit County while maintaining the physical and aesthetic qualities of natural shorelines of the state, consistent with the overall best interests of the state and the people generally.
- g. Historical/Cultural/Educational—To identify, protect, and restore those shoreline areas and facilities that are of historical, cultural or educational value. Public and private organizations should be encouraged to provide public access and protection of such areas and facilities.
- h. Restoration and enhancement—To restore and enhance those shoreline areas and facilities that are presently unsuitable for public or private access and use.
- i. Implementation process—To provide an efficient system for shoreline permit applications that would eliminate unnecessary duplication of effort or jurisdictional conflicts, yet ensure complete coordination and review. Provide a process to periodically update the inventory, goals, policies, and regulations to achieve responsiveness to changing attitudes and conditions.

6A-3. Profile of Shoreline Jurisdiction

Shorelines of the State

As defined by the Shoreline Management Act of 1971, shorelines include certain waters of the state plus their associated “shorelands.” The water bodies designated as shorelines of the state are streams and rivers whose mean annual flow is 20 cubic feet per second (cfs) or greater, lakes whose area is greater than 20 acres, and all marine waters.

Shorelands are minimally defined as:

“those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the Ordinary High Water Mark (OHWM); floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter....” (RCW 90.58.030)

Shorelines of Statewide Significance

The Washington State Legislature designated certain shorelines as “Shorelines of Statewide Significance” from which all of the people of the state derive benefit, and that these shorelines

should, therefore, be managed with the interest of all of the people in mind. Shorelines of Statewide Significance includes all streams and rivers which have mean annual flow of 1,000 cubic feet per second, all lakes greater than 1,000 acres, and all areas waterward of the extreme low tide throughout Puget Sound. Additionally, Skagit Bay and the adjacent area from Brown Point to Yokeko Point, along with Padilla Bay, from March Point to William Point, are also identified as specific estuarine areas and are considered Shorelines of Statewide Significance waterward from the OHWM and all associated shorelands.

The SMA requires that the Master Program give preference to uses and developments that are consistent with the principle of statewide over local interest. The Legislature determined that in order to fulfill the goal of statewide public interest in Shorelines of Statewide Significance, local Master Programs must give preference to uses that are consistent with the policies applied in the following order, pursuant to RCW 90.58.020:

- a. The statewide interest should be recognized and protected over the local interest.
- b. The natural character of shorelines of statewide significance should be preserved.
- c. Uses of shorelines of statewide significance should result in long-term benefits to the people of the state.
- d. The natural resources and ecological systems of shorelines of statewide significance should be protected.
- e. Public access to publicly owned areas in shorelines of statewide significance should be increased.
- f. Recreational opportunities for the public should be increased on shorelines of statewide significance.

6B – Environment Designations

6B-1. Aquatic

Purpose

The purpose of the Aquatic environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high water mark.

Designation Criteria

- 6B-1.1 An Aquatic environment designation should be assigned to areas waterward of the ordinary high water mark.

Management Policies

- 6B-1.2 New overwater structures should be allowed for water-dependent uses, public access, or ecological restoration.
- 6B-1.3 The size of new overwater structures should be limited to the minimum necessary to support the structure's intended use.
- 6B-1.4 In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple uses of overwater facilities should be encouraged.
- 6B-1.5 All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation; to consider impacts to views; and to allow for the safe, unobstructed passage of fish and wildlife.
- 6B-1.6 Uses that adversely impact the ecological functions of critical saltwater and freshwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020, and only when the impacts are mitigated following mitigation sequencing.
- 6B-1.7 Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.
- 6B-1.8 Shoreline space should be reserved for shoreline preferred uses, while considering such things as upland and in-water uses, water quality, navigation, presence of aquatic vegetation, existing shellfish protection districts and critical habitats, aesthetics, public access and views.

6B-2. High-Intensity

Purpose

The purpose of the High Intensity environment is to provide for high intensity water-oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been degraded.

Designation Criteria

- 6B-2.1 A High Intensity environment designation should be assigned to shoreline areas within incorporated municipalities, urban growth areas, and industrial or commercial "limited areas of more intensive rural development," if they currently support high intensity uses related to commerce, transportation, or navigation, or are suitable and planned for high intensity water-oriented uses.

Management Policies

- 6B-2.2 In regulating uses in the High Intensity environment, first priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. New nonwater-oriented uses should be allowed as part of mixed-use developments and when they do not conflict with or limit opportunities for water-oriented uses.
- 6B-2.3 Full utilization of existing urban areas should be encouraged prior to the expansion of intensive development.
- 6B-2.4 Proposals for new development in shoreline jurisdiction should be designed to result in no net loss of shoreline ecological functions.
- 6B-2.5 Where feasible, visual and physical public access should be provided.
- 6B-2.6 Aesthetic objectives should be met through signage regulations, development siting criteria, screening and landscaping standards, and maintenance of natural vegetative buffers.

6B-3. Natural

Purpose

The purpose of the Natural environment is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions. Only low intensity uses should be allowed in order to maintain the ecological functions and ecosystem-wide processes.

Designation Criteria

- 6B-3.1 A Natural environment designation should be assigned to shoreline areas if any of the following characteristics apply:
- a. The shoreline is ecologically intact and therefore currently performing an important function or ecosystem-wide process that would be damaged by human activity;
 - b. The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational significance; or
 - c. The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.

Management Policies

- 6B-3.2 Any use that would substantially degrade the ecological functions or natural character of the shoreline area should not be allowed.
- 6B-3.3 The following new uses should not be allowed in the Natural environment:
- a. Commercial uses;
 - b. Industrial uses;
 - c. Nonwater-oriented recreation;
 - d. Roads, utility corridors, and parking areas that can be located outside of Natural-designated shorelines.
- 6B-3.4 Single-family residential development may be considered as a conditional use within the Natural environment if the density and intensity of such use is limited to protect ecological functions and be consistent with the purpose of the Natural environment.
- 6B-3.5 Commercial forestry may be allowed in the Natural environment provided it meets the conditions of the State Forest Practices Act and its implementing rules and is conducted in a manner consistent with the purpose of the Natural environment designation.
- 6B-3.6 Low intensity agricultural uses may be allowed in the Natural environment when such use does not expand or alter practices in a manner inconsistent with the purpose of the designation.
- 6B-3.7 Scientific, historical, cultural, educational research uses, and low intensity water-oriented recreational uses may be allowed provided that no significant ecological impact on the area will result.
- 6B-3.8 New development or proposed vegetation removal should not reduce the capability of existing vegetation to perform ecological functions. The subdivision of property requiring significant vegetation removal or shoreline modification that may adversely impact ecological functions would not be consistent with the Natural environment designation.

6B-4. Rural Conservancy

Purpose

The purpose of the Rural Conservancy environment is to protect ecological functions, conserve existing natural resources and valuable historic and cultural areas, provide for sustained resource use, achieve natural floodplain processes, and provide recreational opportunities. Examples of uses that are appropriate in a Rural Conservancy environment include low-impact outdoor recreation

uses, forest production, agricultural uses, aquaculture, low intensity residential development and natural resource-based low-intensity uses.

Designation Criteria

- 6B-4.1 A Rural Conservancy environment designation should be assigned to shoreline areas outside incorporated municipalities and urban growth areas, as defined by RCW 36.70A.110, if any of the following characteristics apply:
- a. The shoreline is currently supporting lesser-intensity resource-based uses, such as agriculture, forestry, or recreational uses, or is designated agricultural or forest lands pursuant to RCW 36.70A.170;
 - b. The shoreline is currently accommodating lesser-intensity residential development outside urban growth areas and incorporated cities or towns;
 - c. The shoreline is supporting human uses but subject to environmental limitations, such as properties that include or are adjacent to steep slopes, feeder bluffs, floodplains or other flood-prone areas;
 - d. The shoreline is of high recreational value ; or
 - e. The shoreline contains unique historic or cultural resources; or
 - f. The shoreline contains low intensity water-dependent uses.

Management Policies

6B-4.2 Uses in the Rural Conservancy environment should include those which sustain the shoreline area's physical and biological resources and uses of a nonpermanent nature that do not substantially degrade ecological functions or the rural or natural character of the shoreline area. Agriculture, commercial forestry, and aquaculture when consistent with provisions of this SMP are preferred uses. Low-intensity, water-oriented commercial and industrial uses may be permitted where those uses have located in the past or at unique sites in rural communities that possess shoreline conditions and services to support the use. Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as boating facilities, angling, hunting, wildlife viewing trails, and swimming beaches, are preferred uses, provided significant adverse impacts to the shoreline are mitigated. Mining and related activities may be an appropriate use within the rural conservancy environment when conducted in a manner consistent with the environment policies and the provisions of WAC 173-26-241 (3)(h) and when located consistent with mineral resource lands designation criteria pursuant to RCW 36.70A.170 and WAC 365-190-070.

6B-4.3 Developments and uses that would substantially degrade or permanently deplete the biological resources of the area should not be allowed.

- 6B-4.4 Construction of new structural shoreline stabilization and flood control works should be allowed when the need exists to protect an existing structure or ecological functions. Mitigation may be necessary for such construction. New development should be designed and located to preclude the need for such work.
- 6B-4.5 Proposed residential development should be designed to ensure no net loss of shoreline ecological functions and should preserve the existing character of the shoreline consistent with the purpose of the Rural Conservancy environment.
- 6B-4.6 New shoreline stabilization, flood control measures, vegetation removal, and other shoreline modifications should be designed and managed consistent with this SMP to ensure that shoreline functions are protected. Such shoreline modification should be consistent with planning provisions for restoration of shoreline ecological functions.

6B-5. Rural Conservancy – Skagit Floodway

Purpose

The purpose of the Rural Conservancy – Skagit Floodway environment is to protect ecological functions, conserve existing natural resources and valuable historic and cultural areas, provide for sustained resource use, achieve natural floodplain processes, and provide recreational opportunities appropriate for those shoreline areas that are located within the floodway of the Skagit River from the State Route 9 bridge upstream to the confluence of the Skagit and Sauk Rivers. This floodway area is intended to be relatively free of non-natural impediments, which in turn allows for the flow of flood waters along the Skagit River. Examples of uses that are appropriate in a Rural Conservancy – Skagit Floodway environment include low impact outdoor recreation uses, forest production, agricultural uses, aquaculture, and natural resource-based low intensity uses, consistent with flood hazard regulations.

Designation Criteria

- 6B-5.1 A Rural Conservancy – Skagit Floodway environment designation should be assigned to shoreline areas outside incorporated municipalities and urban growth areas that are located within the floodway of the Skagit River from the State Route 9 bridge upstream to the confluence of the Skagit and Sauk Rivers.

Management Policies

- 6B-5.2 Uses in the Rural Conservancy – Skagit Floodway environment should include those which sustain the shoreline area's physical and biological resources and uses of a nonpermanent nature that do not substantially degrade ecological functions or the rural or natural character of the shoreline area. Agriculture, commercial forestry, and aquaculture, when consistent with provisions of this SMP and flood hazard regulations, are preferred uses. Water-dependent and water-enjoyment recreation that does not deplete the resource over time and is consistent with flood hazard regulations, such as

angling, hunting, wildlife viewing, and swimming beaches, are preferred uses, provided significant adverse impacts to the shoreline are mitigated. Mining and related activities may be an appropriate use within the Rural Conservancy – Skagit Floodway environment when conducted in a manner consistent with flood hazard regulations, with the environment policies and the provisions of WAC 173-26-241 (3)(h), and when located consistent with mineral resource lands designation criteria pursuant to RCW 36.70A.170 and WAC 365-190-070.

- 6B-5.3 New shoreline stabilization, flood control measures, vegetation removal, and other shoreline modifications should be designed and managed consistent with this SMP to ensure that shoreline functions are protected. Such shoreline modification should be consistent with planning provisions for restoration of shoreline ecological functions. Such modifications must comply with the regulations of Skagit County Code 14.34, Flood Damage Prevention.
- 6B-5.4 New uses that are inconsistent with Skagit County Code 14.34 Flood Damage Prevention should not be allowed in the Rural Conservancy – Skagit Floodway environment.
- 6B-5.5 Nonwater-oriented low intensity recreational uses may be allowed as a conditional use in the Rural Conservancy – Skagit Floodway environment.

6B-6. Shoreline Residential

Purpose

The purpose of the Shoreline Residential environment is to accommodate higher density residential development and appurtenant structures that are consistent with this SMP. An additional purpose is to provide appropriate public access and recreational uses.

Designation Criteria

- 6B-6.1 A Shoreline Residential environment designation should be assigned to shoreline areas inside urban growth areas, incorporated municipalities, limited areas of more intense rural development, and master planned resorts, as described in RCW 36.70A.360, or existing areas of higher density residential development in unincorporated parts of the County, generally characterized by lots smaller than one acre in size.

Management Policies

- 6B-6.2 Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality should ensure no net loss of shoreline ecological functions. Such standards should take into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.

- 6B-6.3 New residential and recreational developments should be designed to provide joint use community recreational facilities and public access, where feasible and applicable.
- 6B-6.4 Access, utilities, and public services should be available and adequate to serve existing needs and planned future development.
- 6B-6.5 New commercial development should be limited to water-oriented uses.

6B-7. Urban Conservancy

Purpose

The purpose of the Urban Conservancy environment is to protect and restore ecological functions of open space, floodplain, and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

Designation Criteria

- 6B-7.1 An Urban Conservancy environment designation should be assigned to shoreline areas that are appropriate and planned for development that is compatible with maintaining or restoring the ecological functions of the area, that are not generally suitable for water-dependent uses and that lie in incorporated municipalities, urban growth areas, or commercial or industrial limited areas of more intensive rural development (LAMIRD) if any of the following characteristics apply:
- a. They are suitable for water-related or water-enjoyment uses;
 - b. They are open space, flood plain or other sensitive areas that should not be more intensively developed;
 - c. They have potential for ecological restoration;
 - d. They retain important ecological functions, even though partially developed; or
 - e. They have the potential for development that is compatible with ecological restoration.

Management Policies

- 6B-7.2 Uses that preserve the natural character of the area or promote preservation of open space, floodplain, or sensitive lands either directly or over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.

- 6B-7.3 Standards for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the Urban Conservancy designation must ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.
- 6B-7.4 Public access and public recreation objectives should be implemented whenever feasible and when significant ecological impacts are mitigated.
- 6B-7.5 Water-oriented uses should be given priority over nonwater-oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.
- 6B-7.6 Mining and related activities may be an appropriate use within the Urban Conservancy environment when conducted in a manner consistent with the environment policies and the provisions of WAC 173-26-240 (3)(h) and when located consistent with mineral resource lands designation criteria pursuant to RCW 36.70A.170 and WAC 365-190-070.

6C – Shoreline Uses and Modifications

6C-1. Agricultural Activities

Policies

- 6C-1.1 General
- a. The SMP should protect ongoing agriculture. Skagit County should identify and protect lands with agricultural capabilities for continued agricultural use. (current policy, modified) (based on prior draft goal)
 - b. The SMP should allow new agricultural uses that are located and designed to ensure no net loss of ecological functions and that do not have a significant adverse impact on other shoreline resources and values. (moved from prior draft goal)
 - c. The creation of new agricultural lands by diking, or filling of those tidelands, tidal marshes, and associated wetlands which are potentially more productive in their long term natural state should be discouraged. (current policy)
 - d. The diversion of water for agricultural purposes should be done in accordance with water right procedures and the guidelines and regulations of the appropriate agencies. (current policy)

- e. Farm management techniques, operations, and control methods should be utilized in accordance with the guidelines and standards of the Natural Resources Conservation Service. (current policy, modified)

6C-1.2 Water Quality

- a. Appropriate farm management techniques should be utilized by agricultural operators to prevent contamination of nearby water bodies by fertilizer and pesticide use and application. (current policy)
- b. Animal feeding operations, retention and storage ponds, feed lot waste storage, and manure storage should be located to prevent contamination of water bodies and degradation of the shoreline environment. (current policy)

6C-1.3 Buffer Areas: Agricultural activities should implement best management practices to protect the shoreline and aquatic environments from bank failure, erosion, siltation, and surface runoff, consistent with critical area regulations. (current policy, modified)

6C-1.4 Drainage

- a. New, existing, and natural drainage systems and outlets should be utilized, maintained, and protected to allow for continued agricultural production. (current policy)
- b. Vegetation management along drainage ditches should be allowed and should be conducted in accordance with this SMP as well as the guidelines and regulations of appropriate state and regional agencies (e.g. Northwest Clean Air Agency). (current policy, modified)

6C-2. Aquaculture

Policies

6C-2.1 Aquaculture is an activity of statewide interest and should be encouraged. Properly managed, it can result in long-term over short-term benefit and can protect the resources and ecology of the shoreline. Shellfish aquaculture provides ecosystem services such as wildlife habitat and improved water quality through filtration.

6C-2.2 Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area.

6C-2.3 Potential locations for aquaculture are relatively restricted due to specific requirements for water quality, temperature, flows, oxygen content, adjacent land uses, wind and storm protection, commercial navigation, and, in marine waters, salinity. The

- technology associated with some forms of present-day aquaculture is still in its formative stages and experimental. Some latitude in the development of new harvest methods and growing practices will be afforded operators in the development of the use as well as its potential impact on existing uses and natural systems.
- 6C-2.4 In areas with high aquaculture resource potential, including but not limited to areas within Samish, Padilla, and Skagit Bays, priority should be given to aquaculture uses, and aquaculture uses should be protected from degradation by other types of land and water use. Padilla Bay tidelands owned by the National Estuarine Research Reserve (about 95% of the Bay), are open for recreational shellfish harvest (consistent with State Department of Health and State Department of Fish and Wildlife rules for harvest), but are not open for commercial aquaculture.
- 6C-2.5 The County should strengthen and diversify the local economy by encouraging appropriate aquaculture uses.
- 6C-2.6 Flexibility to experiment with new aquaculture techniques should be allowed. The potential impact of new aquaculture techniques on existing uses and natural systems should be considered.
- 6C-2.7 New or expanded aquaculture should not be permitted in areas where it would result in a net loss of ecological functions, adverse impacts to eelgrass and macroalgae, and significant conflicts with navigation and existing water-dependent uses. Impacts to ecological functions should be mitigated according to the mitigation sequence described in SCC 14.26.310(4).
- 6C-2.8 Development or uses upland of either aquaculture uses or areas with a high potential for aquaculture uses should not degrade water quality. Maximum effort to protect and restore water quality should be made in areas with existing aquaculture or with a high potential for aquaculture.
- 6C-2.9 Intensive residential uses, industrial and commercial uses, and uses unrelated to aquaculture should avoid or minimize conflicts, including water quality impacts, with existing shellfish beds and aquaculture operations.
- 6C-2.10 Consideration should be given to the impacts proposed aquaculture activities will have on established and historic uses of the aquatic environment, including but not limited to navigation; moorage; sport or commercial fishing; recreational boating; log towing, rafting, and storage; underwater utilities; native fish and shellfish resources; and active scientific research.
- 6C-2.11 Commercial geoduck aquaculture should only be allowed where sediments, topography, land and water access support geoduck operations without significant clearing and grading.

6C-2.12 Restoration projects involving shellfish aquaculture and community shellfish projects should be encouraged. The County should consider establishing a program utilizing shellfish aquaculture to offset anthropogenic nutrient inputs to shoreline areas.

6C-3. Boating Facilities, Mooring Structures, and Recreational Floats

Policies

- 6C-3.1 Recognize that boating facilities are water-dependent uses. Boating facilities, including marinas, public boat launches, and docks providing boat moorage to single-family residences, are water-dependent uses. When facilitating public access or providing an opportunity for substantial numbers of people to enjoy the shoreline, these uses should be given priority for shoreline location.
- 6C-3.2 Plan and coordinate marinas regionally. Regional needs for marina and boat launch facilities should be carefully considered in reviewing new proposals as well as in allocating shorelines for such development. New boating facilities should be located only at sites where suitable environmental conditions, shoreline configuration, access, and neighboring uses are present. Such facilities should be coordinated with park and recreation plans and local and state agencies and, where feasible, collocated with other compatible water-dependent uses to efficiently provide recreational resources, avoid unnecessary duplication, and minimize adverse impacts to shoreline ecological functions and processes.
- 6C-3.3 Minimize modifications. Boating facilities that minimize the amount of shoreline modification, in-water structure, and overwater cover are preferred. In support of this, joint-use and community structures are encouraged to prevent proliferation of single-user structures.
- 6C-3.4 Limitations on accessory uses. Accessory uses at boating facilities should be limited to water-oriented uses, or uses that provide physical or visual shoreline access for substantial numbers of the general public. Nonwater-dependent accessory uses should be located outside of shoreline jurisdiction or outside of the shoreline buffer whenever possible.
- 6C-3.5 Minimize impacts to adjacent uses and users. Boating facilities should be located, designed, constructed and maintained to avoid adverse proximity impacts such as noise, light and glare; aesthetic impacts to adjacent land uses; impacts to navigation; and impacts to public access to the shoreline.
- 6C-3.6 No net loss of ecological functions. Boating facilities should be located and designed to ensure no net loss of ecological functions or other significant adverse impacts, and should, where feasible, enhance degraded or scarce shoreline features.

6C-4. Breakwaters

Policies

- 6C-4.1 Breakwaters should be allowed only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.
- 6C-4.2 Multiple-use concepts are to be strongly encouraged in the construction of both private and public breakwaters on public waters.
- 6C-4.3 Breakwater design and construction should be such that disruption to the movement of sand, circulation of water, and biological communities are minimized and mitigated. In general, floating, portable or submerged breakwaters are preferred over traditional breakwater designs that have greater adverse effects on shoreline processes and functions.

6C-5. Dredging and Dredge Material Disposal Policies

- 6C-5.1 Dredging and dredge material disposal proposals should be consistent with the plans, policies, guidelines and regulations of applicable federal, state, and local agencies. [Based on existing SMP 7.04(1.)(A.)(1)]
- 6C-5.2 Dredging and dredge material disposal proposals should demonstrate that they will not be detrimental to public uses of shoreline areas or public health and safety. [Based on existing SMP 7.04(1.)(A.)(2 & 8)]
- 6C-5.3 Dredging and dredge material disposal should be done in a manner that avoids or minimizes significant ecological impacts. Impacts that cannot be avoided should be mitigated in a manner that ensures no net loss of shoreline ecological functions. [WAC 173-26-231(3)(f)]
- 6C-5.4 New development should be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging. [WAC 173-26-231(3)(f)]
- 6C-5.5 Dredge material disposal on land is generally preferred over open water disposal. The disposal of dredge material on shorelands or wetlands within a river's channel migration zone should be discouraged. [Based on existing SMP 7.04(1.)(C.)(1)(a.) & WAC 173-26-231(3)(f)]
- 6C-5.6 Dredge material disposal on uplands should not adversely affect or diminish:
- a. Estuaries, natural wetlands, and marshes;
 - b. Prime agricultural land;

- c. Natural resources, including sand and gravel deposits, timber, or natural recreational beaches and waters;
- d. Designated wildlife habitat and concentration areas;
- e. Water quality, quantity, and drainage characteristics; or
- f. Public access to publicly owned shorelines and water bodies. [Based on existing SMP 7.04(1.)(C.)(1)(b.)]

6C-5.7 If alternatives for land disposal are not available or infeasible, open water disposal sites should be identified and meet the following criteria:

- a. The site is in an area protected from significant storms, tidal and submarine currents, stratification, and turbulence that would cause shifting and dispersal of the spoils;
- b. The area is proven to be biologically, chemically, and physically degraded by past spoil depositing and other aquatically degrading activities; water quality will not be degraded further;
- c. Disposal will not interfere with geohydraulic processes;
- d. The dredge spoils have been analyzed by qualified personnel and found to be minimal or nonpolluting;
- e. Spoil disposal will not impede water and tidal current flows or adversely affect floodwater flows and capacities;
- f. Aquatic and aquatic-related life will not be adversely affected; and
- g. The site and method of disposal meet all requirements and qualifications of applicable regulatory agencies and are designated with their cooperation. [Based on existing SMP 7.04(1.)(C.)(1)(e.)]

6C-6. Fill, Excavation, and Grading

Policies

6C-6.1 Fill, excavation, and grading should only be allowed when necessary to accommodate an approved shoreline use or development, when the proposed extent is the minimum necessary, and with assurance of no net loss of shoreline ecological functions and processes.

6C-6.2 Fill, excavation, and grading should not:

- a. Adversely alter natural drainage patterns, currents, or river and tidal flows;
- b. Interfere with, or adversely affect, floodwater flows and capacities;
- c. Be detrimental to the public interest and uses of the shoreline and water body; or
- d. Create conditions that would endanger public health and safety. [Based on existing SMP 7.06(1)(A)(2) & (4)]

6C-6.3 Fill should not be permitted for creation of new uplands, unless it is part of an approved ecological restoration activity.

6C-7. Forest Practices

Policies

- 6C-7.1 Forest practices, including road construction, timber harvesting, and debris disposal, which meet or exceed established regulatory provisions should be encouraged. [Based on existing comp. plan policy 6A-11.1(a)]
- 6C-7.2 Lands that have or could have forest production capabilities should be identified and protected for continued forest production and forest-related uses. [Existing comp. plan policy 6A-11.1(b)]
- 6C-7.3 Skagit County should rely on the Forest Practices Act and implementing rules for management of commercial forest uses within shoreline jurisdiction. [WAC173-26-241(3)(e)]
- 6C-7.4 Forest practices should minimize, where feasible, adverse impacts on scenic views of, and from, Skagit County shorelines. Areas providing a diversity of views, unique landscape contrasts and panoramas, and recreational resources within forest practice areas should be identified and maintained where possible. [Existing comp. plan policy 6A-11.10]

6C-8. In-stream Structural Uses

Policies

- 6C-8.1 The location, design, construction, and maintenance of in-stream structures should give due consideration to the full range of public interests; watershed processes, including prevention of damage to other properties and other shoreline resources from alterations to geologic and hydrologic processes; and ecological functions, with special emphasis on protecting and restoring priority habitats and species.

- 6C-8.2 Non-structural and non-regulatory methods to protect, enhance, and restore shoreline ecological functions and processes and other shoreline resources should be encouraged as an alternative to in-stream structures. Non-regulatory and non-structural methods may include public facility and resource planning, land or easement acquisition, education, voluntary protection and enhancement projects, or incentive programs.
- 6C-8.3 New or expanding development or uses in the shoreline, including subdivision of land, that would likely require structural flood control works within a stream, river, channel migration zone, or floodway should not be allowed.
- 6C-8.4 In-stream structure proposals should incorporate native vegetation to enhance ecological functions, create a more natural appearance, improve ecological processes, and provide more flexibility for long-term shoreline management. Such features include vegetated berms; vegetative stabilization including brush matting and buffer strips; and retention of existing trees, shrubs and grasses on stream banks, if possible.

6C-9. Jetties and Groins

Policies

- 6C-9.1 Jetties and groins located waterward of the OHWM should be allowed only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.
- 6C-9.2 Jetties and groins should be allowed only for water-dependent uses when the benefits to the region outweigh short-term resource losses from such works, and only where mitigated to provide no net loss of shoreline ecological functions and processes.
- 6C-9.3 Recognize that jetties and groins permanently interfere with ecosystem-wide processes, and may require ongoing and costly dredging or beach supplementation to alleviate adverse effects on shoreline functions or users, and thus should be discouraged. [based on existing SMP]

6C-10. Mining

Policies

- 6C-10.1 Recognizing that certain earth materials are in demand, yet limited in quality and quantity, and that shorelines are a valuable and limited resource where mining can have irreversible impacts, mining activities should primarily be encouraged to take place outside of shoreline areas. [Based on existing SMP 7.08(1.)(A.)(1)]

- a. Mining activities, if allowed, should not occur in shoreline areas of high environmental, cultural, recreational, or historical value. [Based on existing SMP 7.08(1).(F).(3.)]
 - b. Recognizing the limited quantity and quality of natural marine and lake shores, especially accretion beach forms, and recognizing the increasing demand for other uses of these shorelines and the existence of alternative sources of earth materials, mining activities should be limited on these shorelines. [Based on existing SMP 7.08(1).(C.) and SMP 7.08(2).(B).(2)]
 - c. Surface mining of river and stream point bars for sand and gravel or other materials should be allowed provided there is annual accretion and replacement of these materials. [Based on existing SMP 7.08(1).(D.)]
- 6C-10.2 Mining activities should be sited, designed, conducted, and completed to result in no net loss of shoreline ecological functions and processes.
- a. Mining should not be approved where it could interfere with shoreline ecological functions or processes, or cause irreparable damage to shoreline resources or features.
 - b. Application of this policy should include avoidance and mitigation of adverse impacts during the course of mining and reclamation.
 - c. The determination of whether there will be no net loss of ecological function should be based on an evaluation of the reclamation plan required for the site and must consider impacts on ecological functions during operation.
 - d. Preference should be given to mining proposals that result in the creation, restoration, or enhancement of habitat for priority species. [Based on WAC 173-26-241(3)(h)(ii)(A)]
- 6C-10.3 Mining activities should avoid or minimize hazardous conditions, use conflicts, visual and aesthetic impacts, and impacts to other shoreline and water users. [Based on existing SMP 7.08(1).(J.)]
- 6C-10.4 Mining sites in shoreline areas should be restored to conditions that meet or exceed regulatory standards and are compatible with adjacent land, shoreline, and water uses. [Based on existing SMP 7.08(1).(I.)]
- 6C-10.5 Recreation mining should be allowed when consistent with the Washington Department of Fish and Wildlife's Gold and Fish Pamphlet.

6C-11. Residential Development

Policies

- 6C-11.1 Where allowed by this SMP, residential development should not significantly damage, diminish, or adversely affect shoreline ecological function, natural resource uses, archaeological and historic sites, or important scenic vistas. (current policy, modified)
- 6C-11.2 Residential development and accessory uses should be located, designed, constructed, and maintained to avoid, or if necessary, withstand 100-year frequency flooding and storm tides or surges without becoming hazards and without the placement of extensive flood hazard management facilities or hard shoreline stabilization. (current policy, modified)
- 6C-11.3 Residential development should be located: (current policy, modified)
- so as not to interfere with geohydraulic processes and shore forms.
 - inland from feeder bluffs, drift sectors, and accretion shore forms.
 - to avoid or minimize the need for hard shoreline stabilization and flood hazard management facilities.
 - to utilize and protect the integrity of the shore resources for the benefit of present and future residents and users.
- 6C-11.4 Skagit County should recognize single-family uses as a preferred use when developed without adverse impacts to ecological functions.
- 6C-11.5 Floating and over the water residential uses should be prohibited. Liveaboards in marinas having adequate facilities may be allowed. (current policy)
- 6C-11.6 Cluster development should be encouraged wherever feasible to minimize shoreline impacts by residential development, to maintain both on-site and off-site aesthetic appeal, and to minimize disruption of the natural shoreline.
- 6C-11.7 Residential developments should provide public access opportunities to publicly owned shorelines or public water bodies. Such access should be of a mode and size appropriate to the site, size, and general nature of the development. (current policy, modified)
- 6C-11.8 Residential development should have adequate provision for wastewater disposal, storm drainage, water supply, and access in order to minimize harmful effects on shorelines.
- 6C-11.9 Recreation-oriented developments should provide adequate, diverse recreation opportunities to serve resident members and other users. (current policy, modified)

6C-11.10 Unless clearly shoreline dependent (such as docks and floats), accessory uses should be set back from shoreline areas, be reasonable in size and purpose, and be compatible with on-site and adjacent structures, uses, and natural features. (current policy)

6C-11.11 Residential development should be arranged and designed to retain views and vistas to and from shorelines and water bodies. (current policy)

6C-12. Shoreline Stabilization

Policies

6C-12.1 Limit use of hard structural stabilization measures to reduce shoreline damage.

6C-12.2 Design, locate, size, and construct new or replacement structural shoreline protection structures to minimize and mitigate the impact of these modifications on shoreline ecological functions.

6C-12.3 Offer incentives and regulatory flexibility to encourage salmon-friendly shoreline design during new construction and redevelopment, and to encourage voluntary replacement of hard armoring with soft armoring.

6C-13. Utilities

Policies

6C-13.1 General

- a. Existing use areas. Utilities, specifically power, communications, and fuel lines and pipelines, should utilize existing rights-of-way and corridors and should avoid duplication and construction of new or parallel corridors. (current policy)
- b. Joint use. Utilities should coordinate with government agencies and private interests in developing or utilizing joint or common use rights-of-way and corridors in shoreline areas unless it can be shown to be infeasible. (current policy)
- c. Multiple use. Utility development should provide for compatible, multiple use of sites and rights-of-way. Such uses include shoreline access points, trail systems, and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, endanger public health and safety, or impose an economic or physical liability on the owner. (current policy)
- d. Natural resources, processes, and other uses. Utility development, including upland and in-water facilities, should not significantly damage, diminish, or adversely affect the following resources by providing appropriate mitigation sequencing: (current

policy, modified; responds to Planning Commission comment to address tidal energy facilities as well as upland facilities)

- i. Designated lands of long-term commercial significance for agriculture.
- ii. Natural resources such as sand and gravel deposits, timber, or recreational beaches.
- iii. Fish, shellfish, and wildlife habitats and migratory routes.
- iv. Geohydraulic processes.
- v. Water quality.
- vi. Public access to publicly owned shorelines and water bodies.

6C-13.2 Location

- a. The following components of utilities, essentially shoreline dependent, should be allowed on shorelines, provided they are located to cause no adverse impacts to the shoreline environment and other users: (current policy)
 - i. Water system intake facilities and outfall pipes and hydropower tail races.
 - ii. Sewage system outfall pipes and diffusers.
 - iii. Waterborne firefighting facilities and equipment.
 - iv. Nonpetroleum/nonchemical pipelines and electrical cable crossings.
 - v. In association with hydropower facilities, dams, weirs, and other impoundment and diversion structures, including sediment transport and fisheries enhancement features, and associated flow-line segments.
 - vi. Tidal and wave energy facilities (Responds to Planning Commission comment to address tidal energy facilities)
- b. The following utilities and their components that are essentially not shoreline dependent, should not be located on shorelines unless it can be shown that non-shoreline alternatives are infeasible: (current policy)
 - i. Water system treatment plants.
 - ii. Sewage system lines, interceptors, pump stations, and treatment plants.
 - iii. Electrical energy generating plants (except for dam sites), substations, lines and cables.

- iv. Petroleum and gas pipelines.
- v. Accessory uses and administrative structures for utilities.
- c. Solid Waste (current policy, modified)
 - i. Facilities for processing, storing, and disposing of solid waste on shorelines should not be permitted.
 - ii. Indiscriminate, random disposal of solid waste, including pet waste, on shorelines should not be permitted.
- d. Hazardous areas. Utilities and their associated structures should be located, designed, and maintained to avoid, or if necessary, withstand 100-year frequency flooding or storm tides and surges without becoming hazards and without the placement of massive flood hazard reduction facilities or hard shoreline stabilization measures. (current policy, modified)
- e. Petroleum/chemical pipelines and electrical transmission cables.
Petroleum/chemical pipelines and above ground electrical transmission lines should not be located parallel to shoreline areas and water bodies. Such utilities should be allowed to cross shoreline areas and water bodies only if it can be shown that non-shoreline alternatives are infeasible and that the proposed crossing site is consistent with this master program. (current policy)

6C-13.3 Design

- a. Installation and maintenance (current policy)
 - i. During installation of utility components and corridors on shorelines, appropriate measures should be taken to prevent and/or control all runoff and erosion from the affected area.
 - ii. After installation, the affected shoreline area should be regraded to the natural terrain (if necessary), replanted with compatible, self-sustaining vegetation, and maintained until such vegetation is established.
 - iii. Adequate buffer areas and/or setbacks should be designed and utilized for all utility development in shoreline areas.
 - iv. Handling and application practices for fertilizers and pesticides should adhere to the guidelines and regulations of applicable regulatory agencies.
 - v. Where necessary, hydropower facilities may exceed thirty-five feet above average grade level where it can be demonstrated that there are overriding

considerations of the public interest, and where the views of substantial numbers of residences or from public properties would not be impaired.

- b. Underground utilities (current policy, modified)
 - i. Whenever existing overhead or above ground utility distribution facilities along shorelines require replacement or upgrading, or when new systems are planned for new or existing residential developments, commercial areas, and other developmental shoreline uses, such utilities should be placed underground.
 - ii. Electrical and communication transmission lines should be placed underground whenever technological developments make this technique feasible.
- c. Impacts. Utility development proposals, if allowed on shorelines, should take all feasible measures to mitigate adverse impacts to the shoreline and aquatic environment and to adjacent and nearby land and water users.

6D – Economic Development

6D-1. Generally

Policies

- 6D-1.1 Skagit County should encourage commercial and industrial activities directly related to or dependent on local aquatic resource areas in shoreline areas. (CPP 5.14, modified)
- 6D-1.2 Skagit County should encourage economic development that supports a sustainable natural resource industry, protects valued open space and environmental quality, and enhances the community's overall quality of life. (ED Goal E, modified)
- 6D-1.3 Skagit County should encourage the Washington State Ferry System to maintain ferry services from Anacortes to the San Juan Islands and Vancouver Island, B.C., in order to provide for commerce and tourist trade in and through Skagit County. (Policy 11F-1.1, modified)
- 6D-1.4 Skagit County should support the Port of Anacortes in its efforts to more fully utilize the Port's deep draft marine terminal for trade, commerce, and related economic development. (Policy 11F-1.2P)
- 6D-1.5 Skagit County should support the marine-based economy of the county. (ED Goal B7; moved from prior draft goal list)

6D-2. Commercial Development

Policies

6D-2.1 Space and Location (current policy, modified)

- a. Because of the space requirements of some commercial developments and the limited amount of shoreline, commercial enterprises should be encouraged to locate inland from shoreline areas unless water oriented. (current policy, modified)
- b. If proposed commercial developments are water-dependent or water-related and if they are anticipated to have minimal adverse impact upon the shoreline, then such developments should be allowed.
- c. Commercial developments not requiring shoreline locations should locate inland from the shoreline area.

6D-2.2 Commercial developments should be encouraged to utilize existing transportation corridors to minimize points and areas of access.

6D-2.3 Design

- a. Waste and Effluent Disposal: Waste and effluent generated by commercial developments should not be allowed to enter any bodies of water or to be discharged onto the land. (current policy, modified)
- b. Accessory use facilities, such as restrooms, access roads, and parking areas should be located upland of water oriented uses. (current policy, modified)
- c. Surface runoff: (current policy)
 - i. Commercial developments should minimize the quantity and impact of surface water runoff from the affected site.
 - ii. Where possible and feasible, roads and parking areas should be constructed of permeable materials to allow the infiltration of rain and other surface runoff waters.
- d. The design of commercial developments should be compatible with the existing shoreline uses and environment. (current policy) Commercial development, if permitted on shorelines, should not significantly damage, diminish, or adversely affect shoreline ecological function, natural resource uses, archaeological and historic sites, or important scenic vistas.

6D-2.4 Conflicts and Impacts (current policy)

- a. Proposed shoreline commercial developments should be compatible with adjacent and surrounding land and water uses and should minimize environmental impacts to the shoreline environment.
- b. In design review of proposed commercial enterprises, consideration should be given to the development's potential impact on scenic views significant to the area and to other shoreline users.

6D-3. Institutional Development

Policies

6D-3.1 Skagit County should promote water-oriented institutional development such as scientific research facilities.

6D-3.2 Non-water oriented institutional development should be discouraged from locating in shoreline jurisdiction, unless no feasible alternative exists and it provides a public benefit consistent with the SMA such as public access and restoration.

6D-3.3 Skagit County should apply Commercial Development policies and regulations to institutional developments.

6D-3.4 Essential public facilities may locate in shoreline jurisdiction consistent with institutional development policies and regulations, provided that they should be consistent with any Countywide Planning Policies and Skagit County siting requirements. Such essential public facilities should demonstrate a need for a shoreline location or infeasibility of other locations and provide a public benefit consistent with the SMA such as public access and restoration.

6D-4. Industry

Policies

6D-4.1 General

- a. Feasibility. Proposals for either new port facilities with water-related industries or substantial additions to existing facilities should document they are part of a comprehensive regional feasibility analysis and plan. Such an analysis and plan should be coordinated with all affected local, state, and federal agencies and their programs and plans. (current policy)
- b. Port industries. Port facilities should be limited to shoreline and water-dependent or related industries and activities. (current policy)

- c. Existing facilities. Development or redevelopment and multiple use of existing port areas, facilities, and services should be encouraged over the addition and/or location of new or single purpose port use facilities. (current policy)
- d. Ports and water-related industry proposals should mitigate adverse impacts to new developments. New port development proposals should include, where feasible, the cooperative use of docking, parking, cargo handling, storage facilities, and other related services. (current policy, modified)
- e. Public access. Port facilities should make available public access opportunities consistent with Public Access goals, policies, and standards, providing such access will not unduly interfere with port operations, endanger public health and safety, or impose an economic or physical liability to the owner. (current policy, modified)

6D-4.2 Location and Design.

- a. Ports and water-related industry should be located and designed to minimize the need for initial and continual dredging, filling, spoil disposal, and other harbor and channel maintenance activities. (current policy)
- b. Ports and water-dependent or water-related industry should be located at existing developed port and harbor areas and/or on Department of Natural Resources designated first class shorelands and harbor areas if consistent with this Master Program. (current policy, modified)
- c. Ports and water-related industry should occur in areas that do not have high environmental, agricultural, cultural, recreational, or historical value. (current policy)
- d. All port and water-related industrial facilities, equipment and works should be located, designed, and maintained to avoid, or if necessary, withstand 100-year flood frequency flooding and/or storm tides or surges without becoming hazards and without the placement of flood hazard reduction measures or other hard structural shoreline stabilization. (current policy, modified)
- e. Hazardous areas. Port and industrial developments should not be located on accreting, eroding, slumping, or geologically unstable shorelines and where extensive shore defense and/or flood protection structures would be necessary. (current policy)
- f. Industrial development and redevelopment should be located where environmental cleanup and restoration is possible.

6D-4.3 Port and water related industry operations and practices should adhere to the water quality guidelines, policies, standards, and regulations of water quality management

programs and appropriate regulatory agencies. Pollution controls and best management practices should be implemented. (current policy, modified)

6D-4.4 Log Storage and Transport

- a. Water storage of logs should be discouraged, while marine water transport of logs should be allowed
- b. Log storage on land within the shorelines jurisdiction should utilize all practical techniques to prevent all debris, and site surface runoff from entering water bodies. (current policy)
- c. Log storage and all associated equipment, works, and structures should be able to withstand flooding without becoming hazards and without the placement of flood hazard reduction measures or other hard structural shoreline stabilization. (current policy)
- d. Log storage, if allowed on shorelines, should occur in areas that do not have high environmental, agricultural, cultural, recreational, or historical value. (current policy)
- e. Water quality maintenance programs for log storage and rafting areas should be initiated and implemented. (current policy)

6E – Public Access

Policies

- 6E-1.1 In conjunction with federal and state agencies, Skagit County should provide safe, convenient, and diversified public access to publicly owned shorelines without infringing upon the personal or property rights of adjacent residents. Such access should not have an adverse impact upon the environment. (based on Current SMP Goal A, modified)
- 6E-1.2 Skagit County should promote public access as part of private shoreline development in accordance with shoreline public access plans, the natural shoreline character, property rights, constitutional limitations, public rights under the Public Trust Doctrine, and public safety.
- 6E-1.3 Applicants for shoreline development activities should demonstrate that public access improvements do not result in a net loss of shoreline ecological functions.
- 6E-1.4 Where appropriate, Skagit County should ensure that proposed shoreline developments are designed to preserve, maintain, consolidate, enhance, and create opportunities for

physical or visual shoreline contact on road ends, i.e. roads, streets, alleys, and similar rights-of-way abutting bodies of water. Vacations of roads, streets, and alleys should be discouraged and only allowed in strict compliance with RCW 35.79.035 (Streets and Alleys) or RCW 36.87.130 (County Roads).

- 6E-1.5 Skagit County should seek willing property owners to participate in public access projects, such as through voluntary agreements such as conservation easements and trail easements.
- 6E-1.6 Skagit County should ensure that public access facilities are designed to protect public health and water quality such as ensuring adequate restrooms, trash cans, pet waste disposal, and similar measures.
- 6E-1.7 Skagit County should require that applicants demonstrate compatibility with the following public access objectives, where applicable to the use, location, and level of demand for public access:
- a. Provide a network of pedestrian, biking, and horse trails that access interpretive and scenic resources and that offer safe and direct routes. (based on UGA Open Space Concept Plan, Goal C.1.6 and Goal C.1.7)
 - b. Provide opportunities for linking privately-owned open space systems to the overall public access network. (based on UGA Open Space Concept Plan, Objective C.2.2)
 - c. Protect existing scenic landscapes, especially those that exemplify unique features visible from open space viewpoints. Protect scenic landscapes that are prominent features of protected areas such as Padilla and Skagit Bays. (based on UGA Open Space Concept Plan, Objective C.4.1)
 - d. Protect scenic roads, rivers, and shorelines by preserving rural and marine land uses and activities, natural environments and vegetation, and scenic or visual features along road and shoreline edges especially including the established SR-11 and SR-20 scenic byway corridors. (based on UGA Open Space Concept Plan, Objective C.4.2)
 - e. Protect and enhance scenic viewpoints that look into and onto visual landscapes including prominent high points, as well as strategic overlooks or look-into places alongside the Baker and Skagit Rivers, Gages Slough, Nookachamps Creek, and Swinomish Channel. (based on UGA Open Space Concept Plan, Objective C.4.3)
 - f. Design public access facilities and structures that respect unique, fragile, and scenic elements and protect existing views from public lands or large numbers of residences, through the application of flexible design standards regarding height, bulk, scale, setbacks, lighting, and view corridors.

- g. Where public access is determined to be incompatible due to reasons of safety, security, or impact to the shoreline, consider alternate methods of providing public access, such as offsite improvements, viewing platforms, separation of uses through site planning and design and restricting hours of public access. Off-site public access improvements may be preferable, if such improvements would provide a greater public benefit and reduce safety and environmental impacts.
- h. Partner and coordinate public access education and awareness programs with facilities such as those at the Padilla Bay and Tommy Thompson Trails, and the Padilla Bay National Estuarine Research Reserve. (based on UGA Open Space Concept Plan, Objective C.6.1)
- i. Link the regional or countywide multiuse trails with city or local trails that increase urban and rural resident access to parks, recreational areas, schools, public facilities, commercial, and employment areas. (based on UGA Open Space Concept Plan, Objective C.7.2)
- j. Where possible, connect on and off road trails with water trails to the Guemes and San Juan ferries and private excursion boat routes on the Skagit River, Swinomish Channel, Padilla, Similk, and Skagit Bays to increase public access and interpretive opportunities. (based on UGA Open Space Concept Plan, Objective C.7.4)
- k. Promote hand-carry and other nonmotorized watercraft routes that flow alongside and through countywide and UGA open spaces on the Baker River, Skagit River including the North and South Forks, Samish River, Swinomish Channel, and Samish, Padilla, Fidalgo, Burrows, Similk, and Skagit Bays. (based on UGA Open Space Concept Plan, Objective C.8.4)
- l. Encourage the use and enjoyment of shorelines by those with physical disabilities similar to what has been provided on the Tommy Thompson, Padilla Bay, and Cascade Trails, designed with consideration of the environmental conditions and Americans with Disabilities Act provisions. (based on UGA Open Space Concept Plan, Objective C.7.5)

6F – Recreation

Policies

6F-1.1 Location and Access

- a. Skagit County should give shoreline recreational development priority within shoreline jurisdiction, and such recreation should be related to enjoyment of, access to, and use of the water.

- b. Skagit County should recognize that state-owned shorelines are particularly adapted to providing wilderness beaches, ecological study areas, and other recreational uses for the public.
- c. Active shoreline recreational access, developments, and opportunities should be allowed to expand only in those areas already used for such purposes or on those shorelines environmentally capable of supporting such activities. (current policy)
- d. Passive shoreline recreational access and opportunities should minimize the concentration of users at specific points or portions of shoreline areas. This may be accomplished, where appropriate and feasible, by a combination of shoreline trails or easements tied in with a series of public parking or access points. (current policy, modified)
- e. When private developments, whether recreational, residential, or commercial, are proposed along or around publicly owned shorelines or public water bodies, such developments should provide access to these shorelines and waters consistent with Public Access policies and regulations. (current policy, modified)

6F-1.2 Unique and Fragile Shoreline Areas

- a. Unique and fragile shoreline areas such as accretion beaches marshes, estuaries, and wetlands that are susceptible to damage from structural recreational development and to periodic and seasonal changes in water levels should be identified, protected, and preserved for less intensive forms of recreation. (current policy)
- b. Unique and fragile shoreline areas such as point bar beaches, sand bars, and other accretion beach forms should be identified, protected, and preserved for more passive forms of recreation. (current policy, modified)

6F-1.3 Design

- a. Sewage Disposal
 - i. Solid and liquid wastes and untreated effluent should not be allowed to enter any bodies of water both on and off the recreation site. (current policy)
 - ii. Skagit County should ensure that recreation facilities are designed to protect public health and water quality such as ensuring adequate restrooms, trash cans, pet waste disposal, and similar measures.
- b. Auxiliary use facilities, such as restrooms, recreation halls and gymnasiums, commercial services, access roads, and parking lots, should be located inland from shoreline areas, unless it can be shown that such facilities are essentially shoreline

dependent or no other feasible location outside of shoreline jurisdiction exists.
(current policy, modified)

- c. Skagit County should include best management practices and facilities to protect water quality. (current policy, modified)
- d. Variations in modes of travel along, between, and to shoreline areas and access points should be encouraged. These might include trails, pathways, or corridors for walking, bicycling, horseback riding, and other pedestrian means of transport. (current policy)
- e. Recreational motor vehicles should be limited in location except in designated areas. (current policy; modified)
- f. Recreational or access development should be designed to protect and preserve scenic views and aesthetic values of the shoreline environment. (current policy)

6F-1.4 Shoreline recreation development, activities, and accesses should minimize adverse environmental impacts. Review of proposed recreation developments should consider:
(current policy)

- a. Impact of the activities and development on the existing shoreline environment. (current policy)
- b. Impact of the activities and development on the adjacent and nearby shoreline environment and land and water uses. (current policy, combined)
- c. Demand for recreation. Developments should estimate growth projections and evaluate level-of-service standards established by the comprehensive plan or parks, recreation, and open space plan. (current policy, modified)
- d. The necessity and extent of alteration of the shoreline environment to meet design objectives and requirements. (current policy)
- e. The proximity to and impact upon required public utilities and services. (current policy)

6G – Circulation

Policies

6G-1.1 Multi-Modal Circulation Systems. Skagit County should promote safe, reasonable, and adequate multi-modal circulation systems to, and through or over shorelines where necessary and otherwise consistent with this Master Program. Circulation system

planning should include systems for pedestrian, bicycle, ferries, air travel, and public transportation where appropriate. Circulation planning and projects should support existing and proposed shoreline uses that are consistent with this Master Program.

- a. Geohydraulics (current policy, modified)
 - i. Transportation facilities should be located, designed, and maintained to avoid adverse impacts to, or if necessary, protect the active geohydraulic processes operating along Skagit County's shorelines.
 - ii. Transportation facilities should be located and designed to minimize the need for shoreline stabilization.
- b. Joint Use. Transportation corridors should be jointly used by other related uses, such as utilities, whenever feasible. (current policy)
- c. Multiple Use/Public Access. Transportation facilities should provide for appropriate public point or linear access along the corridors to publicly or privately owned shorelines and water bodies. Shoreline trails, viewpoints, rest, and picnic areas are examples of public access. (current policy, modified)
- d. Natural Resources, Processes, and Other Uses. Transportation facility development, if permitted on shorelines, should not significantly damage, diminish, or adversely affect: (current policy, modified)
 - i. Estuaries, natural wetlands, and marshes.
 - ii. Designated lands of long-term significance for agriculture or forestry.
 - iii. Natural resources such as, but not limited to, sand and gravel deposits, or natural recreational beaches.
 - iv. Fish, shellfish, and wildlife habitats and migratory routes.
 - v. Water quality and quantity.
 - vi. Public access to publicly owned shorelines and water bodies.
- e. Hazardous Areas. Transportation facilities and corridors should be located, designed, and maintained to avoid, or if necessary, withstand 100-year frequency flooding and storm tides or surges without becoming hazards and without the placement of massive flood hazard management facilities or hard shoreline stabilization. (current policy, modified)
- f. Non-Motorized Transportation. This Master Program encourages the provision of safe pedestrian and/or non-motorized vehicle paths, trail systems, and other means

along shoreline areas and along abandoned, existing, or proposed railroad, roadway, dikes and utility shoreline rights-of-way. (current policy)

- g. Water Quality. Transportation facility design, construction, and maintenance activities should adhere to water quality management programs and regulations. (current policy)
- h. Shoreline permit applicants should demonstrate sensitivity to scenic drives by demonstrating how location, design, setback, and construction are intended to minimize impacts to views. (current policy, modified)

6G-1.2 Location

- a. Comprehensive Plans, which include Shoreline Master Programs, may not preclude the siting of essential public facilities, which include state or regional transportation facilities as defined in RCW 47.06.140.
- b. Major highways, freeways, and railways should be located away from shoreline jurisdiction wherever feasible. When transportation facilities must be located along shorelines, efforts should be made to minimize the amount of land consumed. (current policy)
- c. All roadways, railways, and bridges, and parking areas should not locate: (current policy)
 - i. in front of feeder bluffs, over driftways, or on accretion shoreforms.
 - ii. where river channel direction and alignment is subject to change.
 - iii. in or through designated parks, scenic, natural, historic, archaeological, or recreation areas, except where alternative locations are infeasible.
 - iv. along sensitive shoreline areas such as but not limited to those with steep slopes or soils subject to erosion or sliding.
- d. Parking areas for all types of vehicles and for all forms of shoreline activity should not be permitted over water and should be adequately set back to allow for shoreline dependent activities. (current policy, modified)

6G-1.3 Design and Construction

- a. All roadways, railroads, bridges, and parking areas should be designed, constructed and maintained to prevent runoff, erosion, and sedimentation generated from the affected areas. (current policy, modified)
- b. Drainage and floodwaters.

- i. All transportation facilities, if permitted in shoreline areas, should be designed so as not to adversely affect or interfere with the flow of surface, subsurface, and floodwaters. (current policy)
- ii. Transportation facilities should, if possible, parallel the surface drainage flow. If facilities must cross or bisect drainage and tidal flows, they should be constructed as elevated, open structures. (current policy, modified)
- c. Where feasible, roads should not run parallel to shorelines. New transportation facilities, if permitted parallel to shoreline areas, should be adequately set back from immediate shorelines and water bodies and should provide vegetated buffer areas. (current policy, modified)
- d. Parking areas. Parking areas should be constructed of permeable materials to minimize runoff and potential erosion and sedimentation. (current policy, modified)
- e. All transportation facilities should be designed and constructed to comply with Skagit County standards. (current policy)

6H – Conservation

6H-1. Environmental Protection

Policies

- 6H-1.1 Shoreline use and development should be carried out in a manner that prevents or mitigates adverse impacts, both on site and to the extent that impacts may propagate, off site, so that the resulting ecological condition does not become worse than the current condition. This means ensuring no net loss of ecological functions and processes relative to the existing condition, protecting shoreline critical areas and their buffers, and protecting additional shoreline buffers in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property.
- a. Shoreline ecological functions that should be protected include, but are not limited to: fish and wildlife habitat, food chain support, and water temperature maintenance.
 - b. Shoreline ecological processes that should be protected include, but are not limited to: water flow; erosion and accretion; infiltration; ground water recharge and discharge; sediment delivery, transport, and storage; large woody debris recruitment; organic matter input; nutrient and pathogen removal; and stream channel formation and maintenance.

6H-1.2 Development standards (e.g. setbacks, impervious surface coverage limitations) should protect existing shoreline ecological functions and processes.

6H-1.3 In assessing the potential for net loss of ecological functions or processes, project specific and cumulative impacts should be considered.

6H-2. Critical Areas

Policies

6H-2.1 Conserve and protect critical areas within shoreline jurisdiction from loss or degradation.

6H-2.2 Locate and design public access within and adjacent to critical areas to ensure that ecological functions are not adversely impacted.

6H-2.3 Protect and manage shoreline-associated wetlands, including maintenance of sufficient volumes of surface and subsurface drainage into wetlands, to sustain existing vegetation and wildlife habitat.

6H-2.4 Manage development to avoid erosion and adverse water quality impacts to shoreline water bodies, as well as to avoid risk and damage to property and loss of life from hazardous geological conditions.

6H-2.5 In reaches where channel migration is possible, limit development and shoreline modifications that would result in interference with the process of channel migration that may cause significant adverse impacts to property or public improvements or result in a net loss of ecological functions associated with the shoreline water body.

6H-2.6 Protect and restore critical freshwater and saltwater habitat and other areas that provide habitat for endangered, threatened, or sensitive fish and wildlife species.

6H-2.7 Protect basic riparian forest functions that influence in-stream, marine, and lake habitat quality.

6H-2.8 Limit new development in floodplains.

6H-2.9 Regulate development within the 100-year floodplain to avoid adverse impacts to shoreline ecological functions and to avoid risk and damage to property and loss of life.

6H-2.10 Protect groundwater quality and quantity for existing and future use.

6H-2.11 Identify practices, alternatives, and mitigation measures that can minimize the adverse impacts of proposed projects.

- 6H-2.12 Ensure adequate design, construction, management, and operations to protect groundwater quality and quantity.
- a. Existing and future beneficial uses of groundwater should be maintained and protected.
 - b. Wherever groundwater is determined to be of a higher quality than the criteria established for said waters, the existing water quality should be protected, and contaminants that will reduce the existing quality thereof should not be allowed.

6H-3. Shoreline Vegetation Conservation

Policies

- 6H-3.1 Maintain healthy trees and vegetation to support habitat, aesthetics, and recreational values.
- 6H-3.2 Plan and design new development or substantial redevelopment to retain or provide shoreline vegetation. Retention and planting of conifers is particularly desired as a source of future large woody debris recruitment.
- 6H-3.3 The protection of existing and the establishment of new native vegetation is preferred.
- 6H-3.4 Prohibit the introduction of invasive plant species along shorelines, and encourage the removal of noxious and invasive weeds.

6H-4. Water Quality, Stormwater, and Nonpoint Pollution

Policies

- 6H-4.1 Do not degrade waters. The location, construction, operation, and maintenance of all shoreline uses and developments should maintain or enhance the quantity and quality of surface and groundwater over the long term.
- 6H-4.2 Assess and mitigate stormwater impacts. New developments or expansions or retrofits of existing developments should assess the effects of additional stormwater runoff volumes and velocities, and mitigate potential adverse effects on shorelines through design and implementation of appropriate stormwater management measures.
- 6H-4.3 Low impact development. Use of low impact development (LID) techniques for minimization of impervious surfaces and management of stormwater runoff is encouraged.
- 6H-4.4 Minimize need for synthetic chemical applications. Shoreline use and development, including invasive or noxious weed control, should employ techniques designed and

approved to prevent contamination of surface and ground water, and soils and adverse effects on shoreline ecological functions and values.

- 6H-4.5 Existing development. For existing development, implementation of management plans that minimize or avoid the need for chemical treatments of vegetation in shoreline buffers is encouraged. When lands owned by the County are leased to private parties, a vegetation management plan should be negotiated during lease renewal.
- 6H-4.6 Public education. Promote public education efforts to protect and improve water quality.

6I – Historic, Cultural, Scientific, and Educational

Policies

- 6I-1.1 Due to the limited and irreplaceable nature of archaeological, historic, and scientific resources, the destruction of or damage to any site having such resources, as identified by the appropriate authorities, should be prevented. [Based on WAC 197-26-221(1)(b)]
- 6I-1.2 Proposals for shoreline development or use adjacent to or near archaeological, historic, or scientific resources should not conflict with or adversely impact such resources. [SMP 7.14(1.) (A)(6)]

6J – Flood Hazard Management

Policies

- 6J-1.1 Plans, regulations, and programs related to flood hazard reduction should be coordinated and integrated. Related plans, regulations, and programs include watershed management plans, comprehensive flood hazard management plans, comprehensive plans, storm water management plans, floodplain regulations, critical areas regulations; ordinances and comprehensive plans, and the National Flood Insurance Program. [Based on WAC 173-26-221(3)(b)(ii) and (iii)]
- 6J-1.2 Where feasible, non-structural flood hazard reduction measures are preferred over structural measures. When evaluating alternate flood control measures, the removal or relocation of structures in flood-prone areas should be considered. [WAC 173-26-221(3)(b)(i and vi)]

- 6J-1.3 Flood hazard protection measures should result in no net loss of ecological functions and ecosystem-wide processes associated with rivers and streams. [Based on WAC 173-26-221(3)(b)(iv)]
- 6J-1.4 River and stream processes should be returned to a more natural state where feasible and appropriate, including:
- a. Removal of artificial restrictions to natural channel migration; and
 - b. Restoration of off-channel hydrological connections. [WAC 173-26-221(3)(b)(v & vii)]

6K – Restoration

Policies

- 6K-1.1 Restoration and enhancement of shorelines should be designed using principles of landscape and conservation ecology and should restore or enhance chemical, physical, and biological watershed processes that create and sustain shoreline habitat structures and functions.
- 6K-1.2 Restoration and enhancement actions should improve shoreline ecological functions and processes and should target meeting the needs of sensitive plant, fish and wildlife species as identified by Washington Department of Fish and Wildlife, Washington Department of Natural Resources, National Marine Fisheries Service, and U.S. Fish and Wildlife Service.
- 6K-1.3 Skagit County should, and private entities are encouraged to, seek funding from State, Federal, private, and other sources to implement restoration, enhancement, and acquisition projects, particularly those that are identified in the Restoration Plan of this SMP or the local watershed plans.
- 6K-1.4 Restoration and enhancement projects should be coordinated with local public utility and conservation districts.
- 6K-1.5 Skagit County should develop processing guidelines that will streamline the review of restoration-only projects.
- 6K-1.6 Allow for the use of tax incentive programs, mitigation banking, grants, land swaps, or other programs, as they are developed, to encourage restoration and enhancement of shoreline ecological functions and to protect habitat for fish, wildlife and plants.

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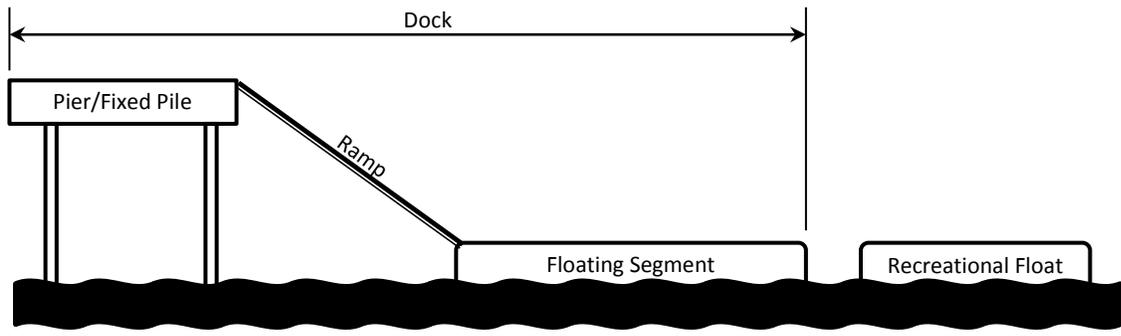
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14.26.110 Authority

- (1) The Shoreline Management Act of 1971, RCW Chapter 90.58, is the authority for the enactment and administration of this Shoreline Master Program.
- (2) SCC Chapter 14.26 constitutes the implementing development regulations for the Skagit County Shoreline Master Program.

14.26.120 Purpose

The purposes of this SMP are:

- (1) To promote public health, safety, and general welfare by providing comprehensive policies and effective, reasonable regulations for development, use and protection of jurisdictional shorelines; and
- (2) To further assume and carry out the local government responsibilities established by the SMA in RCW 90.58.050 including planning and administering the regulatory program consistent with the policy and provisions of the SMA in RCW 90.58.020; and
- (3) To provide a high quality shoreline environment where:
 - (a) Recreational opportunities are abundant;
 - (b) The public enjoys access to and views of shoreline areas;
 - (c) Natural systems are preserved, restored, or enhanced;
 - (d) Ecological functions of the shoreline are maintained and improved over time;

- (e) Water-oriented uses are promoted consistent with the shoreline character and environmental functions; and
- (4) To condition uses to ensure they are consistent with the control of pollution and prevention of damage to the natural environment
- (5) To discourage uses that are not unique to or dependent upon use of the state's shoreline; and
- (6) To ensure no net loss of shoreline ecological functions.

14.26.130 Applicability

- (1) All proposed uses, activities, or development occurring within shoreline jurisdiction must conform to the intent and requirements of the SMA and this SMP whether or not a permit or other form of authorization is required.
- (2) The shoreline permit procedures, policies, and regulations established in this SMP apply countywide to all nonfederal uses, activities, and development.
- (3) This SMP applies to lands subject to nonfederal ownership, lease, or easement, even though such lands may fall within the external boundaries of federal ownership. The following subsections guide the determination of SMP applicability on federal lands:
 - (a) Federal development on federally-owned land is not subject to this SMP;
 - (b) Federal development on federally-leased land is not subject to this SMP, as long as the development is consistent with the purpose of the lease;
 - (c) Development on federally-owned land under a non-federal lease or easement is subject to this SMP; for example, this SMP applies to private activities on federal land such as leases where the private citizen owns the structure but the federal government owns the land;
 - (d) Non-federal development or use on federally owned land is subject to this SMP;
 - (e) Development on non-federal land is subject to this SMP, even if it is leased, rented, etc. to the federal government, or it is within the boundaries of federal ownership.
- (4) As recognized by RCW 90.58.350, the provisions of this SMP do not affect treaty rights of Indian Nations or tribes.

14.26.140 Shoreline Jurisdiction

The Shoreline Master Program jurisdiction applies to all shorelines of the state and their associated shorelands. This includes:

- (1) all marine waters;
- (2) rivers and streams with more than 20 cubic feet per second mean annual flow (cfsmaf);
- (3) lakes and reservoirs greater than 20 acres in area;
- (4) associated wetlands;
- (5) shorelands adjacent to these water bodies, typically within 200 feet of the OHWM; and
- (6) floodways and contiguous floodplain areas extending 200 feet from the floodway;
- (7) critical areas wholly or partially within shorelines of the state or their associated shorelands, and the land necessary for their buffers;

14.26.150 Relationship to Other Codes, Plans, and Ordinances

- (1) All applicable federal, state, and local laws apply to properties in the shoreline jurisdiction.
- (2) When conflict occurs between the provisions of this SMP or between this SMP and the laws, regulations, codes, or rules promulgated by any other authority having jurisdiction, the provision that is most protective of shoreline resources must be applied, except when constrained by federal or state law, or where specifically provided otherwise in this Program.
- (3) All local development regulations including, but not limited to, zoning and subdivision rules apply in addition to this SMP, except that regulation of critical areas as provided in SCC 14.24 is accomplished exclusively by this SMP (and its incorporation by reference, where applicable, of sections of SCC 14.24).

14.26.160 Liberal Construction

As provided for in RCW 90.58.900, the SMA is exempted from the rule of strict construction. The County must, therefore, in interpreting this SMP, consider not only the regulations but also the purposes, goals, and policies.

14.26.170 Effective Date

This SMP was adopted by the Skagit County Board of Commissioners on _____, 2014. This SMP and any amendments become effective fourteen days after final approval by the State Department of Ecology. (RCW 90.58.090(7))

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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** describes the unique shoreline management objectives of the designation in a manner that distinguishes it from other designations.
 - (b) **Designation criteria** describe the basis for assigning the particular designation to specific sections of the shoreline.
 - (c) **Management policies** are the basis for the environment regulations and should be sufficient in detail to assist in their interpretation.
- (3) Interpretation.
 - (a) Any areas within shoreline jurisdiction that are not mapped and/or designated due to minor 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, provided the error does not extend onto a new parcel.

- (b) 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.
 - (c) Areas shown 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.
 - (d) 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.
- (4) 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.skagitcouny.net/smp.

14.26.210 Aquatic

- (1) Purpose. The purpose of the Aquatic environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high-water mark.
- (2) Designation criteria. An Aquatic environment designation should be assigned to areas waterward of the ordinary high-water mark.
- (3) Management policies.
 - (a) New over-water structures should be allowed for water-dependent uses, public access, or ecological restoration.
 - (b) The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.
 - (c) In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple uses of over-water facilities should be encouraged.
 - (d) All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation; to consider impacts to views; and to allow for the safe, unobstructed passage of fish and wildlife.
 - (e) Uses that adversely impact the ecological functions of critical saltwater and freshwater habitats should not be allowed except where necessary to achieve the

objectives of RCW 90.58.020, and only when the impacts are mitigated using mitigation sequencing.

- (f) Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.
- (g) Shoreline space should be reserved for shoreline preferred uses, while considering such things as upland and in-water uses, water quality, navigation, presence of aquatic vegetation, existing shellfish protection districts and critical habitats, aesthetics, public access and views.

14.26.220 Natural

- (1) Purpose. The purpose of the Natural environment designation is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions. Only low intensity uses should be allowed in order to maintain the ecological functions and ecosystem-wide processes.
- (2) Designation criteria. Natural environment designation should be assigned to shoreline areas if any of the following characteristics apply:
 - (a) The shoreline is ecologically intact and therefore currently performing an important function or ecosystem-wide process that would be damaged by human activity;
 - (b) The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational significance; or
 - (c) The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.
- (3) Management policies.
 - (a) Any use that would substantially degrade the ecological functions or natural character of the shoreline area should not be allowed.
 - (b) The following new uses should not be allowed in the Natural environment:
 - (i) Commercial uses;
 - (ii) Industrial uses;
 - (iii) Nonwater-oriented recreation;
 - (iv) Roads, utility corridors, and parking areas that can be located outside of Natural-designated shorelines.

- (c) Single-family residential development is a conditional use within the Natural environment if the density and intensity of such use is limited to protect ecological functions and be consistent with the purpose of the Natural environment.
- (d) Commercial forestry is allowed in the Natural environment provided it meets the conditions of the State Forest Practices Act and its implementing rules and is conducted in a manner consistent with the purpose of the Natural environment designation.
- (e) Low-intensity agricultural use is allowed in the Natural environment when such use does not expand or alter practices in a manner inconsistent with the purpose of the designation.
- (f) Scientific, historical, cultural, educational research uses, and low-intensity water-oriented recreational uses are allowed provided that no significant ecological impact on the area will result.
- (g) New development or significant vegetation removal should not reduce the capability of existing vegetation to perform ecological functions. The subdivision of property requiring significant vegetation removal or shoreline modification that may adversely impact ecological functions would not be consistent with the Natural environment designation.

14.26.230 Rural Conservancy

- (1) Purpose. The purpose of the Rural Conservancy environment designation is to protect ecological functions, conserve existing natural resources and valuable historic and cultural areas, provide for sustained resource use, achieve natural floodplain processes, and provide recreational opportunities. Examples of uses that are appropriate in a Rural Conservancy environment include low-impact outdoor recreation uses, timber harvesting on a sustained-yield basis, agricultural uses, aquaculture, low-intensity residential development and other natural resource-based low-intensity uses.
- (2) Designation criteria. A Rural Conservancy environment designation should be assigned to shoreline areas outside incorporated municipalities and urban growth areas, as defined by RCW 36.70A.110, if any of the following characteristics apply:
 - (a) The shoreline is currently supporting lesser-intensity resource-based uses, such as agriculture, forestry, or recreational uses, or is designated agricultural or forest lands pursuant to RCW 36.70A.170;
 - (b) The shoreline is currently accommodating lesser-intensity residential development outside urban growth areas and incorporated cities or towns;

- (c) The shoreline is supporting human uses but subject to environmental limitations, such as properties that include or are adjacent to steep slopes, feeder bluffs, floodplains or other flood-prone areas;
 - (d) The shoreline is of high recreational value; or
 - (e) The shoreline contains unique historic or cultural resources; or
 - (f) The shoreline contains low-intensity water-dependent uses.
- (3) Management policies.
- (a) Uses in the Rural Conservancy environment should include those which sustain the shoreline area's physical and biological resources and uses of a nonpermanent nature that do not substantially degrade ecological functions or the rural or natural character of the shoreline area. Agriculture, commercial forestry, and aquaculture when consistent with provisions of this SMP may be allowed. Low-intensity, water-oriented commercial and industrial uses may be permitted where those uses have located in the past or at unique sites in rural communities that possess shoreline conditions and services to support the use. Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as boating facilities, angling, hunting, wildlife viewing trails, and swimming beaches, are preferred uses, provided significant adverse impacts to the shoreline are mitigated. Mining and related activities may be an appropriate use within the rural conservancy environment when conducted in a manner consistent with the environment policies and the provisions of WAC 173-26-241 (3)(h) and when located consistent with mineral resource lands designation criteria pursuant to RCW 36.70A.170 and WAC 365-190-070.
 - (b) Developments and uses that would substantially degrade or permanently deplete the biological resources of the area should not be allowed.
 - (c) Construction of new structural shoreline stabilization and flood control works should be allowed when the need exists to protect an existing structure or ecological functions. Mitigation may be necessary for such construction. New development should be designed and located to preclude the need for such work.
 - (d) Proposed residential development should be designed to ensure no net loss of shoreline ecological functions and should preserve the existing character of the shoreline consistent with the purpose of the Rural Conservancy environment.
 - (e) New shoreline stabilization, flood control measures, vegetation removal, and other shoreline modifications should be designed and managed consistent with this SMP to ensure that shoreline functions are protected. Such shoreline modification should

be consistent with planning provisions for restoration of shoreline ecological functions.

14.26.240 Rural Conservancy–Skagit Floodway

- (1) Purpose. The purpose of the Rural Conservancy–Skagit Floodway environment designation is to protect ecological functions, conserve existing natural resources, provide for sustained resource use, achieve natural floodplain processes, and provide recreational opportunities appropriate for those shoreline areas that are located within the floodway of the Skagit River from the State Route 9 bridge upstream to the confluence of the Skagit and Sauk Rivers. This floodway area is intended to be relatively free of non-natural impediments, which in turn allows for the flow of flood waters along the Skagit River. Examples of uses that are appropriate in a Rural Conservancy–Skagit Floodway environment include low-impact outdoor recreation uses, and natural resource-based low-intensity uses, such as timber harvest, agriculture and aquaculture, provided any proposed uses are consistent with flood hazard regulations.
- (2) Designation criteria. A Rural Conservancy–Skagit Floodway environment designation should be assigned to shoreline areas outside incorporated municipalities and urban growth areas that are located within the floodway of the Skagit River from the State Route 9 bridge upstream to the confluence of the Skagit and Sauk Rivers. This designation should be considered as an overlay for those areas that would be designated as Rural Conservancy if they were not within the mapped floodway of the Skagit River.
- (3) Management policies.
 - (a) Uses in the Rural Conservancy–Skagit Floodway environment should include those which sustain the shoreline area's physical and biological resources and uses of a nonpermanent nature that do not degrade ecological functions or the rural or natural character of the shoreline area. Agriculture, commercial forestry, and aquaculture when consistent with provisions of this SMP and flood hazard regulations (SCC 14.34) are preferred uses. Water-dependent and water-enjoyment recreation that does not deplete the resource over time and is consistent with flood hazard regulations (SCC 14.34), such as angling, hunting, wildlife viewing, and swimming beaches are preferred uses. Mining and related activities may be an appropriate use within the Rural Conservancy—Skagit Floodway environment designation when conducted in a manner consistent with the environment policies and the provisions of WAC 173-26-241(3)(h) and when located consistent with mineral resource lands designation criteria pursuant to RCW 36.70A.170 and WAC 365-190-070.
 - (b) Construction of new structural shoreline stabilization and flood control works should be allowed when the need exists to protect an existing structure or

ecological functions. Construction of such modifications must comply with the regulations of the SCC 14.34, Flood Damage Prevention and this SMP.

- (c) New shoreline stabilization, flood control measures, vegetation removal, and other shoreline modifications should be designed and managed consistent with this SMP and SCC 14.34, Flood Damage Prevention, to ensure that shoreline functions are protected. Such shoreline modification should be consistent with planning provisions for restoration of shoreline ecological functions.
- (d) New uses or development in the Rural Conservancy-Skagit Floodway overlay shown to be consistent with SCC 14.34, Flood Damage Prevention, this SMP, and other state and federal requirements will be reviewed under the Rural Conservancy designation in the Shoreline Uses and Modifications Matrix.
- (e) New uses or development that are inconsistent with SCC 14.34, Flood Damage Prevention, should not be allowed in the Rural Conservancy–Skagit Floodway environment.

14.26.250 Urban Conservancy

- (1) Purpose. The purpose of the Urban Conservancy environment designation is to protect and restore ecological functions of open space, floodplain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.
- (2) Designation criteria. An Urban Conservancy environment designation should be assigned to shoreline areas that are appropriate and planned for development that is compatible with maintaining or restoring the ecological functions of the area, that are not generally suitable for water-dependent uses and that lie in incorporated municipalities, urban growth areas, or commercial or industrial limited areas of more intensive rural development (LAMIRD) if any of the following characteristics apply:
 - (a) They are suitable for water-related or water-enjoyment uses;
 - (b) They are open space, floodplain, or other sensitive areas that should not be more intensively developed;
 - (c) They have potential for ecological restoration;
 - (d) They retain important ecological functions, even though partially developed; or
 - (e) They have the potential for development that is compatible with ecological restoration.
- (3) Management policies.

- (a) Uses that preserve the natural character of the area or promote preservation of open space, floodplain, or sensitive lands either directly or over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.
- (b) Standards for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the Urban Conservancy designation must ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.
- (c) Public access and public recreation objectives should be implemented whenever feasible and when significant ecological impacts are mitigated.
- (d) Water-oriented uses should be given priority over nonwater-oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.
- (e) Mining and related activities may be an appropriate use within the Urban Conservancy environment when conducted in a manner consistent with this SMP and the provisions of WAC 173-26-240 (3)(h) and when located consistent with mineral resource lands designation criteria pursuant to RCW 36.70A.170 and WAC 365-190-070.

14.26.260 Shoreline Residential

- (1) Purpose. The purpose of the Shoreline Residential environment designation is to accommodate higher density residential development and appurtenant structures that are consistent with this SMP. An additional purpose is to provide appropriate public access and recreational uses.
- (2) Designation criteria. A Shoreline Residential environment designation should be assigned to shoreline areas inside urban growth areas, incorporated municipalities, limited areas of more intense rural development, and master planned resorts, as described in RCW 36.70A.360, or existing areas of higher density residential development in unincorporated parts of Skagit County, generally characterized by lots smaller than one acre in size.
- (3) Management policies.
 - (a) Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality should ensure no net loss of shoreline ecological functions. Such standards should take into account the environmental limitations

and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.

- (b) New residential and recreational developments should be designed to provide joint use community recreational facilities and public access, where feasible and applicable.
- (c) Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.
- (d) New commercial development should be limited to water-oriented uses.

14.26.270 High-Intensity

- (1) Purpose. The purpose of the High-Intensity environment designation is to provide for high-intensity water-oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been degraded.
- (2) Designation criteria. A High-Intensity environment designation should be assigned to shoreline areas within incorporated municipalities, urban growth areas, and industrial or commercial "limited areas of more intensive rural development," if they currently support high-intensity uses related to commerce, transportation or navigation, or are suitable and planned for high-intensity water-oriented uses.
- (3) Management policies.
 - (a) In regulating uses in the High-Intensity environment, first priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. New nonwater-oriented uses should be allowed as part of mixed-use developments and when they do not conflict with or limit opportunities for water-oriented uses.
 - (b) Utilization of existing urban areas should be encouraged prior to the expansion of intensive development.
 - (c) Proposals for new development in shoreline jurisdiction should be designed to result in no net loss of shoreline ecological functions.
 - (d) Where feasible, visual and physical public access should be provided.
 - (e) Aesthetic objectives should be met through signage regulations, development siting criteria, screening and landscaping standards, and maintenance of natural vegetative buffers.

Part III: General Regulations

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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 activities must be designed to complement the character and setting of the property, minimize noise and glare, and avoid impacts to view corridors, where feasible. Shoreline applicants must demonstrate efforts to minimize potential impacts to the extent feasible, including:
 - (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.
 - (c) Property screening in the form of fences or berms are subject to subsection (6) below.
- (3) 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))
- (4) Protection of water quality near aquaculture areas. Applicants proposing development in upland areas must address potential impacts and conflicts with existing aquaculture operations.
- (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 developments 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.
- (5) Changes to topography. To the extent feasible, proposed new shoreline development must conform to natural contours and minimize disturbance to soils and native vegetation and natural features while meeting applicable government standards. (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. All disturbed areas must be restored and protected from erosion using vegetation and other approved means to permanently stabilize soil exposed during construction.
 - (a) 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.
 - (b) Stream bank erosion control BMPs must be selected, designed, and maintained according to the Stormwater Design Manual.

- (7) View corridors. The maximum allowable height of structures in shoreline jurisdiction is 35 feet, except that a structure height greater than 35 feet may be permitted through a Shoreline Variance.
 - (a) An applicant for a Shoreline Variance must submit a view analysis.
 - (i) 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.
 - (ii) For phased developments, the view analysis must be prepared in the first phase and include all proposed buildings.
 - (iii) 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.
 - (b) The Shoreline Variance may be granted if the following additional criteria are met:
 - (i) The structure is consistent with underlying zoning.
 - (ii) The structure will not obstruct views from public property or a substantial number of residences, as informed by the view analysis. (WAC 173-26-221(4)(d)(iv))

- (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) Shoreline uses and activities are subject to all other applicable County development regulations, such as zoning, subdivision, and building codes in addition to the development regulations of this SMP.

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) Below-OHWM excavations. Any trenches, depressions, or holes created below the OHWM must be backfilled prior to inundation by high water or wave action.
- (10) Concrete management.
- (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) Retain natural features. Natural in-water features such as snags, uprooted trees, or stumps should 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 (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 not allowed 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 should 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.
- (21) Mitigation. All aquatic shoreline modifications and uses are subject to the mitigation sequencing requirements in SCC 14.26.310, Environmental Protection, with appropriate mitigation required for any unavoidable impacts to ecological functions. If critical areas in shoreline jurisdiction are impacted, the project is also subject to relevant requirements of SMP Part V, Critical Areas Regulations in Shoreline Jurisdiction.

14.26.330 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 conditional use permit. [SMP 7.14(2)(A)]

14.26.340 Environmental Protection

- (1) Ecological Functions. Uses and developments on Skagit County shorelines must be designed, located, sized, constructed and maintained to achieve no net loss of shoreline ecological functions necessary to sustain shoreline natural resources. Uses and developments must not have an unmitigated significant adverse impact on other shoreline functions fostered by this SMP. [Based on WAC 173-26-201(2)(e)]
- (2) Protection of Buffers. Critical area buffers and shoreline buffers must be protected in accordance with the provisions of SMP Part V, Critical Areas Regulations in Shoreline Jurisdiction.
- (3) Mitigation Requirement. If a proposed shoreline use or modification is entirely addressed by specific, objective standards (such as setback distances, pier dimensions, or materials requirements) contained in this SMP, then the mitigation sequencing analysis described in subsection (4) is not required. In the following circumstances, the applicant must provide a mitigation sequencing analysis as described in subsection (4):

- (a) if a proposed shoreline use or modification is addressed in any part by discretionary standards (such as standards requiring a particular action if feasible or requiring the minimization of development size) contained in this Chapter, then the mitigation sequencing analysis is required for the discretionary standard(s); or
 - (b) when an action requires a Shoreline Conditional Use Permit or Shoreline Variance Permit; or
 - (c) when specifically required by this SMP.
- (4) Mitigation Sequence. In order to ensure that development activities contribute to meeting the no net loss provisions by avoiding, minimizing, and mitigating for adverse impacts to ecological functions or ecosystem-wide processes, an applicant required to complete a mitigation analysis pursuant to SCC 14.26.310(3) must describe how the proposal will follow the sequence of mitigation as defined below:
- (a) Avoid the impact altogether by not taking a certain action or parts of an action;
 - (b) Minimize the impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
 - (c) Rectify the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project or activity;
 - (d) Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the action;
 - (e) Compensate for the impact by replacing, enhancing, or providing substitute resources or environments; and
 - (f) Monitor the impact and the compensation projects and take appropriate corrective measures. [Based on WAC 173-26-201(2)(e)(i)]
- (5) Mitigation Plan. All proposed alterations to shoreline areas or associated buffers require mitigation sufficient to provide for and maintain the functions and values of the shoreline area or to prevent risk from a critical areas hazard and must give adequate consideration to the reasonable and economically viable use of the property. The applicant must develop and implement a mitigation plan prepared by a qualified professional. Mitigation in excess of that necessary to ensure that development will result in no net loss of ecological functions will not be required by Skagit County, but may be voluntarily performed by an applicant. In addition to any requirements found in Part V, Critical Areas

Regulations in Shoreline Jurisdiction, a mitigation plan must include: [Based on WAC 173-26-201(2)(e)(ii)(A)]

- (a) An inventory and assessment of the existing shoreline environment including relevant physical, chemical and biological elements;
 - (b) A discussion of any federal, state, or local management recommendations which have been developed for critical areas or other species or habitats located on the site;
 - (c) A discussion of proposed measures which mitigate the adverse impacts of the project to ensure no net loss of shoreline ecological functions;
 - (d) A discussion of proposed management practices which will protect fish and wildlife habitat both during construction, and after the project site has been fully developed;
 - (e) Scaled drawings of existing and proposed conditions, materials specifications, and a minimum five-year maintenance and monitoring plan, including performance standards;
 - (f) A contingency plan if mitigation fails to meet established success criteria; and
 - (g) Any additional information necessary to determine the adverse impacts of a proposal and mitigation of the impacts.
- (6) Alternative Mitigation. To provide for flexibility in the administration of the ecological protection provisions of this SMP, alternative mitigation approaches may be approved within shoreline jurisdiction where such approaches provide increased protection of shoreline ecological functions and processes over the standard provisions of this SMP and are scientifically supported.

14.26.350 Flood Hazard Reduction [section in development].

- (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 flood waters 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 elsewhere in this SMP.
- (2) Application Requirements. In addition to the general application requirements, all applications for new structural flood hazard reduction measures in shoreline jurisdiction must demonstrate the following:
- (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 an adopted comprehensive flood hazard management plan approved by Ecology that evaluates cumulative impacts to the watershed system. [Based on WAC 173-26-221(3)(c)(ii)]
- (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 dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigable significant ecological impacts, unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development. [Based on WAC 173-26-221(3)(c)(iv)]
- (e) The removal of gravel for flood management purposes must be consistent with an adopted flood hazard reduction plan 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 Public Access

- (1) Applicability – When Public Access is Required:
 - (a) The following shoreline uses and activities are required to provide shoreline public access:
 - (i) Shoreline recreation pursuant to SCC 14.26.470; (WAC 173-26-241(3)(i))
 - (ii) New public structural flood hazard reduction measures, such as new dikes and levees, where access rights can be secured; (WAC 173-26-221 (3) (c) (iv))
 - (iii) Shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts; (WAC 173-26-221 (4) (d) (ii))
 - (iv) New marinas when water-enjoyment uses are associated with the marina; (WAC 173-26-241(3)(c)(iv))
 - (v) New multi-unit residential development, including land divisions creating five or more lots or dwelling units; (WAC 173-26-241(3)(j))
 - (vi) Commercial development proposed on land in public ownership. (WAC 173-26-241(3)(d))
 - (b) Commercial and industrial uses must consider how to incorporate shoreline public access. The amount of needed public access must be based on the development's impacts to shoreline resources.
 - (c) To require public access as part of a private development proposal Skagit County must consider its adopted plans, regulations, level of service standards, SEPA review, and application information, and make the following findings:
 - (i) The proposed project increases demand for public access to the shoreline (nexus);
 - (ii) The shoreline access provided is reasonably consistent with the nature and type of demand created (proportionality); and

- (iii) The permit condition requirement for public access is reasonably necessary at this location or an approved offsite location to mitigate the incremental demand created by the project.
- (2) Exceptions. An applicant is not required to provide public access when it is determined that one or more of the following conditions apply
- (a) The proposed use, activity, or development involves up to four multi-unit residential dwellings;
 - (b) The proposed subdivision of land of up to four lots;
 - (c) The proposed use, activity, or development is agriculture or aquaculture ;
 - (d) The site is within or part of an overall development, a binding site plan, or a planned unit development which has previously provided public access through other application processes;
 - (e) Unavoidable health or safety hazards to the public exist and cannot be prevented by any practical means;
 - (f) Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
 - (g) The proposal involves an ecological restoration project such as a levee setback and public access is not feasible.
 - (h) Significant adverse environmental impacts will result from the public access that cannot be mitigated;
 - (i) Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated;
 - (j) The subject site is separated from the shoreline water body by intervening public or private improvements such as highways, railroads, existing structures, or similar significant improvements, and public access to the water is not feasible;
 - (k) The cost of providing the public access, easement or alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development; or
 - (l) Public access is deemed detrimental to threatened or endangered species under the Endangered Species Act. The Administrative Official must consult with governmental agencies or authorities with jurisdiction when making this determination.

- (3) Feasible Alternatives. Prior to obtaining an exception under (3)(f) through (3)(m) shoreline applicants must demonstrate to the satisfaction of the Administrative Official that all feasible public access alternatives have been exhausted, including, but not limited to:
 - (a) providing visual access where physical access is not feasible;
 - (b) regulating access, e.g. by limiting hours of use to daylight hours;
 - (c) designing for separation of uses and activities, e.g. fences, terracing, hedges, landscaping, signage; and
 - (d) providing an off-site public access that allows public access at a site physically separated from, but capable of serving, the project area.
- (4) Shoreline Public Access Plan. The Skagit County shoreline public access plan provides for a connected network of parks, open space, and trails. Skagit County's public access planning process provides more effective public access than individual project requirements for public access, as provided for in WAC 173-26-221(4)(d)(iii)(A). Shoreline applicants must demonstrate consistency with the Shoreline Public Access Plan [propose to at a minimum adopt the Skagit Countywide UGA Open Space Concept Plan, and the 2012 Comprehensive Parks and Recreation Plan]
- (5) Design Standards. Applicants for shoreline development must demonstrate the following:
 - (a) Applications subject to shoreline public access requirements must be consistent with public access policies and objectives of the Comprehensive Plan;
 - (b) Shoreline substantial developments or conditional uses must minimize the impact on views of shoreline water bodies from public lands or substantial numbers of residences. The Administrative Official may require a visual analysis and establishment of a view corridor pursuant to SCC 14.26.370, Shoreline Vegetation Conservation, and SCC 14.26.320, General Provisions Applicable to Uses and Modifications Waterward of the OHWM;
 - (c) Shoreline public access development must not result in a net loss of shoreline ecological functions or ecosystem-wide processes;
 - (d) Shoreline trails and pathways must be located, designed, and constructed to protect bank stability;
 - (e) The removal of on-site native vegetation must be limited to the minimum necessary for the public access areas, such as picnic areas, campsites, selected views, or other permitted structures or facilities;

- (f) Where feasible, physical shoreline public access must be designed to connect to existing or future public access features on adjacent or abutting properties, or must connect to existing public rights-of-way or access easements;
 - (g) Design of shoreline trails and public parks must be consistent with the County's Comprehensive Parks and Recreation Plan; and
 - (h) Proponents of recreational developments must provide and maintain trash and recycling receptacles, restrooms if required based on demand, and pet waste receptacles, to promote appropriate waste disposal and protect water quality.
- (6) Offsite shoreline public access may be permitted where onsite shoreline public access is not feasible, provided it results in an equal or greater public benefit. When onsite limitations of security, environment, use conflict, intervening improvements or feasibility are present, offsite shoreline public access may be permitted. Sites on the same water body or secondarily within the same watershed are required. Offsite shoreline public access may be visual or physical in nature and should include both visual and physical elements. Off-site public access may include, but is not limited to, enhancing an adjacent public property (e.g. existing public recreation site; existing public access; road, street or alley abutting a body of water); providing, improving, or enhancing public access on another property under the control of the applicant/proponent; or a similar measure approved by the Administrative Official.
- (7) The cost of providing the offsite public access must be proportionate to the total development value at build-out per approved designs. Mitigation measures must address the responsibility and cost for operation and maintenance.
- (8) Community access is allowed if there is no planned public access required along the shoreline as determined by a review of the Shoreline Public Access Plan. Where appropriate, community access is subject to all applicable design standards of this section.
- (9) Requirements.
- (a) Use materials appropriate to the urban or rural character of the property and vicinity and environmental condition;
 - (b) Include barrier-free designs to meet Americans with Disabilities Act;
 - (c) Provide auxiliary facilities such as parking, restrooms, refuse and recycling containers or other amenities;
 - (d) Provide landscaping;

- (e) Include techniques defining the separation between public and private space, including, but not limited to, natural elements such as logs, vegetation, and elevation separations;
 - (f) Provide signage with the appropriate agency logo and hours of access;
 - (g) Establish operation and maintenance responsibilities with the shoreline permit review process;
 - (h) Identify dedication and recording requirements;
 - (i) Determine timing of public access installation in relation to the construction of the proposal; and
 - (j) Determine ongoing availability to the public or community for which it is designed.
- (10) Incentives: The following incentives are available to any shoreline applications in order to implement future shoreline public access **(added based on Planning Commission and SAC interest in incentives for public access)**
- (a) In exchange for the shoreline public access listed in Table 14.26.330-1, incentives in Table 14.26.330-2 are allowed. There are several types, or ways of providing shoreline public access described (Types 1-3). Each type of shoreline public access is associated with an incentive level that results in specific allowable modifications of development standards based on the type of development – either residential or commercial/industrial. These development standard modifications are subject to approval by a Shoreline Substantial Development Permit where the modification is consistent with underlying zoning regulations, subdivision regulations and road regulations.
 - (b) The Administrative Official may authorize the transfer of the incentives to contiguous property outside the shoreline jurisdiction when part of a unified development proposal such as when a subdivision application includes property located inside and outside of jurisdiction.

Table 14.26.360-1. Type of Physical Shoreline Public Access and Qualification for Incentives

Type of Shoreline Public Access	Qualification for Incentives
Type 1 Pedestrian Access: Pedestrian access via perpendicular path of minimum 10-foot improvement width and 25-foot easement width.	Level 1 Public Access Incentives Level 2: Perpendicular access connects to existing public access feature or easement
Type 2 Pedestrian Access: Pedestrian access via parallel path of minimum 10-foot improvement	Level 2 Public Access Incentives: a perpendicular access connecting to a parallel

Type of Shoreline Public Access	Qualification for Incentives
width and 25-foot easement width.	access along minimum of 75% of shoreline frontage Level 3 Public Access Incentives: a perpendicular access connecting to a parallel access along 100% of shoreline frontage
Type 3 Pedestrian Access: County street end improvement for shoreline public access.	Level 2 Public Access Incentives
Type 1 Vehicular Access to Public Access Facility: Minimal vehicular access to public access facility: e.g. parking at right-of-way and minimum 10-foot improvement width and 25-foot easement width.	Level 2 Public Access Incentives
Type 2 Vehicular Access to Waterfront Recreation: Vehicular access corridor and turn around to waterfront recreation and parking.	Level 3 Public Access Incentives
Type 3 Vehicular Access to Boat Launch: Vehicular access corridor and turn around and parking, providing access to public boat launch facility.	Level 3 Public Access Incentives

[Note: The Open Space Plan and 2012 Parks and Recreation Comprehensive Plan promote trails. The Parks and Recreation Comprehensive Plan also promotes boat launches, and other shoreline recreation such as boating, fishing, and camping. The above incentives get at trails, boat launches, and general shoreline recreation.]

Table 14.26.360-2. Incentives for Public Access

Incentive Level	Residential Incentive	Commercial or Industrial Incentive
1	For up to one site or lot: Reduction of street-facing yard by 10% Reduction of lot width requirements up to 10%	For up to one site or lot: Increase of primary building height by up to 5 feet
2	Level 1 Public Access Incentives plus: Allowance for 1 additional lot. In order to achieve the additional lot, the applicant may reduce the size of other lots. The modification of other lot sizes must be minimized to the extent feasible to accommodate the additional lot. This additional lot must not be added on lands	Level 1 Public Access Incentives plus the following for one site: Maximum building coverage increase of up to 5%

Incentive Level	Residential Incentive	Commercial or Industrial Incentive
	<p>of long-term commercial significance for forestry or agriculture. All lots must be designed to meet other requirements for health and safety, such as wastewater treatment.</p> <p>Maximum building coverage increase of up to 2.5% for up to 25% of lots</p>	
3	<p>Level 1 and Level 2 Public Access Incentives plus the following for one site: Maximum height for primary structure may be increased by one story or 10 feet maximum</p> <p>Type 2 Vehicular Access: Reduction of lot width requirements up to 35% for shoreline frontage lots Allowance for 1 additional lot. In order to achieve the additional lot, the applicant may reduce the size of other lots. The modification of other lot sizes must be minimized to the extent feasible to accommodate the additional lot. This additional lot is not permitted on lands of long-term commercial significance for forestry or agriculture. All lots must be designed to meet other requirements for health and safety, such as wastewater treatment. Maximum building coverage increase of up to 2.5% for up to 35% of lots Reduction in required pavement width of up to 4 feet, or not less than 22 feet of pavement, for average daily traffic (ADT) less than 400</p> <p>Type 3 Vehicular Access: Same as Type 2 Vehicular Access, except that the percentage of lots that may be approved for reduced lot width, or increased building coverage is equal to</p>	<p>Level 1 and Level 2 Public Access Incentives plus the following for one site: Maximum height for primary structure may be increased by one story or 15 feet maximum Reduction in required pavement width of up to 4 feet, or not less than 22 feet of pavement, for ADT less than 400</p>

Incentive Level	Residential Incentive	Commercial or Industrial Incentive
	50%	

14.26.370 Vegetation Conservation

- (1) Vegetation conservation standards do not apply retroactively to existing uses and developments. Vegetation associated with existing structures, uses and developments may be maintained within shoreline jurisdiction as stipulated in the approval documents for the development.
- (2) Vegetation within shoreline buffers, other stream buffers, wetlands and wetland buffers, and other critical areas must be managed consistent with Part V - Critical Areas Regulations in Shoreline Jurisdiction. Regulations specifying establishment and management of shoreline buffers (buffers associated with Type S streams and shoreline lakes and marine waters) are located in SCC 14.26.550, Fish and Wildlife Habitat Conservation Areas.
- (3) Other vegetation within shoreline jurisdiction, but outside of shoreline buffers, other stream buffers, and wetlands and wetland buffers must be managed according to SCC 14.26.310, Environmental Protection, and any other regulations specific to vegetation management contained in this SMP and Skagit County Code.
- (4) Vegetation clearing must be limited to the minimum necessary to accommodate approved shoreline development that is consistent with all other provisions of this SMP and Skagit County Code. Mitigation sequencing per SCC 14.26.310(4), Environmental Protection, must be applied unless specifically excluded by this SMP, so that the design and location of the structure or development minimizes vegetation removal.
- (5) Development or uses that require vegetation clearing must be designed to avoid the following in descending order of priority:
 - (a) Native significant trees;
 - (b) Non-native significant trees;
 - (c) Native non-significant trees;
 - (d) Other native vegetation;
 - (e) Other non-native vegetation.

- (6) Unless otherwise specified in SMP Part V – Critical Areas Regulations in Shoreline Jurisdiction, or other sections of this SMP, significant tree retention in shoreline buffers, critical areas, and critical area buffers must be 100 percent.
- (7) Significant trees located in shoreline jurisdiction outside of shoreline buffers, critical areas, and other critical area buffers must be retained using the preferences specified in subsection (5) above, as a guide and consistent with the following percentages, based on shoreline environment designation:

Environment Designation	Retention (%)
Natural	90
Urban Conservancy	65
Rural Conservancy	65
Shoreline Residential	25
High Intensity	25

- (8) The County may approve modifications or require minor site plan alterations to achieve maximum tree retention. A tree retention plan may provide for the retention of fewer significant trees than required in subsection (7) only if the additional trees to be removed are replaced at a ratio of three to one. Replacement trees must replicate the vegetation historically found on the site in species types, and densities.
- (9) Tree retention plan. All proposed developments must include a tree retention plan for the subject property within shoreline jurisdiction. The tree retention plan must include the following:
 - (a) location, size, species, and driplines of all existing healthy significant trees within the shoreline area;
 - (b) existing and proposed contours;
 - (c) trees and other vegetation to be retained; and
 - (d) a description of protection techniques to be utilized during construction, including but not limited to five-foot-high chainlink or plastic-net fencing around tree driplines, tunneling instead of trenching, stump grinding instead of stump pulling, and routing of traffic to prevent excessive soil compaction; and
 - (e) a disturbance-free area beyond the tree dripline must be indicated.
- (10) A tree designated for retention must not have the soil grade altered within its dripline or within 15 feet of its trunk, whichever is greater, unless an alternative tree retention method is approved by the County.

- (11) In the event that existing significant trees or vegetation, which are designated to be retained, die or are damaged or removed as a result of development activity prior to issuance of occupancy permits or release of any tree retention bonds required pursuant to SMP Part V, the applicant must submit a restoration plan and obtain approval from the Administrative Official. The restoration plan must provide for replacement of plants in the following manner:
- (a) Each such significant tree must be replaced with three native trees.
 - (b) Replacement trees may be placed in other locations on the property, as approved by the Administrative Official. Where conditions allow, native replacement trees should be placed in on-site wetlands or wetland, stream or shoreline buffers if doing so would improve function of the critical area or its buffers.
 - (c) Shrubs and ground cover must be replaced in all disturbed areas by a mixture of native shrubs, groundcovers and other plant material intended to provide 85% surface coverage within two years of planting.
 - (d) The development and implementation of the restoration plan is in addition to the tree retention bond, if one was required, which could be forfeited as a result of the loss of significant trees or vegetation.
- (12) Where vegetation removal conducted consistent with this section results in adverse impacts to shoreline ecological function, new developments or site alterations are required to develop and implement a supplemental mitigation plan. Adverse impacts are assumed to result from removal of native shrubs and groundcovers not otherwise regulated under the significant tree provisions, or when allowed removal of the significant trees disrupts an existing vegetation corridor connecting the property to other critical areas or buffers. Mitigation plans must be prepared by a qualified professional and must contain information required in SMP Part V. Mitigation measures must be maintained over the life of the use or development.
- (13) Where native shoreline vegetation must be removed to accommodate a temporary staging area necessary to implement an allowed use, the area must be immediately stabilized and restored with native vegetation once its use as a staging area is complete.
- (14) Where a tree poses a significant safety hazard, it may be removed or converted to a wildlife snag if the hazard cannot be eliminated by pruning, crown thinning, or other technique that maintains some habitat function. If a safety hazard cannot be easily determined by the County, a written report by a certified arborist or other qualified professional is required to evaluate potential safety hazards.
- (15) Selective pruning of trees is allowed, but must maintain the existing percent canopy cover. Selective pruning of trees does not include removal of understory vegetation.

- (16) Topping of trees is prohibited, unless tree poses a documented safety risk associated with overhead utilities.
- (17) Significant trees that are part of a grouping or that otherwise provide mutual support during strong winds must be preserved to prevent blow down of on and off-site trees with particular emphasis on trees that support adjacent wildlife habitat areas.
- (18) Vegetation removal conducted without County authorization requires the submittal and approval of a restoration plan prepared by a qualified professional as defined in SCC 14.26.860. The restoration plan must address the utilization of native vegetation, compensation for temporal loss of function through the proposed design, and the restoration of specific functions adversely impacted by the unauthorized vegetation removal.
- (19) With the exception of hand removal or spot-spraying of invasive or noxious weeds on shorelands outside of steep or unstable slope areas, the determination of whether non-native vegetation removal may be allowed in shoreline jurisdiction must be evaluated in conformance with this section, SCC 14.26.310 Environmental Protection, and SMP Part V. Such removal of noxious weeds and invasive species must be incorporated in mitigation plans, as necessary, to prevent erosion and facilitate establishment of a stable community of native plants.
- (20) Aquatic weed control must only be permitted where the presence of aquatic weeds will adversely affect native plant communities, fish and wildlife habitats, or an existing water-dependent recreational use. Aquatic weed control efforts must comply with all applicable laws and standards. Removal using mechanical methods is preferred over chemical methods.

14.26.380 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. Materials used for decking or other structural components must be approved by applicable state or federal agencies for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote or pentachlorophenol is prohibited in shoreline water bodies and other waters.

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14.26.400 General— Matrix

- (1) Table 14.26.400 indicates which shoreline activities, uses, developments, and modifications are permitted or prohibited in shoreline jurisdiction within each shoreline environment designation. Activities, uses, developments, and modifications are classified as follows:
 - (a) “SD/E” indicates the use requires a Shoreline Substantial Development Permit or a Shoreline Exemption.
 - (b) “CU” indicates the use requires a Shoreline Conditional Use Permit.

- (c) “X” indicates the use is prohibited.
 - (d) “NA” indicates the use is not applicable or possible in the environment designation.
 - (e) “Upland” means the use is regulated consistent with the upland environment designation.
- (2) Where there is a conflict between the matrix and other provisions in this SMP, the other provisions control.
 - (3) Accessory or appurtenant uses are subject to the same shoreline review process as their primary use.
 - (4) Authorized uses and modifications are only allowed in shoreline jurisdiction where the underlying zoning allows for it and are subject to the policies and regulations of this SMP.
 - (5) A use is considered unclassified when it is not listed in Table 14.26.290; in Part III, General Regulations; or Part IV, Shoreline Use and Modification Regulations. Any proposed unclassified use must be classified by the Administrative Official as permitted, conditional, or prohibited, based on the listed use to which the proposed use is most similar. If the Administrative Official determines that the proposed use is not similar to any use in this SMP, the proposed use must be considered prohibited. The criteria for authorization of an unclassified use as a permitted or a conditional use are as follows:
 - (a) The Administrative Official finds that the use is similar in nature to, and no more intense than, a specifically listed permitted or conditional use.
 - (b) The Administrative Official finds that the unclassified use is in keeping with the purpose and intent of the use environment, underlying zoning, and the Comprehensive Plan; and
 - (6) If any part of a proposed activity, use, modification, or development within shoreline jurisdiction is not eligible for exemption, then a Shoreline Substantial Development Permit or Shoreline Conditional Use Permit is required for the entire proposed development project.
 - (7) When a specific use or modification extends into the Aquatic environment and an abutting upland environment without clear separation (e.g., private moorage facility, shoreline stabilization), the most restrictive permit process applies to that use or modification.
 - (8) For shoreline regulations governing Rural Conservancy - Skagit Floodway, refer to the Rural Conservancy column. But see SCC 14.34.190, which may more severely restrict development opportunities in RC-SF.

Table 14.26.400 Shoreline Use and Modifications Matrix

Shoreline Use	Shoreline Environment Designation					
	Natural	Rural Conservancy	Urban Conservancy	Shoreline Residential	High Intensity	Aquatic
Agriculture						
Ag activities, agricultural facilities and agricultural accessory uses	SD/E	SD/E	SD/E	SD/E	SD/E	NA ¹
Aquaculture						
General aquaculture	CU	SD/E ³	SD/E	SD/E	SD/E	upland
Non-commercial freshwater hatcheries	CU	CU	SD/E	SD/E	SD/E	upland
Net-pens	CU	CU	CU	CU	CU	upland
Commercial geoduck aquaculture	CU	CU	CU	CU	CU	upland
Boating Facilities and Other Overwater Structures						
Marina	X	SD/E	SD/E	CU	SD/E	upland
Community or public dock	X	SD/E	SD/E	SD/E	SD/E	upland
Single-family or joint-use dock	X	SD/E	SD/E	SD/E	SD/E	upland
Recreation float	X	CU	SD/E	SD/E	SD/E	upland
Community, commercial or public boat launch	X	CU	CU	CU	SD/E	upland
Private residential boat launch (motorized, paved)	X	X	X	X	X	upland
Private residential boat launch (non-motorized, non-paved)	X	CU	CU	CU	CU	upland
Breakwaters						
Lakes	X	X	X	X	X	X
Marine/Rivers—Fixed Breakwaters	X	X	X	CU	SD/E	upland
Marine/Rivers—Floating Breakwaters	X	CU	CU	CU	SD/E	upland
Commercial Development						
Water-dependent uses	X	SD/E	SD/E	SD/E	SD/E	SD/E
Water-related uses	X	SD/E	SD/E	SD/E	SD/E	SD/E ⁷
Water-enjoyment uses	X	SD/E	SD/E	SD/E	SD/E	SD/E ⁷
Mixed-use commercial	X	SD/E	SD/E	X	SD/E	X
Mixed-use residential	X	SD/E	SD/E	SD/E	SD/E	X
Nonwater-oriented uses	X	X	X	X	SD/E	X
Dredging & Dredge Material Disposal						
Dredging	NA	NA	NA	NA	NA	SD/E ⁸
Dredge material disposal, in-water	NA	NA	NA	NA	NA	CU
Dredge material disposal, upland outside CMZ	X	SD/E	SD/E	SD/E	SD/E	NA
Dredge material disposal, upland inside CMZ	X	CU	CU	CU	CU	NA
Dredging or dredge material disposal associated with restoration	SD/E	SD/E	SD/E	SD/E	SD/E	SD/E

Shoreline Use	Shoreline Environment Designation					
	Natural	Rural Conservancy	Urban Conservancy	Shoreline Residential	High Intensity	Aquatic
Fill, Excavation, and Grading						
Fill	X ^{9,10}	SD/E	SD/E	SD/E	SD/E	CU ⁹
Excavation, grading	X ¹⁰	SD/E	SD/E	SD/E	SD/E	NA ¹¹
Flood Hazard Reduction						
Dikes, levees	X	SD/E	SD/E	SD/E	SD/E	CU
Forest Practices						
All	SD/E ¹²	SD/E	SD/E	SD/E	SD/E	X ¹³
Industrial development						
Water-dependent uses	X	SD/E	SD/E	X	SD/E	CU
Water-related uses	X	CU	CU	X	SD/E	X
Nonwater-oriented uses	X	X	X	X	SD/E	X
Institutional Development						
Water-oriented	CU	SD/E	SD/E	SD/E	SD/E	CU
Nonwater-oriented	X	CU	CU	CU	CU	X
In-Stream Structures						
All	NA	NA	NA	NA	NA	SD/E
Jetties and Groins						
Lakes	X	X	X	X	X	X
Marine/Rivers	X ¹⁴	X ¹⁴	X ¹⁴	CU	SD/E	upland
Mining						
Mining	X	CU	CU	X	CU	CU ¹⁵
Mining, placer or hydraulic	X	X	X	X	X	X
Recreational Development						
Water-oriented	CU	SD/E	SD/E	SD/E	SD/E	SD/E
Nonwater-oriented	X	CU	CU	SD/E	SD/E	X
Residential Development						
Single-family	CU	SD/E	SD/E	SD/E	SD/E	X
Multi-family	X	CU	SD/E	SD/E	SD/E	X
Overwater, Floating, and Liveboards	NA	NA	NA	NA	NA	X
Shoreline Habitat and Natural Systems Enhancement Projects						
All	SD/E	SD/E	SD/E	SD/E	SD/E	SD/E
Shoreline Stabilization						
New hard shoreline stabilization	X	CU	CU	CU	CU	upland
New soft shoreline stabilization	CU ¹⁶	CU ¹⁶	CU ¹⁶	SD/E	SD/E	upland
Replacement: hard with hard	CU	SD/E	SD/E	SD/E	SD/E	upland
Replacement: hard with soft	SD/E	SD/E	SD/E	SD/E	SD/E	upland
Transportation and Parking						
Airports	X	X	X	X	CU	X
Bridges or culverts	CU ⁹	SD/E	SD/E	SD/E	SD/E	SD/E ¹³
Landing fields	X	CU	CU	CU	CU	X

Shoreline Use	Shoreline Environment Designation					
	Natural	Rural Conservancy	Urban Conservancy	Shoreline Residential	High Intensity	Aquatic
Ferry terminals	X	CU	CU	CU	CU	X
Float planes	X	CU	CU	CU	CU	CU
Parking	CU	SD/E	SD/E	SD/E	SD/E	X
Railroads	CU	SD/E	SD/E	SD/E	SD/E	SD/E
Roads	CU	SD/E	SD/E	SD/E	SD/E	NA
Trails	SD/E	SD/E	SD/E	SD/E	SD/E	SD/E
Utilities						
Small utilities, new	CU	SD/E	SD/E	SD/E	SD/E	CU
Large utilities, new	CU	CU	CU	CU	CU	CU
Hydropower facilities, new	CU	CU	CU	CU	CU	CU
Tidal and wave energy facilities, new	CU	CU	CU	CU	CU	CU
Maintenance, existing utilities	SD/E	SD/E	SD/E	SD/E	SD/E	SD/E

1. See aquaculture section of this table.
2. Structures, either fixed or floating, or shoreline alterations are prohibited on bottomlands and surface waters abutting a Natural shoreline area. Other aquaculture development is permitted as a conditional use.
3. If an overwater or immediate shoreline structures or extensive alteration of natural features is proposed, a conditional use permit is required.
4. [deleted]
5. [deleted]
6. Subject to the provisions of 14.26.560, Frequently Flooded Areas, which may prohibit the use or structure.
7. See SCC 14.26.430, Commercial Development, regarding use preferences and limited allowances for non-water-oriented uses over water.
8. Dredging is prohibited waterward of the Natural environment.
9. Shoreline habitat and natural systems enhancement projects are coded SD/E.
10. Minor fill, excavation, and grading associated with trail development is coded SD/E.
11. See SCC 14.26.405, General Aquatic Regulations and SCC 14.26.435, Dredging and Dredge Material Disposal.
12. Roads associated with forest practices are permitted when necessary to provide access to lands or shorelines in Natural-designated shoreline areas for uses consistent with this SMP and RCW 76.09, when part of an integral part of a forest road system and when alternative locations are proven infeasible.

13. The crossing of the Aquatic environment with bridges or other structures is allowed when consistent with adjacent upland environments. [Based on existing SMP 7.05(2.)(A.)(6)]
14. Groins prohibited, except for natural shoreline area enhancement or protection with a Shoreline Conditional Use permit.
15. Removal of sand and gravel or other materials from rivers and streams at specific locations only.
16. Subject to administrative CUP.
17. All uses in Rural Conservancy-Skagit Floodway are subject to SCC Chapter 14.34, Flood Damage Prevention.

14.26.405 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 14.26.295. In addition, shoreline developments must comply with all other dimensional requirements of SCC 14.16.
- (2) When a development or use is proposed that does not comply with the dimensional performance 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.

Table 14.26.405-1 Dimensional Standards

The following table sets out minimum buffer widths and other dimensional standards for each shoreline environment designation. Water-dependent uses do not require buffers. 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	25 ft

Dimensional Standard	Shoreline Environment Designation					
	Natural	Rural Conservancy	Urban Conservancy	Shoreline Residential	High Intensity	Aquatic
for upland uses outside required buffer	35 ft	35 ft	35 ft	35 ft	35 ft	35 ft
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	25 ft
for upland uses outside required buffer	35 ft	35 ft	35 ft	35 ft	35 ft	35 ft
Hard Surface Limits						
for all commercial and industrial upland uses	n/a	30%	70%	n/a	70%	n/a
recreational uses	5%	25%	25%			
for all other upland uses						

Table 14.26.405-2 Dimensional Standards for Guemes Island

The following standards control within all shoreline environment designations on Guemes Island where they are more restrictive than the general dimensional standards.

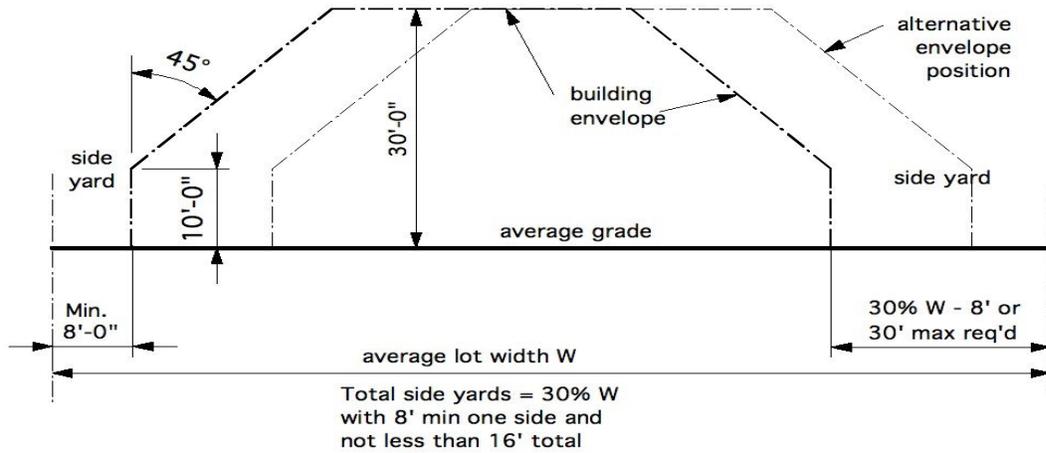
Dimensional Standard	Shoreline Environment Designation
	all designations on Guemes Island
Height Limits	
all uses within sideyard setbacks	10 feet
all uses outside sideyard setbacks	limit increases at a 45° slope from the 10-foot limit at interior edge of sideyard setbacks, up to a 30-foot maximum limit; see illustration below
accessory structures	15 feet
fences less than 10 feet from property line	3 feet (6 feet for agricultural wire fencing)
fences 10 or more feet from property line	6 feet
Lot Coverage Limits	
all upland uses	30%
Buffers/Setbacks for Upland Uses	
from marine shorelines	default widths*
from sideyard	8 feet or 30% of average lot width, whichever is larger
from street	25 feet

* Within the shoreline buffer, a Vegetation Conservation Area with existing native plants or implementation of a residential landscape plan to restore native vegetation is required.

Accessory dwellings: Water supply

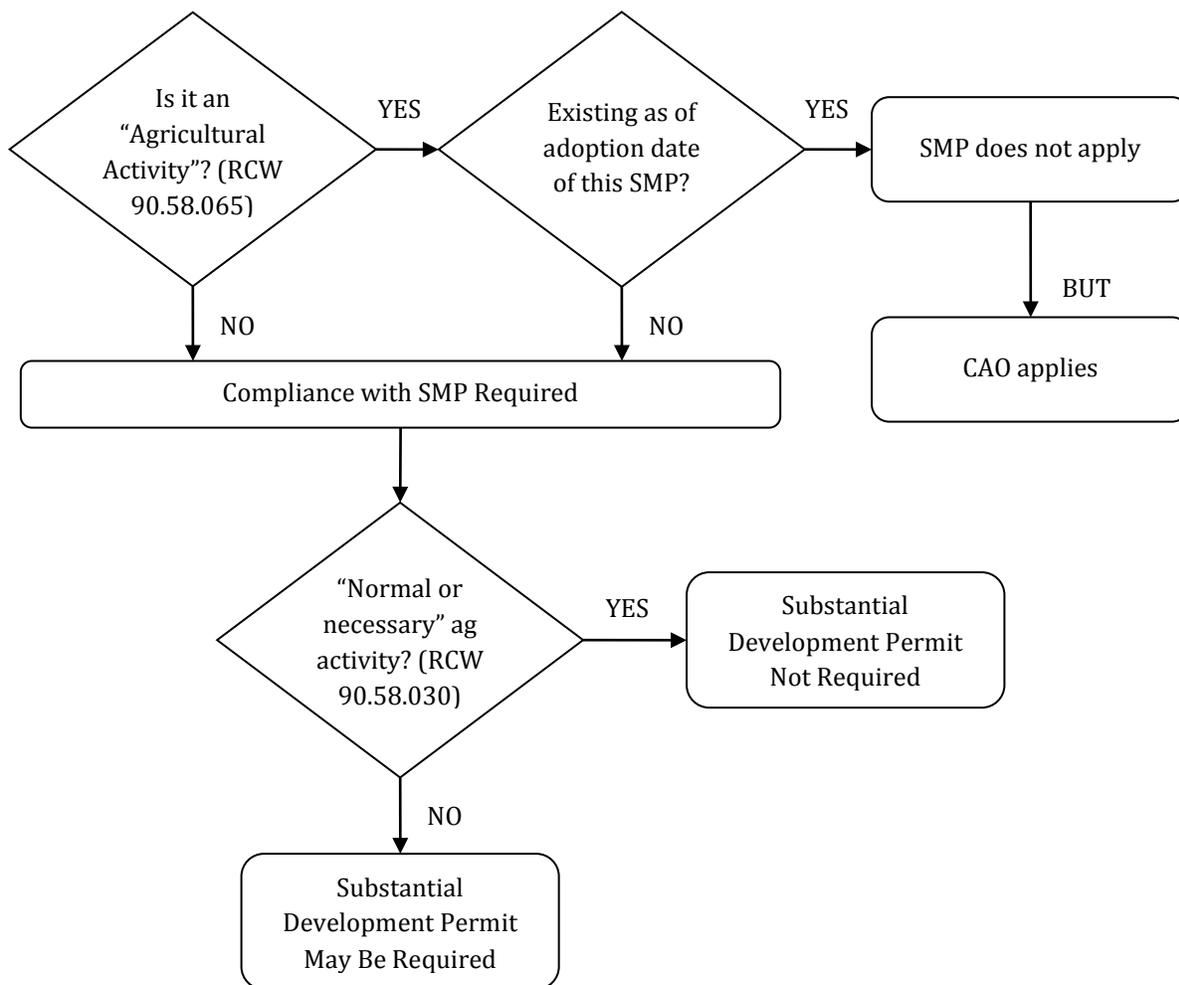
The well does not exceed 25 ppm chlorides and meet the minimum standards of SCC 12.48

Figure 14.26.295-x Illustration of Dimensional Standards for Guemes Island



14.26.410 Agricultural Activities

(1) Applicability. The Shoreline Management Act includes two different exemptions for agriculture—an exemption from all provisions of the SMP, and a more limited exemption from the requirement to obtain a shoreline Substantial Development Permit.



(a) SMP-Exempt Activities. If the activity qualifies as “agricultural activities” on “agricultural land,” as defined in [RCW 90.58.065](#), and the activity existed as of the date of adoption of the SMP, then the provisions of this SMP, including subsections (ii)-(iii) below, do not apply and no shoreline permit is required for that qualifying activity.

(i) In all other cases not specifically exempted from the SMA, all substantive SMP provisions apply. For example, the following activities are not exempt from the SMP:

- (A) new agricultural activities on land not meeting the definition of agricultural land;
 - (B) expansion of agricultural activities onto non-agricultural lands or conversion of non-agricultural lands to agricultural activities;
 - (C) conversion of agricultural lands to other uses;
 - (D) replacement of agricultural facilities closer to the shoreline than the original facility;
 - (E) other development on agricultural land that does not meet the definition of agricultural activities.
- (ii) “Maintaining, repairing, and replacing agricultural facilities” includes modernization and replacement of existing facilities and new construction of agricultural facilities related to existing agricultural activities on existing agricultural lands.
- (iii) An SMP-exempt activity must still comply with the provisions of SCC 14.24, the Critical Areas Ordinance:
- (A) If the activity qualifies as “ongoing agriculture” as defined in SCC 14.04.020, the activity must comply with the special provisions of SCC 14.24.120, Ongoing Agriculture.
 - (B) If the activity does not qualify as “ongoing agriculture,” then the standard provisions of SCC 14.24 apply.
- (b) Permit-Exempt Activities. If an activity does not qualify for the exemption described in paragraph (1)(a) above, it may still qualify for an exemption from the requirement to obtain a shoreline Substantial Development Permit under [RCW 90.58.030\(3\)\(e\)](#) and [WAC 173-27-040\(2\)](#). Pursuant to [WAC 173-27-040\(1\)](#), such exemptions are to be construed narrowly, and an exemption from the substantial development permit process is not an exemption from compliance with the SMP. For example, the following construction and practices normal or necessary for farming, irrigation, and ranching activities are permit-exempt:
- (i) agricultural service roads and utilities on shorelands;
 - (ii) construction of a barn or similar agricultural structure;
 - (iii) construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels;

- (iv) operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored groundwater from the irrigation of lands;
 - (v) operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking system;
- (2) Development Standards. In addition to the provisions of SCC 14.24, Critical Areas Ordinance, including the provisions of SCC 14.24.120 for Ongoing Agriculture where applicable, the following standards apply:
- (a) No Net Loss of Ecological Function. Agricultural uses and development in support of agricultural uses must be located and designed to ensure no net loss of ecological functions and no significant adverse impact on other shoreline resources and values.
 - (b) Erosion control - Agricultural practices, excluding riprap and levees/dikes, must prevent and control erosion of soils and bank materials within shoreline areas. Control measures must conform to guidelines and standards of the US Department of Agriculture Natural Resources Conservation Service.
 - (c) Pesticides and herbicides - Pesticides and herbicides must be handled, applied, and disposed of in accordance with provisions of the Washington Pesticide Application Act (RCW 17.21) and the Washington Pesticide Control Act (RCW Chapter 15.58).
 - (d) Vegetative Erosion Control – See SMP Part V, Critical Areas Regulations in Shoreline Jurisdiction.
 - (e) Feedlots, manure storage – Feedlot operations and animal waste retention and storage areas must not be located within shoreline areas unless direct manure runoff is prevented.
 - (f) The bulk disposal of inorganic farm wastes, chemicals, fertilizers, and associated containers and equipment within shorelines areas is prohibited.

14.26.415 Aquaculture

- (1) Applicability.
 - (a) This section regulates activities and uses that meet the definition of “aquaculture.”

- (b) Upland finfish rearing facilities meet the definition of “agriculture” and are not regulated by this section.
- (2) When is shoreline review required?
- (a) New aquaculture. Shoreline review is required for the initial siting, construction, planting, or stocking of the facility or farm.
 - (b) Ongoing aquaculture. Ongoing maintenance, harvest, replanting, changing culture techniques or species does not require shoreline review unless cultivating a new species or using a new culture technique that has significant adverse environmental impacts (if not allowed by existing shoreline permit).
 - (c) Expansion of aquaculture.
 - (i) For aquaculture without an existing shoreline permit, any expansion requires a shoreline permit.
 - (ii) For aquaculture permitted under this SMP, a shoreline permit is required when the activity expands beyond the permitted area.
 - (iii) For aquaculture permitted under a previous version of this SMP, a shoreline permit is required when the activity expands more than 10% beyond the cultivated area, or one acre, whichever is less, or creates unmitigated impacts to native plant and animal populations;
- (3) Permit Exemptions. A written statement of exemption is required for aquaculture activities that do not constitute substantial development or otherwise require a Conditional Use Permit or Variance.
- (4) General requirements.
- (a) Aquaculture operations must be designed and located to:
 - (i) prevent the spread of disease to native aquatic life;
 - (ii) prevent the establishment of new nonnative species which cause significant ecological impacts; and
 - (iii) minimize impact to the aesthetic qualities of the shoreline, with consideration given to height, color, uniformity, and arrangement.
 - (b) Upland structures accessory to an aquaculture use that do not require a waterside location or have a functional relationship to the water must be located landward of the shoreline buffers required by this SMP.

- (c) Impacts to ecological functions must be mitigated according to the mitigation sequence described in SCC 14.26.310(4).
 - (d) An assessment and mitigation plan in accordance with SCC 14.26.310(5) is required. The standards found in SCC 14.26.550 for critical saltwater habitats must also be addressed in the assessment.
 - (e) Aquaculture operations must be designed, located, and managed to minimize impacts to native eelgrass and macroalgae.
 - (i) Aquaculture operations are not required to avoid impacts on eelgrass or macroalgae that colonizes an aquaculture operation.
 - (ii) Aquaculture operations are not required to avoid impacts on non-native eelgrass.
 - (f) The harvesting of aquaculture products is subject to all applicable state and federal health regulations, as determined by applicable state and federal agencies.
 - (g) Chemicals used in aquaculture operations must be used in accordance with state and federal regulations, as determined by applicable state and federal agencies.
 - (h) Predator control measures used in aquaculture may not include those intended to kill or injure birds or mammals. Predator control methods must comply with federal and state regulations, as determined by applicable federal and state agencies.
 - (i) Project applicants must obtain all required state and federal approvals to ensure compliance with established water quality standards and regulations relating to the introduction or transfer of aquatic organisms into or within the County's salt or fresh waters.
 - (j) All aquaculture proposals requiring a shoreline permit must be accompanied, when applicable, by a Joint Aquatic Resources Permit Application (JARPA) and SEPA checklist.
 - (k) The County must, to the greatest extent possible, minimize redundancy in the permit process and rely on documentation submitted by the project applicant to federal or state agencies.
- (5) Floating, hanging, and suspended aquaculture.
- (a) Floating, hanging, and suspended aquaculture must not be located in or interfere with existing navigation lanes or channels. Such structures and facilities in

navigable waters must be marked in accordance with U.S. Coast Guard requirements.

- (b) Floating, hanging, or suspended aquaculture must not have permanent structures that exceed eight feet in height above the water's surface. The Administrative Official may approve hoists and similar equipment that permanently exceeds eight feet in height when there is a clear demonstration of need. The eight-foot height limit does not apply to support vessels, barges, or platforms not permanently moored at the facility.
 - (c) Floating, hanging, or suspended aquaculture that require attaching structures to the bed or bottomlands must use anchors that minimize disturbance to substrate, e.g. helical anchors.
- (6) Shorelines of Statewide Significance.
- (a) Applications for new aquaculture within Shorelines of Statewide Significance must address the policies of RCW 90.58.020.
 - (b) Mechanical disturbance of bottom materials for shellfish harvest is prohibited on Shorelines of Statewide Significance, except the traditional mechanical (drag) dredge shellfish harvest method may be allowed as a conditional use. All hydraulic harvest methods require a Conditional Use Permit.
- (7) Net pens.
- (a) In addition to the General requirements, a net pen application must include:
 - (i) Site characterization survey:
 - (A) Bathymetric survey(bottom features)
 - (B) Hydrographic survey (current velocity and direction, drogue tracking, vertical profiles of temperature, salinity and dissolved oxygen)
 - (C) Diver survey (presence of critical habitat)
 - (ii) Baseline benthic survey conducted once the net pens are in place, but before they are stocked with fish:
 - (A) Sediment chemistry
 - (B) Infauna sampling

- (b) A net pen application must demonstrate:
 - (i) that the native fish and wildlife resources will not be significantly impacted;
 - (ii) that state parks, wildlife refuges or reserves, or habitats of local importance found in SCC 14.24.500(4) will not be significantly impacted;
 - (c) A net pen facility must be located at least 1,500 feet from the OHWM, except a lesser distance may be authorized through a Shoreline Variance if a visual impact analysis demonstrates a lesser distance will not result in a significant adverse impact to aesthetic qualities of the shoreline.
- (8) Geoduck aquaculture.
- (a) A Conditional Use Permit is required for new commercial geoduck aquaculture.
 - (b) Geoduck aquaculture should be located where sediments, land and water access, and topography support geoduck aquaculture without significant clearing or grading.
 - (c) A single application for a Conditional Use Permit may be submitted for multiple geoduck aquaculture sites within an inlet, bay, or other defined feature, provided the sites are all under control of the same applicant and within Skagit County.
 - (d) An application for geoduck aquaculture must include:
 - (i) A narrative description and timeline for all anticipated geoduck planting and harvesting activities;
 - (ii) A baseline ecological survey of the proposed site, including surveys of existing shellfish resources, potential finfish habitat, substrate composition, and aquatic vegetation;
 - (iii) Management practices that address impacts from mooring, parking, noise, lights, litter, and other activities associated with geoduck planting and harvesting operations;
 - (iv) Whether the proposal involves placing nursery tanks, holding pools or other impervious materials directly on the intertidal sediments;
 - (v) Whether the proposal involves the use of motorized vehicles below the ordinary high water mark;
 - (vi) Specific periods when limits on activities are necessary to protect priority habitats and associated species and avoid conflicts with neighboring uses;

- (vii) Any required alterations to the natural conditions of the site, including significant removal of vegetation or rocks and regrading of the natural slope and sediments;
 - (viii) Whether the proposal involves marking property corners such that they are visible at low tide during planting and harvesting;
 - (ix) The proposed use of predator exclusion devices and timing of planned removal of such devices;
 - (x) Planned methods of minimizing turbid runoff during harvest;
 - (xi) The number and duration of barges or vessels that will be moored or beached at the site;
 - (xii) Whether the proposal will affect navigation;
 - (xiii) How the prevention of marine debris accumulation will be addressed; and
 - (xiv) Whether the site contains existing public access to publicly-owned lands.
- (e) A Conditional Use Permit for geoduck aquaculture must identify that the permit entails a right to harvest planted geoduck. Geoduck operations may be conditioned to avoid or limit impacts from geoduck aquaculture siting and operations. A Conditional Use Permit may include reasonable monitoring and reporting requirements to verify the permitted activity is in compliance with permit conditions. The County may rely on documentation submitted by an aquaculture operator to federal or state agencies to satisfy any monitoring or reporting requirement.
- (f) Notice of an application for geoduck aquaculture must be provided to all property owners within 300 feet of the proposed project boundary and to tribes with usual and accustomed fishing rights to the area.

14.26.420 Boating Facilities, Mooring Structures, and Recreational Floats.

- (1) Applicability.
- (a) This section applies to all in-water and overwater structures and uses that facilitate the launching or mooring of vessels in marine or fresh waters, including all docks, marinas, mooring buoys, launch ramps, and recreational floats.

(b) This section does not apply to:

- (i) long-term commercial boat storage located landward of the OHWM, which is regulated under SCC 14.26.430, Commercial Development;
- (ii) net pens, which are regulated under SCC 14.26.415, Aquaculture; or
- (iii) overwater homes and floating homes, including liveboards, which are prohibited.

(2) General Standards.

(a) Structures or uses must be located and designed to:

- (i) Minimize the area of water covered;
- (ii) Minimize hazards and obstructions to public navigation rights;
- (iii) Minimize the need for new or maintenance dredging;
- (iv) Minimize impacts on public swimming beaches, valuable public fishing areas, or aquaculture facilities;
- (v) Avoid and minimize potential adverse impacts consistent with requirements for mitigation sequencing in SCC 14.26.310, Environmental Protection. All unavoidable adverse impacts must be mitigated, and a mitigation plan submitted consistent with SCC 14.26.420(16), Application Requirements.
- (vi) Avoid adversely impacting shoreline ecological functions or processes;
- (vii) Avoid blocking or obstructing lawfully existing or planned public shoreline access;
- (viii) Avoid the need for new shoreline stabilization, or where stabilization is demonstrated as necessary by a study prepared consistent with SCC 14.26.485, Shoreline Stabilization, minimize to only that necessary to adequately protect facilities, users, and watercraft from floods or destructive storms;

(b) Accessory uses.

- (i) Accessory development (e.g. parking, non-hazardous waste storage and treatment, stormwater management facilities, and utilities) is only allowed if necessary to support the water-oriented use.

- (ii) Nonwater-oriented accessory uses must be located outside of shoreline jurisdiction or outside of the shoreline buffer whenever possible.
- (c) Structures and uses must avoid the following shoreline habitats except as provided in (d):
 - (i) Marshes, estuaries or other wetlands;
 - (ii) Spawning and holding areas for priority anadromous or priority resident fish;
 - (iii) Critical saltwater habitats;
 - (iv) Channel migration zones;
 - (v) Areas where a flood hazard will be created and cannot be mitigated;
 - (vi) Areas where impacts to shoreline ecological functions and processes cannot be mitigated.
- (d) Structures and uses may be permitted as a Shoreline Conditional Use in the areas listed in (c) only if:
 - (i) The project provides moorage for five or fewer boats or is smaller than 1,000 square feet waterward of the OHWM; and
 - (ii) For a commercial or public boating facility in critical saltwater habitat, the project demonstrates a public need.
- (e) Garbage and recycling receptacles must be provided and maintained by the operator at locations convenient to users.
- (f) Adequate utility services must be provided concurrent with the development or be situated where they are already available.
- (g) Ensure that any moored boats will be located in water deep enough to prevent prop scour, unless the applicant can demonstrate that prop scour will not adversely impact aquatic vegetation or increase suspended sediment loads.
- (h) On lakes with anadromous fish, the landward edge of a floating structure must be at least 7 feet above the lake bottom when measured at ordinary low water. New skirting is prohibited on any structure.
- (i) Safety railings, if proposed, must meet International Building Code requirements and use an open framework that does not unreasonably interfere with shoreline views. Safety railings do not count toward the height limit.

- (j) Boating facilities, including mooring buoys, must be marked with reflectors, or otherwise identified to prevent unnecessarily hazardous conditions for water surface users during the day or night. Ensure exterior finish of all structures is generally non-reflective to reduce glare.
 - (k) Prohibited: all overhead wiring or plumbing.
- (3) Preference for joint use
- (a) For all new residential development of two or more waterfront dwelling units or subdivisions or other divisions of land occurring after the effective date of this SMP, only joint-use or community docks and recreational floats are allowed.
 - (b) For existing lots, no single-use docks or recreational floats may be authorized unless the applicant can demonstrate that all other reasonable community or joint-use options have been investigated and found infeasible.
- (4) Use-Specific Standards
- (a) Docks, Piers, and Wharves
 - (i) New docks are allowed only for water-dependent uses or public access. As used here, a dock associated with a single-family residence is a water-dependent use provided that it is designed and intended as a facility for access to watercraft and otherwise complies with the provisions of this section.
 - (ii) No more than one dock is permitted per platted or subdivided shoreline lot or unplatted shoreline tract owned for residential purposes.
 - (iii) Prevent grounding of floating docks. Use float stoppers as needed to prevent grounding.
 - (iv) Community docks
 - (A) A site for shared moorage at a community dock must be owned in undivided interest by property owners or managed by a homeowner's association as a common easement within the residential community that is served by the dock.
 - (B) must be designed to accommodate no more than 0.75 boats per residential unit that shares a legal interest.
 - (C) One additional boat moorage location for guests may be included in the design for every ten residential units served.

- (v) Standards for Residential, Joint-Use, and Community Docks. Deviations from the dimensional standards may be approved through a Shoreline Variance.

Figure 1. Illustration of dock components

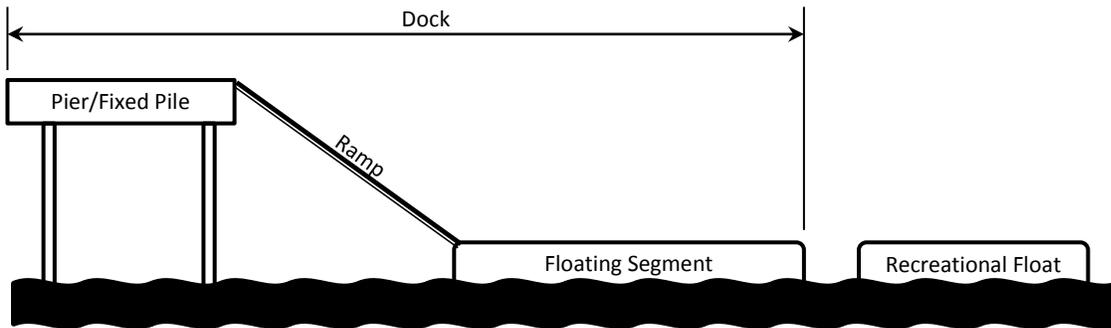


Table 14.26.420-1. Standards for docks

Element/ Sub-Element	Water Type			
	Marine Waters	Lakes With Anadromous Fish	Lakes Without Anadromous Fish	Rivers
Structure				
Type	Combination fixed-pile and floating			Floating
Max Height				
All segments	See note 1.	3 ft	3 ft	3 ft
Max Width for Single-Owner and Joint-Use Docks				
Pier/Fixed-Pile	6 ft	4 ft; 6 ft	6 ft	NA
Ramp	4 ft	4 ft	4 ft	4 ft
Floating section	8 ft	8 ft	8 ft	8 ft
Max Width for Community Docks				
All segments	8 ft, except that the Administrative Official may approve community dock components up to 10 ft wide if _____			
Max Length as measured from OHWM				
Single owner	50 ft, except if existing docks within 300 ft of side property lines, maximum is average length of existing docks			
Joint use	50 ft, except if there are existing docks within 300 ft of side property lines, maximum is average length of existing docks + 15 ft			
Community	minimum capable of accommodating the intended use, up to 250 ft, or up to 300 ft only if necessary to reach adequate moorage depth; in no case may the length exceed one-third of the width of the water body or interfere with navigation or other public uses of the water			
Decking				
Pier/Fixed-pile	Grating not required if ≤ 4 ft wide; otherwise minimum 30% functional grating	Minimum 40% functional grating	Grating not required if ≤ 4 ft wide; otherwise minimum 40% functional grating	
Ramps	Fully grated	Fully grated	Fully grated	Fully grated
Floating section, single owner	Minimum 30% functional grating if ≤ 6 ft wide; Minimum 50% functional grating if > 6 ft wide			
Floating section, joint use	Minimum 50% functional grating			
Floating section, community	[TBD]			
Other uses				
Boat/watercraft lifts	Not permitted	Maximum 1 free-standing boatlift and 2 personal watercraft lifts per dwelling unit		Not permitted
Watercraft lift canopies	Not permitted	Permitted provided they are constructed of light permeable fabric		Not permitted
Covered moorage	Not permitted	Not permitted	Not permitted	Not permitted

Note 1. The bottom of any piers or the landward edge of any ramp must be the maximum practical height from the ground, but not less than 1.5 ft above the OHWM. The freeboard height on all floats must be at least 10 inches.

- (vi) Standards for commercial/industrial docks. Construction of piers, wharves, and docks for port, industrial, or commercial purposes are subject to the regulations for Commercial Development or Industry in Part IV.
- (b) Launch Ramps
 - (i) A new launch ramp is allowed only if it provides access to waters that are not adequately served by existing access facilities, or if use of existing facilities is demonstrated to exceed the designed capacity.
 - (ii) Location. A launch ramp must be located:
 - (A) To minimize the obstruction of currents, alteration of sediment transport, and the accumulation of drift logs and debris.
 - (B) Where there is adequate water mixing and flushing;
 - (C) Where they will not adversely affect flood channel capacity or otherwise create a flood hazard; and
 - (D) Where water depths are adequate to eliminate or minimize the need for dredging or filling.
- (c) Marinas
 - (i) Dimensions.
 - (A) No part of a marina may be wider than 8 feet, except that the Administrative Official may approve marina components up to 10 feet wide if justified in documentation submitted consistent with 14.26.420(16), Submittal Requirements, below.
 - (B) Marinas must be no longer than 250 feet measured perpendicularly from the OHWM. Up to 50 feet of additional length may be approved without a Shoreline Variance if the additional length is needed to reach adequate moorage depth, provided the total length does not exceed one-third of the width of the waterbody, and the extension would not interfere with navigation or other public uses of the water.

- (ii) New marinas must provide physical and/or visual public access for as many water-oriented recreational uses as possible, commensurate with the scale of the proposal.
 - (iii) New marinas must provide adequate restroom and sewage disposal facilities (pump out, holding, and/or treatment facilities).
 - (iv) Fail-safe facilities and procedures for receiving, storing, dispensing, and disposing of oil or hazardous products, as well as a spill response plan for oil and other products, are required of new marinas and expansion or reconfiguration of existing marinas.
 - (v) Marina operators must post all regulations pertaining to handling, disposal and reporting of waste, sewage, fuel, oil or toxic materials where all users may easily read them. Rules for spill prevention and response, including reporting requirements, must be posted on site. Discharge of sewage, solid waste, fuels and oil, unused bait, and fish or shellfish cleaning wastes into marine water is prohibited.
- (d) Moorage
- (i) New covered moorage is prohibited, except when necessary for operation of a water-dependent use at commercial, industrial, or transportation-related facilities.
 - (ii) Extended mooring on waters of the state is prohibited, except as allowed by applicable state regulations and where a lease or permission is obtained from the State and impacts to navigation and public access are mitigated.
 - (iii) Temporary moorages are allowed for vessels used in the construction of boating facilities provided that:
 - (A) Upon termination of the project, the aquatic habitat in the affected area is returned to its pre-construction condition within one year at no cost to the public;
 - (B) Construction vessels may not ground or otherwise disturb substrates; and
 - (C) Temporary moorage is located to minimize shading of aquatic vegetation.

(e) Mooring Buoys

- (i) Mooring buoys are allowed for single-family residences or parcels.
- (ii) A private mooring buoy may secure no more than two vessels.
- (iii) Location.
 - (A) Mooring buoys must be located more than 50 feet but less than 300 feet (or one-third of the width of the water body, whichever is less) from the OHWM.
 - (B) The location of existing buoys, docks, and other structures should be considered when locating mooring buoys.
 - (C) Private mooring buoys may not be placed in a location that would interfere with access to private or public property.
 - (D) In addition to location provisions in SCC 14.26.420(3), in order to avoid impacts to critical habitats, components of the mooring buoy (anchor, buoy, or moored vessel) may not be located within:
 - (I) 25 feet of vegetated shallows (except where such vegetation is limited to state-designated noxious weeds);
 - (II) 300 feet of spawning habitat for listed fish species; or
 - (III) 25 feet of spawning habitat for other fish species.

(f) Mooring Piles

- (i) Mooring piles are preferred over additional decked overwater structures that serve the same purpose.
- (ii) Standards for all mooring piles:
 - (A) Piles must be structurally sound and cured prior to placement in or exposure to the water.
 - (B) Piles must not be treated with pentachlorophenol, creosote, copper naphthalene, chromate copper arsenate, or comparably toxic compounds. Preferred piles are constructed of steel, concrete, plastic or untreated wood.
 - (C) Piles must be the smallest diameter necessary.

- (iii) Additional standards for pier-support or float-anchoring piles:
 - (A) Piles in freshwater must be spaced at least 18 feet apart on the same side of any component of a dock, unless the component is shorter than 18 feet or a need for reduced pile spacing is documented by a professional engineer.
 - (B) Piles in marine water must be spaced at least 20 feet apart on the same side of any component of a dock, unless the component is shorter than 20 feet or a need for reduced pile spacing is documented by a professional engineer.
- (iv) Additional standards for mooring piles as an accessory use to a dock:
 - (A) Piles may not be located farther than 20 feet to the side of a dock, and must be at least 10 feet from side property lines.
 - (B) Piles may not be placed farther waterward than the end of the dock.
 - (C) Pile height must be between 2 and 6 feet above the OHWM.
- (g) Recreational Floats
 - (i) Dimensional standards.
 - (A) Private recreational floats serving four or fewer dwelling units must be no longer or wider than 8 feet.
 - (B) All other recreational floats should be the minimum size necessary to support the intended use.
 - (ii) Recreational floats do not have to meet side setback requirement if designated for joint-use between two or more adjoining waterfront properties.
 - (iii) Only one recreational float may be approved for adjoining waterfront parcels under single ownership.
 - (iv) Recreational floats supplementary to an existing dock may be approved only when necessary for safety or to accommodate the expected level of recreation use.

(5) Existing Uses and Structures

(a) Replacement.

- (i) If any of the following are proposed during a five-year period, the project is considered a new boating facility and must be designed consistent with any applicable design and mitigation standards for new boating facilities in this section.
 - (A) Replacement of the entire overwater boating facility;
 - (B) Replacement of 75 percent or more of support piles; or
 - (C) Replacement of 75 percent or more of a boat launch.
- (ii) The Administrative Official may approve an alternative design without a Shoreline Variance if it meets all of the following criteria:
 - (A) All appropriate federal agencies have already approved the proposal;
 - (B) Any adverse ecological impacts are fully mitigated; and
 - (C) The total square footage of the replacement facility is no larger than the existing facility.

(b) Modification or Enlargement.

- (i) Applicants must demonstrate that there is a need for modification or enlargement due to increased or changed use or demand, safety concerns, or inadequate depth of water.
- (ii) Enlarged portions of boating facilities must comply with any applicable design and mitigation standards for new boating facilities.

(c) Repair.

- (i) Repairs to existing legally established boating facilities that fall below the standards identified in (7)(a) are permitted consistent with all other applicable codes and regulations.
- (ii) All repairs must utilize any material standards specified for new facilities.

(6) Mitigation

- (a) Consistent with the mitigation sequencing steps outlined in SCC 14.26.310, Environmental Protection, new or expanded boating facilities should be designed to avoid and then minimize impacts, prior to pursuing mitigation.
- (b) Mitigation proposals must provide mitigation at a minimum 1:1 ratio, by area, of new overwater cover to mitigation action using one or more of the potential mitigation measures listed under (c) below. The ratio should be increased if the measure will take more than one year to provide equivalent function or if the measure does not have a high success rate. Applicants should consult with other permit agencies, such as Washington Department of Fish and Wildlife and/or U.S. Army Corps of Engineers, for additional specific mitigation requirements.
- (c) For new development and expansion of existing structure footprints, appropriate mitigation may include one or more of the following measures:
 - (i) Removal of any additional legal existing overwater or in-water structures that are not the subject of the application or are not otherwise required to be removed.
 - (ii) Replacement of areas of existing solid overwater cover with grated material or use of grating on those altered portions of docks if they are not otherwise required to be grated.
 - (iii) Planting of native vegetation along the shoreline immediately landward of the OHWM consisting of a density and composition of trees and shrubs typically found in undisturbed areas adjacent to the subject waterbody. Removal or ecological improvement of hardened shoreline, including existing launch ramps or structural shoreline stabilization. Improvements may consist of softening the face and toe of the stabilization with soil, gravel and/or cobbles and incorporating vegetation or large woody debris.
 - (iv) Removal of man-made debris waterward of the OHWM, such as car bodies, oil drums, concrete or asphalt debris, remnant docks, or other material detrimental to ecological functions and ecosystem-wide processes.
 - (v) Placement of large woody debris if consistent with local, state and federal regulations.
 - (vi) Participation in an approved mitigation program.
- (d) In-kind measures are preferred over out-of-kind measures when consistent with the objective of compensating for adverse impacts to ecological function.

- (7) Application Requirements. In addition to the general application requirements:
- (a) A mitigation plan for unavoidable adverse impacts to ecological functions or processes pursuant to SCC 14.26.420(156), if applicable.
 - (b) The following studies, as applicable for all new or expanded boating facilities, including single-owner or joint-use residential docks:
 - (i) Applicants must provide habitat surveys and critical area studies consistent with SCC 14.26.310, Environmental Protection and Part V, Critical Areas Regulations in Shoreline Jurisdiction.
 - (ii) Applicants must provide an assessment of potential impacts to existing ecological processes, including but not limited to sediment transport, hydrologic patterns, and vegetation disturbance.
 - (iii) A slope bathymetry map may be required when deemed beneficial by the Administrative Official for the review of the project proposal.
 - (iv) An assessment of existing water-dependent uses in the vicinity and documentation of potential impacts to those uses and mitigating measures.
 - (c) For all new or expanded boating facilities, other than single-owner or joint-use residential docks, applicants must provide an assessment of need and demand, including, but not limited to, the following, as applicable:
 - (i) Existing approved facilities, or pending applications, within the service range of the proposed new facility;
 - (ii) The expected service population and boat ownership characteristics of the population, if that information supports justification for specific design elements related to facility length or width or necessary water depth;
 - (iii) For new or expanded permanent or temporary moorage:
 - (A) The total amount of moorage proposed; and
 - (B) The existing supply of temporary or permanent moorage spaces within the service range of the proposed facility, including vacancies or waiting lists at existing facilities. The service range is a site-specific determination made by the applicant considering the proposed facility location and proximity to other locations within either boating or driving distance.
 - (iv) For new or expanded boat launch ramps:

- (A) Identification of the nearest existing boat launch facility, the expected or current level of use of the new or expanded boat launch ramp, and any other relevant factors related to the need for safe or efficient access to public waters, if that information supports justification for specific design elements;
- (B) If boat launch facilities are proposed at a new location, documentation demonstrating that expansion of existing launch facilities would not be adequate to meet demand;

14.26.425 Breakwaters.

- (1) When Allowed. Breakwaters are allowed only for water-dependent uses, public access, shoreline stabilization, or other specific public purpose.
- (2) Design and Construction.
 - (a) Breakwaters must be designed and constructed to protect critical areas and ecological functions.
 - (b) New or expanded breakwaters must be designed by a registered civil engineer with expertise in such design.
 - (c) Breakwaters must minimize alterations to shoreline sand and gravel transport unless such impediment is found to benefit shoreline functions. The effect of proposed breakwaters on sand and gravel movement must be evaluated during permit review.
 - (d) Breakwaters must be designed and constructed in a manner that minimizes significant adverse impacts on water circulation and aquatic life. The design must also minimize impediments to navigation and to visual access to the shoreline.
 - (e) Floating breakwaters are preferred over solid breakwaters where they can withstand anticipated wave action.
 - (f) Breakwaters must conform to all design requirements of the appropriate state and federal agencies.
- (3) Mitigation sequencing is required. All projects must utilize standard mitigation sequencing techniques to avoid and minimize impacts per 14.26.310(4), and any impacts must be fully mitigated. Mitigation measures must consider the impacts to ecosystem-wide processes and ecological functions as they may extend outside of the project boundaries.

- (4) Application Requirements. An application for a breakwater must provide the below-listed information. The Administrative Official may require additional geotechnical, hydrological, and biological studies as necessary to sufficiently analyze the impacts of the proposal.
- (a) Purpose of breakwater;
 - (b) Construction material;
 - (c) Method of construction;
 - (d) Direction of net long shore drift (when appropriate);
 - (e) Seasonal wind data;
 - (f) Predicted impact upon area shore processes, adjacent properties, and upland stability; and
 - (g) Mitigation plan.

14.26.430 Commercial Development

- (1) Preferred uses. Preference will be given to commercial uses in descending order of priority:
- (a) Water-dependent commercial uses,
 - (b) Water-related and water-enjoyment commercial uses;
 - (c) Nonwater-oriented commercial uses.
- (2) Accessory uses. Accessory commercial development that does not require a shoreline location must be located landward of the water-oriented portions of the development and comply with shoreline buffers for nonwater-oriented uses. Accessory uses may be allowed in existing structures or where necessary in support of water-oriented uses. Accessory development includes, but is not limited to, parking, storage and service areas, and circulation.
- (3) Water-oriented uses. The applicant must demonstrate to the satisfaction of the Administrative Official that a proposed use meets the definition of a water-oriented commercial use.
- (4) Nonwater-oriented uses. Nonwater-oriented commercial uses on the shoreline are prohibited unless they meet one or more of the following criteria:

- (a) The use is part of a mixed-use project that includes water-dependent uses and provides a significant benefit with respect to the objectives of the SMA such as providing public access and ecological restoration.
 - (b) Navigability is severely limited at the proposed site, and the commercial use provides a significant public benefit with respect to the SMA's objectives, such as providing public access and ecological restoration.
- (5) Nonwater-oriented uses separated from the shoreline. Nonwater-oriented commercial uses are allowed if the site is physically separated from the shoreline by another property or a public right of way.
- (6) Overwater uses. Nonwater-dependent commercial uses are not allowed overwater, except in existing commercial structures or when they are necessary in support of water dependent uses.
- (7) Mixed uses. Nonwater-oriented uses, including but not limited to residential uses, may be located with water-oriented commercial uses provided:
- (a) The mixed-use project includes one or more water-dependent uses.
 - (b) The underlying zoning district permits residential uses together with commercial uses.
 - (c) Significant public benefit is provided in accordance with the objectives of the SMA, such as providing public access per SCC 14.26.330 Public Access, and ecological restoration per SCC 14.26.480, Shoreline Habitat and Natural Systems Enhancement Projects Regulations.
 - (d) Residential uses meet requirements of SCC 14.26.475, Residential Development of this SMP.
- (8) Ecological functions. Commercial development must not result in a net loss of shoreline ecological functions or cause significant adverse impact to other shoreline uses, resources and values such as navigation, recreation and public access. Impacts to shoreline resources and values by commercial development or uses must be mitigated by public access and ecological restoration unless the applicant demonstrates such improvements are infeasible or inappropriate.
- (9) Shoreline access
- (a) Commercial developments, especially resort and recreational campgrounds, must provide access to shoreline and water areas for members and users.

- (b) Public access proposed for any type of commercial development must be implemented consistent with SCC 14.26.330 Public Access.
 - (c) Eating and drinking facilities and lodging facilities must be oriented to provide user views to the waterfront.
- (10) Shoreline stabilization and fill material. New commercial development that requires shoreline stabilization in conjunction with the placement of fill material within Aquatic shoreline areas is prohibited.
- (11) Design standards. Commercial development must comply with applicable landscape, screening, and vegetation conservation standards of SCC 14.26.340 Shoreline Vegetation Conservation. The Administrative Official may review and condition commercial development on a case by case basis to provide for landscaping, screening, or other measures to achieve compatibility with adjacent uses or onsite conditions.
- (12) Institutional development and essential public facilities. Institutional development and essential public facilities must comply with the regulations applicable to commercial uses.

14.26.435 Dredging and Dredge Material Disposal

- (1) Applicability. As regulated in this SMP, dredging is the removal of bed material from below the OHWM or wetlands using other than unpowered, hand-held tools for one of the allowed dredging activities listed in SCC 14.26.435(6), below. This section is not intended to cover other removals of bed material waterward of the OHWM or wetlands that are incidental to the construction of an otherwise authorized use or modification (e.g. shoreline crossings, bulkhead replacements). These in-water substrate modifications should be conducted pursuant to the regulations found in SCC 14.26.405, General Provisions Applicable to Uses and Modifications Waterward of the OHWM, and regulations governing the use or modification with which the excavation is associated, such as SCC 14.26.420, Boating Facilities and other Overwater Structures, and SCC 14.26.485, Shoreline Stabilization or SCC 14.26.495 Utilities.
- (2) Adjacent use, property, and access impacts. Dredging and dredge material disposal must not adversely infringe upon existing and adjacent water and shoreline uses, properties and access. [Based on existing SMP 7.04(2).(B.)(7)]
- (3) Conditions may be imposed. Conditions on dredging or dredge material disposal may be imposed to reduce proximity impacts, protect public safety and ensure compatibility with other shoreline uses. Conditions may include any or all of the following:
- (a) Limitations on the period of operations;
 - (b) Limitations on the hours of operation;

- (c) Limitations on the type of machinery;
 - (d) Requirements for the provision of landscaped buffer strips, or fencing, or both, to address noise and visual impacts at upland disposal or transfer sites.
- (4) Ecological impacts. Dredging and dredge material disposal must be done in a manner that avoids or minimizes significant ecological impacts. Impacts that cannot be avoided must be mitigated in a manner that ensures no net loss of shoreline ecological functions. [WAC 173-26-231(3)(f)].
- (5) New development. New development must be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging. [Based on WAC 173-26-231(3)(f)]
- (6) Allowed dredging activities. Dredging is permitted for the following activities:
- (a) Development of new or expanded wet moorages, harbors, ports or water-dependent industries of economic importance to the region when there are no feasible alternatives or other alternatives may have a greater ecological impact.
 - (b) Development of essential public facilities when there are no feasible alternatives.
 - (c) Maintenance of irrigation reservoirs, drains, canals, or ditches for agricultural purposes.
 - (d) Removal of accumulated sediment for flood control or to maintain existing drainage features.
 - (e) Restoration or enhancement of shoreline ecological functions and processes benefiting water quality or fish and wildlife habitat or both.
 - (f) Installation of necessary underground utilities when there are no feasible alternatives in accordance with SCC 14.26.495 Utilities ,
 - (g) Establishing, expanding, relocating or reconfiguring navigation channels where necessary to ensure safe and efficient accommodation of existing navigational uses.
- (7) Dredging for fill material prohibited. Dredging for the primary purpose of obtaining fill material is prohibited, except when the material is necessary for the restoration of ecological functions. [WAC 173-26-231(3)(f)].
- (8) Prohibited dredging locations. Dredging must not occur in the following locations, except for maintenance dredging and for beneficial public purposes consistent with this SMP:
- (a) In estuaries, natural wetlands, and marshes.

- (b) Along net positive drift sectors and where geohydraulic processes are active and accretion shoreforms would be damaged or irretrievably lost.
 - (c) In shoreline areas and bottom soils that are prone to sluffing, refilling, and continual maintenance dredging.
 - (d) In officially designated fish, shellfish, and wildlife spawning, nesting, harvesting, and concentration areas.
 - (e) Where water quality would be degraded below permitted state and federal standards.
 - (f) Where current and tidal activity are significant, requiring excessive maintenance dredging.
- (9) Upland dredge material disposal in shoreline jurisdiction. Proposals for upland dredge material disposal in shoreline jurisdiction must show that the disposal site will ultimately allow for a use consistent with this SMP. [Based on existing SMP 7.04(2.)(B.)(5)]
- (10) Upland disposal requirements. Upland dredge material disposal sites must adhere to the following conditions:
- (a) Containment dikes must be built and maintained so as to minimize escapement of spoils bearing discharge.
 - (b) An adequate settling basin must be built and maintained so that the site's discharge water carries a minimum of suspended sediment.
 - (c) Normal drainage patterns must not be adversely affected by the disposal operation and site.
 - (d) Removal of deposited spoil material for other uses must utilize a single point of ingress and egress and must maintain the containment dikes for the life of the project.
 - (e) Need and special consideration for landscaping and buffer areas are subject to County determination, review, and criteria found in SCC 14.16.830. [Based on existing SMP 7.04(2.)(B.)(9)]
- (11) Spoil disposal in open waters is permitted in accordance with the Puget Sound Dredged Disposal Analysis evaluation procedures for managing in-water disposal of dredged material; when approved by applicable agencies, which may include the U.S. Army Corps of Engineers pursuant to Section 10 (Rivers and Harbors Act) and Section 404 (Clean Water Act) permits, Washington State Department of Natural Resources, and Washington

State Department of Fish and Wildlife Hydraulic Project Approval; and when found to meet the following conditions:

- (a) Land disposal is infeasible, less consistent with this SMP, or prohibited by law.
 - (b) Nearshore disposal as part of a program to restore or enhance shoreline ecological functions and processes is not feasible.
 - (c) Offshore habitat will be protected, restored, or enhanced.
 - (d) Adverse effects on water quality or biologic resources from contaminated materials will be mitigated.
 - (e) Shifting and dispersal of spoil will be minimal.
 - (f) Water quality will not be adversely affected.
- (12) Prohibited dredge material disposal locations. Dredge material disposal is prohibited on critical areas and their buffers, lake shores and beds, in streamways, estuaries, wetlands and on marine accretion beaches, except as an element of an approved shore restoration or beach enhancement program. [Based on existing SMP 7.04(2.)(B.)(6)]
- (13) Application Requirements. In addition to other application materials, the following information is required for all dredging applications:
- (a) A description of the purpose of the proposed dredging and an analysis of compliance with the policies and regulations of this SMP.
 - (b) A detailed description of the physical character, shoreline geomorphology, and biological resources in the area proposed to be dredged, including:
 - (i) A site plan map outlining the perimeter of the area proposed to be dredged. The map must also include the existing bathymetry and have data points at a minimum of two-foot depth increments.
 - (ii) A habitat survey conducted according to the most recent WDFW eelgrass/macroalgae survey guidelines, if applicable.
 - (iii) Information on stability of bedlands adjacent to proposed dredging and spoils disposal areas.
 - (iv) Tidal fluctuation, current flows, direction, and degree of change.
 - (c) A detailed description of the physical, chemical and biological characteristics of the dredge materials to be removed, including:

- (i) Physical analysis of material to be dredged (material composition and amount, grain size, organic materials present, source of material, etc.).
- (ii) Chemical analysis of material to be dredged (volatile solids, chemical oxygen demand (COD), grease and oil content, mercury, lead and zinc content, etc.).
- (iii) Biological analysis of material to be dredged.
- (d) A description of the dredging operations, including:
 - (i) Method of dredging, including facilities for settlement and movement.
 - (ii) Length of time required.
 - (iii) Quantity of dredge material .
 - (iv) Frequency and quantity of project maintenance dredging.
- (e) Detailed plans for upland dredge material disposal, including the specific land disposal site(s) and relevant information on the disposal site(s), including, but not limited to:
 - (i) Dredge material disposal area;
 - (A) Physical characteristics including location, topography, existing drainage patterns, surface and ground water;
 - (B) Biological characteristics;
 - (C) Size and capacity of disposal site;
 - (D) Means of transportation to the disposal site;
 - (E) Proposed dewatering and stabilization of dredged material;
 - (F) Methods of controlling erosion and sedimentation; and
 - (G) Future use of the site and conformance with land use policies and regulations.
 - (ii) Plan for disposal or use of maintenance dredge material for at least a 50-year period, if applicable.
- (f) An assessment of potential impacts to ecological functions or processes from the proposal, including hydraulic modeling studies sufficient to identify existing geohydraulic patterns and probable effects of dredging.

- (g) A mitigation plan to address identified impacts, if necessary.

14.26.440 Fill, Excavation, and Grading

- (1) Applicability. Fill regulations in this section apply to fills in both aquatic and upland environments. Excavation and grading regulations in this section apply in upland environments only. This section is not intended to cover dredging or dredge material disposal (see SCC 14.26.435, Dredging and Dredge Material Disposal).
- (2) General fill, excavation, and grading regulations. All proposals that include fill, excavation, and grading must address the following
 - (a) The work is the minimum necessary to accommodate approved shoreline uses and developments that are consistent with this SMP.
 - (b) The work is designed to blend physically and visually with existing topography to the maximum extent practicable.
 - (c) The work is located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes. [Based on WAC 173-26-231(3)(c)]
 - (d) The work is designed and located so shoreline stabilization will not be necessary to protect the affected materials.
 - (e) The work is designed, constructed, and maintained to prevent, minimize, or control all material movement, erosion, and sedimentation from the affected area, in accordance with SCC Chapter 14.32.
 - (i) A temporary erosion and sediment control (TESC) plan consistent with the Stormwater Design Manual must be provided for all proposed fill, excavation, and grading activities and be approved by the Administrative Official prior to commencement of activity.
 - (ii) Disturbed areas must be immediately protected from erosion using appropriate best management practices per SCC Chapter 14.32.
- (3) Fill.
 - (a) Fill materials.
 - (i) Commercially available rock, gravel, soil, or sand is preferred for fill material.
 - (ii) Solid waste, concrete, asphalt, brick rubble, contaminated soils, construction and demolition waste, or other materials that may degrade surface and groundwater quality or the shoreline area are prohibited.

- (b) Piling preferred. Structures supported by piling are preferred over fills. [Based on existing SMP 7.06(2.)(B.)(6)]
- (c) Waterward of the OHWM. Fills waterward of the OHWM are only allowed only where necessary to support:
 - (i) New and existing water-dependent uses, including aquaculture;
 - (ii) Public access;
 - (iii) Cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan;
 - (iv) Expansion or alteration of transportation facilities currently located on the shoreline where alternatives to fill are infeasible;
 - (v) Ecological restoration or enhancement, including, but not limited to, beach nourishment, habitat creation, culvert upgrades to improve fish and flow passage, or bank restoration when consistent with an approved restoration plan; or
 - (vi) Maintenance of legally established development. [Based on WAC 173-26-231(3)(c)], provided the proposal also complies with SMP Part VI, Legally Established Pre-existing Uses and Structures.
- (d) Application Requirements. In addition to the general requirements, applications for fill, excavation, or grading must include all of the following:
 - (i) Proposed use of the fill/excavated area;
 - (ii) Physical, chemical, and biological characteristics of the fill/excavated material;
 - (iii) Source of fill material;
 - (iv) Method of placement and compaction;
 - (v) Location of fill relative to natural or existing drainage patterns;
 - (vi) Location of perimeter of fill, excavation, or graded area relative to the OHWM;
 - (vii) Perimeter erosion control or stabilization means;
 - (viii) Type of surfacing and runoff control devices.

- (ix) Disposal location of excavated materials.

14.26.445 Forest Practices

- (1) State and Local Compliance Required. Forest practices in shoreline areas must comply with RCW 76.09 (Forest Practices); WAC 222 (Forest Practices Rules); and Part V of this SMP, Critical Areas Regulations in Shoreline Jurisdiction, specifically SCC 14.24.110 as incorporated by reference.
- (2) Timber Cutting on Shorelines of Statewide Significance. Pursuant to RCW 90.58.150, on shorelines of statewide significance, with respect to timber situated within 200 feet landward of the OHWM, only selective commercial timber cutting is allowed, and no more than 30 percent of the merchantable trees may be harvested in any ten year period of time, provided:
 - (a) That other timber harvesting methods may be permitted in those limited instances where the topography, soil conditions, or silviculture practices necessary for regeneration render selective logging ecologically detrimental; and
 - (b) That clear cutting of timber which is solely incidental to the preparation of land for other uses may be permitted. [Existing SMP 7.05(2)(B)(2) & RCW 90.58.150]
- (3) Conversion to Non-forest Uses. Preparatory work associated with the conversion of land to non-forestry uses must:
 - (a) Limit the conversion to the minimum necessary, while complying with the purpose of the shoreline environment designation, general policies and regulations, and specific shoreline modification and use policies on the subject property. [Proposed based on principles of environmental impact mitigation in WAC 173-26-201(2)(e), vegetation conservation in WAC 173-26-221(5), and low impact development principles]
 - (b) Ensure no net loss of shoreline ecological functions or significant adverse impacts to other shoreline uses, resources, and values provided for in RCW 90.58.020 such as navigation, recreation, and public access. [WAC 173-26-241(3)(e)].

14.26.450 Industry

- (1) Preferred uses. New industrial uses will be given priority in the following order:
 - (a) Water-dependent industrial uses
 - (b) Water-related industrial uses
 - (c) Nonwater-oriented industrial uses.

- (2) Water-dependent or water-related uses. Industrial facilities and structures that are water-dependent or water-related are permitted where allowed by zoning and this SMP. The applicant must demonstrate that proposed uses are water-dependent or water-related.
- (3) Nonwater-oriented industrial development is only allowed on shorelines when:
 - (a) The use provides a significant benefit with respect to the objectives of the SMA, such as providing public access and ecological restoration; and
 - (b) The use is part of a mixed-use project that includes water-dependent uses; or
 - (c) Navigability is severely limited at the site,
 - (d) If the site is physically separated from the shoreline by another property or public right of way.
- (4) Accessory development. New accessory industrial development that does not require a shoreline location must be located upland of the water-dependent or water-related portions of the development and comply with shoreline buffers. Accessory development includes, but is not limited to, parking, warehousing, open-air storage, and transportation corridors.
- (5) Joint facility use. Port and industrial development must avoid duplication of pier and dock facilities. Joint facility use is preferred and will be considered during project proposal review.
- (6) Petroleum Products and Hazardous Materials
 - (a) Applicants or operators of new facilities that involve either solid, liquid, or gas bulk storage of petroleum products, chemicals, and other materials potentially hazardous to shoreline areas and water bodies is permitted as a conditional use and must justify the need to locate in the shoreline area
 - (b) New port and industrial developments involved in the transfer of petroleum and/or other hazardous products must utilize best available technology and procedures to prevent spills and mishaps.
 - (c) Spill cleanup equipment and supplies must be available for prompt application at all locations involved in such transfer activities.

- (7) Log storage.
 - (a) Log storage is not permitted in public waters where water quality standards are not being met, where the shoreline resources will be irretrievably damaged, or where other beneficial water uses will be materially hindered or precluded.
 - (b) Surface drainage and runoff must be controlled, treated, and released using dikes, drains, catch basins, vegetated buffer areas, or other effective means.
 - (c) New unpaved, dry land log storage areas must have at least four foot average separation depth to the water table.
 - (d) The free-fall dumping of logs into water is not permitted. Easy let down techniques and devices must be employed for water storage or transfer.
 - (e) Bark and wood debris must be controlled, collected, and disposed of in such a manner to prevent entry or accumulation on shorelines and water bodies at all log storage and handling areas.
- (8) Ecological functions and shoreline resources and values. New industrial development must be located, designed, constructed, and mitigated if necessary to ensure no net loss of shoreline ecological functions and no significant adverse impacts on other shoreline resources and values such as navigation, recreation and public access. See SCC 14.26.310 Environmental Protection, SCC 14.26.330 Public Access for additional requirements.
- (9) Floodway. New port and industrial development is prohibited in the officially mapped floodway of the Skagit River, its tributaries, and the Samish River.
- (10) Air and water quality. New port and industrial development must meet the air and water quality guidelines, standards and regulations of appropriate local, state and federal agencies.
- (11) Waste Treatment and Disposal:
 - (a) Storage and disposal of industrial wastes is prohibited on shorelines, except that wastewater treatment systems may be allowed in shoreline areas only when alternate, inland areas are proven to be infeasible.
 - (b) New industrial development and redevelopment is encouraged to locate where environmental cleanup and restoration of the shoreline area can be incorporated. Federal and state requirements for hazardous materials clean up or management must be addressed.

- (12) Drainage and runoff. New port and industrial development must provide stormwater management facilities designed, constructed, and maintained in accordance with the requirements of SCC 14.26.350, Water Quality, Stormwater, and Nonpoint Pollution, including the use of best management practices. New development must implement low impact development techniques when feasible in accordance with SCC 14.32.
- (13) Screening and Buffer Areas:
- (a) New port and industrial development must provide landscaping and screening in accordance with SCC 14.16.830, Landscaping Requirements.
 - (b) New port or industrial equipment storage, accessory development, parking, wastewater treatment or disposal must not be located in landscaped areas, critical area buffers, or shoreline buffers.

14.26.455 In-stream Structures

- (1) Docks, floats, marinas, and boat ramps are regulated under SCC 14.26.420 Boating Facilities, not as in-stream structures under this section.
- (2) New channelization projects that damage fish and wildlife resources, degrade recreation and aesthetic resources, result in a net loss of ecological functions or result in high flood stages and velocities are prohibited.
- (3) The location, planning and design of in-stream structures must address all of the following:
 - (a) public access to shorelines;
 - (b) flood protection;
 - (c) preservation of historic and cultural resources;
 - (d) protection and preservation of ecosystem-wide processes and ecological functions;
 - (e) impacts to fish and wildlife, with special emphasis on protecting and restoring priority habitats and species;
 - (f) watershed functions and processes;
 - (g) hydrogeological, hydraulic, and hydrologic processes;
 - (h) preservation of natural scenic vistas

- (4) New in-stream structures must be designed, located, and constructed consistent with SCC 14.26.310 Environmental Protection. Structures must be designed and located to minimize removal of riparian vegetation.
- (5) Proposed diversion structures must be designed and located to return flow to the stream or river in as short a distance as possible.
- (6) New in-stream structures must provide for adequate upstream and downstream fish passage.
- (7) In-stream structures that are developed as part of a utility project must also comply with applicable provisions of SCC 14.26.495, Utilities.

14.26.460 Jetties and Groins

- (1) When Allowed. Jetties and groins are only allowed as part of a water-dependent use, public access, shoreline stabilization, or other publicly beneficial purpose.
- (2) Prohibited Locations. New jetties and groins are prohibited in the following areas:
 - (a) All lakes.
 - (b) Areas containing critical fish and wildlife habitats.
 - (c) Shorelines where valuable geohydraulic or biological processes are sensitive to alteration or development such as feeder bluffs, marshes, wetlands, and accretion shoreforms such as spits, hooks, bars, or barrier beaches.
 - (d) Areas where the proposed structure would result in a net adverse impact upon adjacent and nearby properties and shorelines.
- (3) Impact Assessment on Surrounding Properties. New jetty or groin proposals must include an analysis to determine how the project may affect adjacent properties updrift/upstream and downdrift/downstream of the site. The assessment must be prepared by a qualified professional and provide site-specific and scientifically rigorous information to fully document the need for the jetty or groin.
- (4) Artificial beach feeding and enhancement proposals that do not include jetties or groins are preferred.
- (5) Repair and Replacement. Repair or replacement of existing jetties and groins is allowed, provided:
 - (a) A professional engineer or licensed engineering geologist with experience evaluating projects in marine or riverine areas determines that removing the

structure will cause more damage than letting it remain, or, if it is determined that significant impacts will occur to life or property if the groin is removed. Typical erosion, e.g., erosion rates occurring along adjacent properties, will not be considered a significant impact.

- (b) The footprint is minimized to the greatest extent possible.
- (6) Mitigation Sequencing. All projects must utilize mitigation sequencing techniques per SCC 14.26.310. Mitigation measures must incorporate principles of landscape connectivity and consider the impacts to ecosystem-wide processes and ecological functions as they may extend outside of the project boundaries.
- (7) Application Requirements. Applications for jetties and groins must include the information listed below. The Administrative Official may require additional geotechnical, hydrological, and biological studies as necessary to sufficiently analyze the impacts of the proposal.
 - (a) Purpose of structure(s);
 - (b) Designs prepared by a registered civil engineer with expertise in such design;
 - (c) Construction material;
 - (d) Method of construction;
 - (e) Location of OHWM, normal (average), low, and high water elevations;
 - (f) Soils and geology;
 - (g) Beach profile;
 - (h) Direction of net long shore drift (when appropriate);
 - (i) Seasonal wind and wave data; and
 - (j) Mitigation plan per SCC 14.26.310, if required.

14.26.465 Mining.

- (1) Applicability. The provisions of the section apply to mining that is for commercial or construction purposes, not to recreational mining.
 - (a) Recreational mining consistent with the requirements of the Washington Department of Fish and Wildlife's Gold and Fish Pamphlet, as updated, including any applicable timing restrictions, is allowed subject to Shoreline Substantial Development Permit or shoreline exemption requirements.

- (b) Recreational mining inconsistent with the requirements of the Washington Department of Fish and Wildlife's Gold and Fish Pamphlet must obtain a Shoreline Conditional Use Permit.
- (2) Special Use Permit required. All proposals for mining in shoreline jurisdiction must be conducted under an approved Special Use Permit, as required by SCC 14.16.440, Mineral Resource Overlay, as amended. [Based on existing SMP 7.08(2.)(B.)(1)]
- (3) Mining must obtain all other required state permits and meet all the requirements of RCW Chapter 78.44, Surface Mining.
- (4) Related activities. Mining-related activities may be subject to other regulations contained in this SMP, such as SCC 14.26.450, Industry. [Based on existing SMP 7.08(2.)(B.)(10)]
- (5) Shoreline jurisdiction. Mining in shoreline jurisdiction may be approved when the material proposed to be extracted is only available in a shoreline location. This determination must be based on an evaluation of geologic factors such as the distribution and availability of mineral resources in the County; the need for such mineral resources; and economic, transportation, and land use factors.
 - (a) Marine and lake shores. On marine or lake shores, mining below the OHWM is prohibited. [Based on existing SMP 7.08(2.)(B.)(2)]
 - (b) Rivers and streams.
 - (i) Mining waterward of the OHWM of rivers and streams is not allowed unless:
 - (A) Removal of specified quantities of sand and gravel or other materials at specific locations will not adversely affect the natural processes of gravel transportation for the system as a whole;
 - (B) The mining and any associated permitted activities will not have significant adverse impacts to habitat for priority species nor cause a net loss of ecological functions of the shoreline; and
 - (ii) If a renewal, extension, or reauthorization of mining operations waterward of the OHWM is being requested in a location where mining has been conducted, the County must require compliance with this subsection to the extent that no such review has previously been conducted.
 - (c) Floodplains. All equipment, works, and structures of mining operations must be able to withstand flooding without becoming hazards themselves and without the placement of structural defense works. All mining must comply with SCC 14.34, Flood Damage Prevention. [Based on existing SMP 7.08(2.)(B.)(4)]

- (6) Public access. Public access to publicly-owned shorelines and water bodies must not be impaired by new mining activities. [Based on existing SMP 7.08(2.)(B.)(9)]
- (7) Screening. Mining operations adjacent to developed residential property, public parks, public shorelines and accesses, and along streams and lakes must provide vegetative screening to obscure views of the mining site.
 - (a) In the Rural Conservancy and Urban Conservancy environments, the width of required vegetative screening between mining operations and the OHWM and adjacent properties is 50 feet; in the High Intensity environment, the width of required vegetative screening between mining operations and the OHWM and adjacent properties is 20 feet.
 - (b) Screening must be native vegetation and must be maintained in effective condition at all times.
 - (c) Mining operations in marine shoreline areas must provide appropriate screening to be determined during the Shoreline Conditional Use Permit process.
 - (d) Vegetative screening must be planted by the start of mining or as soon thereafter as possible, and be established within one year of the start of mining.
 - (e) If vegetative screening is not possible, artificial screening or fencing to suit the site, operations, and shoreline area is required. [Based on existing SMP 7.08(2.)(B.)(14)]
- (8) Operations.
 - (a) Accessory equipment and materials. Accessory equipment and materials essential to mining operations in shoreline areas must be stored or sited as far landward from the OHWM as feasible. [Based on existing SMP 7.08(1.)(B.)]
 - (b) Stockpiles and tailings. Stockpiles and tailings must not exceed the height, slope, and moisture content limits determined by local and state agencies. Existing topography and the existing uses of surrounding properties must be considered when siting stockpile locations. [Based on existing SMP 7.08(2.)(B.)(20)]
 - (c) Earth stability. Mining operations must not impair lateral support or cause earth movements or erosion to extend beyond property lines or to adversely affect the shoreline and water environment. [Based on existing SMP 7.08(2.)(B.)(12)]
 - (d) Erosion control. Mining activities must use effective techniques for preventing or minimizing adverse surface runoff, erosion, and sediment generation. Overburden, mining debris, and tailings must be stored and protected in such a manner so as to prevent or minimize erosion or seepage to surface and ground waters. All

preventative techniques must be adequately maintained throughout mining and reclamation operations. [Based on existing SMP 7.08(2.)(B.)(11)]

- (e) Water quality and quantity. New mining operations must provide measures to:
 - (i) Prevent pollution of ground and surface waters;
 - (ii) Impound runoff as necessary to prevent accelerated runoff and erosion;
 - (iii) Protect all shoreline areas from acidic or toxic materials; and
 - (iv) Maintain existing surface and groundwater flows.
 - (f) Temporary discontinuance. Temporary discontinuance of operations for not more than six months due to economic, climatic, or other reasonable conditions will not be cause for removal of equipment and structure. [Based on existing SMP 7.08(2.)(B.)(15)]
- (9) Reclamation.
- (a) Subsequent use and ecological function. The proposed subsequent use of mined property must be consistent with the environment designation in which the property is located and the reclamation of disturbed shoreline areas must provide appropriate ecological functions consistent with the setting. [Based on WAC 173-26-241(3)(h)(ii)(C)]
 - (b) Land reclamation. In order to ensure the future use and viability of shoreline areas subsequent to mining activities, the following provisions covering land reclamation and utilization must be adhered to and fulfilled within one year of completed mining operations:
 - (i) All equipment, machinery, buildings, and structures not involved in reclamation activities must be removed from the site. All equipment used for reclamation must be removed from the site upon review and approval of the reclamation by state and local agencies.
 - (ii) No stagnant or standing water must be allowed to collect or remain except as provided in an approved site reclamation plan.
 - (iii) Backfill material must be of natural, compatible materials. Combustible, flammable, noxious, toxic, or solid waste materials are not allowed as backfill.
 - (iv) All overburden, waste, and nontoxic material storage piles and areas must either be leveled, sodded, and planted or returned to the excavated area for reuse as backfill and subsequently sodded and planted.

- (v) The site must be rehabilitated so as to prevent current (during reclamation) and future erosion and sedimentation.
 - (vi) Suitable drainage systems approved by the County Engineer must be installed and maintained if natural, gradual drainage is not possible. Such systems should collect, treat, and release surface runoff so as to prevent erosion and sedimentation.
 - (vii) Topography of the site must be restored to the approximate prior contours or to contours compatible with the surrounding land and shoreline area.
 - (viii) All banks, slopes, and excavated areas for surface mined unconsolidated materials must be sloped to no steeper than two-and-one-half feet horizontal to one foot vertical. All slopes must be sodded or surfaced with appropriate soil to at least the depth of the surrounding, undisturbed soil and subsequently revegetated.
 - (ix) All banks, slopes, and excavated areas of mined consolidated material must be sloped to no steeper than one foot horizontal to one foot vertical.
 - (x) Slopes of quarry walls must have no prescribed slope unless a hazardous condition is created whereby the quarry must be backfilled and sloped according to the above.
 - (xi) Revegetative practices must utilize compatible, native vegetation.
 - (xii) All toxic and acid forming mining refuse and materials must be either treated to be nonpolluting prior to onsite disposal or removed and disposed of away from shoreline areas. [Based on existing SMP 7.08(2.)(B.)(17)]
 - (xiii) Underground mining operations must not be left in a condition that may become hazardous to public health and safety. [Based on existing SMP 7.08(2.)(B.)(19)]
- (10) Mining operation review. Should substantial evidence indicate that the continuance of mining operations would cause degradation or adverse effects to the shoreline and water environment, the operation's shoreline permit must be reviewed by the Administrative Official to determine if additional or modified conditions should be attached or if the permit should be terminated. [Based on existing SMP 7.08(2.)(B.)(22)]
- (11) Application Requirements. In addition to the application requirements listed in SCC 14.16.440(8), the following information is required for all new mining applications:
- (a) Materials to be mined;

- (b) Quantity of materials to be mined, by type;
- (c) Quality of materials to be mined, by type. For certain minerals, a qualified geologist's evaluation may be required;
- (d) Mining technique and equipment to be utilized;
- (e) Amount of material to be mined;
- (f) Depth of overburden;
- (g) Total mineral deposit: lateral extent and depth;
- (h) Proposed depth of mining;
- (i) Cross section diagrams indicating present and proposed elevations and/or extraction levels;
- (j) Existing drainage patterns, seasonal or continuous, and proposed alterations thereof;
- (k) Proposed means of controlling/handling surface runoff and preventing or minimizing erosion and sedimentation;
- (l) Subsurface water resources, aquifer recharge areas: origin, depth, and extent;
- (m) Quality analysis of overburden, excavation material and tailings with plans for storage, usage, or disposition;
- (n) Mining plan and scheduling, including seasonal, phasing, and daily operation schedules;
- (o) Reclamation plan that meets the requirements of this chapter and, at a minimum, RCW 78.44 for surface mining operations (only); and
- (p) Screening, buffer, and fencing plan that meet the other requirements of Skagit County Code. [Based on existing SMP 7.08(2.)(B.)(8)]

14.26.470 Recreational Development.

- (1) Floodways. Recreational development, except for approved accessory uses, must be located out of the officially-mapped floodway of the Skagit River and its tributaries and the Samish River. Compliance with SCC 14.34 Flood Damage Prevention is also required.

- (2) Shore defense and flood protection works. Recreational development must be located and designed to avoid or minimize the need for structural shore defense and flood protection works.
- (3) Design. Recreational development must be designed to minimize conflict with on-site and nearby shoreline uses. Techniques to increase compatibility with nearby shoreline uses may include, but are not limited to, providing a physical separation to reinforce the distinction between public and private space, providing signage, providing adequate space, and providing screening with landscape planting or fences.
- (4) Accessory uses. Recreational uses and facilities located within shoreline jurisdiction must include features that relate to access, enjoyment, and use of the shorelines of the state. Accessory uses, such as restrooms, recreation halls and gymnasiums, commercial services, access roads, and parking lots, must be located according to the following preferences:
 - (a) outside of shoreline jurisdiction, where feasible; or
 - (b) landward of water-oriented uses unless it can be shown that such facilities are essentially shoreline dependent.
- (5) Shoreline resources and critical areas. New recreational development in critical areas within shoreline jurisdiction is limited to the allowed uses found in SCC 14.24.540(5).
- (6) Motor and recreational vehicles
 - (a) New roads, access, and parking for automobiles, trucks, campers, trailers, and other recreational vehicles must meet the shoreline buffer requirements of this SMP. Such access and parking features must be located and designed consistent with SCC 14.26.490, Transportation and Parking.
 - (b) Licensed and unlicensed recreational motor vehicles and all forms of all-terrain vehicles are allowed only on roads, trails, or developments consistent with this SMP.
 - (c) All vehicle use in new recreational development is prohibited in critical areas except for emergency or approved maintenance activities, boat launching, and the on and off loading of handicapped persons.
- (7) Wastewater and waste disposal. New recreational developments must meet all state and local requirements for solid waste disposal and wastewater management. Based on demand analysis, recreational developments must provide waste receptacles, pet waste receptacles, and restrooms to promote appropriate waste disposal and protect water quality.

- (8) Utilities. All plumbing, wiring, and other utility lines must be installed underground or rendered inconspicuous.
- (9) Fertilizers, pesticides, and herbicides
 - (a) Recreational developments requiring the use of fertilizers, pesticides, and herbicides must leave a chemical free swath at least 25 feet in width from water bodies and wetlands, unless another BMP achieving equivalent results can be incorporated.
 - (b) Herbicides and pesticides must not be applied or allowed to directly enter water bodies or wetlands unless approved for such use by appropriate state or federal agencies.
- (10) Relationship with other recreation areas. Recreational developments requiring the use of fertilizers, pesticides, and herbicides must not unduly burden nor create use conflicts with adjacent and nearby public or private recreation facilities and areas.
- (11) Public health, safety, and use. Recreational developments must be located, constructed, and operated not to become a hazard to public health and safety nor should they materially interfere with the normal public use of the shorelines.
- (12) Consistency with environment designation. Recreational development must be located, designed and operated in a manner consistent with the purpose of the environment designation in which it is located.

14.26.475 Residential Development.

- (1) Priority use. Single-family residences are a preferred use in shoreline areas when developed in a manner consistent with control of pollution and prevention of damage to the natural environment.
- (2) Overwater residences. New over-water residences, including floating homes and liveaboards, are prohibited.
- (3) Development performance standards. New residential development, and the creation of new residential lots through land division, must meet the following performance standards:
 - (a) Residences, plats, and subdivisions must be designed, configured and developed to ensure no net loss of ecological function at full build-out of all lots or dwellings.
 - (b) Development must comply with SMP Part V: Critical Areas Regulations in Shoreline Jurisdiction. Residential development, including appurtenant and accessory

structures and uses, must be set back from steep slopes and shorelines vulnerable to erosion so that stabilization structures are not necessary.

- (c) Flood hazard reduction. Residential development must be located and designed to avoid the need for flood hazard reduction facilities.
- (d) New multiunit residential developments, including the subdivision of land for five or more parcels, are subject to public access standards pursuant to SCC 14.26.330 Public Access.
- (e) Accessory uses and structures must be located landward of the principal residence, unless the structure supports a water-dependent use.
- (f) Fill. The use of fill for expansion or creation of upland areas within a residential development, except when necessary for supporting infrastructure such as roads with no feasible alternative, or in association with restoration activities pursuant to SCC 14.26.480 Shoreline Habitat and Natural Systems Enhancement Projects must meet the requirements of SCC 14.26.310 Environmental Protection and SCC 14.26.440, Fill, Excavation, and Grading.
- (g) Utilities. Wherever feasible, utilities for new residential development, including but not limited to subdivisions, mobile home parks, public and private recreation and second home developments, and planned unit developments (PUDs), must be installed underground consistent with SCC 14.26.495 Utilities.
- (h) Stormwater. Stormwater management facilities for new residential developments must be designed, constructed, and maintained in accordance with the requirements of SCC 14.26.350, Water Quality, Stormwater, and Nonpoint Pollution, including the use of best management practices. New development must implement low impact development techniques where feasible and necessary to fully implement the core elements of the applicable Ecology Stormwater Management Manual.
- (i) Wastewater and waste disposal. New residential development must meet all state and local requirements for solid waste and wastewater disposal.
- (j) Screening vegetation conservation. New residential development must comply with applicable screening, landscape, and vegetation conservation standards of SCC 14.26.340 Shoreline Vegetation Conservation and SCC 14.16.830.
- (k) Clustering. Applications for new residential land divisions must include an evaluation of the clustering of lots to minimize physical and visual impacts on shorelines.

14.26.480 Shoreline Habitat and Natural Systems Enhancement Projects

- (1) Applicability. Shoreline habitat and natural systems enhancement and restoration projects include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines. Shoreline habitat and natural systems enhancement projects include but are not limited to floodplain restoration projects, fish passage barrier removal or improvement, and projects to increase shoreline habitat complexity. Stabilization of eroding banks may be considered under this section provided that the purpose of the project is restoration or enhancement of the natural character and ecological functions of the shoreline, and the project uses bioengineering approaches, including limited use of rock as a stabilization only at the toe of the bank as necessary, and with primary emphasis on using native vegetation to control erosive forces.
- (2) Shoreline restoration and ecological enhancement projects may be permitted in all shoreline environments, provided the project's primary purpose is the restoration of the natural character and ecological functions of the shoreline, and must be consistent with any applicable requirements of this SMP.
- (3) Restoration and enhancement must be carried out in accordance with an approved shoreline restoration plan.
- (4) All shoreline restoration and enhancement projects must protect the integrity of adjacent natural resources, including aquatic habitats and water quality.
- (5) Long-term maintenance and monitoring (minimum of three years, but preferably longer) must be arranged by the project applicant and included in restoration or enhancement proposals.
- (6) Shoreline restoration and enhancement may be allowed if the project applicant demonstrates that no significant change to sediment transport or river current will result and that the enhancement will not adversely affect ecological processes, properties, or habitat.
- (7) Shoreline restoration and enhancement projects must be designed using the best available scientific and technical information, and implemented using best management practices.
- (8) Shoreline restoration and enhancement must not significantly interfere with the normal public use of the navigable waters of the state without appropriate mitigation. For projects on state-owned aquatic lands, prior to the solicitation of permits from regulatory agencies, project proponents must coordinate with the Washington Department of Natural Resources to ensure the project will be appropriately located.

- (9) For a shoreline restoration proposal within an urban growth area, the applicant should consult with the County and Ecology to determine if the proposal may be afforded relief under RCW 90.58.580, in the event that the proposed restoration project shifts the OHWM landward.

14.26.485 Shoreline Stabilization

- (1) **Applicability.** This section applies to actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind and wave action. In all cases, the feasibility of soft structural shoreline stabilization must be evaluated prior to a request for hard structural stabilization.
- (2) **New or enlarged structural shoreline stabilization.** Proposals for new hard and soft structural shoreline stabilization must include measures designed to address erosion impacts. Enlargement of an existing shoreline stabilization structure includes any increase in height, width, or length. New or enlarged structural stabilization measures are allowed, as follows:
 - (a) To protect an existing primary structure, including a residence, when conclusive evidence, documented by a geotechnical analysis, is provided that the structure is in danger from shoreline erosion caused by currents or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering hard or soft structural shoreline stabilization. OR (WAC 173-26-231(3)(a)(iii)(B)(I))
 - (b) In support of new non-water-dependent development, including single-family residences, when all of the conditions below apply:
 - (i) The erosion is not being caused by upland conditions, such as drainage and the loss of vegetation.
 - (ii) Nonstructural measures, such as placing the proposed development farther from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient to adequately address erosion impacts.
 - (iii) The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical analysis. The damage must be caused by natural processes, such as currents or waves. OR (WAC 173-26-231(3)(a)(iii)(B)(II))
 - (c) In support of water-dependent development when all of the conditions below apply:

- (i) The erosion is not being caused by upland conditions, such as drainage and the loss of vegetation.
 - (ii) Nonstructural measures, such as planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient to adequately address erosion causes or impacts.
 - (iii) The need to protect primary structures, including residences, from damage due to erosion is demonstrated through a geotechnical analysis. OR (WAC 173-26-231(3)(a)(iii)(B)(III))
 - (d) To protect projects for the restoration of ecological functions or for hazardous substance remediation projects pursuant to Chapter 70.105D RCW when nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient to adequately address erosion causes or impacts. (WAC 173-26-231(3)(a)(iii)(B)(IV))
- (3) Expansion, Replacement, and Repair of existing shoreline stabilization
- (a) Modifications or improvements that include additions to or increases in size of existing shoreline stabilization measures are considered new structures, subject to the provisions of subsection (2), above. (WAC 173-26-231(3)(a)(iii)(C))
 - (b) For purposes of this section, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure that can no longer adequately serve its purpose. The following actions must be designed and reviewed as a replacement, subject to the provisions contained in Subsection (5), below:
 - (i) Replacement of greater than 50 percent of the structure or 50 feet of linear length of existing shoreline stabilization, whichever is smaller, within a 3-year time period; or
 - (ii) When the existing structure, including its footing or bottom course of rock, is removed prior to placement of new shoreline stabilization materials.
- (4) Maintenance and repair
- (a) For purposes of this section, "maintenance and repair" includes modifications or improvements to an existing shoreline stabilization structure designed to ensure the continued function of the structure by preventing failure of any part, and includes removal and replacement of only the material above the footing or bottom course of rock.

- (b) Areas of temporary disturbance within the shoreline buffer must be expeditiously restored to their pre-project condition or better.
 - (c) The placement of a new shoreline stabilization structure landward of a failing shoreline stabilization structure is considered a new structure, and is not maintenance or repair.
- (5) Replacement.
- (a) Replacement stabilization measures must be treated as a new shoreline stabilization measure subject to the restrictions of Subsection (2) above, as well as the application requirements of Subsection (9) below, except for the requirement to prepare a geotechnical analysis. A geotechnical analysis is not required for replacements of existing hard or soft structural shoreline stabilization with a similar or softer measure if the applicant demonstrates need to protect principal uses or structures from erosion caused by waves or other natural processes operating at or waterward of the OHWM. (WAC 173-26-231(3)(a)(iii)(C))
 - (b) Replacement hard structural shoreline stabilization measures must not encroach waterward of the OHWM or waterward of the existing shoreline stabilization measure unless the primary residence was constructed prior to January 1, 1992, and there is overriding safety or environmental concerns. In such cases, the replacement structure must abut (attached to and waterward of) the existing shoreline stabilization structure. All other replacement hard structural shoreline stabilization measures must be located at or landward of the existing shoreline stabilization structure. (WAC 173-26-231(3)(a)(iii)(C))
 - (c) Shoreline stabilization measures may allow some fill waterward of the OHWM to provide enhancement of shoreline ecological functions through improvements in substrate condition or gradient. These types of waterward fills may be approved without a Shoreline Conditional Use Permit. (WAC 173-26-231(3)(a)(iii)(C))
 - (d) Existing shoreline stabilization measures are not governed by provisions located in Part VI, Legal Pre-Existing Uses and Structures; instead, they are governed by regulations in this section.
- (6) General design standards. When a hard or soft structural shoreline stabilization measure is demonstrated to be necessary, the following design standards must be incorporated into the stabilization design:
- (a) Soft structural shoreline stabilization measures must be used to the maximum extent practicable for new, enlarged, or replacement shoreline stabilization measures. Hard structural shoreline stabilization measures must be limited to the portion or portions of the site where necessary to protect or support existing

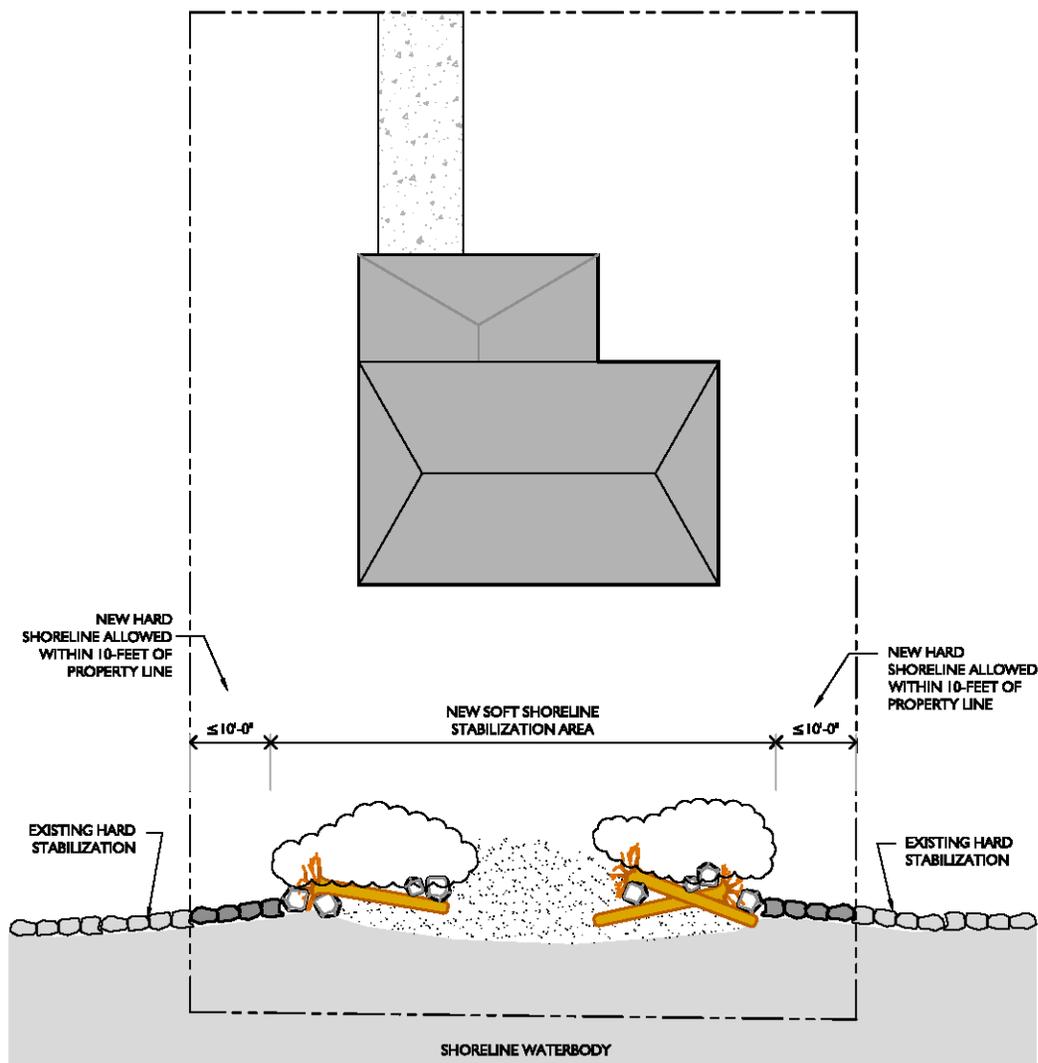
shoreline structures or trees, or where necessary to connect to existing shoreline stabilization measures on adjacent properties. When needed, hard structural shoreline stabilization transition areas should be minimized and extend into the subject property from the property line no more than 10 feet.

- (b) For enlarged or replacement soft and hard structural shoreline stabilization measures, the following location and design standards are preferred in descending order:
 - (i) Conduct excavation and fill activities associated with the soft or hard structural shoreline stabilization landward of the existing OHWM to the maximum extent practicable.
 - (ii) Where (i), above, is not practicable because of overriding safety or environmental concerns, conduct necessary excavation and fill activities waterward of the existing OHWM as needed to implement a soft structural shoreline stabilization technique or to mitigate the impacts of hard structural shoreline stabilization. Fill material waterward of the OHWM may be sand, gravel, cobble, or boulders provided the placement of boulders does not effectively present a continuous wall or face to oncoming waves (also known as rip rap).
- (c) All approved shoreline stabilization measures must minimize and mitigate any adverse impacts to ecological functions resulting from short-term construction activities, consistent with SCC 14.26.210, Environmental Protection, and Part V, Critical Areas Regulations. Impact minimization techniques may include compliance with appropriate timing restrictions, use of best management practices to prevent water quality impacts related to upland or in-water work, and stabilization of exposed soils following construction.
- (d) All new, enlarged, or replacement hard structural shoreline stabilization measures must avoid and minimize any long-term adverse impacts to ecological processes and functions by incorporating the following measures into the design:
 - (i) Limiting the size of hard structural shoreline stabilization measures to the minimum necessary, including height, depth, and mass;
 - (ii) Shifting the hard structural shoreline stabilization landward, or sloping the hard structural shoreline stabilization landward, or both, to provide some dissipation of wave energy and increase the quality or quantity of near shore shallow-water habitat.
 - (iii) Avoiding impacts areas of ecological importance where possible, including significant areas of natural erosion and accretion.

- (e) Approved new and enlarged shoreline stabilization measures must mitigate any adverse impacts to ecological functions by incorporating the following measures at a minimum into the design if appropriate for local conditions:
 - (i) Restoration of appropriate substrate conditions waterward of the OHWM, to include substrate composition and gradient. The material should be sized and placed to remain stable during a two-year flood event on rivers and under typical tides or boat- and wind-driven wave conditions on lakes or marine waters, including storm events.
 - (ii) Plant native riparian vegetation, as necessary, along at least 75 percent of the shoreline linear frontage affected by the new or enlarged stabilization, located along the water's edge. The vegetated portion of the shoreline buffer must average 10 feet in depth from the OHWM, but may be a minimum of 5 feet wide to allow for variation in landscape bed shape and plant placement. Restoration of native vegetation must consist of a mixture of trees, shrubs, and groundcover and be designed to improve habitat functions. At least three trees per 100 linear feet of shoreline must be included in the plan. Plant materials must be native to the ecosystem of the project area. An alternative planting plan or mitigation measure in lieu of meeting these requirements may be allowed if approved by other State and Federal agencies.
 - (iii) Additional mitigation measures, including, but not limited to removal of existing armoring, may be required by the County, or State or Federal agencies, depending on the level of impact.
- (f) The shoreline stabilization measure must not significantly interfere with normal surface and subsurface drainage into the adjacent water body.
- (g) The shoreline stabilization measure must not be a hazard to navigation.
- (h) Stairs or other water access measures may be incorporated into the shoreline stabilization (e.g., steps integrated into the bulkhead, coved area with shallow entry), but must not extend waterward of the shoreline stabilization measure and the OHWM.
- (i) The shoreline stabilization measure must not restrict appropriate public access to the shoreline. When a structural shoreline stabilization measure is required at a public access site, provisions for safe access to the water must be incorporated into the design (e.g., steps integrated into the bulkhead, coved area with shallow entry). Access measures should not extend farther waterward than the face of the shoreline stabilization measure and the OHWM.

- (j) Shoreline stabilization measures must not extend waterward more than the minimum amount necessary to achieve effective stabilization, except for those elements that enhance shoreline ecological functions and minimize impacts.
 - (k) When repair or replacement shoreline stabilization measures intended to improve ecological functions shift the OHWM landward of the pre-modification location, any buffers from the OHWM or lot area for the purposes of calculating lot coverage must be measured from the pre-modification location. The pre-modification OHWM must be recorded with the Auditor on a Department-approved form.
 - (l) If repair or replacement shoreline stabilization measures intended to improve ecological functions shift the OHWM landward of the pre-modification location and result in expansion of the shoreline jurisdiction on any property other than the subject property, the plan may not be approved until the applicant submits a declaration that the applicant has notified the owners of all affected properties by the shoreline jurisdiction creation or increase on such property.
- (7) Hard structural shoreline standards. When hard structural shoreline stabilization measures, such as bulkheads, are demonstrated to be necessary as outlined in (9) below, the following standards apply:
- (a) When hard structural shoreline stabilization is proposed on a site where hard structural shoreline stabilization is not located on adjacent properties, the construction of hard structural shoreline stabilization must tie in with the existing contours of the adjoining properties, as feasible, such that the proposed stabilization would not cause erosion of the adjoining properties.
 - (b) When hard structural shoreline stabilization is proposed on a site where hard structural shoreline stabilization is located on adjacent properties, the proposed stabilization may tie in flush with existing stabilization measures on adjoining properties, provided that the new stabilization does not extend waterward of the OHWM, except as necessary to make the connection to the adjoining stabilization, and does not extend onto the adjacent property. In such circumstances, the remaining portion of the stabilization must be placed landward of the existing OHWM such that no net intrusion into the water body occurs nor does net creation of uplands occur.
 - (c) Fill behind hard structural shoreline stabilization must be limited to 1 cubic yard per running foot of stabilization. Any filling in excess of this amount is considered a regulated activity subject to the regulations in this Chapter pertaining to fill activities and the requirement for obtaining a Shoreline Substantial Development Permit or Shoreline Conditional Use Permit.

- (8) Soft structural shoreline stabilization design standards. In addition to applicable general design standards and hard structural shoreline stabilization standards above, the following standards apply:
- (a) The soft shoreline stabilization design must provide sufficient protection of adjacent properties by tying in with the existing contours of the adjoining properties to prevent erosion at the property line, provided the stabilization measure does not extend onto the adjacent property. Soft shoreline stabilization projects that include necessary use of hard structural shoreline stabilization measures, as indicated by the appropriate study prepared per (9) below, only near the property lines to tie in with adjacent properties may be permitted as soft shoreline stabilization measures. The length of hard structural shoreline stabilization transition area to adjacent properties must be minimized to the maximum extent practicable, and extend into the subject property from the property line by no more than 10 feet (see diagram below). The hard structural shoreline stabilization transition area must not extend waterward of the OHWM, except as necessary to make the connection to the adjoining stabilization, and must not extend onto the adjacent property.



- (b) The soft shoreline stabilization design must size and arrange any gravels, cobbles, logs, and boulders so that the project remains stable during a two-year flood event on rivers and under typical boat- and wind-driven wave conditions on lakes, including storm events, and dissipates wave and current energy, without presenting extended linear faces to oncoming waves or currents.
- (9) Application Requirements. In addition to submitting an application for the appropriate shoreline permit, the applicant must submit the following as part of a request to construct a new, enlarged, or replacement shoreline stabilization measure:
 - (a) For a new or enlarged hard or soft structural shoreline stabilization measure, a geotechnical analysis prepared by a qualified professional with an engineering license. The analysis must include the following:

- (i) An assessment of the necessity for structural shoreline stabilization by estimating time frames and rates of erosion and reporting on the urgency associated with the specific situation. New hard structural shoreline stabilization measures will not be authorized, except when an analysis confirms that there is a significant possibility that an existing structure will be damaged within three years as a result of shoreline erosion in the absence of such hard structural shoreline stabilization measures, or where waiting until the need is immediate results in the loss of opportunity to use measures that would avoid impacts on ecological functions. Where the geotechnical analysis confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three years, that analysis may still be used to justify more immediate authorization to protect against erosion using soft measures. (WAC 173-26-231(3)(a)(iii)(D))
 - (ii) An assessment of the cause of erosion, looking at processes occurring both waterward and landward of the OHWM. (WAC 173-26-231(3)(a)(iii)(B)(I))
 - (iii) An assessment of alternative measures to shoreline stabilization, including:
 - (A) Placing the structure farther from the OHWM.
 - (B) Correcting any on-site groundwater or drainage issues that may be causing shoreline erosion.
 - (iv) Where structural shoreline stabilization is determined to be necessary, the assessment must evaluate the feasibility of using soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures. Soft shoreline stabilization may include the use of gravels, cobbles, boulders, and logs, as well as vegetation. (WAC 173-26-231(3)(a)(iii)(E))
 - (v) An assessment of the anticipated effects of the proposed project on ecosystem processes and functions, including, but not limited to effects on feeder bluffs, drift cells, and eroding shorelines.
 - (vi) Design recommendations for minimum sizing of hard structural or soft structural shoreline stabilization materials, including gravel and cobble beach substrates necessary to dissipate wave energy, eliminate scour, and provide long-term shoreline stability.
- (b) For replacements of existing hard structural shoreline stabilization measures with a similar measure, the applicant must submit a written narrative providing a demonstration of need. The narrative must be prepared by a qualified professional. The demonstration of need must consist of the following: (WAC 173-26-231(3)(a)(iii)(C))

- (i) An assessment of the necessity for continued structural shoreline stabilization, considering site-specific conditions such as water depth, orientation of the shoreline, wave fetch or flow velocities, and location of the nearest primary structure.
 - (ii) An assessment of erosion potential resulting from the action of waves or other natural processes operating at or waterward of the OHWM in the absence of the hard structural shoreline stabilization.
 - (iii) An assessment of alternative measures to shoreline stabilization, including:
 - (A) Relocating the development farther from the OHWM.
 - (B) Correcting any on-site groundwater or drainage issues that may be causing shoreline erosion.
 - (iv) An assessment of the feasibility of using soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures. Soft structural shoreline stabilization may include the use of gravels, cobbles, boulders, and logs, as well as vegetation.
 - (v) An assessment of the anticipated effects of the proposed project on ecosystem processes and functions, including, but not limited to effects on feeder bluffs, drift cells, and eroding shorelines.
 - (vi) Design recommendations for minimizing impacts of any necessary hard structural shoreline stabilization.
- (c) A demonstration of need may be waived when an existing hard structural shoreline stabilization measure is proposed to be repaired or replaced using soft structural shoreline stabilization measures, resulting in significant restoration of shoreline ecological functions or processes.
- (d) For all structural shoreline stabilization measures, including soft structural shoreline stabilization, detailed construction plans, including, but not limited to, the following:
- (i) Plan and cross-section views of the existing and proposed shoreline configuration, showing accurate existing and proposed topography and OHWMs.
 - (ii) Detailed construction sequence and specifications for all materials, including gravels, cobbles, boulders, logs, and vegetation. The sizing and placement of all materials must be selected to accomplish the following objectives:

- (A) Protect the primary structures from erosion and other damage over the long term, and accommodate the normal amount of alteration from currents and wind- or boat-driven waves;
 - (B) Allow safe passage and migration of fish and wildlife; and
 - (C) Minimize or eliminate juvenile salmon predator habitat.
- (iii) For projects that include native vegetation, a detailed five-year vegetation maintenance and monitoring program to include the following:
- (A) Goals and objectives of the shoreline stabilization plan;
 - (B) Success criteria by which the implemented plan will be assessed;
 - (C) A five-year maintenance and monitoring plan, consisting of at least one site visit per year by a qualified professional, with annual progress reports submitted to the Administrative Official and all other agencies with authority;
 - (D) A performance standard of 100% survival for the first year of growth post installation, with no less than 80% survival at the end of the third year; and
 - (E) A contingency plan and a bond in an amount and form acceptable to the County in case of failure.

14.26.490 Transportation and Parking

(1) Floodplains

- (a) Roads and railroads located within the 100-year floodplain must not measurably increase flood levels or profiles and must not restrict or otherwise reduce floodplain and floodway capacities.
- (b) Proposals for roads and railroads that are to be used secondarily as flood control or protection structures must provide additional data regarding:
 - (i) channel profiles,
 - (ii) effects on flood level hydraulics, and
 - (iii) potential for enlargement of inundated areas.

(2) Location

- (a) New roads, road expansions, or railroads must not be built within shoreline jurisdiction unless location outside of shoreline jurisdiction is infeasible, or standards for ADA accessibility and functionality cannot be met, or the cost is disproportionate to the cost of the proposal. When railroads, roads or road expansions are unavoidable in the shoreline jurisdiction, proposed transportation facilities must be planned, located, and designed to achieve the following:
 - (i) Minimize possible adverse effects on unique or fragile shoreline features;
 - (ii) Maintain no net loss of shoreline ecological functions;
 - (iii) Avoid adverse impacts on existing or planned water-dependent uses; and
 - (iv) Set back from the OHWM to the maximum feasible to allow for a usable shoreline area for vegetation conservation and planned shoreline uses.
- (b) Roads and railroads must be located landward of:
 - (i) Estuaries and their associated wetlands;
 - (ii) Erosion or accretion shoreforms and associated drift sectors and backshore marshes; and
 - (iii) Officially designated fish, shellfish, and wildlife habitats.
- (c) Bridges and culverts may be permitted by the Skagit County consistent with this SMP and where alternatives outside of shoreline jurisdiction have been fully proven infeasible.

(3) Development standards.

- (a) Transportation facilities that are allowed over water bodies and associated wetlands must utilize elevated, open pile or pier structures and techniques. The number of water crossings must be the fewest necessary to serve the use or district.
- (b) Bridge abutments and necessary approach fills must be located landward of associated wetlands or the OHWM for water bodies without associated wetlands provided mid-river bridge piers are permitted.
- (c) Fill, grading, and excavated materials from both construction and maintenance activities must not be disposed in shoreline areas, If alternative locations are infeasible, such activities must be carried out in accordance with SCC 14.26.440 Fill, Excavation, and Grading.

- (d) All soils exposed to erosion by all phases of road, bridge, and culvert work must be stabilized and protected by seeding, mulching or other effective means immediately upon completion of construction.
 - (e) Relief culverts and diversion ditches must not discharge onto erodible soils, fills, or sidecast materials.
 - (f) Stream and river channel alignment, flows, and banks must not be altered without appropriate local, state, and federal permits.
 - (g) All surface and drainage systems must be designed and maintained to prevent and control runoff and sedimentation.
 - (h) Mechanical means are preferred over the use of herbicides for roadside brush control. If herbicides are used, they must be applied so that chemicals do not enter shoreline water bodies.
 - (i) Unpaved existing roads and parking areas may be paved, provided such facilities comply with all other applicable requirements of this SMP. Roadways or paved parking areas must be designed to incorporate low-impact development practices, to the extent feasible.
- (4) Fill. Fill associated with new transportation facility development is only permitted in water bodies and their associated wetlands and beaches when all structural or upland alternatives are proven infeasible.
- (5) Parking Areas. Parking facilities in shorelines are not a preferred use and are allowed only as necessary to support an authorized use and when minimizing environmental and visual impacts.
- (a) New over water parking facilities are prohibited in all shoreline areas.
 - (b) New or expanded parking areas must be:
 - (i) Located outside of shoreline jurisdiction unless no feasible alternative location exists;
 - (ii) Located outside shoreline buffers unless a variance is obtained based upon one or more of the following:
 - (A) ADA parking requirements are not met and placing the limited number of needed ADA parking spaces within the shoreline buffer facilitates better and safer public access to the shoreline;

- (B) The applicant's lot/site has topographical constraints where no other location outside the buffer yet within the proposed development is feasible (e.g., the use or activity is located on a parcel entirely or substantially encumbered by the required buffer); or
 - (C) In the above cases, parking must be located as far upland from the OHWM as feasible, recognizing the limited supply of shoreline areas and parking allowed in buffer must follow mitigation sequencing; and
- (iii) Designed to incorporate low-impact development practices, such as pervious surfaces and bioswales, to the extent feasible.
- (c) Setbacks. Except where necessary for ADA access or where no other locations are feasible, new parking areas for approved shoreline uses must be located landward of the primary facility or activity.
 - (d) Screening. New parking areas must be screened from view of shoreline areas and nearby properties through the planting of compatible, self-sustaining vegetation to be planted within six months of facility completion. Screening is to be effective within two years of planting.
- (6) Shoreline road ends
- (a) RCW 36.87.130 prohibits the County from vacating any county road which abuts a body of salt or fresh water except for port, recreational, educational, or industrial purposes.
 - (b) Development, alteration, or vacation for any purpose of county road ends within shoreline jurisdiction must comply with the provisions of the SMA and this SMP.
- (7) A driveway for an individual single-family home is considered a residential appurtenance and is considered part of the primary use, subject to Residential Development standards of this SMP. Private driveways or private roads serving more than one home are subject to the standards of this section. Shared driveways are preferred where they result in less impervious area and thereby reduce potential adverse shoreline impacts. (Planning Commission comment)
- (8) New transportation and parking projects must also be consistent with applicable public access regulations in SCC 14.26.360.
- (9) Airports and landing fields. Airport facilities must be designed and operated so that:
- (a) All facilities that are non-water-dependent must be located outside of shoreline jurisdiction, if feasible. When sited within shoreline jurisdiction, uses and

developments such as parking, hangars, service buildings and areas, access roads, utilities, signs, and storage of materials must be located to comply with the applicable shoreline and critical areas buffer,

- (b) New or upgraded airport facilities must minimize impacts on shoreline ecological functions, including control of pollutant discharge and comply with the applicable regulations in SCC 14.26.310 and SCC 14.26.350.

(10) Float planes.

- (a) Operation of a single private float plane on waters where FAA has designated a seaplane landing area is not regulated by this SMP.
- (b) Moorage of a float plane is addressed in SCC 14.26.420 Mooring Structures.
- (c) Commercial float plane facilities, including docks and storage area bases, are permitted provided such bases are not contiguous to residential areas and they meet standards in SCC 14.26.420 Mooring Structures.
- (d) Float plane facilities must be located to minimize short- and long-term noise impacts and other impacts on habitat areas of endangered or threatened species, environmentally critical and sensitive habitats, and migration routes on adjacent parcels and over-flight areas.

14.26.495 Utilities

- (1) Applicability. This section applies to upland and in-water facilities and services that generate, transport, process, or store water, sewage, solid waste, electrical energy, communications and pipelines for fuel, oil, natural gas, and petroleum products. (Planning Commission comment to address Tidal Energy)
- (2) Accessory utilities. On-site utilities supporting a permitted shoreline use are considered part of the primary use.
- (3) New utility developments. New utility developments should be located outside shoreline areas whenever feasible.
 - (a) Transmission facilities, such as power lines, cables, and pipelines, must be located outside of the shoreline area where feasible. If located within the shoreline area, transmission facilities must ensure no net loss of shoreline ecological functions through compliance with SCC 14.26.310.
 - (b) The following utility uses are discouraged in shoreline areas. If allowed, such utility uses must ensure no net loss of shoreline ecological functions and no significant adverse impacts to other shoreline resources and values that cannot be mitigated.

- (i) Pipelines and cables on tidelands, particularly those running roughly parallel to the shoreline.
 - (ii) Facilities that require periodic maintenance which disrupt shoreline ecological functions.
- (c) Energy and communication systems including towers and antennas are discouraged in the shoreline areas unless otherwise infeasible. If they are in shoreline areas they must be located to minimize their adverse impacts on shoreline resources.
- (4) Use of existing routes and rights of way. New utilities must be located in existing rights of way and corridors whenever feasible. Specifically power, communications, pipelines, and fuel lines must utilize existing rights-of-way, corridors, and/or bridge crossings and must avoid duplication and construction of new or parallel corridors in all shoreline areas. Proposals for new corridors or water crossings must fully substantiate the infeasibility of existing routes.
- (5) Undergrounding required. Electrical and communication transmission lines must be placed underground whenever technological developments make this technique feasible. All utilities for new subdivisions, mobile home parks, public and private recreation and second home developments, and PUDs must be installed underground in shoreline areas.
- (6) General standards. All new utility facilities must be designed and located to meet the following criteria while meeting the needs for planned growth:
 - (a) Ensure no net loss of shoreline ecological functions through compliance with SCC 14.26.310 and SCC 14.34;
 - (b) Preserve the natural landscape;
 - (c) Locate and design the project to avoid the need for new structural shoreline stabilization or flood hazard reduction facilities;
 - (d) Screen facilities from water bodies. Such screening or landscaped areas must consist of native, self-sustaining vegetation to be planted immediately following utility construction or, in the case of existing vegetation, such vegetation must be effectively maintained as screening; and
 - (e) Minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations.
 - (f) Avoid impacts to fish and wildlife habitat to the maximum extent possible.

- (g) The utility installation must not change the natural rate, extent, or opportunity of channel migration .
- (7) Standards – Floodplains, Floodways:
- (a) Utility development that would measurably and adversely affect flood levels and capacities is not permitted.
 - (b) Utility development that would in any way adversely affect floodway characteristics and capacities is not permitted.
- (8) Standards – landfills not permitted. Landfilling of all shoreline areas for facility or line development purposes is not permitted.
- (9) Underground utility lines. For those utility lines allowed in or across shoreline areas and installed underground or underwater, the following standards apply:
- (a) Underwater utility lines must enter and emerge inland from fresh and salt water banks, dikes, beaches, or shorelands.
 - (b) Banks, dikes, beaches, or shorelands where such facilities enter or leave water bodies must be returned to their pre-construction condition, stabilized with compatible, self-sustaining vegetation, and maintained in a safe condition.
 - (c) Underground (or water) utility lines must be completely buried under the river bed in all river or stream crossings except where such lines may be affixed to a bridge structure and except for appropriate water or sewage treatment plant intake pipes or outfalls.
- (10) Surface utility lines. For those utility lines allowed in or across shoreline areas and installed on the surface, the following standards apply:
- (a) Surface utility lines must minimize crossings of shoreline areas and utilize the shortest, most direct route feasible.
 - (b) Permitted water crossings requiring structural abutments or approach fills must set back such facilities landward of the OHWM.
 - (c) Permitted wetland crossings must utilize pier or open pile techniques only. Landfills are not permitted.
- (11) Aerial utility lines. For those utility lines allowed in or across shoreline areas and installed in an aerial manner, the following apply:

- (a) Aerial utility lines must minimize crossing of shoreline areas and must utilize existing crossings where feasible. All crossings must utilize the shortest, most direct route feasible.
 - (b) Aerial utility lines must make maximum use of area topography to minimize visual contrasts.
- (12) Surface Water and Stormwater Outfalls. (Planning Commission comment to address outfalls)
- (a) Stormwater outfalls to shorelines or other water bodies must be constructed in a manner that duplicates the functions and appearance of a natural stream or creek discharging into the water body.
 - (b) All outfalls must install vegetation consistent with SCC 14.26.340.
 - (c) Stormwater outfalls must be set back from the water's edge and discharged onto appropriate materials such as rocks, logs, and other natural materials to mimic the appearance of a natural-looking creek flowing into the water body. Such outfalls must comply with the flow and discharge requirements of SCC 14.32.
 - (d) Stormwater outfalls must be designed and installed so that during periods of heavy rainfall the velocity and quantity of runoff will not be detrimental to important aquatic life in the receiving waters, and so that it does not flood adjacent land. The Administrative Official may condition the proposed outfall location and design to ensure aesthetic compatibility and to reduce adverse environmental impacts.
- (13) Hydropower facilities. Flowlines and powerhouses are subject to the following additional standards:
- (a) Flowlines and powerhouses must be designed, located, and constructed in a manner that avoids extensive topographical alteration and avoids impacts to shoreline ecological function and critical areas, consistent with SCC 14.26.310.
 - (b) Flowlines and powerhouses must be designed to minimize the removal of riparian vegetation and to return flow to the stream in as short a distance as practical.
 - (c) Surface flowlines must be designated, located, and constructed to present as low a profile as possible.
 - (d) All intake and diversion structures must be designed to maximize the natural transportation of bedload materials to the greatest extent possible.

- (e) Where site conditions permit, powerhouses must be located a minimum of 50 feet from the OHWM, provided that this does not apply to tailraces.
 - (f) Impoundments must be located to minimize impacts to critical areas, shoreline natural features, and important scenic vistas.
- (14) Solar energy. Solar energy panels are subject to the regulations for the primary use of the building as well as any general standards of this SMP. (Planning Commission comment to address solar energy)
- (15) Tidal and wave energy facilities. (Planning Commission Comment to address tidal energy; example language from draft Bainbridge Island and Island County SMPs)
- (a) Tidal and wave energy facilities must be installed so that water quality and marine life will not suffer degradation and that no net loss of ecological function will result, consistent with SCC 14.26.310.
 - (b) System components of tidal and wave energy or tidal power-generating facilities which are not water-dependent must be located outside shoreline jurisdiction unless alternative locations, including alternative technology, are demonstrated to be infeasible. Location of the system components must not result in a net loss of shoreline ecological functions and processes or significant adverse impacts to other shoreline resources and values such as parks and recreation facilities, public access or archaeological, historic and cultural resources, or aesthetic resources.
- (16) Maintenance. Maintenance and repair of legally established pre-existing utility facilities is permitted consistent with the use and modifications matrix in SCC 14.26.180 and SMP Part VI. Maintenance activities must: (Planning Commission comment to address utility maintenance)
- (a) Protect shoreline and critical area habitat consistent with vegetation conservation, critical area, and other development standards of this SMP;
 - (b) Provide stormwater management practices to reduce both water quantity and water quality impacts, where appropriate;
 - (c) Provide appropriate erosion and sediment control practices;
 - (d) Provide appropriate revegetation of disturbed areas following maintenance or repair; and
 - (e) Use best management practices for chemical and nutrient use and containment.

Part V: Critical Areas Regulations in Shoreline Jurisdiction

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14.26.500 Application of Critical Areas Ordinance

Where critical areas exist within shoreline jurisdiction, shoreline activities must comply with SCC Chapter 14.24, Critical Areas, as in effect on the date of adoption of this SMP, included in this SMP as Appendix 3, and subject to the additional provisions in this Part.

14.26.510 General Provisions

- (1) Where public notice is required pursuant to SCC 14.24, public notice must be provided pursuant to SCC 14.26.700, Administrative Provisions.
- (2) Critical areas variances must be processed according to the procedures in SCC 14.26.750 and must utilize the most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern.
- (3) Reasonable Use Exceptions pursuant to SCC 14.24.100(5) and SCC 14.24.150 are prohibited. Where an applicant would seek a Reasonable Use Exception for a proposal, the applicant must instead seek relief through a Shoreline Conditional Use or Shoreline Variance Permit. Nothing in this chapter is intended to preclude reasonable use of property or to result in a taking under the U.S. Constitution, the State of Washington Constitution, or substantive due process.
- (4) Project monitoring is required for individual restoration and mitigation projects.

14.26.520 Additional Provisions for Wetlands

- (1) Wetlands must be identified and designated through a site visit, a site assessment, or both, utilizing the definitions, methods, and standards set forth in WAC 173-22-035. All areas meeting the wetland designation criteria in that procedure are critical areas and are subject to the provisions of this Chapter.

- (2) Any temporary erosion and sedimentation control plan, pursuant to SCC 14.24, must meet the minimum requirements of SCC 14.32.060(2), Small Development Erosion and Sedimentation Control Minimum Requirements.

14.26.530 Reserved.

14.26.540 Additional Provisions for Geologically Hazardous Areas

- (1) Known or suspected landslide hazards include channel migration zones.

14.26.550 Additional Provisions for Fish and Wildlife Habitat Conservation Areas

- (1) Standard Lake and Marine Shoreline Buffers Measurement. Lake and marine shoreline buffers must be measured horizontally in a landward direction from the OHWM. Where lands adjacent to a lake or marine shoreline display a continuous slope of 25% or greater, the buffer must include such sloping areas. Where the horizontal distance of the sloping area is greater than the required standard buffer, the buffer must be extended 25 feet beyond the top of the bank of the sloping area.
- (2) Critical Saltwater Habitats. Unless an inventory of critical saltwater habitat has already been completed, applicants proposing a use or modification waterward of the OHWM of Puget Sound or within 50 feet of the OHWM must submit an inventory of the site and adjacent areas to assess the presence of critical saltwater habitats and functions. The methods and extent of the inventory must be consistent with methodology established by Washington State Department of Fish and Wildlife.
- (3) Critical Saltwater Habitat Standards. Any proposed uses or modifications may not intrude into or over critical saltwater habitats except when all of the conditions below are met:
 - (a) The public's need for such an action or structure is clearly demonstrated and the proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020;
 - (b) Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible or would result in unreasonable and disproportionate cost to accomplish the same general purpose;
 - (c) The project, including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat; and
 - (d) The project is consistent with the state's interest in resource protection and species recovery.
- (4) Unavoidable impacts. For development activities with the potential for adverse impacts on water quality or quantity in a fish and wildlife habitat conservation area, a critical

areas site assessment must be prepared that discusses the project's potential to exacerbate water quality parameters that are impaired and for which Total Maximum Daily Loads (TMDLs) for that pollutant have been established, and prescribe any necessary mitigation and monitoring.

- (5) The following additional activities may be permitted within fish and wildlife HCAs:
- (a) Water-dependent uses. Consistent with the use allowances for each environment designation, water-dependent uses, and activities may be located at the water's edge, or as prescribed by conditions added to a permit.
 - (i) Uses, developments, and activities accessory to water-dependent uses should be located outside any applicable standard or reduced shoreline buffer unless at least one of the following is met:
 - (A) a location in the buffer is necessary for operation of the water-dependent use or activity (e.g., a road to a boat launch facility);
 - (B) the use, development, or activity does not conflict with or limit opportunities for other water-oriented uses and is located in parks or on other public lands that are already legally established and whose use is primarily related to access to, enjoyment and use of the water, they;
or
 - (C) the applicant's lot or site has topographical constraints where no other location of the development is feasible (e.g., the water-dependent use or activity is located on a parcel entirely or substantially encumbered by the required buffer).
 - (ii) All other accessory uses, developments, and activities proposed to be located in a riparian, lake, or marine buffer must obtain a Shoreline Variance unless otherwise allowed by other regulations in this section or in this SMP. Applicants are encouraged to consider the options of buffer averaging or buffer reduction and optimally implement mitigation sequencing prior to applying for a Shoreline Variance.
 - (b) Public facilities and other water-oriented uses. Consistent with the use allowances for each environment designation, other essential public facilities as defined by RCW 36.70A.200, public access and recreation facilities, and their accessory uses and developments may be located in the shoreline buffer if the use or activity cannot be reasonably accommodated or accomplished outside of the standard or reduced shoreline buffer. Essential public facilities must also demonstrate that alternative sites are not available. These uses and modifications must be designed and located to minimize intrusion into the buffer.

- (6) An applicant who proposes to remove timber within the standard buffer widths may do so if the applicant’s mitigation measures incorporate all of the performance measures based upon water type (for streams or rivers) or environment designation (for marine and lake shorelines) listed in SCC 14.24.540 or the table below:

Environment Designation	Performance Standards
Natural	<p>Maintain 95% of total expected LWD recruitment to the marine or lake shoreline from a mature stand; and Maintain 85% of the trees that are greater than 24 inches DBH within 100 feet of the OHWM; and Maintain an average of 75% canopy cover (based on canopy densitometer readings at the OHWM). The applicant may further request some limited timber harvest of up to 30% of the merchantable timber within the outer 100 feet of any 200-foot required buffer provided the harvest:</p> <p>(a) Does not reduce the LWD and canopy requirements; and (b) The applicant will increase the total buffer size by 50 feet to mitigate for the limited timber harvest in the required buffer to provide additional wildlife habitat. The additional 50-foot buffer must retain a minimum of 50% of the total number of trees with 25% of the total trees left having a diameter at breast height (DBH 4-1/2 feet) greater than 12 inches; and (c) No more than 50% of the dominant trees in the outer 100 feet may be harvested.</p>
Rural Conservancy and Urban Conservancy	<p>Maintain 85% of total expected LWD recruitment to the marine or lake shoreline from a mature stand; and Maintain 85% of the trees which are greater than 18 inches DBH within 100 feet of the OHWM; and Maintain an average of 75% canopy cover (based on canopy densitometer readings at the OHWM).</p>
Shoreline Residential and High Intensity	<p>Maintain 50% of total expected LWD recruitment to the marine or lake shoreline from a mature stand; and Maintain 85% of the trees which are greater than 24 inches DBH within 50 feet of the OHWM; and Maintain an average of 75% canopy cover (based on canopy densitometer readings at the OHWM).</p>

14.26.560 Additional Provisions for Frequently-Flooded Areas

- (1) Development in special flood hazard areas must comply with SCC Chapter 14.34, Flood Damage Prevention.

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

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14.26.600 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. The provisions of this Part apply to structures and uses that were legally established prior to the effective date of this SMP but that do not conform to the regulations of this SMP. Such a use is regulated by SCC 14.26.640; such a structure is regulated by SCC 14.26.630; except that a single-family residence or an appurtenant structure, located landward of the OHWM, is regulated by SCC 14.26.620.

14.26.620 Pre-Existing Single-Family Residences and Appurtenant Structures

- (1) Routine repair and maintenance is allowed, unless precluded by other provisions of this code..
- (2) Enlargement or Expansion.
 - (a) 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.
- (b) Major. Proposed enlargements or expansions that do not meet all of the criteria above require a variance pursuant to 14.26.750.
- (3) Replacement is authorized consistent with the provisions of 14.26.630(3).

14.26.630 Pre-Existing Structures

- (1) Routine repair and maintenance is allowed, unless precluded by other provisions of this code.
- (2) Enlargement or expansion.
 - (a) A structure used for a conforming use but that is nonconforming with respect to setbacks (buffers or yards), area, bulk, height, or density, 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.
- (3) 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) Enlargement and expansion of the use is not allowed except that a nonconforming use may be expanded into any part of its existing structure.

- (2) Change of the use to another nonconforming use is not allowed without obtaining 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 proposed use can meet the criteria for granting conditional use permits, SCC 14.26.730.
- (3) Abandonment. If the use is discontinued for 12 consecutive months or for 12 months during any two-year period, the nonconforming rights expire and any subsequent use must be conforming.

Part VII: Administration

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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.

14.26.710 Applications

- (1) Procedures. Applications are processed pursuant to SCC 14.06, Permit Procedures, as now adopted or hereafter amended. Where this Part requires different procedures, public notice, or timelines, the provisions of this Part control.

- (2) Application Level. Shoreline applications are classified as follows:

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

- (3) Application Requirements. Permit applications must be consistent with SCC 14.06.090, Application Requirements; specific 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 Administrator 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.
- (4) Fees. The applicant must pay the application fee at the time of application.

14.26.715 Shoreline Permits

- (1) Initiation of Development.
- (a) As set forth in WAC 173-27-190, each Substantial Development Permit, Conditional Use Permit, or variance, issued by local government must contain a provision that construction pursuant to the permit may not begin and is not authorized until twenty-one 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 twenty one days from the date of such filing have terminated; except as provided in RCW 90.58.140(5)(a) and (b).
- (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 WAC 173-27-090.

- (4) Local government approval, pursuant to WAC 173-27-130, occurs when the order or ruling, whether it be an 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 regulations 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) Pursuant to 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) Pursuant to WAC 173-27-040(1)(b), exemption from the permit requirement is not an exemption from the substantive regulatory requirements of the SMA or this SMP.
- (3) Written Statement of Exemption.
 - (a) A letter of exemption is required for all development qualifying for a Substantial Development Permit exemption.
 - (b) Contents of letter of exemption. Consistent with WAC 173-27-050, a letter of exemption must contain the following:
 - (i) the specific exemption provision from WAC 173-27-040 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) Pursuant to 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) Pursuant to 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) Pursuant to 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 14.26.760, Permit Exemptions.
- (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) Skagit County may attach conditions to the approval of permits as necessary to ensure consistency of the project with the SMA and this SMP.
- (4) Filing with Ecology.
 - (a) Pursuant to WAC 173-27-130, after a final decision on a Substantial Development Permit, the Administrative Official must submit the permit to the Department of Ecology.
 - (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.
 - (a) 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.
 - (b) Uses that are specifically prohibited by this SMP may not be authorized as a conditional use.
- (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;
 - (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) Filing with Ecology.
 - (a) Pursuant to WAC 173-27-200, after County approval of 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 of transmittal of Ecology’s final decision on the conditional use permit to the County and the applicant.
- (4) Notice. 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 or unique circumstances relating 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.
 - (a) Variances should be granted in circumstances where denial of the permit would result in a thwarting of the policies enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.
 - (b) Variances from the use regulations of the SMP are prohibited.
- (2) Types. There are two types of variance applications: 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) Review Criteria. These criteria apply to the review for both administrative and Hearing Examiner variances.
 - (a) Pursuant to 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 unique 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.
- (b) Pursuant to 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.
- (c) Any variance request that includes a buffer reduction must also address the requirements of SCC 14.24.140(3).
- (d) Cumulative impacts. Pursuant to WAC 173-27-170, 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.
- (4) 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) The Administrative Official must submit the variance application after local government approval 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 of transmittal of Ecology’s 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 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 a final decision on 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. 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 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.

14.26.770 Jurisdiction or Environment Designation Boundary Dispute Resolution Process

Pursuant to SCC 14.26.200(3), Environment Designation Interpretation, where uncertainty or a conflict may exist in determining the location of a jurisdiction boundary, or an environment boundary, the Administrative Official may resolve the uncertainty by applying the environment designation management criteria in SMP Part II and the following:

- (1) Boundaries indicated as approximately following the centerlines of streets, highways or alleys must be construed to follow such lines.
- (2) Boundaries indicated as approximately following platted lot lines must be construed as following such lot lines.
- (3) Boundaries indicated as following railroad lines must be construed to be halfway between railroad right-of-way lines.
- (4) 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.
- (5) Boundaries indicated as parallel to or an extension of features indicated in subsections (1) through (4) must be so construed.

- (6) 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.
- (7) Where resolution is not possible using the criteria above, the Administrative Official has authority to interpret the boundaries.

14.26.780 Permit Appeals

- (1) Administrative appeals must be in accordance with SCC Chapter 14.06. Where standards or procedures for Shoreline Permits in this Chapter are in conflict with SCC 14.06, this chapter applies.
- (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) 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 173-26.

14.26.790 Monitoring

- (1) The Administrative Official 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 (area, 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 Amendment 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) Generally.
- (a) Consistent with the review periods 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 pursuant to the Growth Management Act, RCW 36.70A.130(2)(a)(iii).
- (2) 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 Department must forward the amendment to Ecology for review and approval in accordance with RCW Chapter 90.58 and WAC 173-26-110.

Part VIII: Definitions

14.26.810 Applicability

- (1) Scope. The definitions in this Part apply to terms used in SCC Chapter 14.26 and the rest of the Skagit County Shoreline Master Program. The definitions in SCC Chapter 14.04 do not apply to terms used in SCC Chapter 14.26.
- (2) Rules of Construction.
 - (a) Tense and number. When consistent with the context, words used in the present tense include the future; the singular include the plural, and the plural the singular.

14.26.820 Definitions

Accessory development or **accessory use** means any structure or use incidental, subordinate, and usually near a primary shoreline development or use.

Accretion shoreform or **accretion beach** means a shoreline with a continuous, relatively wide backshore which has been built up by long term deposition of sand and gravel carried by littoral drift or stream currents along a driftway with the material coming from a feeder or erosion bluff, upstream river banks, or other sources. Such shoreforms are scarce locally in a natural condition and include barrier beaches, points, spits, pocket beaches, and point or channel bars in streamways.

Agricultural activities means agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation. [WAC]

Agricultural equipment and **agricultural facilities** include, but is not limited to:

- The following used in agricultural operations: equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including but not limited to pumps, pipes, tapes, canals, ditches, and drains;
- corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;
- farm residences and associated equipment, lands, and facilities; and
- roadside stands and on-farm markets for marketing fruit or vegetables. [WAC]

Amendment means a revision, update, addition, deletion, and/or reenactment to an existing shoreline master program. [WAC]

Approval means an official action by a local government legislative body agreeing to submit a proposed shoreline master program or amendments to the Department of Ecology for review and official action pursuant to the Guidelines; or an official action by the Department of Ecology to make a local government shoreline master program effective, thereby incorporating the approved shoreline master program or amendment into the State Master Program. [WAC]

Aquaculture means the culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the State-managed wildstock geoduck fishery.

Archaeological resources means resources that comprise the physical evidence of an indigenous and subsequent culture including material remains of past human life including monuments, symbols, tools, facilities, and technological by-products. [Based on RCW 27.53.030(2).

Associated wetlands are wetlands that are in proximity to tidal waters, lakes, rivers or streams that are subject to the Act and either influence or are influenced by such waters. Factors used to determine proximity and influence include, but are not limited to: location contiguous to a shoreline water body, formation by tidally influenced geo-hydraulic processes, presence of a surface connection including through a culvert or tide gate, location in part or whole within the floodplain of a shoreline, periodic inundation, and/or hydraulic continuity. [WAC/other Ecology sources]

Average grade level means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure: In the case of structures to be built over water, average grade level is the elevation of the OHWM. Calculation of the average grade level is made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure. [WAC]

Backshore is the area on marine shores located above the OHWM or high tide level, except during storms and unusually high tides; it is normally composed of deposited sand and/or gravel materials and includes all marshes or meadows which may form behind such a berm of material.

Barrier Beach means a linear berm shoreform of sand and gravel accreted seaward of bluffs, bays, marshes or estuaries by littoral drift; the berm acts as a natural dike and seawall to its backshore or marsh hinterland.

Beach Feeding is an artificial process in which selected beach material is deposited at one or several locations in the updrift portion of the drift sector. The material is then naturally transported by waves or currents downdrift to stabilize or restore accretion beaches and berms, which may be eroding due to artificial obstructions in the shore process corridor.

Bedlands means those submerged lands below the line of extreme low tide in marine waters and below the line of navigability of navigable lakes and rivers.

Berm means one or several lineal deposits of sand and gravel generally paralleling the shore at or landward of OHWM; berms are naturally stable because of material size or vegetation.

Best management practices (BMPs), agricultural means practices or structures designed to reduce the quantities of pollutants such as sediment, nitrogen, phosphorus, and animal wastes that are washed by rain and snow melt from farms into nearby surface waters such as lakes, creeks, streams, rivers, and estuaries. Agricultural BMPs can include fairly simple changes in practices such as fencing cows from streams to keep animal waste out, planting grass in gullies where water flows off a planted field to reduce the amount of sediment that runoff picks up as it flows to rivers and lakes, reducing the amount of plowing in fields where row crops are planted to reduce soil erosion and nitrogen and phosphorus loss from fertilizers applied to the crop land. BMPs can also involve building structures, such as large animal waste storage tanks that allow farmers to choose when to spread manure on their fields as opposed to spreading it based on accumulated volume. [SCC]

Best management practices (BMPs), critical areas means physical or structural tools and/or management practices which, when used singularly or in combination, prevent or reduce adverse impacts to critical areas or their buffers. When used in the context of agricultural activities, BMPs refers to the most current conservation practice standards developed by the Natural Resource Conservation Service (NRCS) and contained in the Field Office Technical Guide, or other practices identified by NRCS, an NRCS technical service provider, or other qualified professional as adequately addressing the applicable resource impact issues to meet the requirements of the Critical Areas Ordinance, Chapter 14.24 SCC. In cases where new standards have been developed to address requirements under the Endangered Species Act, these new standards apply. Where no new standard has been developed, the existing NRCS standard applies. BMPs are used in various voluntary Federal programs that provide technical support and funding incentives. [SCC]

Boathouse means any walled or covered structure built onshore or offshore for the wet or dry moorage of watercraft or float planes. They are usually common to a single-family residence and will, as such, be treated as an accessory use or garage.

Boating facilities means all in-water and overwater structures and uses that facilitate as their primary purpose the launching or mooring of vessels into marine or fresh waters that serve an individual single-family residence, multiple dwelling units, or public or commercial enterprises.

Bog means a soft, wet, spongy area consisting primarily of decaying and decayed moss and other vegetable matter; bogs represent the final stage of the natural process (eutrophication) by which lakes are very slowly transformed into land; bogs are sometimes mined for peat on a commercial basis; bogs are often an intake for ground water (aquifer recharge area).

Breakwaters are offshore structures generally built parallel to shore and may or may not be connected to land. Their primary purpose is to protect harbors, moorages and navigation activity from wave and wind action by creating stillwater areas along shore. A secondary purpose is to protect shorelines from wave caused erosion. Breakwaters may be fixed, i.e., made of quarry rock, floating, or submerged. [new/current SMP]

Building means any structure designed for or used for the support, shelter, or enclosure of persons, animals, or personal property, and which is used in a fixed location on land, shorelands, or tidelands.

Bulkheads are wall-like structures normally constructed parallel to shore and near the high water mark and are for protecting the shore and uplands from erosion by current and wave action; they may also be for retaining uplands and fills that are prone to sliding, mass movement, or erosion. "Normal protective" bulkheads are the former, utilized to protect single-family residences and properties.

Channel migration zone (CMZ) means the area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings. [WAC]

Channelization is the straightening, deepening or lining of stream channels, and/or prevention of natural meander progression of streamways, through artificial means such as relocation of channels, dredging, and/or placement of continuous levees or bank revetments along significant portions of the stream. Dredging of sediment or debris alone is excluded.

Chemicals means any substance, some synthetic, or mixture of such substances used as a fertilizer, herbicide, pesticide, insecticide, or rodenticide.

Commercial developments or uses are those activities which are involved in wholesale, retail, service, and business trade. Included are hotels, motels, grocery markets, shopping centers, restaurants, shops, private or public rental campgrounds or cabins, and indoor recreation facilities. Not included are private camping grounds, residential or recreation subdivisions, marinas, or ports and industry.

Community dock is a dock development providing moorage for pleasure craft and/or landing for water sports for use in common by residents of a certain subdivision or community or for use by patrons of a public park or quasi-public recreation area, including rental of nonpowered craft. If a community dock includes covered moorage and/or commercial sale of goods or services, that portion is considered a marina.

Comprehensive master program update means a master program that fully achieves the procedural and substantive requirements of the Department of Ecology Guidelines effective January 17, 2004, as now or hereafter amended. [RCW]

Conditional use means a use, development, or substantial development which is classified as a conditional use or is not classified within this master program. [WAC]

Covered moorage is a roofed, floating or fixed offshore structure usually without walls other than minimal structural framework needed to support the roof, for the moorage of watercraft or float planes, generally associated with marinas.

Critical areas as defined under chapter 36.70A RCW includes the following areas and ecosystems:
Wetlands;

Areas with a critical recharging effect on aquifers used for potable waters;

Fish and wildlife habitat conservation areas;

Frequently flooded areas; and

Geologically hazardous areas. [WAC]

Critical saltwater habitats include all kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sandlance; subsistence, commercial and recreational shellfish beds; mudflats; intertidal habitats with vascular plants; and areas with which priority species have a primary association. [WAC]

Cumulative impact is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor, but collectively significant, actions taking place over a period of time.

Current deflector is an angled "stub-dike," groin, or sheet-pile structure which projects into a stream channel to divert flood currents from specific areas, or to control downstream current alignment; can be used as an alternative to direct streambank riprap.

Dam means a barrier across a streamway to confine or regulate streamflow or raise water level for purposes such as flood or irrigation water storage, erosion control, power generation, or collection of sediment or debris.

Department means the Skagit County Planning and Development Services department, unless otherwise noted.

Development means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel or minerals; bulkheading; driving of piling, placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the SMA at any stage of water level. [RCW/original SMP]

Development regulations means the controls placed on development or land uses by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a shoreline master program other than goals and policies approved or adopted under chapter 90.58 RCW, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto. [WAC]

Dike is a man-made embankment or revetment normally setback from the river bank or channel in the floodplain for the purpose of keeping floodwaters from inundating adjacent land; material is normally river sand or gravel.

Docks are structures generally built from the shore extending out over the water to provide moorage for commercial and/or private recreation watercraft or float planes or for water-oriented recreation use. Docks may either be anchored to and floating or permanently fixed to pilings. They do not include recreational floats, covered moorages, boathouses, water ski jumps, or launch ramps.

Document of record means the most current shoreline master program officially approved or adopted by rule by Skagit County, including any changes resulting from appeals filed pursuant to RCW 90.58.190. [WAC]

Dredging is the removal of bed material from below the OHWM or wetlands using other than unpowered, hand-held tools. [Based on WAC 220-110-020(25)].

Dredge material or spoil refer to is the material removed by dredging.

Drift cell, drift sector, or littoral cell means a particular reach of marine shore in which littoral drift may occur without significant interruption and which contains any natural sources of such drift and also accretion shore forms created by such drift. [WAC]

Driftway is that portion of the shore process corridor, primarily the upper foreshore, and lower backshore, if any, through which sand and gravel are transported by the littoral drift process. The driftway is the essential component between the feeder bluff(s) and accretion shoreforms (2) of an integral drift sector. Driftways are also characterized by intermittent, narrow backshores.

Ecological functions or shoreline functions means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. [WAC]

Ecosystem-wide processes means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions. [WAC]

Eelgrass means *Zostera marina* and does not include any non-native species, such as *Zostera japonica*.

Essential Public Facility means those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities as defined in RCW 81.112.020, state and local correctional facilities, solid waste handling facilities, and in-patient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 71.09.020.

Estuarine zone, estuary is the zero gradient sector of a stream where it flows into a standing body of water together with associated natural wetlands; tidal flows reverse flow in this zone twice daily, determining its upstream limit. It is characterized by low bank channels (distributaries) branching off the main streamway to form a broad, near-level delta; bank, bed and delta materials are silt and clay, banks are stable, vegetation ranges from marsh to forest, and water is usually brackish due to daily mixing and layering of fresh and salt water. Estuarine shores are rich in aquatic and other bird and animal life, and in their natural condition are the most productive of all shoreline habitats in terms of contributions to the marine food chain.

Exempt developments are those set forth in WAC 173-27-040 and RCW 90.58.030 (3)(e), 90.58.140(9), 90.58.147, 90.58.355, and 90.58.515 which are not required to obtain a substantial

development permit but which must otherwise comply with applicable provisions of the Act and this Master Program. [WAC]

Extreme low tide means the lowest line on the land reached by a receding tide. [RCW]

Fair market value of a development is the open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development includes the fair market value of any donated, contributed or found labor, equipment or materials. [WAC]

Feasible means, for the purpose of this master program, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;

The action provides a reasonable likelihood of achieving its intended purpose; and

The action does not physically preclude achieving the project's primary intended legal use. In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant.

In determining an action's infeasibility, the County may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames. [WAC]

Feedlot is an enclosure or facility used or capable of being used for feeding all forms of livestock hay, grain, silage, or other feed, but does not include land for growing crops or vegetation for livestock feeding and/or grazing nor does it include normal livestock wintering operations.

Feeder bluff means any bluff or cliff experiencing erosion from waves, or sliding or slumping, whose eroded sand and gravel material is naturally transported via a driftway to an accretion shoreform.

Fill means the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material in a manner that raises the elevation or creates dry land. [WAC]

First Class Tidelands - The lands lying within, or in front of, the corporate limits of any city or within one mile thereof, upon either side (of the corporate limits) between the line of ordinary high tide and the inner harbor line; and within two miles on either side of corporate limits between the line of ordinary high tide and the line of extreme low tide. (DNR, 1973)

Fish and Wildlife Habitat Conservation Areas. Areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as designated by WAC 365-190-080(5). These areas include: [SCMC 14.24.500]

Areas with which endangered, threatened, and sensitive species have a primary association;

Habitats and species of local importance that have been designated by the County;

All public and private tidelands suitable for shellfish harvest;

Kelp and eelgrass beds, herring and smelt spawning areas;

Naturally occurring ponds under 20 acres with submerged aquatic beds that provide fish or wildlife habitat;

Waters of the State as defined by WAC 222-16-030;

Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;

Areas with which anadromous fish species have a primary association;

State natural area preserves and natural resource conservation areas;

Other aquatic resource areas;

State priority habitats and areas associated with State priority species as defined in WAC 365-190-080; and

Areas of rare plant species and high quality ecosystems as identified by the Washington State Department of Natural Resources through the Natural Heritage Program in Chapter 79.70 RCW.

Float plane

Floating homes include both permanently or temporarily fixed or docked units utilized for full or part time residential or recreational purposes. Permanently fixed units include those non-maneuverable structures that are affixed to a dock, piling, or other permanent anchor system yet allowed to rise and fall with changes in water level. Temporarily fixed units include all maneuverable houseboats; liveaboards, and other watercraft that are not permanently affixed to a dock, piling, mooring, or anchor system.

Recreational float means a platform structure anchored in fresh or marine waters for water recreational purposes such as swimming, diving, or water skiing to include jump ramps. They may serve as temporary moorage facilities (not overnight) but for the purposes of this master program are not considered as a dock, pier, or mooring buoy. Except for floats that are part of a pier or dock, floats used primarily for moorage are prohibited.

Flood control works and flood protection mean all structures and works on streams designed to retard bank erosion, reduce flooding of adjacent lands, to control or divert stream flow, or to create reservoir, including but not limited to revetments, dikes, levees, channelization, dams, vegetative stabilization, weirs, flood and tidal gates. Excluded are water pump apparatus.

Flood protection includes the above structural devices but may also include various techniques of floodplain, river basin, and watershed management which may be applied in lieu of or complementary to structural measures.

Floodplain is synonymous with one hundred-year floodplain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit

of this area is based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the Act. [WAC]

Floodplain management means a long-term local government program to reduce flood damages to life and property and to minimize public expenses due to floods through a comprehensive system of planning, development regulations, building standards, structural works, and monitoring and warning systems.

Flood protection - See "Flood control works and flood protection" above.

Floodway means the area, as identified in a master program, that either

Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or

consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually. Regardless of the method used to identify the floodway, the floodway does not include those 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. [RCW/WAC]

Floodway fringe means that fringe of land in the floodplain outside the floodway which is subject to inundation by the base flood. Flooding in the fringe is limited to flood surge storage of water currents moving at a negligible velocity of less than 0.5 miles per hour.

Foreshore is the intertidal zone between the mean higher high tide line and the mean lower low tide line; in regards to lateral longshore drift of beach materials, the upper section of the foreshore represents the active material transport zone.

Forest management practices are those methods and activities used for the protection, production and harvesting of timber products. Such activities include, but are not necessarily limited to road (including bridge and watercrossings) and trail construction, all harvesting phases, thinning, reforestation, fertilization, prevention and suppression of diseases and insects, tree salvage, and debris and brush control.

Excluded from this definition is preparatory work such as tree marking, surveying, and removal of incidental vegetation such as berries, greenery, or other natural products whose removal cannot normally be expected to result in damage to shoreline natural features. Log storage away from forestlands is considered under Industry.

Gabions are shore defense works made up of rock, rubble, or masonry enclosed by wire mesh to form massive blocks to act as walls on beaches to prevent wave erosion, as foundations for breakwaters or jetties, or as a form of stream bank stabilization.

Geohydraulics is the action of erosion - transport - accretion that produces, alters, or maintains a shore form.

Geotechnical report or **geotechnical analysis** means a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports must conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes. [WAC]

Grading means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land. [WAC]

Groins are wall-like structures built seaward from the shore into the intertidal zone. Their purpose generally is to build or preserve an accretion beach by trapping littoral sand drift on the updrift side. Groins are usually narrow in width, vary in length, and may be built in a series along a shore; they may be permeable, impermeable, high or low, and fixed or adjustable according to drift conditions.

Guidelines means those standards found in WAC 173-26 Part III adopted to implement the policy of RCW 90.58 for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards must also provide criteria to local governments and the Department of Ecology in developing master programs. [RCW/WAC/original SMP]

Hazardous area means any shoreline area which is hazardous for intensive human use or structural development due to inherent and/or predictable physical conditions, such as but not limited to: steep slopes, unstable soils or bedrock, feeder bluffs, other erosion prone uplands, floodways, or marine storm tide inundation areas.

Hazardous materials means any substance other than oil containing such elements or compounds which when discharged in any quantity in shorelines present an imminent and substantial danger to public health or welfare; including but not limited to fish, shellfish, wildlife, water quality, and other shoreline features and property.

Height is measured from average grade level to the highest point of a structure; provided that television antennas, chimneys, and similar appurtenances may not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable master program specifically requires that such appurtenances be included. Temporary construction equipment is excluded in making height calculations. [WAC]

Historic resources means resources related to peoples and cultures who are known through written documents in their own or other languages. As applied to underwater archaeological

resources, the term historic includes only those properties which are listed in or eligible for listing in the Washington State Register of Historic Places or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 as now or hereafter amended. [Based on RCW 27.53.030(8)]

Impoundment, for the purposes of this master program, is the body of water retained by a dam structure for the chief purposes of flood control, livestock watering, irrigation supplies, recreation, fish rearing, or property enhancement.

Industrial development, industry means privately owned/operated facilities for the processing, manufacturing, storage, and transfer of raw, semi-finished, or finished goods.

Inland means that land area which lies beyond shoreline management jurisdiction or 200 feet from the OHWM, whichever is greater.

Institutional development means those public and/or private facilities including, but not limited to, police and fire stations, libraries, activity centers, schools, educational and religious training centers, water-oriented research facilities, and similar non-commercial uses.

In-stream structure means a structure placed by humans within a stream or river waterward of the OHWM that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose.

Jetties are structures generally built perpendicular to the shore extending through or past the intertidal zone or foreshore. They are built singly or in pairs at harbor entrances or river mouths mainly to prevent the shoaling or accretion of littoral sand drift. Jetties also protect channels and inlets from storm waves and crosscurrents.

Joint-use docks are those constructed and utilized by two, three, or four residential units, whether on adjacent lots as single-family residences or as multi-family units, or by a homeowner's association. A dock that serves more than four residential units is a community dock. [new]

Launch ramp is an enclosed slab, set of pads, planks, or graded slope used for launching boats with trailers or occasionally by hand; extensive parking and turn around areas are usually accessory to launch ramps.

Levee means a natural or man-made embankment on the bank of a stream for the purpose of keeping floodwaters from inundating adjacent land. Some levees have revetments on their sides.

Limited master program amendment means a master program amendment that addresses specific procedural and/or substantive topics and which is not intended to meet the complete requirements of a comprehensive master program update. (see WAC 173-26-201(1)(c)) [WAC]

Littoral drift means the natural movement of sediment, particularly sand and gravel, along marine or lake shorelines by a combination of wave, current action, and prevailing winds (see also driftway, drift sector).

Local government means any county, incorporated city or town which contains within its boundaries shorelines of the state subject to chapter 90.58 RCW. [WAC]

Marinas are fresh or salt water facilities that provide storage (wet and/or dry), launch areas, supplies, and services for pleasure and/or fishing craft. Marinas may be available to the general public through rental or fee agreements or they may be totally private, or for members of a yacht or country club, or a recreational subdivision. Moorage facilities for recreational subdivisions which provide no other services besides moorage are considered community docks.

Marine means pertaining to tidally influenced waters, including oceans, sounds, straits, marine channels, and estuaries, including the Pacific Ocean, Puget Sound, Straits of Georgia and Juan de Fuca, and the bays, estuaries and inlets associated therewith. [WAC]

Marine storm tide inundation area means the low-lying portions of marine shores subject to flooding from storm tides and/or surges of a magnitude which have a one percent chance of occurring in any given year. Such areas are not yet precisely mapped but typically are the natural wetland and accretional shoreforms of less than 20 feet elevation mean sea level.

Marsh means a flat, low lying area periodically or continuously flooded by fresh or salt waters at a shallow level, and characterized by grasses and other primary plants; trees or deep water are not characteristic.

Mooring buoys are those accessories used for the offshore moorage of pleasure craft. These accessories, usually provided by the boat owner, are normally used where docking facilities are not available or when depth to water bottom and tidal changes are insufficient to allow docking for deep hulled craft.

Multi-family dwelling unit means a building designed or used for a residence by three or more household or family units, including but not limited to rowhouses, apartments, condominium complexes, townhouses.

Natural or existing topography means the topography of the lot, parcel, or tract of real property immediately prior to any site preparation or grading, including excavation or filling. [WAC]

Non-conforming development or use for the purposes of this SMP means a development in lawful use at the effective date of adoption or amendment as appropriate, of this SMP, which is either prohibited by or does not conform to regulations and policies of this SMP, including Shoreline Area designations.

Nonwater-oriented uses means those uses that are not water-dependent, water-related, or water-enjoyment. [WAC]

Normal protective bulkhead - See "Bulkhead".

Official signs are directional and other signs or notices erected and maintained by public offices or agencies pursuant to and in accordance with city, county, state or federal law for the purpose of carrying out an official duty or responsibility.

Off-premise sign is a sign situated on premises other than those premises to which the sign's message is related.

On-premise sign is a sign, located on the premises, advertising the goods, services, or activities, manufactured, produced, conducted or available on that property.

Open space means land and natural wetlands which retain their natural or semi-natural character because they have not been developed with structures, paving, or other development and, for the purposes of this SMP, are normally required of residential and/or recreational developments.

Ordinary high water mark (OHWM) on all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department: PROVIDED, That in any area where the OHWM cannot be found, the OHWM adjoining salt water is the line of mean higher high tide and the OHWM adjoining freshwater is the line of mean high water. [RCW]

Overwater homes are all structures utilized on a full- to part-time residential basis that are permanently and rigidly affixed to the land, docks, piling or other permanent anchor systems over water bodies.

Party of record includes all persons, agencies or organizations who have submitted written comments in response to a notice of application; made oral comments in a formal public hearing conducted on the application; or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail. [WAC]

Pastoral zone means the lower gradient sector of a stream with a slope of less than five but more than zero feet per mile, and is downstream from the braided zone. It is characterized by a single channel streamway with meander bends looping across a floodplain; bed material of fine gravel to sand grading down to silt; and low, near vertical banks and broad point bars with limited beaches. The Pastoral is normally upstream from the Estuarine zone.

Person means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated. [WAC/original SMP]

Piers or wharves are those large, platform structures, fills or anchored devices in or floating upon water bodies built primarily for commercial, industrial, and port-related ship traffic, development, and related activities; including but not limited to boardwalks, monobuoys, sea islands, quays, and ferry terminals.

Point means a low profile shore promontory which may be either the wave-cut shelf remaining from an ancient bluff or the final accretional phase of a hooked spit which closed the leeward side

gap. Points are characterized by converging berms accreted by storm waves, which enclose a lagoon, marsh, or meadow, depending on the point's development stage.

Point bar means an accretion shoreform created by deposition of sand and gravel on the inside, convex side of streamway bends. Most material is transported downstream as sediment and bedload at times of high current velocity, or flood stage, from eroding banks or other bars upstream.

Ports are public or private facilities for the transfer of cargo and/or passengers to and from waterborne craft, utilizing piers, wharves, sea islands, commercial float plane moorages, offshore buoys, dredged or naturally deep waterways and basins, and cargo transfer equipment. Excluded are marinas and boat ramps used primarily for recreation, boat building and repair, and cargo storage and parking areas not essential to port operations; the latter two groups are considered as industrial or accessory to other uses.

Preferred use or development shall be considered required unless the applicant can demonstrate it is not feasible, the alternative will result in equal or less ecological impact, or the criteria for the non-preferred use has been met.

Priority habitat means a habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes:

- Comparatively high fish or wildlife density;
- Comparatively high fish or wildlife species diversity;
- Fish spawning habitat;
- Important wildlife habitat;
- Important fish or wildlife seasonal range;
- Important fish or wildlife movement corridor;
- Rearing and foraging habitat;
- Important marine mammal haul-out;
- Refugia habitat;
- Limited availability;
- High vulnerability to habitat alteration;
- Unique or dependent species; or
- Shellfish bed.

A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as a consolidated marine/estuarine shoreline, talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife. [WAC]

Priority species means species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below.

Criterion 1. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the department of fish and wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.

Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.

Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.

Criterion 4. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered. [WAC]

Professional archaeologist means a person with qualifications meeting the federal secretary of the interior's standards for a professional archaeologist. [Based on RCW 27.53.030]

Protective berms are naturally or artificially placed linear mounds of gravel, sand, and beach material lying parallel to the shore at or above the OHWM. Berms can be the most effective and economical defense work if designed and built to suit the conditions.

Provisions means policies, regulations, standards, guideline criteria or environment designations [WAC]

Public access is the public's ability to reach and use the State's public waters, the water/land interface, and associated shoreline area. It includes physical access that is either lateral (areas paralleling the shore) or perpendicular (an easement or public corridor to the shore), and visual access facilitated by means such as scenic roads and overlooks, viewing platform, and other public sites or facilities. [WAC/new]

Public interest means the interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected including, but not limited to, an effect on public property or on health, safety, or general welfare resulting from a use or development. [WAC]

Qualified professional means a person with experience and training in the pertinent discipline, and who is a qualified expert with expertise appropriate for the relevant critical area or shoreline subject. A qualified professional must have obtained a B.S., B.A. or equivalent degree or certification

in biology, engineering, environmental studies, fisheries, geomorphology, landscape architecture, forestry or related field, and two years of related work experience.

A qualified professional for wildlife, habitats or wetlands must have a degree in biology, zoology, ecology, fisheries, or related field, and professional experience.

A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington.

A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.

A qualified professional for vegetation management must be a registered landscape architect, certified arborist, biologist, or professional forester with a corresponding degree or certification.

Recreation is the recreation and refreshment of body and mind through forms of play, sports, relaxation, amusement, or contemplation.

Remodel is to renew, renovate, or make over a part of an existing building for the purpose of its appearance or layout. Remodel may include repair or relocation of interior walls but does not include repair, replacement or relocation of any of the exterior floors, wall, or roof.

Repair is the reconstruction of a part of an existing building for the purpose of its maintenance or as a result of damage. Repair may include replacement of individual components of an assembly, such as components of a wall or a roof, but does not include replacement of the entire assembly. Where repair is required to more than 75% of the assembly, the assembly is considered to be replaced.

Replacement means to put something new in place of something existing as a substitute, such as a building or structure, or part of a building or structure. When the value or extent of the work proposed, as determined by the Planning and Development Services Department, exceeds 75% of the preconstruction value or extent of the building, structure, or assembly, the building, structure, or assembly is deemed to be completely replaced.

Passive shoreline recreation is the light to moderate intensities of recreation such as skin diving, hiking, day camping, viewing, nature study, canoeing, kayaking, sailing, clamming, and fishing.

Active shoreline recreation or recreation development is the more intensive, land consumptive use of the shoreline areas by the activity and associated facilities. See "Recreation development."

Recreation development - Modification of the natural or existing environment to accommodate recreation. This includes clearing land, earth modifications, structures and other facilities such as parks, camps, campgrounds, camping clubs, golf courses, and other outdoor recreation areas. Second home subdivisions of land, resorts, motels, hotels, and other commercial enterprises are not included; however, the policies and regulations of the Recreation section apply to recreation use associated with such development.

Region means the four counties of northwest Washington State-Whatcom, San Juan, Skagit and Island-as well as incorporated cities and towns therein and water boundaries within the county boundaries.

Residential development is the subdivision of land for human occupancy normally in the structural forms of single-family homes, trailers, mobile homes and parks, condominiums, multi-family units, and planned unit developments (PUD). Recreational subdivisions and camping developments or clubs are included in this section and definition. Motels, hotels and other transient or commercial housing are considered under "Commercial Development."

Residential Uses means one or more buildings, structures, lots, parcels or portions thereof that are designed, used or intended to be used as a place of abode for human beings. These include single-family residences, residential subdivisions, short residential subdivisions, attached dwellings, multifamily dwellings, and all accessory uses or structures normally associated with residential uses.

Restore, restoration or ecological restoration means the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including but not limited to re-vegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions. [WAC]

Revetments are sloped walls constructed of riprap or other substantial material, placed on stream banks or marine shorelines to retard bank erosion from high velocity currents or waves respectively.

Riprap means hard, angular quarry rock used for stream bank stabilization or other flood control works.

Roof sign - a sign erected upon, against, or directly above a roof or on top of or above the parapet of a building; signs on mansard roofs are considered wall signs.

Scenic route signs - signs on those streets, roads, or highways designated by law as scenic routes. These signs are considered official signs. Commercial and/or private scenic route signs are considered normal outdoor advertising.

Scientific resources include all natural geologic, biologic, aquatic and geohydraulic formations, process areas, sectors, reaches, or ecosystems that are unique or valuable to the county, region, or state for education, observation, research, and study purposes.

Seawalls are structures normally more massive than bulkheads and revetments, built for the purpose of protecting the shore and uplands from heavy wave action and, incidentally, retaining uplands and fills. Seawalls are not common to the Puget Sound region.

Second Class Tidelands - The lands outside of and more than two miles from the limits of an incorporated city or town, between the ordinary high tide line and the line of extreme low tide. If the abutting upland was patented before statehood (November 11, 1889), the upland ownership

will extend to the line of ordinary high tide or the government meander line, whichever is further out. (DNR, 1973)

Shore defense works are structures or modifications normally used on marine and lake shores for the purpose of retarding bank or shore erosion by current and wave action, retaining uplands or fill areas, protecting channels and harbors from wave action, and encouraging the deposition of beach materials. These structures or modifications include but are not necessarily limited to bulkheads, seawalls, revetments, breakwaters, jetties, groins, gabions, and protective berms.

Shorelands or **shoreland areas** means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the OHWM; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the Department of Ecology.

Shoreline areas and **shoreline jurisdiction means** all "shorelines of the state" and "shorelands" as defined in RCW 90.58.030 [WAC]

Shoreline master program or **master program** means the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020. As provided in RCW 36.70A.480, the goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW are considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, are considered a part of the county or city's development regulations. [WAC]

Shoreline modifications means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals. [WAC]

Shoreline permit means any substantial development, variance, conditional use permit, or revision authorized under RCW Chapter 90.58.

Shoreline review means a shoreline permit or a written statement of exemption.

Shoreline stabilization includes actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind, or wave action. These actions include structural and nonstructural methods. Nonstructural methods include building setbacks, relocation of the structure to be protected, ground water management, planning and regulatory measures to avoid the need for structural stabilization. [WAC]

Shorelines means all of the water areas of the state, including reservoirs, and their associated wetlands, together with the lands underlying them, except Shorelines of Statewide Significance; Shorelines on segments of streams upstream of a point where the mean annual flow is 20 cubic feet

per second or less and the wetlands associated with such upstream segments; and Shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes. [RCW, original SMP]

Shorelines of statewide significance means, within Skagit County, the following shorelines of the state:

The area between the OHWM and the western boundary of the state from Cape Disappointment on the south to Cape Flattery on the north, including harbors, bays, estuaries, and inlets;

Those areas of Puget Sound and adjacent salt waters and the Strait of Juan de Fuca between the OHWM and the line of extreme low tide as follows:

Nisqually Delta -- from DeWolf Bight to Tatsolo Point,

Birch Bay -- from Point Whitehorn to Birch Point,

Hood Canal -- from Tala Point to Foulweather Bluff,

Skagit Bay and adjacent area -- from Brown Point to Yokeko Point, and

Padilla Bay -- from March Point to William Point;

Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying seaward from the line of extreme low tide;

Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the OHWM;

Those natural rivers or segments thereof as follows:

Any west of the crest of the Cascade range downstream of a point where the mean annual flow is measured at one thousand cubic feet per second or more,

Any east of the crest of the Cascade range downstream of a point where the annual flow is measured at two hundred cubic feet per second or more, or those portions of rivers east of the crest of the Cascade range downstream from the first three hundred square miles of drainage area, whichever is longer;

Those shorelands associated with A, B, D, and E of this definition. [RCW/Original SMP]

Shorelines of the state means all “shorelines” and “shorelines of statewide significance” within the state.

Should means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action.

Sign area is that area enclosed by straight lines drawn around the periphery or edges of the sign, excluding the supporting structure. The maximum sign areas established by this SMP are allowed on each face of a double-faced sign. A double-faced sign is considered one sign.

Sign height is the vertical distance from the average grade level at the sign or supporting structure base to the highest point of the sign, including its supporting structure.

Significant trees mean existing trees over eight inches in caliper as measured four feet above grade.

Significant vegetation removal means the removal or alteration of trees, shrubs, or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal. [WAC]

Site Potential Tree Height means the average height, at age one hundred years, of the tallest mature native tree species that is capable of growing in the soils found at the site and for which height measurements are noted in the soil survey reports published by the natural resource conservation service and other sources. Each local natural resource conservation service field office maintains the surveys for its area.

(a) West of the Cascade summit, the site potential tree height will generally be based on either Douglas fir or western hemlock, unless based on another species due to local conditions.

For sites that historically supported cottonwoods as the largest tree, the site potential tree height generally is the average height, at age seventy-five years, of a black cottonwood tree growing under those site conditions.

SMA means the Washington State Shoreline Management Act of 1971 (RCW 90.58), as amended.

Solid waste is all putrescible and non-putrescible solid and semi-solid waste including garbage, ashes and sludge, industrial wastes, swill, demolition and construction wastes, junked vehicles, and any other discarded materials.

Statement of exemption means a written statement by the Administrator that a particular development proposal is exempt from the shoreline permit requirement and is generally consistent with this SMP including the policy of the SMA. [RCW 90.58.020]

Stream means any portion of a channel, bed, bank, or bottom waterward of the ordinary high water line of waters of the state, including areas in which fish may spawn, reside, or pass, and tributary waters with defined bed or banks, which influence the quality of fish habitat downstream. This includes watercourses which flow on an intermittent basis or which fluctuate in level during the year and applies to the entire bed of such watercourse whether or not the water is at peak level. This definition does not include irrigation ditches, canals, stormwater run-off devices, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans. [WAC]

Streamway means a river or stream's central runoff corridor including all wet and dry channels, together with adjacent point bars, channel bars, and islands, which are wetted or surrounded by stream flow at bankful (annual flood) stage; all the floodway fringe and portions of the floodway are excluded. The streamway operates as a natural system of meander progression characteristic of its particular geohydraulic zone: Boulder, Braided, Pastoral, or Estuarine Zones.

Structure means a permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels. [WAC]

Substantial development means any development that:

pursuant to WAC 173-27-040(2)(a), the total cost or fair market value exceeds the five thousand dollars as adjusted for inflation by the office of financial management, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor. The total cost or fair market value is based on the value of development that is occurring on shorelines of the state as. The total cost or fair market value of the development includes the fair market value of any donated, contributed or found labor, equipment or materials; or

materially interferes with the normal public use of the water or shorelines of the state.
[WAC]

Substantially degrade means to cause significant ecological impact. [WAC]

Tideland means the land on the shore of marine water bodies between the OHWM (OHWM) or mean higher high water (MHHW) and the line of extreme low tide which is submerged daily by tides.

Timber means forest trees, standing or down, of a commercial species including Christmas trees.

Transportation facilities are those structures and developments that aid in land and water surface movement of people, goods, and services. For this SMP, these facilities include:

All forms of roads and roadways, including bikeways and equestrian trails.

Parking areas for vehicles of all types.

Bridges and causeways.

Rail transportation.

Excluded are ferry terminals (See "Ports").

Upland means those shoreline areas landward of OHWM except backshores, natural wetlands, and floodplains.

Utilities include but are not necessarily limited to facilities and services that generate, transport, process, or store water, sewage, solid waste, electrical energy, communications and pipelines for fuel, oil, natural gas, and petroleum products. Firefighting facilities and administrative structures associated with the operation of the utility are considered part of the utility.

Large utilities serve more than one community (i.e. more than one neighborhood, town, city or other defined place) or major attractions. Examples include, but are not limited to, 230 kv power transmission lines, natural gas transmission lines, and regional water storage tanks and reservoirs, regional water transmission lines or regional sewer collectors and interceptors.

Large facilities may also include facilities serving an entire community, such as subregional switching stations (one hundred fifteen (115) kv and smaller), and municipal sewer, water, and storm water facilities.

Small utilities serve adjacent properties and include, but are not limited to, power lines not specified under “large utilities,” water, sanitary sewer, and stormwater facilities, fiber optic cable, pump stations and hydrants, switching boxes, and other structures normally found in a street right-of-way. On-site utility features serving primary use such as a water, sewer, or gas line to a residence are accessory utilities and are considered part of the primary use.

Variance is a means to grant relief from the specific bulk, dimensional or performance standards set forth in this SMP. It is not a means to allow a use that is otherwise prohibited. [WAC]

Vegetative stabilization includes the planting of vegetation upon shoreline banks, slopes, or berms to retain soil and retard erosion from surface runoff; the planting of aquatic vegetation offshore to reduce wave action and retain bottom materials; and the utilization of temporary structures or netting to enable plants to establish themselves in unstable areas.

Vessel includes ships, boats, barges, or any other floating craft which are designed and used for navigation and do not interfere with the normal public use of the water. [WAC]

Watercourse includes all [natural watercourses](#), [modified natural watercourses](#), and [artificial watercourses](#), as defined below.

Natural watercourse: any stream in existence prior to settlement that originated from a natural source. An example of a natural watercourse is a stream that originates in the foothills, flows through agricultural and/or urban land, and empties into a salt water bay or another watercourse.

Modified natural watercourse: that segment of a natural stream that has been modified and is maintained by diking and drainage districts, and where such modification activity was done as a permitted activity that has undergone environmental review (SEPA and/or NEPA), and is in compliance with all necessary permits in effect at the time of its approval.

Artificial watercourse: ditches and other water conveyance systems, not constructed from natural watercourses, which are artificially constructed and actively maintained for irrigation and drainage. Artificial watercourses include lateral field ditches used to drain farmland where the ditch did not replace a natural watercourse. [SCC]

Water-dependent use means a use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations. [WAC]

Water-enjoyment use means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use,

the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment. [WAC]

Water-oriented use means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses. [WAC]

Water quality means the physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, the term "water quantity" refers only to development and uses regulated under this chapter and affecting water quantity, such as impermeable surfaces and storm water handling practices. Water quantity, for purposes of this chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340. [WAC]

Water-related use means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or

The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient. [WAC]

Wetlands means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands. [RCW]

Appendices

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Appendix 1 — List of Activities Exempt from Shoreline Substantial Development Permit

RCW 90.58.030(3)(e) provides a definition of “Substantial Development” that includes a list of activities that do *not* qualify as substantial development and therefore do not require a substantial development permit. WAC 173-27-040 expands upon that definition, and is included below for easy reference.

WAC 173-27-040 Developments exempt from substantial development permit requirement.

- (1) (1) Application and interpretation of exemptions.
 - (a) (a) Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the substantial development permit process.
 - (b) (b) An exemption from the substantial development permit process is not an exemption from compliance with the act or the local master program, nor from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of the applicable master program and the Shoreline Management Act. A development or use that is listed as a conditional use pursuant to the local master program or is an unlisted use, must obtain a conditional use permit even though the development or use does not require a substantial development permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of the master program, such development or use can only be authorized by approval of a variance.
 - (c) (c) The burden of proof that a development or use is exempt from the permit process is on the applicant.
 - (d) (d) If any part of a proposed development is not eligible for exemption, then a substantial development permit is required for the entire proposed development project.
 - (e) (e) Local government may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the act and the local master program.
- (2) (2) The following developments shall not require substantial development permits:
 - (a) (a) Any development of which the total cost or fair market value, whichever is higher, does not exceed five thousand dollars, if such development does not materially interfere with the normal public use of the water or shorelines of the

state. The dollar threshold established in this subsection must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials;

- (b) (b) Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment;
- (c) (c) Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located

at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the department of fish and wildlife.

- (d) (d) Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or the local master program, obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and the local master program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;
- (e) (e) Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels: Provided, That a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;
- (f) (f) Construction or modification of navigational aids such as channel markers and anchor buoys;
- (g) (g) Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to chapter 90.58 RCW. "Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is

necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Local circumstances may dictate additional interpretations of normal appurtenances which shall be set forth and regulated within the applicable master program. Construction authorized under this exemption shall be located landward of the ordinary high water mark;

- (h) (h) Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single-family and multiple-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if either:
 - (i) (i) In salt waters, the fair market value of the dock does not exceed two thousand five hundred dollars; or
 - (ii) (ii) In fresh waters the fair market value of the dock does not exceed ten thousand dollars, but if subsequent construction having a fair market value exceeding two thousand five hundred dollars occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter.

For purposes of this section salt water shall include the tidally influenced marine and estuarine water areas of the state including the Pacific Ocean, Strait of Juan de Fuca, Strait of Georgia and Puget Sound and all bays and inlets associated with any of the above;

- (i) (i) Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored groundwater from the irrigation of lands;
- (j) (j) The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;

- (k) (k) Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking system;
- (l) (l) Any project with a certification from the governor pursuant to chapter 80.50 RCW;
- (m) (m) Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:
 - (i) (i) The activity does not interfere with the normal public use of the surface waters;
 - (ii) (ii) The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
 - (iii) (iii) The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;
 - (iv) (iv) A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and
 - (v) (v) The activity is not subject to the permit requirements of RCW 90.58.550;
- (n) (n) The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the department of agriculture or the department of ecology jointly with other state agencies under chapter 43.21C RCW;
- (o) (o) Watershed restoration projects as defined herein. Local government shall review the projects for consistency with the shoreline master program in an expeditious manner and shall issue its decision along with any conditions within forty-five days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration projects as used in this section.
 - (i) (i) "Watershed restoration project" means a public or private project authorized by the sponsor of a watershed restoration plan that implements

the plan or a part of the plan and consists of one or more of the following activities:

- (A) (A) A project that involves less than ten miles of streamreach, in which less than twenty-five cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;
 - (B) (B) A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or
 - (C) (C) A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the ordinary high water mark of the stream.
- (ii) (ii) "Watershed restoration plan" means a plan, developed or sponsored by the department of fish and wildlife, the department of ecology, the department of natural resources, the department of transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a county, or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, recreation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act;
- (p) (p) A public or private project that is designed to improve fish or wildlife habitat or fish passage, when all of the following apply:
- (i) (i) The project has been approved in writing by the department of fish and wildlife;
 - (ii) (ii) The project has received hydraulic project approval by the department of fish and wildlife pursuant to chapter 77.55 RCW; and

- (iii) (iii) The local government has determined that the project is substantially consistent with the local shoreline master program. The local government shall make such determination in a timely manner and provide it by letter to the project proponent.

Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with local shoreline master programs, as follows:

- (A) (A) In order to receive the permit review and approval process created in this section, a fish habitat enhancement project must meet the criteria under (p)(iii)(A)(I) and (II) of this subsection:

- (I) (I) A fish habitat enhancement project must be a project to accomplish one or more of the following tasks:

- • Elimination of human-made fish passage barriers, including culvert repair and replacement;
- • Restoration of an eroded or unstable streambank employing the principle of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or
- • Placement of woody debris or other instream structures that benefit naturally reproducing fish stocks.

The department of fish and wildlife shall develop size or scale threshold tests to determine if projects accomplishing any of these tasks should be evaluated under the process created in this section or under other project review and approval processes. A project proposal shall not be reviewed under the process created in this section if the department determines that the scale of the project raises concerns regarding public health and safety; and

- (II) (II) A fish habitat enhancement project must be approved in one of the following ways:

- • By the department of fish and wildlife pursuant to chapter 77.95 or 77.100 RCW;
- • By the sponsor of a watershed restoration plan as provided in chapter 89.08 RCW;

- • By the department as a department of fish and wildlife-sponsored fish habitat enhancement or restoration project;
 - • Through the review and approval process for the jobs for the environment program;
 - • Through the review and approval process for conservation district-sponsored projects, where the project complies with design standards established by the conservation commission through interagency agreement with the United States Fish and Wildlife Service and the natural resource conservation service;
 - • Through a formal grant program established by the legislature or the department of fish and wildlife for fish habitat enhancement or restoration; and
 - • Through other formal review and approval processes established by the legislature.
- (B) (B) Fish habitat enhancement projects meeting the criteria of (p)(iii)(A) of this subsection are expected to result in beneficial impacts to the environment. Decisions pertaining to fish habitat enhancement projects meeting the criteria of (p)(iii)(A) of this subsection and being reviewed and approved according to the provisions of this section are not subject to the requirements of RCW 43.21C.030 (2)(c).
- (C) [Hydraulic Project Approvals]
- (I) (C)(I) A hydraulic project approval permit is required for projects that meet the criteria of (p)(iii)(A) of this subsection and are being reviewed and approved under this section. An applicant shall use a joint aquatic resource permit application form developed by the office of regulatory assistance to apply for approval under this chapter. On the same day, the applicant shall provide copies of the completed application form to the department of fish and wildlife and to each appropriate local government. Local governments shall accept the application as notice of the proposed project. The department of fish and wildlife shall provide a fifteen-day comment period during which it will receive comments regarding environmental impacts. Within forty-five days, the department shall either issue a permit, with or without conditions, deny approval, or make a determination that the review and approval process created by

this section is not appropriate for the proposed project. The department shall base this determination on identification during the comment period of adverse impacts that cannot be mitigated by the conditioning of a permit. If the department determines that the review and approval process created by this section is not appropriate for the proposed project, the department shall notify the applicant and the appropriate local governments of its determination. The applicant may reapply for approval of the project under other review and approval processes.

- (II) (II) Any person aggrieved by the approval, denial, conditioning, or modification of a permit under this section may formally appeal the decision to the hydraulic appeals board pursuant to the provisions of this chapter.
- (D) (D) No local government may require permits or charge fees for fish habitat enhancement projects that meet the criteria of (p)(iii)(A) of this subsection and that are reviewed and approved according to the provisions of this section.

Appendix 2 — Channel Migration Zone Map

What is a channel migration zone?

Dynamic physical processes of rivers can cause channels in some areas to move laterally, or "migrate," over time. The area within which a river channel is likely to move over a period of time is referred to as the channel migration zone.

Channel migration can occur gradually, as a river erodes one bank and deposits sediment along the other. The natural meander patterns of stream channels are the result of the dissipation of energy of flowing water and the transportation of sediment. Channel migration also can occur abruptly, as the river channel shifts (or "avulses") to a new location. Avulsions are usually unpredictable events that occur during high flood flows when the existing channel cannot transport all of the water and sediment supplied to it. The highest rates of channel migration generally occur where steep rivers flow out of foothills onto flatter floodplains.

Why address channel migration in Shoreline Master Programs (SMPs)?

Interference with the natural process of channel migration often has unintended consequences for human users of the river and its valley such as increased or changed flood, sedimentation and erosion patterns. It also has adverse effects on fish and wildlife through loss of critical habitat for river and riparian dependent species. Failing to recognize the process often leads to damage to, or loss of, structures and threats to life safety.

Ecology requires local SMPs to include provisions that limit development and shoreline modifications that would result in interference with the process of channel migration that may cause significant adverse impacts to property or public improvements or result in a net loss of ecological functions associated with the rivers and streams.

Skagit County's Methodology for Mapping the CMZ

For the streams and rivers outside of the mainstem Skagit, we used the generally-accepted work previously completed by Patricia Olson of the State Department of Ecology.

For the Skagit River mainstem, we began the mapping effort using CMZ data completed by Jon Riedel of the National Park Service for the Envision Skagit 2060 project. From that data, we excluded portions of the CMZ that were interrupted by:

1. County, city, state, or other public roads
2. Railroads
3. Existing maintained levees and dikes
4. Other public infrastructure
5. Areas of intense existing development that are more likely to warrant protection

We then made further refinements based on existing topography, channel flow, and prior evidence of channel location.

Mapping Availability

Letter-sized maps are included in this SMP on the following pages.

High-resolution maps are available on the Shoreline Master Program webpage at www.skagitcounty.net/smp and [after approval of the updated SMP] through Skagit County's iMap tool.

West Skagit CMZ Map

Middle Skagit CMZ Map

East Skagit CMZ Map

Appendix 3 — Critical Areas Code as of XX/XX/XX [last appendix]

[This appendix will include adopted Skagit County Code Chapter 14.24, Critical Areas, as of the date submitted to Ecology, with relevant definitions.]