WORKING DRAFT

SKAGIT COUNTY
GRANT NO.1100205

SHORELINE MASTER PROGRAM

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Environment Designations

Comment [DN1]: NOTE: The purpose, criteria, and management policies are repeated in the Regulations, Part II

■ 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

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

Management Policies

6A-1.2 New over-water structures should be allowed for water-dependent uses, public access, or ecological restoration.

6A-1.3 The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.

6A-1.4 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.

6A-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.

6A-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).

6A-1.7 Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

6A-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.

■ 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

6A-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

6A-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.

6A-2.3 Utilization of existing urban areas should be encouraged prior to the expansion of intensive development.

6A-2.4 Proposals for new development in shoreline jurisdiction should be designed to result in no net loss of shoreline ecological functions.

6A-2.5 Where feasible, visual and physical public access should be provided.

6A-2.6 Aesthetic objectives should be met through signage regulations, development siting criteria, screening and landscaping standards, and maintenance of natural vegetative buffers.

■ 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

6A-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

6A-3.2 Any use that would substantially degrade the ecological functions or natural character of the shoreline area should not be allowed.

6A-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.

6A-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.

6A-3.5 Commercial forestry may be allowed as a conditional use 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.

6A-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.

6A-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.

6A-3.8 New development or proposed vegetation removal should not reduce the capability of existing vegetation to perform l 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.

■ Conservancy – Skagit Floodway

Purpose

Text to be added – In development.

Designation Criteria

Text to be added – In development

Management Policies

Text to be added – In development

■ 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, timber harvesting on a sustained-yield basis, agricultural uses, aquaculture, low-intensity residential development and other natural resource-based low-intensity uses.

Designation Criteria

6A-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

6A-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 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.

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

6A-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.

6A-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.

6A-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.

■ 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

6A-5.1 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

6A-5.2 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.

6A-5.3 New residential and recreational developments should be designed to provide joint use community recreational facilities and public access, where feasible and applicable.

6A-5.4 Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.

6A-5.5 New commercial development should be limited to water-oriented uses.

■ 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

6A-6.1 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

6A-6.2 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.

6A-6.3 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.

6A-6.4 Public access and public recreation objectives should be implemented whenever feasible and when significant ecological impacts are mitigated.

6A-6.5 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.

6A-6.6 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**.**

Shoreline Uses and Modifications Element

■ Agricultural Activities

Goal

- Protect ongoing agriculture. Provide for 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.

Policies

6A-7.1 General

a) Skagit County should identify and protect lands with agricultural capabilities for continued agricultural use. (current policy, modified)

b) 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)

c) 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)

d) 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)

6A-7.2 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)

6A-7.3 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)

6A-7.4 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) The burning of weed and grass growth along drainage ditches should be allowed and should be conducted in accordance with the guidelines and regulations of appropriate agencies (i.e. Northwest Clean Air Agency). (current policy, modified)

■ Aquaculture

Policies

In review with Shoreline Advisory Committee

■ Boating Facilities and Other Overwater Structures

Policies

Text to be added – In development

■ Breakwaters

Policies

6A-10.1 Breakwaters should be allowed only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.

6A-10.2 Multiple-use concepts are to be strongly encouraged in the construction of both private and public breakwaters on public waters.

6A-10.3 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.

■ Dredging and Dredge Material Disposal

Policies

6A-11.1 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)]

6A-11.2 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)]

6A-11.3 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 assures no net loss of shoreline ecological functions. [WAC 173-26-231(3)(f)]

6A-11.4 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)]

6A-11.5 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)]

6A-11.6 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.)]

6A-11.7 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.)]

■ Fill, Excavation, and Grading

Policies

6A-12.1 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.

6A-12.2 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 waterbody; or

d) Create conditions that would endanger public health and safety. [Based on existing SMP 7.06(1)(A)(2) & (4)]

6A-12.3 Fill should not be permitted for creation of new uplands, unless it is part of an approved ecological restoration activity.

■ Forest Practices

Policies

6A-13.1 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)]

6A-13.2 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)]

6A-13.3 The 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)]

6A-13.4 Forest practices should minimize 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]

■ In-stream Structural Uses

Policies

6A-14.1 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.

6A-14.2 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.

6A-14.3 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.

6A-14.4 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.

■ Jetties and Groins

Policies

6A-15.1 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.

6A-15.2 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.

6A-15.3 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]

■ Residential Development

Policies

6A-16.1 Natural resources, processes, and other uses. Residential 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. (current policy, modified)

6A-16.2 Hazardous areas. 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)

6A-16.3 Geohydraulics. Residential development should be located: (current policy, modified)

a) so as not to interfere with geohydraulic processes and shore forms.

b) inland from feeder bluffs, drift sectors, and accretion shore forms.

c) to avoid or minimize the need for hard shoreline stabilization and flood hazard management facilities.

d) to utilize and protect the integrity of the shore resources for the benefit of present and future residents and users.

6A-16.4 The County and Towns of Hamilton and Lyman should recognize single family uses as a preferred use when developed without adverse impacts to ecological functions.

6A-16.5 Floating and over the water residential uses should be prohibited. Liveaboards in marinas having adequate facilities may be allowed. (current policy)

6A-16.6 Clustering. 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.

6A-16.7 Public access. 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)

6A-16.8 Services utilities and access. Residential development should have adequate provision for wastewater disposal, storm drainage, water supply, and access in order to minimize harmful effects on shorelines.

6A-16.9 Open Space. Residential development should provide open space between structures and water bodies or wetlands, along site boundaries, and between conflicting uses. (current policy, modified)

6A-16.10 Recreation oriented residential. Recreation-oriented developments should provide adequate, diverse recreation opportunities to serve resident members and other users. (current policy, modified)

6A-16.11 Accessory uses. 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)

6A-16.12 Aesthetics. All residential development structures, accessory uses, and facilities should be arranged and designed so as to preserve views and vistas to and from shorelines and water bodies and be compatible with the aesthetic values of the area. (current policy)

■ Shoreline Stabilization

Policies

6A-17.1 Limit use of hard structural stabilization measures to reduce shoreline damage.

6A-17.2 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.

6A-17.3 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.

■ Utilities

Policies

6A-18.1 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, through coordination with local government agencies, 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, if permitted on shorelines, should not significantly damage, diminish, or adversely affect: (current policy, modified)

    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.

6A-18.2 Location

a) The following components of utilities, essentially shoreline dependent, should be allowed on shorelines, providing 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.

b) The following utilities and/or their components, not essentially 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) Utility development should be located to avoid the following unless it can be shown that non-shoreline alternatives are infeasible: (current policy)

i. Natural wetlands, tidelands, lagoons, and estuaries.

ii. Wildlife concentration and nesting areas and migratory flight corridors.

iii. Designated parks, scenic, natural, historic, archaeological, and recreation areas.

iv. Sensitive shoreline areas such as, but not necessarily limited to, those with steep slope or soils subject to erosion or sliding.

e) 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)

f) 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)

6A-18.3 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.

Economic Development Element

Goals

- To promote and encourage the optimum use of existing industrial and economic areas for users who 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. (current goal)

- Recognize the importance of the marine-based economy of Skagit County. (ED Goal B7)

Policies

6A-19.1 Encourage commercial and industrial activities directly related to or dependent on local aquatic resource areas in shoreline areas. (CPP 5.14, modified)

6A-19.2 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)

6A-19.3 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)

6A-19.4 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)

■ Commercial Development

Policies

6A-20.1 Space and Location (current policy, modified)

a) Because of the space requirements of some commercial developments and the limited quantity of shoreline available to the public, commercial enterprises should be encouraged to locate inland from shoreline areas unless water oriented. (current policy, modified)

b) If proposed commercial developments can show that they are specifically dependent on a shoreline location and/or use of the shoreline and if it can be shown that the development will have minimal adverse impact upon the shoreline environment, then such developments should be allowed.

c) Commercial developments not requiring shoreline locations should locate inland from the shoreline area.

d) Commercial developments, if allowed on shorelines, should locate away from braided or meandering river channels and away from estuaries and tidelands.

6A-20.2 Access (current policy)

a) Commercial developments should be encouraged to utilize existing transportation corridors to minimize points and areas of access. Such access should minimize conflict with and impact upon regular corridor traffic.

b) If allowed on shorelines, recreation-oriented commercial development should provide water access to customers/paying users/members and should not rely on or overburden nearby public facilities.

6A-20.3 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)

6A-20.4 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.

■ Institutional Development

Policies

6A-21.1 Skagit County and the Towns of Hamilton and Lyman should promote water oriented institutional development such as scientific research facilities.

6A-21.2 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 Act such as public access and restoration.

6A-21.3 Skagit County and the Towns of Hamilton and Lyman should apply Commercial Development policies and regulations to institutional developments.

6A-21.4 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 responsible local government 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 Act such as public access and restoration.

■ Industry

Policies

6A-22.1 General

a) Feasibility. Proposals for either new port facilities with water related industries or substantial additions to existing facilities should be presented as a component 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)

e) Public access. Port facilities should be encouraged to 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)

6A-22.2 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 other than those of 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) Hazard prone 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.

6A-22.3 Water Quality. 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)

6A-22.4 Log Storage and Transport

a) Water storage of logs should be discouraged. (current policy)

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 other than those of high environmental, agricultural, cultural, recreational, or historical value. (current policy)

e) Water quality maintenance programs and development of criteria for log storage and rafting areas should be initiated and implemented. (current policy)

6A-22.5 Impacts. Port and water related industry operations and practices should adhere to this SMP and be sensitive to adjacent and nearby land and water users. (current policy, modified)

Public Access Element

Goal

- To provide a comprehensive system for physical, visual, and cultural access to Skagit County shorelines.

Policies

6A-23.1 In conjunction with federal and state agencies, Skagit County and the Towns of Hamilton and Lyman 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)

6A-23.2 Skagit County and the Towns of Hamilton and Lyman 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.

6A-23.3 Applicants for shoreline development activities should demonstrate that public access improvements do not result in a net loss of shoreline ecological functions.

6A-23.4 Where appropriate, Skagit County and the Towns of Hamilton and Lyman 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).

6A-23.5 Skagit County and the Towns of Hamilton and Lyman should seek willing property owners to participate in public access projects, such as through voluntary agreements such as conservation easements and trail easements.

6A-23.6 Skagit County and the Towns of Hamilton and Lyman 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.

6A-23.7 Skagit County and the Towns of Hamilton and Lyman 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 (PBNERR). (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 on the Guemes and San Juan Island 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 water craft 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)

Recreation Element

Goal

- To encourage the provision and improvement of private and public recreation along the shorelines of Skagit County only to the extent that the environment is not impaired or degraded. (based on Current SMP Goal A)

Policies

6A-24.1 Location and Access

a) Skagit County and Towns of Hamilton and Lyman should give shoreline recreational development priority within shoreline jurisdiction, and such recreation should be primarily related to access to, enjoyment and use of the water. Local governments should recognize that state-owned shorelines are particularly adapted to providing wilderness beaches, ecological study areas, and other recreational uses for the public.

b) 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)

c) 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)

d) 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)

6A-24.2. 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 whose formation and maintenance are dependent upon water borne transport and deposit of sand and gravel materials should be

identified, protected, and preserved for more passive forms of recreation. (current policy)

6A-24.3. 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 and the Towns of Hamilton and Lyman 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) Where large, grassy open areas for recreational purposes are proposed, such as golf courses and playfields associated with turf maintenance programs should include provisions, procedures, and facilities to protect all water bodies within the drainage area from the potentially detrimental effects of turf chemicals in drainage and surface runoff. (current policy)

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)

6A-24.4 Impacts: In general, shoreline recreation development, activities, and accesses have a degree of impact upon both the shoreline environment and adjacent land and water uses. It is the policy of this Master Program to minimize these 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. (current policy)

c) Impact of the activities and development on the adjacent and nearby land and water uses. (current policy)

d) 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)

e) The necessity and extent of alteration of the shoreline environment to meet design objectives and requirements. (current policy)

f) The proximity to and impact upon required public utilities and services. (current policy)

Circulation Element

Goal

- To permit safe, adequate, and diversified transportation systems that are compatible with the shorelines, resulting in minimum disruptions to the shoreline environment. (current goal)

Policies

6A-25.1 Multi-Modal Circulation Systems. The County should provide 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)

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.

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 where public access is part of the Shoreline Public Access Plan in Appendix X. 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)

6A-25.2 Location

a) Major highways, freeways, and railways should be located away from shoreline jurisdiction wherever feasible. (current policy)

b) 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.

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) Roadways, railways, and bridges necessary to support shoreline uses should be allowed on shorelines, provided where other options are available and feasible, new roads or road expansions should not be built within shoreline jurisdiction. When transportation facilities must be located along shorelines, efforts should be made to minimize the amount of land consumed. Where feasible, roads should not run parallel to shorelines.

e) 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)

6A-25.3 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) 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 responsible local government standards. (current policy)

Conservation Element

■ Environmental Protection

Policies

6A-26.1 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. For each development, this means assuring 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.

6A-26.2 Development standards (e.g. setbacks, impervious surface coverage limitations) should protect existing shoreline ecological functions and processes.

6A-26.3 In assessing the potential for net loss of ecological functions or processes, project specific and cumulative impacts should be considered.

■ Critical Areas

Policies

6A-27.1 Conserve and protect critical areas within shoreline jurisdiction from loss or degradation.

6A-27.2 Locate and design public access within and adjacent to critical areas to ensure that ecological functions are not adversely impacted.

6A-27.3 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.

6A-27.4 Manage development to avoid erosion and adverse water quality impacts to shoreline waterbodies, as well as to avoid risk and damage to property and loss of life from hazardous geological conditions.

6A-27.5 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 waterbody.

6A-27.6 Protect and restore critical freshwater and saltwater habitat and other areas that provide habitat for endangered, threatened or sensitive fish and wildlife species.

6A-27.7 Protect basic riparian forest functions that influence in-stream, marine, and lake habitat quality.

6A-27.8 Limit new development in floodplains.

6A-27.9 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.

6A-27.10 Protect groundwater quality and quantity for existing and future use.

6A-27.11 Identify practices, alternatives, and mitigation measures that can minimize the adverse impacts of proposed projects.

6A-27.12 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.

■ Shoreline Vegetation Conservation

Policies

6A-28.1 Protect, enhance, and maintain healthy trees and vegetation to support habitat, aesthetics and recreational values.

6A-28.2 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.

6A-28.3 The protection of existing and the establishment of new native vegetation is preferred.

6A-28.4 Prohibit the introduction of invasive plant species along shorelines, and encourage the removal of noxious and invasive weeds.

■ Water Quality, Stormwater, and Nonpoint Pollution

Policies

6A-29.1 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.

6A-29.2 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 affects on shorelines through design and implementation of appropriate stormwater management measures.

6A-29.3 Low impact development. Use of low impact development (LID) techniques for minimization of impervious surfaces and management of stormwater runoff is encouraged.

6A-29.4 Minimize need for synthetic chemical applications. Shoreline use and development, including invasive or noxious weed control, should minimize the need for synthetic chemical fertilizers, pesticides or other similar synthetic chemical treatments to prevent contamination of surface and ground water and/or soils and adverse effects on shoreline ecological functions and values. Use of natural and non-synthetic applications are encouraged when treatment is necessary.

6A-29.5 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.

6A-29.6 Public education. Promote public education efforts to protect and improve water quality.

Historic/Cultural/Scientific/Educational Element

Policies

6A-30.1 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)]

6A-30.2 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)]

Flood Hazard Management Element

Policies

6A-31.1 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)]

6A-31.2 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)]

6A-31.3 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)]

6A-31.4 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)]

Restoration Element

Policies

6A-32.1 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.

6A-32.2 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/or U.S. Fish and Wildlife Service.

6A-32.3 The responsible local government 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.

6A-32.4 Restoration and enhancement projects should be coordinated with local public utility and conservation districts.

6A-32.5 The responsible local government should develop processing guidelines that will streamline the review of restoration-only projects.

6A-32.6 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.

14.26 Shoreline Master Program Regulations

Comment [DN2]: Note: This document is intended to additionally serve the Towns of Hamilton and Lyman. As such, Town specific provisions will be added as needed to the beginning of each applicable regulatory section.

Part I: Authority and Purpose

14.26.010 Authority

Text to be added – In Development

14.26.020 Applicability

Text to be added – In Development

14.26.030 Findings

Text to be added – In Development

14.26.040 Purpose

Text to be added – In Development

14.26.050 Relationship to Other Codes, Plans and Ordinances

Text to be added – In Development

14.26.060 Liberal Construction

Text to be added – In Development

14.26.070 Effective Date

Text to be added – In Development

14.26.080 Shoreline Jurisdiction and Shorelines of Statewide Significance

Text to be added – In Development

Part II: Shoreline Environment Designations

Comment [DN3]: NOTE: the purpose, criteria, and management policies are repeated in the Policies section

14.26.100 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 following 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.

14.26.110 Natural

(1) 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.

(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 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.

(d) Commercial forestry may be allowed as a conditional use 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 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.

(f) 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.

(g) 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.

14.26.120 Conservancy- Skagit Floodway

(1) Purpose.

Text to be added – In Development

(2) Designation criteria.

Text to be added – In Development

(3) Management policies.

Text to be added – In Development

14.26.130 Rural Conservancy

(1) 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, 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.

14.26.140 Urban Conservancy

(1) 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.

(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, 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.

(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 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**.**

14.26.150 Shoreline Residential

(1) 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.

(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 the 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.

14.26.160 High-intensity

(1) 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.

(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.

14.26.170 Environment Designation Interpretation

(1) The County has designated use environments in unincorporated areas and pre-designated use environments in City/Town annexation areas consistent with the maps in XXXX.

Comment [DN4]: Pre-designations may still to be determined by local jurisdictions.

(2) 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 waterbody 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.

(3) All other areas that were not mapped in shoreline jurisdiction, but which do meet criteria in Section XXXX, Shoreline Jurisdiction, must be assigned a Rural Conservancy designation until the shoreline can be re-designated through a SMP Amendment.

(4) Property shown in shoreline jurisdiction that does not meet the applicability criteria in Section XXXX, Shoreline Jurisdiction, shall not be subject to the requirements of this SMP. The actual location of the OHWM must be determined at the time a development is proposed.

(5) In the event of an environment designation mapping error, the Shoreline Administrator shall use the environment designation criteria contained in SMP Sections XXXX through XXXX to establish the appropriate shoreline environment designation. Appeals of such interpretations may be filed pursuant to SMP Chapter XXXX, Administration, Permits, and Enforcement.

14.26.180 Shoreline Use and Modifications Matrix

(1) Table XXXX indicates which shoreline activities, uses, developments and modifications may be allowed or are prohibited in shoreline jurisdiction within each

shoreline environment designation. Activities, uses, developments, and modifications are classified as follows:

(a) "Permitted Uses" require a Shoreline Substantial Development Permit or a Shoreline Exemption, and are shown as a "SD/E" on the use matrix.

(b) "Conditional Uses" require a Shoreline Conditional Use Permit and are shown as a "CU" on the use matrix.

(c) "Prohibited" activities, uses, developments, and modifications are not allowed and are shown as an "X" on the use matrix.

(d) "Not Applicable" uses or activities are shown as "NA" on the use matrix.

Chapters XXXX, General Regulations and Performance Standards, and XXXX, Use-Specific and Modification Regulations and Performance Standards shall be consulted for additional limitations.

(2) Accessory or appurtenant uses must be subject to the same shoreline permit process as their primary use.

(3) Where there is a conflict between the chart and the written provisions in this SMP, the written provisions must control.

(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 XXXX; in Sections XXXX, General Regulations and Performance Standards; or Chapter XXXX, Use-Specific and Modification Regulations and Performance Standards. Any proposed unclassified use shall be classified by the Shoreline Administrator as permitted, conditional, or prohibited, based on the listed use to which the proposed use is most similar. If the Shoreline Administrator determines that the proposed use is not similar to any use in this SMP, the proposed use shall be considered prohibited. The criteria for authorization of an unclassified use as a permitted or a conditional use are as follows:

(a) The Shoreline Administrator finds that the unclassified use is in keeping with the purpose and intent of the use environment, underlying zoning, and the Comprehensive Plan; and

(b) The Shoreline Administrator finds that the use is similar in nature to, and no more intense than, a specifically listed permitted, or conditional use permit.

(6) If any part of a proposed activity, use, modification or development is not eligible for exemption per Section XXXX, 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.

Table 14.26.180-1 Use and Modifications Matrix

The chart is coded according to the following legend. SD/E = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements CU = Conditional Use Permit X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit UPLND= Same as adjacent upland environment -- = Not applicable	Natural	Conservancy- Skagit Floodway	Rural Conservancy	Shoreline Residential	High Intensity	Aquatic
Agriculture	SD/E		SD/E	SD/E	SD/E	--[1]
Aquaculture						
General aquaculture	X[2]		SD/E[3]	SD/E	SD/E	UPLND
Non-commercial freshwater hatcheries	X[2]		SD/E[3]	SD/E	SD/E	UPLND
Net-pens	X		CU	CU	CU	UPLND
Commercial geoduck aquaculture	CU[4]		CU[4]	CU[4]	CU[4]	UPLND
Boating Facilities and Other Overwater Structures						
Marina	X		SD/E	CU	SD/E	UPLND
Community or public dock	X		SD/E	SD/E	SD/E	UPLND
Single-family or joint-use dock	X		SD/E	SD/E	SD/E	UPLND
Recreation float	X		CU	SD/E	SD/E	UPLND
Community, commercial or public boat launch	X		CU	CU	SD/E	UPLND
Private residential boat launch (motorized, paved)	X		X	X	X	UPLND
Private residential boat launch (non-motorized, non-paved)	X		CU	CU	CU	UPLND
Breakwaters						
Lakes	X		X	X	X	X
Marine/Rivers	X		CU[5]	CU	SD/E	SD/E[3]
Commercial Development						
Water-dependent uses	X		SD/E	SD/E	SD/E	SD/E
Water-related	X		SD/E	SD/E	SD/E	SD/E[6]
Water-enjoyment uses	X		SD/E	SD/E	SD/E	SD/E[6]
Nonwater-oriented uses	X		X	X	SD/E	SD/E[6]
Mixed use commercial	X		SD/E	X	SD/E	X
Mixed use residential	X		SD/E	SD/E	SD/E	X
Dredging and Dredge Material Disposal						

The chart is coded according to the following legend. SD/E = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements CU = Conditional Use Permit X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit UPLND= Same as adjacent upland environment -- = Not applicable	Natural	Conservancy- Skagit Floodway	Rural Conservancy	Shoreline Residential	High Intensity	Aquatic
Dredging	--		--	--	--	SD/E[7]
Dredge material disposal, in-water	--		--	--	--	CU
Dredge material disposal, upland outside CMZ	X		SD/E	SD/E	SD/E	--
Dredge material disposal, upland inside CMZ	X		CU	CU	CU	--
Dredging or dredge material disposal associated with restoration	SD/E		SD/E	SD/E	SD/E	SD/E
Fill, Excavation, and Grading						
Fill	X[8,9]		SD/E	SD/E	SD/E	CU[8]
Excavation, grading	X[9]		SD/E	SD/E	SD/E	--[10]
Flood Hazard Reduction						
Dikes, levees	X		SD/E	SD/E	SD/E	CU
Forest Practices	CU[11,12]		SD/E	X	SD/E[13]	X[14]
Industry						
Water-dependent uses	X		SD/E	X	SD/E	CU
Water-related uses	X		CU	X	SD/E	X
Nonwater-oriented uses	X		X	X	SD/E	X
Institutional Development						
Water-oriented	CU		CU	CU	SD/E	CU
Nonwater-oriented	X		CU	CU	CU	X
In-Stream Structures	X		X	X	X	SD/E
Jetties and Groins						
Lakes	X		X	X	X	X
Marine/Rivers	X[15]		X[15]	CU	SD/E	UPL
Mining						
Mining	X		CU	X	CU	CU[16]
Mining, placer or hydraulic	X		X	X	X	X
Recreational Development						
Water-oriented	CU		SD/E	SD/E	SD/E	SD/E
Nonwater-oriented	X		CU	SD/E	SD/E	X
Residential Development						

The chart is coded according to the following legend. SD/E = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements CU = Conditional Use Permit X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit UPLND= Same as adjacent upland environment -- = Not applicable	Natural	Conservancy- Skagit Floodway	Rural Conservancy	Shoreline Residential	High Intensity	Aquatic
Single-family	CU		SD/E	SD/E	SD/E	X
Multi-family	X		CU	SD/E	SD/E	X
Over-water	X		X	X	X	X
Floating	--		--	--	--	X
Liveaboards	--		--	--	--	SD/E
Shoreline Habitat and Natural Systems Enhancement Projects	SD/E		SD/E	SD/E	SD/E	SD/E
Shoreline Stabilization						
New hard shoreline stabilization	X		CU	CU	CU	UPLND
New soft shoreline stabilization	CU[17]		CU[17]	SD/E	SD/E	UPLND
Replacement: hard with hard	CU		SD/E	SD/E	SD/E	UPLND
Replacement: hard with soft	SD/E		SD/E	SD/E	SD/E	UPLND
Transportation and Parking						
Airports	X		X	CU	CU	X
Bridges or culverts	CU		SD/E	SD/E	SD/E	SD/E
Landing fields	X		CU	CU	CU	X
Ferry terminals	X		CU	CU	CU	X
Float planes	X		CU	CU	CU	CU
Parking	CU		SD/E	SD/E	SD/E	X
Railroads	CU		SD/E	SD/E	SD/E	SD/E
Roads	CU		SD/E	SD/E	SD/E	X
Trails	SD/E		SD/E	SD/E	SD/E	SD/E
Utilities						
Small	CU		SD/E	SD/E	SD/E	CU
Large	CU		CU	CU	CU	CU
Hydropower facilities	X		CU	CU	CU	CU

[1]See aquaculture.

[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]Aquaculture activities that do not require overwater or immediate shoreline structures or extensive alteration of natural features may be permitted. Other aquaculture development is permitted as a conditional use.

[4] Subject to provisions in 14.26.330(7), Commercial Geoduck Aquaculture.

[5]Fixed breakwaters are prohibited in the Rural Conservancy environment, but floating breakwaters may be permitted as a Shoreline Conditional Use.

[6]See Section 14.26.390 regarding use preferences and limited allowances for non-water-oriented uses over water.

[7]Dredging is prohibited waterward of the Natural environment.

[8]Shoreline habitat and natural systems enhancement projects are coded SD/E.

[9]Minor fill, excavation, and grading associated with trail development is coded SD/E.

[10]See Section 14.26.310, General Aquatic Regulations and Section 14.26.380, Dredging and Dredge Material Disposal.

[11]Only to control a fire or halt an epidemic of insects or disease which threatens material damage to adjacent timber stands; clean up and restore natural vegetative growth an area devastated by fire, disease, or insect attack as soon as possible; or maintain or restore a desired state of natural plant succession. [Existing SMP 7.05(2.)(A.)(5)(a.-c.)]

[12] Roads associated with forest practices are prohibited in the Natural environment except when necessary to control a fire or halt an epidemic of insects or disease which threatens material damage to adjacent timber stands (in which case roads must be of a temporary nature and restored as soon as possible) or when necessary to provide access to lands or shorelines adjacent to Natural-designated shoreline areas for uses consistent with this SMP when part of an integral part of a forest road system and when alternative locations are proven infeasible. [Based on existing SMP 7.05(2.)(A.)(5)(d & e.)]

[13] Clear cutting of timber prohibited unless incidental to the preparation of land for reforestation or for other uses consistent with the SMP. [Based on existing SMP 7.05(2.)(A.)(1)]

[14] 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)]

[15] Groins prohibited, except for natural shoreline area enhancement or protection with a Shoreline Conditional Use permit.

[16]Removal of sand and gravel or other materials from rivers and streams at specific locations only.

[17]Subject to administrative CUP**.**

14.26.190 Development Standards Matrix

Text to be added – In Development

Table 14.26.190-1 Development Standards Matrix

Table to be added – In Development

Part III: General Regulations

14.26.200 Archaeological, Historic, and Scientific Resources.

(1) Stop work and notify if resources uncovered. 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 the 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) The 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 all applicable laws required. 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) Area 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)]

14.26.210 Environmental Protection.

(1) No Net Loss of Ecological Functions. Uses and developments on County shorelines must be designed, located, sized, constructed and maintained to achieve no net loss of shoreline ecological functions and must not have a 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 Part V, Critical Areas Regulations in Shoreline Jurisdiction of this SMP.

(3) When Mitigation Sequencing Analysis Required.

(a) 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 Chapter, then the mitigation sequencing analysis described in SCC 14.26.210(4) is not required.

(b) In the following circumstances, the applicant must provide a mitigation sequencing analysis as described in 14.26.210(4):

(i) 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

(ii) When an action requires a Shoreline Conditional Use Permit or Shoreline Variance Permit; or

(iii) When specifically required by regulations contained in Parts III, IV or V of this SMP.

(4) Mitigation Sequencing Analysis. 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 14.26.210(3.) must describe how the proposal will follow the below mitigation sequencing guidelines, which appear in order of preference, during the design, construction, and/or operation of the proposal:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action;

(b) Minimizing 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) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

(d) Reducing or eliminating the impact over time by preservation and maintenance operations;

(e) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and

(f) Monitoring the impact and the compensation projects and taking appropriate corrective measures. [Based on WAC 173-26-201(2)(e)(i)]

(5) Mitigation Plan. Mitigation is required for all projects within shoreline jurisdiction, including those waterward of the OHWM, having impacts on shoreline ecological functions. When impacts are identified, 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 the 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.

14.26.220 Flood Hazard Reduction.

(1) Applicability. The following provisions apply 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 may consist of nonstructural measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures, and stormwater management programs, and of 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)]

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 waterbody (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) Development in floodplains must not significantly or cumulatively increase flood hazard or be inconsistent with a comprehensive flood hazard management plan adopted pursuant to RCW 86.12, provided the plan has been adopted after 1994 and approved by Ecology. [Based on WAC 173-26-221(3)(c)(i)]

(3) New development or uses in shoreline jurisdiction, including the subdivision of land, must not be established when it can be 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)]

(4) The following uses and activities may be authorized where appropriate and/or necessary within the channel migration zone or floodway:

(a) 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;

(b) Forest practices in compliance with the Forest Practices Act and its implementing rules;

(c) Existing and ongoing agricultural practices, provided that no new restrictions to channel movement occur;

(d) Mining when conducted in a manner consistent with the environment designation and with the Mining provisions of this SMP;

(e) 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;

(f) Repair and maintenance of an existing legally established use, provided that such actions do not cause significant ecological impacts or increase flood hazards to other uses;

(g) Modifications or additions to an existing nonagricultural legal use, provided that channel migration is not further limited and that the new development includes appropriate protection of ecological functions;

(h) Development in incorporated municipalities and designated urban growth areas where structures exist that prevent active channel movement and flooding; and

(i) 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)]

(5) All applications for new structural flood hazard reduction measures in shoreline jurisdiction must demonstrate the following:

(a) That they are necessary to protect existing development and that nonstructural measures are not feasible, as documented in a scientific and engineering analysis;

(b) That impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss;

(c) That appropriate vegetation conservation actions will be undertaken consistent with the Shoreline Vegetation Conservation provisions of this SMP; 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)]

(6) 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 be authorized only 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)]

(7) New structural public 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)]

(8) 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)]

14.26.230 Public Access

(1) Applicability – When Public Access is Required:

(a) Shoreline Recreation and Public Uses: Shoreline public access is required for the following shoreline uses and activities:

(i) Shoreline recreation pursuant to Section 14.26.440; (WAC 173-26-241(3)(i))

(ii) New structural public 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; and (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))

(v) New multi-unit residential development, including land divisions creating five or more lots or dwelling units; and (WAC 173-26-221(4)(d)(iii))

(vi) Where commercial use is 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 and values.

(2) Required Findings for Public Access Requirements: If Skagit County requires public access as part of a private development proposal pursuant to this chapter, Skagit County must consider its adopted plans, regulations, level of service standards, SEPA review, and applicant information, and make the following findings

(a) The proposed project increases demand for public access to the shoreline (nexus);

(b) The shoreline access provided is reasonably consistent with the nature and type of demand created (proportionality); and

(c) 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.

(3) Exceptions. An applicant is not required to provide public access when it is determined that one or more of the following conditions apply and when consistent with Regulation (4) below.

(a) The proposed use, activity or development involves not more than four multi-unit residential dwellings;

(b) The proposed subdivision of land of not more than four lots;

(c) Based on the shoreline public access plan in Appendix X, public access is neither required nor needed.

(d) The proposed use, activity or development is limited to agricultural or aquacultural activities;

(e) 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;

(f) Unavoidable health or safety hazards to the public exist and cannot be prevented by any practical means;

(g) Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;

(h) The proposal involves a voluntary ecological restoration project such as a levee setback and public access is not feasible or is not consistent with the Skagit County Shoreline Public Access Plan in Appendix X;

(i) Significant adverse environmental impacts will result from the public access that cannot be mitigated;

(j) Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated;

(k) The subject site is separated from the shoreline waterbody by intervening public or private improvements such as highways, railroads, existing structures, or similar significant improvements, and public access is not feasible;

(l) The cost of providing the public access, easement or alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development; for the purposes of this Section, disproportionate means the shoreline buffer requirement would add more than 20% to the total project cost or

(m) Public access is deemed detrimental to threatened and/or endangered, species under the Endangered Species Act. The Shoreline Administrator must consult with governmental agencies or authorities with jurisdiction when making this determination.

(4) All Feasible Alternatives. Prior to obtaining an exception under (3.)(f) to (3.)(m)) shoreline applicants must demonstrate to the satisfaction of the Shoreline Administrator all feasible public access alternatives have been exhausted, including, but not limited to:

(a) where physical access is not feasible, providing for visual access instead;

(b) regulating access by such means as limiting hours of use to daylight hours;

(c) designing separation of uses and activities, i.e., fences, terracing, hedges, landscaping, signage, etc.; or

(d) provision of an off-site public access or a fee-in-lieu pursuant to [Regulation X] that allows public access at a site physically separated from, but capable of serving the proposal.

(5) Shoreline Public Access Plan. The Skagit County shoreline public access plan provides for a connected network of parks, open space, and trails. The County's public access planning process provided in Appendix X 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 in Appendix X. [propose to at a minimum adopt the Skagit Countywide UGA Open Space Concept Plan, and the 2012 PROS plan if ready prior to SMP adoption]

(6) Design Standards. Shoreline applicants must demonstrate the following:

(a) Applications subject to public access requirements must be consistent with public access policies and objectives in the Shoreline Master Program Element of the Comprehensive Plan;

(b) Shoreline substantial development or conditional uses must minimize the impact on views of shoreline waterbodies from public lands or substantial numbers of residences. The Shoreline Administrator may require a visual analysis and establishment of a view corridor pursuant to 14.26.310 and 14.26.340, regarding Shoreline Vegetation Conservation and General Provisions Applicable to Uses and Modifications Waterward of the OHWM;

(c) 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 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; and

(g) Trails must be designed consistent with Skagit County Public Works Design Standards. Public parks must meet Skagit County Parks and Recreation Department Standards.

(h) Recreational developments must provide waste receptacles, restrooms if required based on demand, and pet waste receptacles, to promote appropriate waste disposal and protect water quality.

(7) Off-site public access may be permitted where onsite public access is not feasible, provided it results in an equal or greater public benefit than on-site public access. when on-site limitations of security, environment, use conflict, intervening improvements or feasibility are present, off-site public access may be permitted. Sites on the same waterbody or secondarily within the same watershed are required. Off-site 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 Shoreline Administrator.

(8) If on-site or off-site public access is infeasible, the County may require or an applicant may propose a fee-in-lieu. A fee-in-lieu may be assessed through the SEPA process, where the off-site improvement is best accomplished by the responsible local government at a later date. The cost of providing the off-site public access must be proportionate to the total long-term cost of the proposed development. For the purposes of this section, long-term cost means the development value at build-out per approved designs. The fee-in-lieu agreements or mitigation measures must address the responsibility and cost for operation and maintenance.

Comment [DN5]: A fee-in-lieu program is not currently in-place

(9) Community access is allowed if public access there is no planned public access required along the shoreline as determined by a review of the Shoreline Public Access Plan in Appendix X. Where provided, community access is subject to all applicable design standards of this section.

(10) Conditions of Approval. Conditions of approval may include, but are not limited to, the following:

(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 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, for example an easement;

(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.

(11) Incentives: Reserved.

Example Incentive Bothell

Comment [DN6]: Examples provided below from City of Bothell and Chelan County.

A. Within the Shoreline Residential and High Intensity environment designations, but excluding territory in the Bothell Downtown Subarea Plan, the number of dwelling units within an attached residential development or the number of lots within a detached residential development may be increased within shoreline jurisdiction pursuant to Table 13.09.050-1 in exchange for providing a **new** publicly accessible trail placed on the subject property that parallels the shoreline waterbody, consistent with all of the following:

1. A general public access easement shall be recorded and located in the same location as the physical trail. The easement shall be a minimum of 25 feet wide and shall be permanently dedicated for public use and public access.
2. The public access easement shall be physically connected to a public right-of-way by a minimum 15-foot-wide public access easement;
3. The trail widths shall be constructed pursuant to 13.09.050.L above;
4. Trails shall be consistent with BMC 13.09.050.J through P; and,
5. Density bonuses are not applicable in the Downtown Subarea Plan.

Density bonus options are illustrated for example on Figure 13.09.050-3.

Table 13.09.050-1- Incentives for parallel trails along shoreline water bodies

Type of Public Access	SR and HI Residential Incentives
Parallel Trail comprising 50% to 75 percent of the shoreline length	• 10 percent increase in the number of dwelling units or lots: • Reduction of lot circle requirements up to 15 percent • Reduction of lot area by 20 percent • Should the applicant select to locate any additional lots authorized by this provision outside shoreline jurisdiction, the Community Development Director may reduce the lot areas and lot circle dimensions of lots located outside shoreline jurisdiction to accommodate the additional lots, consistent with the applicable provisions of the Bothell Municipal Code
Parallel Trail comprising 76 to 100% of the shoreline length and the trail allows for future connections to adjoining properties	• 20 percent increase in the number of dwelling units or lots: • Reduction of lot circle requirements up to 30 percent • Reduction of lot area by 50 percent • Should the applicant select to locate any additional lots authorized by this provision outside shoreline jurisdiction, the Community Development Director may reduce the lot areas and lot circle dimensions of lots located outside shoreline jurisdiction to the minimum necessary to accommodate the additional lots consistent with the applicable provisions of the Bothell Municipal Code

Example Incentive – Chelan County

A. **Incentives.** The following incentives are available to any shoreline applications whether in the gap areas or outside of gap areas in order to implement some or all of a planned future shoreline public access feature included Appendix F.

1. In exchange for the shoreline public access listed in Table 4-1, incentives in Table 4-2 shall be 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 modifications of standards may be approved with a Shoreline Substantial Development Permit where the modification is consistent with underlying zoning regulations, subdivision regulations and road regulations.

2. The Shoreline Administrator 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 has territory located inside and outside of jurisdiction.

Table 4-1. 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 width to shoreline, or a width approved per G.5 of this section.	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 width, or a width approved per G.5 of this section.	Level 2 Public Access Incentives: a perpendicular access connecting to a parallel 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: Minimal vehicular access to public access facility: e.g. parking at right-of-way and minimum 10-foot–wide pedestrian path to shoreline, or a width approved per G.6 of this section.	Level 2 Public Access Incentives
Type 2 Vehicular Access: Vehicular access corridor and turn around to waterfront recreation and parking	Level 3 Public Access Incentives
Type 3 Vehicular Access: 55′ foot corridor width and 45′ turning radius at turnaround, and parking, providing access to public boat launch facility	Level 3 Public Access Incentives

Table 4-2. Incentives for Public Access

Incentive Level	**Residential Incentive**	**Commercial or Industrial Incentive**
Level 1 Public Access Incentives	For up to one site or lot: • Reduction of street-facing yard to 15 feet minimum and/or • Increase of primary building height by up to 5 feet	For up to one site or lot: • Increase of primary building height by up to 5 feet
Level 2 Public Access Incentives	Level 1 Public Access Incentives plus: • Reduction of lot width requirements up to 10% for shoreline frontage lots • Allowance for 1 additional lot. In order to	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
	achieve the additional lot, the applicant may reduce the size of other lots. The modification of other lot sizes shall be minimized to the extent feasible to accommodate the additional lot. This additional lot may not be added on lands of long-term commercial significance for forestry or agriculture. All lots shall 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 25% of lots	
Level 3 Public Access Incentives	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 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 shall be minimized to the extent feasible to accommodate the additional lot. This additional lot may not be added on lands of long-term commercial significance for forestry or agriculture. All lots shall 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 • Private road access: reduction in required pavement width of up to 4 feet, or not less than 22 feet of pavement 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	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 • Private road access: reduction in required pavement width of up to 4 feet, or not less than 22 feet of pavement

Incentive Level	Residential Incentive	Commercial or Industrial Incentive
	50%	

14.26.240 Shoreline 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 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 14.26.530 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 this Section, SCC 14.26.210 Environmental Protection, and any other regulations specific to vegetation management contained in other chapters of this SMP.

(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. Mitigation sequencing, SCC 14.26.500(5)(d)(v)(B), must be applied so that the design and location of the structure or development minimizes vegetation removal. Development or uses that require vegetation clearing must be designed to avoid the following in the order indicated below, with a) being the most desirable vegetation to retain:

(a) Native significant trees.

(b) Non-native significant trees.

(c) Native non-significant trees.

(d) Other native vegetation.

(e) Other non-native vegetation.

(5) 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 (4), above, as a guide and consistent with the following percent based on shoreline environment designation:

(a) Natural: 90 percent

(b) Conservancy – Skagit Floodway: 90 percent

(c) Urban Conservancy: 65 percent

(d) Rural Conservancy: 65 percent

(e) Shoreline Residential: 25 percent

(f) High Intensity: 25 percent

Unless otherwise specified in Part V – Critical Areas in Shoreline Jurisdiction and other sections of this SMP, significant tree retention in shoreline buffers, critical areas, and critical area buffers must be 100 percent.

(6) 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 (6) of this section only if the 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, sizes, and densities.

(7) All proposed developments must include a tree retention plan for the entire subject property within shoreline jurisdiction except identified areas in which existing vegetation would not be disturbed in any manner. If any significant trees within such undisturbed area(s) outside of critical areas and their buffers are to be counted toward the percent significant tree retention required by subsection (6) of this section, the location of such trees must be indicated on the plan, but other tree retention plan requirements do not apply to the undisturbed area or areas. The tree retention plan must include the following:

(a) location, size, species and driplines of all existing healthy significant trees;

(b) proposed and existing 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.

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 submitted by a tree specialist acceptable to the County, and said alternative method is approved by the County.

(8) 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 SCC 14.26.500(6)(d)(vi), a restoration plan must be prepared and submitted to the Shoreline Administrator for approval. The plan must provide for replacement of plants in the following manner:

(a) Each such significant tree must be replaced by a mixture of three native deciduous and/or native coniferous trees. For each additional two inches of caliper over eight inches on the dead, damaged or removed tree, one new tree must be planted. Particular species must be approved by the County, with all native trees removed required to be replaced with native trees. Replacement trees must conform to required plant sizes in accordance with the requirements of this Section, and may be placed in other locations on the property than where the replaced trees were located. 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.

(b) Shrubs and ground cover must be replaced in all disturbed areas by a mixture of indigenous shrubs, groundcovers and other plant material to provide 85 percent surface coverage within two years from planting.

(c) The restoration is in addition to the revocation of the tree bond.

(9) 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 SCC 14.26.500(5)(d)(v). Mitigation measures must be maintained over the life of the use and/or development.

(10) 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 construction is complete.

(11) Selective pruning of trees for safety or view protection is allowed. Where trees pose a significant safety hazard as indicated in a written report by a certified arborist or other qualified professional, they may be removed or converted to wildlife snags if the hazard cannot be eliminated by pruning, crown thinning or other technique that maintains some habitat function.

(12) 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.

(13) 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 mitigation plan must utilize only native vegetation, and should be designed to compensate for temporal loss of function and address the specific functions adversely impacted by the unauthorized vegetation removal.

(14) With the exception of hand removal or spot-spraying of invasive or noxious weeds on shorelands, the determination of whether non-native vegetation removal may be allowed in shoreline jurisdiction must be evaluated in conformance with this Section, SCC 14.26.210 Environmental Protection, and SCC 14.26.500 Critical Areas in Shoreline Jurisdiction. Such removal of noxious weeds and/or invasive species must be incorporated in mitigation plans, as necessary, to prevent erosion and facilitate establishment of a stable community of native plants.

(15) 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.

14.26.250 Water Quality, Stormwater and Nonpoint Pollution

(1) Do not degrade waters. 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.

(2) Requirements for new development. New development must manage stormwater to avoid and minimize potential adverse affects on shoreline ecological functions through the use of best management practices and/or through compliance with the 2005 Stormwater Management Manual for Western Washington, or the most recent adopted stormwater manual in effect at the time, if applicable to the project. When the Stormwater Management Manual applies, deviations from the standards may be approved where it can be demonstrated that off-site facilities would provide better treatment, or where common retention, detention and/or water quality facilities meeting such standards have been approved as part of a comprehensive stormwater management plan. Additionally, new development is encouraged to implement low impact development techniques

(3) 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 area report as prescribed by XXX must be prepared. Such reports should discuss the project's potential to exacerbate water quality parameters which are

impaired and for which Total Maximum Daily Loads (TMDLs) for that pollutant have been established, and prescribe any necessary mitigation and monitoring.

(4) Maintain storm drainage facilities. Maintenance of storm drainage facilities on private property is the responsibility of the property owner(s). This responsibility and the provision for maintenance must be clearly stated on any recorded subdivision, short plat, or binding site plan map, building permit, property conveyance documents, maintenance agreements and/or improvement plans.

(5) Use BMPs. Best management practices (BMPs) for control of erosion and sedimentation must be implemented for all development in shoreline jurisdiction through an approved temporary erosion and sediment control (TESC) plan consistent with the 2005 Stormwater Management Manual for Western Washington, or the most recent adopted stormwater manual, or administrative conditions, in accordance with the current federal, state, and/or local stormwater management standards in effect at the time.

(6) Sewage management. To avoid water quality degradation by malfunctioning or failing septic systems located within shoreline jurisdiction, on-site sewage treatment systems must be located and designed to meet all applicable water quality, utility, and health standards, in addition to requirements outlined below.

(a) On-site wastewater treatment systems serving allowed uses in conformance with this Master Program are subject to regulations administered by the Skagit County Public Health Department.

(b) Large On-site Sewage Systems (LOSS) are subject to regulations administered by the Washington Department of Ecology or Washington Department of Health as required by rule adopted under RCW 70.118B.020. Such sewage treatment systems must be located to prevent or minimize entry of nutrients, including phosphorus and nitrogen, or other pollutants, into ground and surface water within shoreline jurisdiction.

(c) All individual and community on-site wastewater treatment systems, also called sewage treatment systems, including septic tanks and drainfields or alternative systems approved and inspected by the Skagit County Public Health Department, the Washington Department of Ecology, and/or the Washington Department of Health, must be located landward of designated shoreline buffers.

(d) The Skagit County Public Health Department and Washington Department of Health require a standard horizontal separation of on-site sewage treatment systems from surface waters of 100 feet from the OHWM. In instances where shoreline buffers are less than 100 feet in width, an approval from the Skagit County Public Health Department is required to locate sewage system components closer than 100 feet to the OHWM. Buffer reductions must be the minimum necessary and must be based on feasibility, lot size, or lot

configuration. Where residential structures are permitted within 100 feet of the OHWM, tightlines from structures or septic tanks may be located within 100 feet from the OHWM. Additional restrictions may be applied by Skagit County Public Health Department in designated Marine Recovery Areas.

(e) Whenever feasible while meeting Skagit County Public Health Department or Washington Department of Health standards, all components of on-site sewage treatment systems, including subsurface soil absorption systems, must be located landward of the residential structures they serve.

(7) Materials requirements. All materials that may come in contact with water must be constructed of materials, such as untreated or approved treated wood, concrete, approved plastic composites or steel, that will not adversely affect water quality or aquatic plants or animals. 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 waterbodies and other waters.

Part IV: Shoreline Use and Modifications Regulations

14.26.300 General Provisions Applicable to Uses and Modifications 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 assure that future development of the created lots will not require shoreline stabilization for reasonable development to occur.

(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 14.24.080 and 14.24.450

(d) New development requiring shoreline stabilization which causes potential significant adverse impacts to adjacent or down-current properties and shoreline areas are 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: (WAC 173-26-211(4)(a)(iv) and 221(4)(d)(iv))

(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) Minimize 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)

(5) Soil disturbance. All disturbed areas must be restored and protected from erosion using vegetation and other 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) Streambank erosion control BMPs must be selected, designed, and maintained according to the Stormwater Design Manual.

(6) View corridors.

(a) The maximum allowable height of structures in shoreline jurisdiction is 35 feet, except as provided in subsection (b).

(b) Where residential development is set back at least 100 feet away from the Ordinary High Water Mark, the maximum permitted building height is 40 feet.

Comment [DN7]: Note: this is intended to match the existing height allowance

(c) Applicants proposing building or structure heights above 35 feet that do not meet the standards of subsection (b), but are consistent with underlying zoning allowances, may be approved as part of an Administrative Conditional Use Permit if the following criteria are affirmatively met:

Comment [DN8]: Note: Allowing this process is dependent upon Administrative section.

(i) The building or structure will not impact a substantial number of residences. The applicant must review residences involved on or in an area adjoining the project area.

(ii) The development will not cause an obstruction of view from public properties or substantial number of residences. The applicant must demonstrate through a view analysis, using photographs, videos, photo-based simulations, and/or computer-generated simulations that the proposed development will obstruct less than 30% of the view of the shoreline enjoyed by a substantial number of residences on areas adjoining such shorelines.

(d) View Analysis. In the case of heights proposed above 35 feet in Subsection (6)(a) or when adjusted per (6)(b), the following view analysis standards and procedures apply:

(i) The applicant must prepare a view analysis conducted consistent with Section 14.26.770. The analysis must address such considerations as

cumulative view obstruction within a 1,000-foot radius with implementation of the proposed development combined with those of other developments that exceed 35-feet in height. The cumulative impact analysis must address the following:

(A) Overall views from existing residences and public areas that are lost, compromised, and retained; and

(B) Surface water views lost, compromised, and retained.

(ii) For phased developments, the view analysis must be prepared in the first phase and include all proposed buildings.

(iii) To mitigate impacts, site design must provide for view corridors between buildings through the use of building separation, setbacks, upper story setbacks, pitched roofs, and other mitigation.

(A) Applicants and the County must review location of Federal- or State-designated scenic highways, government-prepared view studies, SEPA documents, or applicant-prepared studies to determine appropriate siting of view corridors.

(B) The maximum width of a view corridor is 25% of the lot width of the lot frontage; where the view corridor requires vegetation removal, the view corridor may be limited to 25% or 25 feet, whichever is less. (WAC 173-26-221(4)(d)(iv))

(7) 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))

14.26.310 General Provisions Applicable to Uses and Modifications 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 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 state and federal permits or approvals, e.g. those from the U.S. Army Corps of Engineers, 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 waterbody.

(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 waterbody during in-water activities.

(b) Necessary refueling of motorized equipment, other than watercraft, must be conducted outside of shoreline buffers and a minimum of 50 feet from the OHWM if feasible.

(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 expected.

(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 waterbody at any time during in-water installation.

(b) All forms used for concrete must be completely sealed to prevent the possibility of un-cured concrete entering the waterbody.

(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 Sections 14.26.400, Dredging and Dredge Material Disposal and 14.26.410, 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 appropriate state or federal agency(ies), including the Washington Department of Fish and Wildlife, National Marine Fisheries Service and U.S. Fish and Wildlife Service.

(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 state or federal agency, e.g. Ecology, National Marine Fisheries Service, U.S. Fish and Wildlife Service.

(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) Floatation materials.

(a) Floatation 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 floatation material into the water, and is not readily subject to damage by ultraviolet radiation or abrasion.

(b) During maintenance, existing un-encapsulated floatation material must be replaced.

(17) Tire use. Tires must not be allowed as part of above- or below-water structures or where tires could potentially come in contact with the water (e.g., floatation, fenders). Existing tires used for floatation 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 SMP Section 14.26.340.

(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.

(20) Lighting. Lighting associated with over- and in-water structures must be beamed, hooded, or directed to avoid causing glare on adjacent properties or waterbodies. 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 Section 14.26.210, Environmental Impacts, 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 Part V, Critical Areas Regulations.

14.26.320 Agricultural activities

(1) Exemption for Existing Agriculture. Pursuant to RCW 90.58.065 , the provisions of this SMP do not require modification of or limit agricultural activities on agricultural

lands, as defined in RCW 90.58.065, as of the date of adoption of the SMP. Where this SMP does not apply, the provisions of SCC 14.24, Critical Areas Ordinance, may apply, including the provisions of SCC 14.24.120 for Ongoing Agriculture.

(2) Applicability. A Substantial Development Permit is required for agricultural development not specifically exempt by the provisions of RCW 90.58.030(3) (e) (iv) or subsection (1) above. SMP provisions apply in all other cases not specifically exempted by the Act, e.g.:

(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) new agricultural facilities or new agricultural accessory uses that require development or land alteration; and

(e) other development on agricultural land that does not meet the definition of agricultural activities.

(3) Development Standards – Use Environments

(a) Natural Environment: Only new nonintensive agricultural areas such as pasture and grazing lands are permitted; provided that no clearing, construction, or other activities which change the character of the shoreline area occur, and provided that a buffer be established or maintained within the shoreline area consistent with Article V, Critical Areas Regulations in Shoreline Jurisdiction.

(b) Rural Conservancy, Urban Conservancy, Shoreline Residential, and High Intensity: New agriculture uses are permitted, provided that there is no construction or activity which adversely changes the shoreline ecological functions and provided the activities are consistent with Article V, Critical Areas Regulations in Shoreline Jurisdiction.

(4) Development Standards – General

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 (Chapter 15.58 RCW).

(d) Vegetative Erosion Control – See Article 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.

(g) Only lots of record meeting the minimum lot size requirements of the zoning district in which they are located that are not restricted from development by prior County decision or action (e.g., plat notes, open space designation, or other means) will be eligible for development permits, including shoreline permits.

Comment [DN9]: May consider moving this provision to General Upland Standards.

(h) New non-agricultural structures on agricultural lands must meet siting criteria of the applicable underlying zoning district to minimize potential impacts on agricultural activities.

14.26.330 Aquaculture.

In review with Shoreline Advisory Committee

14.26.340 Boating Facilities and Other Overwater Structures.

Text to be added – In development

14.26.350 Breakwaters.

(1) When Allowed. Breakwaters are allowed only for water-dependent uses, public access, shoreline stabilization, or other specific public purpose.

(2) Protection of Ecological Functions and Critical Areas. The design and construction of breakwaters must protect and address impacts to ecological functions and critical areas.

(3) Design and Construction Considerations.

(a) New or expanded breakwaters must be designed by a registered civil engineer with expertise in such design.

(b) 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.

(c) 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.

(d) Floating breakwaters are preferred over solid breakwaters where they can withstand anticipated wave action.

(e) Breakwaters must conform to all design requirements of the appropriate state and federal agencies.

(4) Mitigation sequencing is required. All projects must utilize standard mitigation sequencing techniques to avoid and minimize impacts, and any impacts must be fully mitigated. 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.

(5) Application Submittals. Applications for breakwaters must provide the below-listed information. The County 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.

14.26.360 Commercial Development

(1) Preference will be given to commercial uses in descending order of preference:

(a) Water-dependent commercial uses,

(b) Water-related and water-enjoyment commercial uses;

(c) Nonwater-oriented commercial uses.

(2) 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) The applicant must demonstrate to the satisfaction of the County that proposed uses meet the definitions of water-dependent, water-related or water-enjoyment (water-oriented) use.

(4) Nonwater-oriented commercial uses on the shoreline are prohibited unless they meet the following criteria:

(a) The use provides a benefit with respect to the objectives of the Shoreline Management Act such as providing public access and ecological restoration, and

(b) The use is part of a mixed-use project, or

(c) Navigability is severely limited at the site, for example, a stream too shallow for commercial boasts to pass.

(5) Nonwater-oriented commercial uses may be allowed by the County if the site is physically separated from the shoreline by another property or pubic right of way.

(6) Nonwater-dependent commercial uses are not allowed over water unless:

(a) They are in an existing structure, or

(b) They are accessory and necessary support the water-dependent use.

(7) 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) Water-dependent commercial uses as well as other water-oriented commercial uses have preferential locations along the shoreline.

(c) The underlying zoning district permits residential uses together with commercial uses.

(d) Public access is provided for significant number of persons in accordance with Section 14.26.300 Public Access, and/or ecological restoration is provided as a public benefit.

(e) Residential uses meet requirements of Section 14.26.480 Residential of this SMP.

(8) Commercial development must not result in a net loss of shoreline ecological functions or adversely impact 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 such improvements are demonstrated to be infeasible or inappropriate.

(9) Shoreline access

(a) Commercial developments, especially resort and recreational campgrounds, must provide aquatic access to shoreline and water areas for members and users.

(b) Public access for any type of commercial development must be implemented consistent with Section 14.26.300 Public Access.

(c) Eating and drinking facilities and lodging facilities shall be oriented to provide views to the waterfront.

(10) Bulkheading combined with landfilling within aquatic shoreline areas for commercial purpose is prohibited.

(11) Commercial development must comply with applicable landscape, screening, and vegetation conservation standards of Section 14.26.310 Shoreline Vegetation Conservation and the zoning code. The Shoreline Administrator may review and condition commercial developments 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 must comply with the regulations applicable to Commercial uses.

14.26.370 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 14.26.420(5), 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 Section 14.26.310, 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 Section 14.26.340, Boating Facilities and other Overwater Structures, and Section 14.26.470, Shoreline Stabilization.

(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 assure compatibility with other shoreline uses. Conditions may include:

(a) Limitations on the period of operations;

(b) Limitations on the hours of operation;

(c) Limitations on the type of machinery; and

(d) Requirements for the provision of landscaped buffer strips and/or fencing 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 assures 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 may only be 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 only 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) Restoration or enhancement of shoreline ecological functions and processes benefiting water quality and/or fish and wildlife habitat.

(e) Trenching to allow the installation of necessary underground utilities if no alternative, including boring, is feasible, and:

(i) Impacts to fish and wildlife habitat are avoided to the maximum extent possible.

(ii) The utility installation must not increase or decrease the natural rate, extent, or opportunity of channel migration.

(f) Establishing, expanding, relocating or reconfiguring navigation channels where necessary to assure safe and efficient accommodation of existing navigational uses. Maintenance dredging of established navigation channels and basins must be restricted to maintaining previously dredged and/or existing authorized location, depth, and width.

(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, 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 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 must be subject to department determination, review, and criteria on a case by case basis with guidelines provided by the county zoning ordinances. [Based on existing SMP 7.04(2.)(B.)(9)]

(11) Spoil disposal in open waters may be approved only 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, 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 lake shores and beds, in streamways, estuaries, natural 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) Submittal 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) Total initial dredge quantity.

(iv) Frequency and quantity of project maintenance dredging.

(e) Detailed plans for 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.

14.26.380 Fill, Excavation, and Grading.

(1) Applicability. Fill regulations in this section apply to fills in both aquatic and upland environments. Excavation and grading provisions in this section apply to fills in upland environments only. This section is not intended to cover dredging or dredge material disposal (see Section 14.26.380, Dredging and Dredge Material Disposal).

(2) General fill, excavation, and grading regulations.

(a) Minimum necessary. Fill, excavation, and grading must be the minimum necessary to accommodate approved shoreline uses and developments that are consistent with this SMP.

(b) Existing topography. Fill, excavation, and grading must be designed to blend physically and visually with existing topography to the maximum extent practicable.

(c) Protect ecological function. Fill, excavation, and grading must be located, designed, and constructed to protect shoreline ecological functions and

ecosystem-wide processes, including channel migration. [Based on WAC 173-26-231(3)(c)]

(d) Shoreline stabilization. Fill, excavation, and grading must not be located where shoreline stabilization will be necessary to protect the affected materials.

(e) Erosion control. Fill, excavation, and grading must be designed, constructed, and maintained to prevent, minimize, or control all material movement, erosion, and sedimentation from the affected area. [Based on existing SMP 7.06(2)(B)(5)]

(i) A temporary erosion and sediment control (TESC) plan consistent with the Stormwater Management Manual for Western Washington must be provided for all proposed fill, excavation, and grading activities and be approved by the Shoreline Administrator prior to commencement of activity.

(ii) Disturbed areas must be immediately protected from erosion using weed-free straw, mulch, hydroseeding, or other methods and revegetated, if applicable.

(3) Fill.

(a) Fill materials.

(i) Commercially available rock, gravel, or sand are preferred fill materials.

(ii) Fills using masonry materials and/or concrete, asphalt, or brick rubble require an adequate cover of soil or topsoil stabilized with compatible, native vegetation.

(iii) Solid waste, polluted dredge spoils, wood, plasterboard, or other materials that may degrade surface and groundwater quality or the shoreline area are prohibited. [Based on existing SMP 7.06(2.)(B.)(4)]

(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) 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) Disposal of dredged material considered suitable under, and conducted in accordance with, the Dredged Material Management Program of the Department of Natural Resources or the U.S. Army Corps of Engineers;

(v) Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline where alternatives to fill are infeasible;

(vi) 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

(vii) Maintenance of lawfully established development. [Based on WAC 173-26-231(3)(c)]

(d) Proposals for fills must include the following:

(i) Proposed use of the fill area;

(ii) Physical, chemical, and biological characteristics of the fill 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 relative to the OHWM;

(vii) Perimeter erosion control or stabilization means; and

(viii) Type of surfacing and runoff control devices. [Based on existing SMP 7.06(2.)(B.)(3)]

14.26.390 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 any other applicable forest practices legislation, in addition to the regulations of this Chapter. [Based on existing SMP 7.05(2.)(B.)(2)]

(a) Forest practices in shoreline critical areas must comply with Part V of this SMP, Critical Areas Regulations in Shoreline Jurisdiction.

(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 abutting landward of the ordinary high water mark, only selective commercial timber

cutting is allowed, so that 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 to comply 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)].

14.26.400 Industry.

(1) Preferred Uses: Industry 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 to the satisfaction of the responsible local government that proposed uses are water-dependent or water-related.

(3) Nonwater-oriented Industrial Development – Provide Public Benefit: Nonwater-oriented industrial development is not allowed on shorelines except when:

(a) The use provides a significant benefit with respect to the objectives of the Shoreline Management Act 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, for example a stream too shallow for commercial boats to pass.

(4) Nonwater-oriented Industrial Uses – Separated Sites: Nonwater-oriented industrial uses may be allowed by the responsible local government if the site is physically separated from the shoreline by another property or public right of way.

(5) Accessory Uses: 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 environment buffers for nonwater-oriented uses. Accessory development includes, but is not limited to, parking, warehousing, open-air storage, and transportation corridors.

(6) Joint Facility Use: Port and industrial development must avoid duplication of pier and dock facilities. Joint facility use must be preferred and considered during project proposal review.

(7) Petroleum Products and Hazardous Materials:

(a) Applicants or operators of facilities that involve either solid, liquid, or gas bulk storage of petroleum products, chemicals, and other materials known to be or potentially hazardous to shoreline area and water bodies must justify the need to locate in the shoreline area. Such development is permitted as a conditional use.

(b) 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 facilities must be available for prompt application at all developments involved in such transfer activities.

(8) Log Storage:

(a) Log storage is not be permitted in public waters where water quality standards cannot be met at all times, where the shoreline resource will be irretrievably damaged, or where other beneficial water uses will be materially hindered or precluded.

(b) Runoff (for dry land storage) - Dikes, drains, catch basins, vegetated buffer areas, and other effective means must be used to control, treat, and release surface drainage and runoff. It must be demonstrated that state water quality standards will not be violated at any time under any conditions by such runoff discharge.

(c) Unpaved, dry land log storage areas must have a four (4) foot average depth to water table as a minimum.

(d) Easy let down techniques and devices must be employed for water storage or transfer. The free-fall dumping of logs into water is not permitted.

(e) Bark and wood debris must be controlled, collected, and disposed of in such a manner to prevent entry and/or accumulation on shorelines and water bodies at all log storage and handling areas, wet or dry.

(9) Ecological Functions and Shoreline Resources and Values: Industrial development must be located, designed and constructed to assure 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. Impacts to shoreline resources and values by industrial development or uses must be mitigated by public access and ecological restoration unless such improvements are demonstrated to be infeasible or inappropriate. See Section 14.26.300 Public Access.

(10) Floodway: Port and industrial developments are prohibited in the officially mapped floodway of the Skagit River, its tributaries, and the Samish River.

(11) Air and Water Quality: Port and industrial developments must meet the air and water quality guidelines, standards and regulations of appropriate local, state and federal agencies.

(12) Waste Treatment and Disposal:

(a) Storage and/or disposal of industrial wastes is prohibited on shorelines, provided that wastewater treatment systems may be allowed in shoreline areas only if alternate, inland areas have been adequately proved infeasible.

(b) Industrial development and redevelopment are 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.

(13) Drainage and Runoff: Port and industrial developments must provide stormwater management facilities designed, constructed, and maintained in accordance with the requirements of Section 14.26.320, Water Quality, Stormwater, and Nonpoint Pollution, including the use of best management practices. Additionally, new development must implement low impact development techniques where feasible and necessary to fully implement the core elements of the applicable Surface Water Design Manual.

(14) Public Health, Safety, and Welfare: Port and industrial developments and associated activities must not constitute a nuisance or threat to public health, safety and welfare.

(15) Screening and Buffer Areas:

(a) Port and industrial developments must provide landscaping and screening plans. The Shoreline Administrator may review and condition industrial developments on a case by case basis to provide for landscaping, screening, or other measures to achieve compatibility with adjacent uses or onsite conditions.

(b) Port or industrial equipment storage, accessory development, plant parking, wastewater treatment or disposal must not be located in landscaped areas, critical area buffers, or shoreline buffers.

14.26.410 In-stream Structural Use Regulations

(1) Docks, floats and marinas are not regulated as "in-stream structures" under this section of the SMP.

(2) 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 be compatible with the following:

(a) the full range of public interests, including demand for public access to shoreline waters, desire for protection from floods, and need for preservation of historical and cultural resources; and

(b) protection and preservation of ecosystem-wide processes and ecological functions, including, but not limited to, fish and wildlife, with special emphasis on protecting and restoring priority habitats and species, and water resources and hydro geological processes.

(4) Structures must be designed, located, and constructed consistent with mitigation sequencing principles. Structures must be designed and located to minimize removal of riparian vegetation and, if applicable, to return flow to the stream or river in as short a distance as possible.

(5) Subject to the approval of the appropriate state authority, in-stream structures must provide for adequate upstream and downstream migration of anadromous fish.

(6) Utilities and transmission lines must be located so as to minimize obstruction or degradation of views, and comply with applicable provisions of SCMC 14.26.490, Utilities.

(7) In-stream structures may be required to provide public access, provided public access improvements do not create significant ecological impacts or other adverse environmental impacts to and along the affected shoreline nor create a safety hazard to the public. Public access provisions must include, but not be limited to, any combination of trails, vistas, parking, and any necessary sanitation facilities.

14.26.420 Jetties and Groins.

(1) When Allowed. Jetties and groins are only allowed waterward of the OHWM from water-dependent uses, public access, shoreline stabilization, or other publically beneficial purposes.

(2) Residential Groins. New residential groins are prohibited in the marine environment at locations that will alter longshore drift, and are only allowed when demonstrated to be necessary for shoreline stabilization.

(3) 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.

(4) Cumulative Effects. New jetty or groin proposals must incorporate cumulative effects analysis to determine how the project may affect adjacent properties updrift/upstream and downdrift/downstream of the site. Cumulative effects analysis must be evaluated by utilizing expertise in several different fields of study (e.g. geologists, biologists, hydrologists). The assessment must be site-specific and scientifically rigorous to fully document the need for the jetty or groin.

(5) Artificial beach feeding and enhancement proposals not utilizing jetties or groins shall be preferred over developments requiring the use of those structures.

(6) 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, i.e., erosion rates occurring along adjacent properties, will not be considered a significant impact.

(b) The footprint is minimized to the greatest extent possible.

(7) Application Submittals. Applications for jetties and groins must provide the below-listed information. The County 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) 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 data; and

(j) Mitigation plan.

(8) Mitigation Sequencing. All projects must utilize standard mitigation sequencing techniques to avoid and minimize impacts, and any impacts must be fully mitigated. 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.

14.26.430 Mining.

(1) Applicability. The provisions of the section are intended to 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, 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) Related activities. Mining-related activities may be subject to other regulations contained in this SMP, such as SCC 14.26.430, Industry. [Based on existing SMP 7.08(2.)(B.)(10)]

(4) Locational regulations.

(a) 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. This demonstration may rely on analysis or studies prepared for purposes of comprehensive plan designations, and may be integrated with any relevant environmental review conducted under SEPA (Chapter 43.21C RCW), or otherwise be shown in a manner consistent with RCW 90.58.100(1) and WAC 173-26-201(2)(a), as amended. [Based on WAC 173-26-241(3)(h)(i)(C)]

(b) Marine and lake shores. On marine or lake shores, mining below the extreme high water mark is prohibited. [Based on existing SMP 7.08(2.)(B.)(2)]

(c) Rivers and streams.

(i) Mining waterward of the OHWM of rivers and streams will not be 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; and

(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.

The determinations required by the above two requirements must be made consistent with RCW 90.58.100(1) and WAC 173-26-201(2)(a). Such evaluation of impacts should be appropriately integrated with relevant environmental review requirements of SEPA (RCW 43.21C) and the SEPA rules (WAC 197-11). [Based on WAC 173-26-241(3)(h)(ii)(D)]

(ii) In considering renewal, extension or reauthorization of other mining operations waterward of the OHWM in locations where they have previously been conducted, the County must require compliance with this subsection (14.26.240(3.)(c)) to the extent that no such review has previously been conducted. Where there has been prior review, the County must review previous determinations comparable to the requirements of this section to assure compliance this subsection (14.26.240(3.)(c)) under current site conditions. [WAC 173-26-241(3)(h)(ii)(D)]

(d) Floodplains. All equipment, works, and structures of mining operations must be able to withstand flooding without becoming hazards themselves and without

the placement of permanent structural defense works. [Based on existing SMP 7.08(2.)(B.)(4)]

(5) Commercial quantity and quality. A proposed mining site must contain earth material of a commercial quantity and quality as verified by qualified persons or a licensed mining engineer. [Based on existing SMP 7.08(2.)(B.)(6)]

(6) Public access. Public access to publicly owned shorelines and water bodies must not be impaired by mining activities. [Based on existing SMP 7.08(2.)(B.)(9)]

(7) Screening.

(a) 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.

(i) 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.

(ii) Screening must be of compatible, native vegetation and maintained in effective condition at all times.

(b) Mining operations in marine shoreline areas must provide screening of a design to be determined during the Shoreline Conditional Use Permit process.

(c) Vegetative screening must be planted by the start of mining or as soon thereafter as possible, and be established within one year of start of mining.

(d) If vegetative screening is not possible, artificial screening or fencing to suit the site, operations, and shoreline area may be 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, nor must such stockpiles or tailings be so located as to threaten adjacent slopes or properties. [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. Mining operations must:

(i) Prevent pollution of and reduction of natural flows;

(ii) Impound runoff as necessary to prevent accelerated runoff and erosion;

(iii) Protect all shoreline areas from acidic or toxic materials; and

(iv) Not disturb natural drain courses of all streams. [Based on existing SMP 7.08(2.)(B.)(21)]

(f) Stagnant or standing water. Stagnant or standing water, especially if of a toxic or noxious nature, must not be allowed to develop. [Based on existing SMP 7.08(2.)(B.)(13)]

(g) Water access. Mining operations requiring access to water for transportation of materials must meet any requirements established during the shoreline conditional use permit process. [Based on existing SMP 7.08(2.)(B.)(22)]

(h) 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) Reclamation feasibility. A site must be considered unsuitable for mining if the materials, overburden, and site conditions are similar to existing sites in the county or region where all feasible reclamation procedures could not be adequately accomplished. [Based on existing SMP 7.08(2.)(B.)(16)]

(c) 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 so as to be or become hazardous to public health and safety. [Based on existing SMP 7.08(2.)(B.)(19)]

(d) Simultaneous reclamation and operations. The amount of land and shoreline area being excavated at any time without simultaneous reclamation being undertaken may be set by the Shoreline Administrator, provided that no more than ten acres lie disturbed, unused, and unreclaimed. [Based on existing SMP 7.08(2.)(B.)(18)]

(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 permit must be reviewed by the Shoreline Administrator 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) Submittal requirements. In addition to other application materials, including the application requirements listed in SCC 14.16.440(8), as amended, the following information is required for all 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/or fencing plans that meet the requirements of this chapter. [Based on existing SMP 7.08(2.)(B.)(8)]

14.26.440 Recreational Development.

(1) Floodways - Recreational development structures and facilities of a permanent nature except for officially approved accessory uses must be located out of the officially mapped floodway of the Skagit River, its tributaries and the Samish River.

(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 developments must be designed so as not to conflict with on-site and adjacent or nearby shoreline characteristics and existing developments and uses. Techniques to increase compatibility with adjacent or nearby shoreline developments and uses may include, but are not limited to, providing a physical separation to reinforce the distinction between public and private space, providing signage, adequate space, and/or through screening with landscape planting or fences.

(4) Recreational uses and facilities located within shoreline jurisdiction must include features that relate to access, enjoyment and use of the water and shorelines of the state. Auxiliary use facilities, 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 fragile/unique areas - Shoreline resources such as but not limited to fresh and salt water marshes, estuaries and fresh and salt water accretion

beaches, if part of a recreation development, must be utilized only for nonintensive, nonstructural and nonextractive recreation activities.

(6) Motor and recreational vehicles

(a) Roads, access, and parking for automobiles, trucks, campers, trailers, and other recreational vehicles must meet the shoreline buffer requirements of this Master Program. Such access and parking features must be located and designed consistent with Section 14.26.510, 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 Master Program.

(c) All vehicle use for recreational purposes is prohibited on tidelands, shorelands, beaches, marshes, or in and through streamways, EXCEPT for emergency and maintenance purposes, boat launching, and the on and off loading of handicapped persons.

(7) Sewage and waste disposal - Recreational developments must meet all state and local guidelines and standards for solid waste and sewage disposal. Recreational developments must provide waste receptacles, restrooms if required based on demand, and pet waste receptacles, to promote appropriate waste disposal and protect water quality.

(8) Utilities - All plumbing, wiring, and other utility lines must be installed underground or otherwise 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 twenty-five (25) feet in width from water bodies and wetlands, unless another best management practice (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 agencies (State Departments of Agriculture or Ecology, U.S. Department of Agriculture, EPA).

(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 so as not to be a hazard to public health and safety nor should they materially interfere with the normal public use of the water and shorelines.

(12) Recreational development must be located, designed and operated in a manner consistent with the purpose of the environment designation in which it is located. Commercial recreational development must be consistent with the provisions for commercial development in Section 14.26.390, Commercial Development.

(13) Impervious area maximums – Recreational development must minimize effective impervious surfaces in shoreline jurisdiction and incorporate low impact development techniques consistent with stormwater regulations specified in Section 14.26.320 Water Quality, Stormwater, and Nonpoint Pollution. The following maximum effective impervious area standards apply to recreational developments:

(a) Natural: 5%

(b) Conservancy – Skagit Floodway: 5%

(c) Rural Conservancy: 10%

(d) Urban Conservancy: 20%

(e) Shoreline Residential: 40%

(f) High Intensity: 60%

(g) Aquatic: Not applicable

(14) Recreational development applications must demonstrate no net loss of shoreline ecological functions or ecosystem-wide processes.

Comment [LG10]: Note: This is based on current regulations with some adaptation to new shoreline designations. If development standards matrix will address recreation as well as other uses, this could be deleted.

14.26.450 Residential Development.

(1) Priority Use: Single-family residences are a priority 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, are prohibited. Existing communities of floating and/over-water homes will be reasonably accommodated to allow improvements provided that any expansion of existing communities is the minimum necessary to ensure consistency with constitutional and other laws that protect private property. Existing communities of floating and/or over-water homes are recognized as non-conforming uses per Part VI of this Master Program. Improvements to existing communities are permitted when associated with life safety matters and common maintenance consistent with the standards for boating facilities, piers and docks in Section 14.26.370 Boating Facilities and other Overwater Structures. Floating and/or over-water homes may be repaired, maintained, or replaced at existing communities provided no new over-water or in-water structures are required. Liveaboards are permitted when located in a marina, provided they meet

federal, state, and county standards for water quality and are developed to protect shoreline ecological functions.

(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 assure no net loss of ecological function at full build-out of all lots or dwellings.

(b) Residential structures and accessory facilities are prohibited on accreting, eroding, slumping, or geologically unstable shorelines and where extensive hard shoreline stabilization and/or flood or storm protection structures would be necessary. Residential development, including appurtenant and accessory structures and uses, must be set back from steep slopes and shorelines vulnerable to erosion so that structural improvements, such as bluff walls and stabilization structures, to the shoreline are not necessary. Site set back requirements may exceed set back requirements of underlying zoning designation or may be increased in accordance with Article V: Critical Areas Regulations in Shoreline Jurisdiction.

(c) Flood Hazard Reduction: Residential development must be located and designed to avoid the need for flood hazard reduction facilities. Development must comply with Article V: Critical Areas Regulations in Shoreline Jurisdiction.

(d) New multiunit residential developments, including the subdivision of land for five or more parcels, are subject to public access standards pursuant to Section 14.26.300 Public Access.

(e) Accessory uses and structures must be located landward of the principal residence, unless the structure is or supports a water-dependent use.

(f) Landfilling - Residential development must avoid fill for expansion or creation of upland areas , except when necessary for supporting infrastructure such as roads with no feasible alternative, or in association with restoration activities pursuant to Section 14.26.480 Shoreline Habitat and Natural Systems Enhancement Projects .

(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 (PUD), must be installed underground consistent with Section 14.26.510 Utilities..

(h) Stormwater: Residential developments must provide stormwater management facilities designed, constructed, and maintained in accordance with the requirements of Section 14.26.320, Water Quality, Stormwater, and Nonpoint

Pollution, including the use of best management practices. Additionally, new development must implement low impact development techniques where feasible and necessary to fully implement the core elements of the applicable Surface Water Design Manual.

(i) Sewage and Waste Disposal: Residential development must meet all state and local guidelines and standards for solid waste and sewage disposal.

(j) Screening Vegetation Conservation: Residential development must comply with applicable screening, landscape, and vegetation conservation standards of Section 14.26.310 Shoreline Vegetation Conservation as well as the zoning code.

(k) Clustering: To minimize physical and visual impacts on shorelines, residential development applicants must submit an evaluation of opportunities to cluster and such developments are subject to the criteria of SCC 14.18.320 Approval provisions—CaRDs with 4 or fewer lots (short CaRDs) or Section 14.18.330 Approval provisions—CaRDs with 5 or more lots (long CaRDs).

14.26.460 Shoreline Habitat and Natural Systems Enhancement Projects Regulations

(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. Examples of shoreline habitat and natural systems enhancement projects include floodplain restoration projects, fish passage barrier removal or improvement, and projects to increase shoreline habitat complexity, among others. Stabilization of eroding banks may be considered under this section provided that the purpose of the project is clearly restoration 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. Projects that qualify as streamlined fish enhancement projects per RCW 77.55.181 will be considered under this section.

(2) Shoreline restoration and ecological enhancement projects may be permitted in all shoreline environments, provided the project's 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) Applicants seeking to perform restoration projects are advised to work with the responsible local government to assess whether and how the proposed project is allowed relief under RCW 90.58.580, in the event that the project shifts the OHWM landward.

14.26.470 Shoreline Stabilization Regulations

(1) No net loss. Shoreline stabilization must be designed so that net loss of ecological functions does not occur. In all cases, the feasibility of soft structural shoreline stabilization must be evaluated prior to hard structural stabilization.

(2) New or enlarged structural shoreline stabilization. New structural shoreline stabilization measures, including both hard and soft structural shoreline stabilization measures, must include measures installed to address erosion impacts. Enlargement of an existing structural shoreline stabilization includes additions to or increases in size (such as height, width, length, or depth) to existing shoreline stabilization measures and these enlargements are considered new structures. New or enlarged structural stabilization measures are not allowed, except as follows:

(a) To protect an existing primary structure, including residences, 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.

(c) 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. Actions that remove and replace only the material above the footing or bottom course of rock are regulated as repair or maintenance as outlined in Subsection (4), below.

(4) Maintenance and repair of existing shoreline stabilization measures, subject to all of the following standards. [Note: repair of shoreline stabilization structures may meet the criteria for exemption from a Shoreline Substantial Development Permit, but it is not exempt from the policies and regulations of this Section or the SMP.]

(a) Areas of temporary disturbance within the shoreline buffer must be expeditiously restored to their pre-project condition or better.

(b) 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. The following standards apply to replacement of existing hard and soft structural shoreline stabilization measures [Note: repair of shoreline stabilization structures may meet the criteria for exemption from a Shoreline Substantial Development Permit, but it is not exempt from the policies and regulations of this SMP]:

(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 submittal requirements of Subsection (8) 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) Nonconforming 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 Section 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 and/or sloping the hard structural shoreline stabilization landward to provide some dissipation of wave energy and increase the quality or quantity of nearshore 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 3 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 be designed to not significantly interfere with normal surface and/or subsurface drainage into the adjacent waterbody.

(g) The shoreline stabilization measure must be designed so as not to constitute 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 be designed to ensure that it does 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 shoreline stabilization structure 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 in a form approved by the County and recorded at the Skagit County Auditor's Office.

(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 copy of a statement signed by the property owners of all affected properties, in a form approved by the County and recorded at the Skagit County Auditor's Office, consenting to the shoreline jurisdiction creation and/or increase on such property.

(7) Specific hard structural shoreline stabilization design standards. In those limited instances when hard structural shoreline stabilization measures, such as bulkheads,

are demonstrated to be necessary as outlined in (8) below, the following standards must be incorporated into the design:

(a) In those limited cases 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.

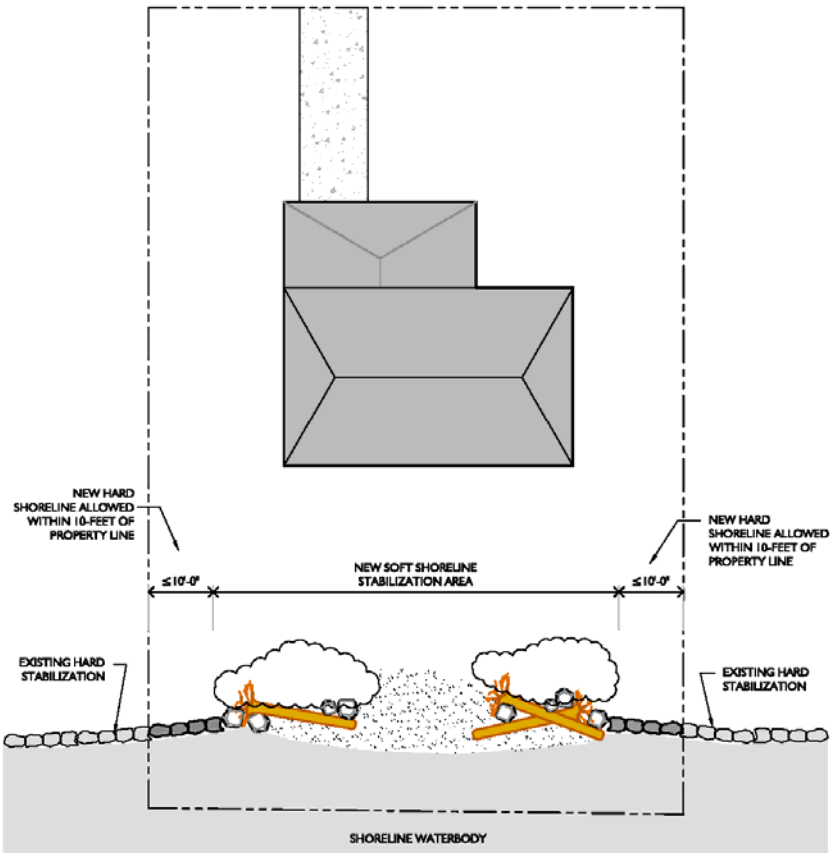
(b) When hard structural shoreline stabilization is proposed on a site where hard structural shoreline stabilization is located on adjacent properties, the proposed stabilization may tie in flush with existing stabilization measures on adjoining properties, provided that the new stabilization does not 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 waterbody occurs nor does net creation of uplands occur. The length of hard structural shoreline stabilization transition area to adjacent properties should be minimized to the maximum extent practicable, and extend into the subject property from adjacent properties no more than 10 feet.

(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) Specific soft structural shoreline stabilization design standards. In addition to applicable general design standards and hard structural shoreline stabilization standards above, the following standards must be incorporated into the design:

(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 (8) 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) Submittal 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 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 Shoreline Administrator and all other agencies with authority;

(D) A performance standard of 100 percent survival for the first year of growth post installation, with no less than 80 percent 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.

14.26.480 Transportation and Parking

(1) Compliance with Plans and Standards - Proposals for transportation facilities must comply with applicable government plans, standards, and ordinances.

(2) 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) Flood control - Proposals for roads and railroads that are to be used secondarily as flood control or protection structures must provide additional data on channel profiles, effects on flood level hydraulics, and on potential for enlargement of inundated areas.

(3) 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 responsible local government consistent with this Master Program and where alternatives outside of shoreline jurisdiction have been fully proven infeasible.

(4) Design, construction, and maintenance procedures

(a) Water crossings - 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 be avoided in shoreline jurisdiction, unless infeasible. Where alternative locations are infeasible, such activities must be carried out in accordance with Section 14.26.410 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 operations.

(e) Relief culverts and diversion ditches must not discharge onto erodible soils, fills, or side cast materials.

(f) Channel alignment - Stream and river channel alignment, flows, and banks must not be altered unless through responsible local government approval and with appropriate state and federal permits.

(g) Erosion control - All surface and drainage systems must be designed and maintained so as to prevent or minimize and control runoff and sedimentation.

(h) Roadside brush control - 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) Existing roads and parking areas that are of a non-paved surface (e.g. gravel) may be paved provided such facilities comply with all applicable water quality, stormwater, landscaping, and other applicable requirements of this Master Program. Roadways or paved parking areas must be designed to incorporate low-impact development practices, such as pervious surfaces and bioswales, to the extent feasible.

(5) Landfills - Landfills associated with transportation facility development are not permitted in or on water bodies and all associated wetlands and beaches except when all structural or upland alternatives have been proven infeasible and for uses in a location consistent with this Master Program.

(6) 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. For the purposes of this section, authorized means a use or activity included in the use matrix and associated definitions.

(a) Over water parking facilities are prohibited in all shoreline areas.

(b) New or expanded parking areas must:

(i) Be sited outside of shoreline jurisdiction unless no feasible alternative location exists; for example where a property does not extend outside jurisdiction;

(ii) Observe critical area buffers;

(iii) Be located outside shoreline buffers unless one of the following is met:

(A) ADA parking requirement 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

(iv) Be 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, parking areas for approved shoreline uses must be located landward of the primary facility or activity.

(d) Screening - Parking areas must be screened from view of shoreline areas and adjacent properties through the planting of compatible, self-sustaining vegetation to be planted within six (6) months of facility completion. Screening is to be effective within two (2) years of planting.

(7) 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 Act and this Master Program.

(8) A driveway for an individual single family home is considered a residential appurtenance and is considered part of the primary use, and subject to Residential standards of this SMP. Private driveways or private roads serving more than one home are subject to the standards of this section 14.26.510, Transportation and Parking.

(9) Transportation and parking plans and projects must be consistent with public access policies and regulations per Section 14.26.300.

(10) Airports and landing fields:

(a) Airport facilities must be designed and operated such that:

(i) All facilities that are non-water-dependent must be located outside of shoreline jurisdiction, if feasible. When sited within shoreline jurisdiction, uses and/or developments such as parking, hangars, service buildings or areas, access roads, utilities, signs, and storage of materials must be located as far from the land/water interface as feasible.

(ii) New or upgraded airport facilities must minimize impacts on shoreline ecological functions, including control of pollutant discharge. The standards for water quality and criteria for application are those in current stormwater control regulations.

(b) Seaplanes:

(i) Private:

(ii) Operation of a single private seaplane on waters where FAA has designated a seaplane landing area is not regulated by the Shoreline Master Program.

(c) Moorage of a seaplane is addressed in Section 14.26.370 Boating Facilities and other Overwater Structures.

(d) Commercial: New commercial seaplane facilities, including docks and storage area bases, may be allowed provided such bases are not contiguous to residential areas and provided they meet standards in Section 14.26.370 Boating Facilities and other Overwater Structures.

(e) New Seaplane Facilities – Criteria for Approval:

(i) Review must include consideration of location approval in terms of compatibility with affected uses including short- and long-term noise impacts, impacts on habitat areas of endangered or threatened species, environmentally critical and sensitive habitats, and migration routes:

(ii) On adjacent parcels; and

(iii) On over-flight areas.

(f) Conditions must be imposed to mitigate impacts within the shoreline and also non-shoreline over flight and related impacts.

14.26.490 Utilities

(1) Applicability: Utilities standards apply to services and facilities that produce convey, store, or process power, gas, sewage, communications, oil, waste, water and the like.

(2) Accessory Utilities: On-site utilities supporting an associated shoreline use are considered part of the primary use.

(3) Prohibited Utility Developments: The following utility developments are not permitted to locate in shoreline areas:

(a) solid waste disposal or treatment sites,

(b) electrical generating plants (except hydroelectric facilities),

(c) power transmission and distribution substations, except that hydroelectric facilities are not included in this limitation and are addressed separately below, and

(d) utility accessory uses and administrative structures.

(4) Avoid Shoreline Locations:

(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 assure no net loss of shoreline ecological functions.

(b) The following utility uses are discouraged in shoreline areas. If allowed, such utility uses must assure 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 may 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 shorelines areas they must be located to minimize their adverse impacts on shoreline views.

(5) Use Existing Routes and Rights of Way: 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.

(6) 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 planned unit developments (PUD) must be installed underground in shoreline areas, except that utilities for which the only design feasible is above ground (e.g. some forms of stormwater facilities) may be allowed above ground.

(7) Parking Areas and Access Roads Location: Parking areas and access roads, unless stated elsewhere in this master program, must be setback landward of the primary utility facility except for pipeline and electrical transmission cable right-of-way maintenance roads.

(8) General Standards: All utility facilities must be designed and located meet all the following criteria while meeting the needs for planned growth:

(a) Assure no net loss of shoreline ecological functions;

(b) Preserve the natural landscape;

(c) Avoid the use of any structural or artificial shoreline stabilization techniques 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.

(9) Standards – Floodplains, Floodways:

(a) Floodplain - Utility development that would measurably and adversely affect flood levels and capacities is not permitted.

(b) Floodway - Utility development that would in any way adversely affect floodway characteristics and capacities is not permitted.

(10) Standards – Landfills Not Permitted: Landfilling of all shoreline areas for facility or line development purposes is not permitted.

(11) Standards – Underground Utility Lines: For those utility lines allowed in or across shoreline areas and installed underground and/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.

(12) Standards – 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 will 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.

(13) Standards –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 will utilize existing crossings. All crossing must utilize the shortest, most direct route feasible.

(b) Aerial utility lines must make maximum use of area topography to minimize visual contrasts.

(14) Hydropower facilities: Flowlines and powerhouses are subject to the following additional standards of this section:

(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.

(b) Flowlines and powerhouses shall 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.

Part V: Critical Areas Regulations in Shoreline Jurisdiction

14.26.500 General Regulations for Critical Areas in Shoreline Jurisdiction

(1) Jurisdiction and coordination.

~~(1) Applicability. The provisions of this Chapter shall be consistently applied to any land use or development under County jurisdiction within the geographical areas that meet the definitions and criteria for critical areas regulation as set forth in this Chapter.~~

(a) ~~(2)~~ Relationship to other Federal, State, Tribal and Local Jurisdictional Agencies' Regulations. Many State, Federal and regional regulations apply to projects conducted within critical areas. Uses otherwise allowed by County codes do not eliminate other agency regulatory requirements.

(b) Jurisdictional Substitution. In cases where other agencies possess jurisdictional control over critical areas and it is determined by the Shoreline Administrator that the permit conditions satisfy the requirements of this Chapter, those requirements may substitute for the requirements of this Chapter. Such requirements shall be a condition of critical areas approval and be enforceable by the County. Such agencies may include, but are not limited to, the United States Army Corps of Engineers, Environmental Protection Agency, and Fish and Wildlife Service; the National Marine Fisheries Service; local Tribes~~,~~; and the Washington State Department of Ecology, Department of Natural Resources and Department of Fish and Wildlife. The County shall notify the applicant in writing when any such substitution is made.

(c) Jurisdictional Coordination. In addition to the provisions established in this Chapter, the County shall coordinate its own programs with those of other public and private organizations to enhance management of Critical Areas in Skagit County.

(2) Resource information and maps.

(a) With the exception of the Flood Insurance Rate Map used to designate certain frequently flooded areas, the Skagit County Final Shoreline Area Designation Map (Insert Final Shoreline Jurisdiction Map Date or as revised) and maps of flow-sensitive basins prepared by the Shoreline Administrator, Skagit County's shoreline critical areas maps are provided only as a general guide to alert the user to the possible distribution, location and extent of critical areas. Map identification of critical areas provides only approximate boundaries and locations in Skagit County. The actual locations and boundaries of critical areas, as well as their quality and quantity, shall be based upon the presence of the features applicable to each critical areas element in this Chapter. Maps shall not be considered a regulatory standard or substitute for site-specific assessments. The application of definitions, methodologies and performance standards pursuant to the site assessment requirements provided in this Chapter is the controlling factor in determining the actual presence and extent of critical areas.

(b) Skagit County will utilize data from natural resource agencies as a source ~~of best available science (BAS) to develop critical areas~~of scientific and technical information to develop shoreline critical areas maps. Maps will be updated when new data becomes available from resource agencies.

(3) Authorizations required. With the exception of activities identified as allowed without standard review under SCC 14.26.500(4), any land use activity that can impair the functions and values of critical areas or their buffers, including suspect or known geologically hazardous areas, through a development activity or by disturbance of the soil or water, and/or by removal of, or damage to, existing vegetation, shall require critical areas review and written authorization pursuant to this Chapter. Authorizations required under this Chapter overlay other permit and approval requirements of the Skagit County Code. Regardless of whether a County development permit or approval is required, any proposed alteration that can adversely affect a critical area or its standard buffer must comply with the substantive and procedural requirements of this Chapter. Critical areas review pursuant to this Chapter shall be conducted as part of the underlying permit or approval, where applicable. It is the responsibility of the landowner, or designee, who conducts or proposes to undertake land use activities that can adversely impact critical areas or their buffers to obtain County authorization prior to commencing such activities.

(a) No land use development permit, land division, development approval, or other County authorization required by County ordinance shall be granted until the applicant has demonstrated compliance with the applicable provisions of this Chapter.

(b) Conflicts with Other Provisions. If any provision of this Chapter conflicts with any other applicable provision of the Skagit County Code, the more restrictive shall apply unless specifically excepted in this Chapter.

(c) SEPA Compliance. The goals, policies and purposes set forth in this Chapter shall be considered policies of Skagit County under the State Environmental Policy Act. When applicable the applicant must meet SEPA requirements pursuant to Chapter 14.12 SCC.

(d) Other Permits Required. It is recognized that many City, County, State, and/or Federal permit conditions may apply to the proposed action, and that compliance with the provisions of this Chapter may not necessarily constitute compliance with other such requirements.

(4) Activities allowed without standard review. The following developments, land use activities and associated uses are allowed without standard critical areas review; provided, that they are consistent with other applicable provisions of this Chapter and other chapters of the Skagit County Code. Some of the activities listed within this Section may, however, require a floodplain development permit if within the special flood hazard area (SFHA), and therefore require a habitat impact assessment pursuant

to SCC 14.26.540(3)(e). All activities that do not require standard critical areas review shall be carried out in ways that cause the least impact to critical areas and their buffers. If any damage is caused to a critical area or buffer in connection with such activity, the critical area and its buffer must be restored to the extent feasible. To be allowed without standard review does not give permission to destroy a critical area or ignore risk. Proponents of such activities shall be responsible for notifying the Shoreline Administrator if any damage occurs and shall provide all necessary restoration or mitigation.

(a) Emergencies That Threaten the Public Health, Safety and Welfare. An "emergency" is an unanticipated and imminent threat to the public health or safety or to the environment which requires immediate action within a period of time too short to allow full compliance with this Chapter. Emergency actions that create an impact to a critical area or its buffer shall use reasonable methods that can address the emergency but also that have the least possible impact to the critical area or its buffer. The responsible party shall restore the critical area and buffer after the emergency to the extent feasible. The person or agency undertaking such action shall notify the Shoreline Administrator within one (1) working day or as soon as practical following commencement of the emergency activity. Following such notification, the Shoreline Administrator shall determine if the action taken was within the scope of the emergency actions allowed in this Subsection. If the Shoreline Administrator determines that the action taken or any part of the action taken was beyond the scope of allowed emergency actions, then the enforcement provisions of Chapter 14.26.830 SCC shall apply.

(b) Existing activities defined as ongoing agriculture on designated agricultural land, including related development and activities which do not result in expansion into a critical area or its buffer and which do not result in significant adverse impacts to a critical area or its buffer; provided, that such activities comply with the provisions of SCC 14.26.500(9). New development and/or expansion of existing agricultural operations shall comply with both the substantive and procedural provisions of this Chapter. Existing and ongoing agricultural activities that result in significant adverse impacts to a critical area or its buffer shall not be allowed without standard review under this Chapter.

(c) Normal and routine maintenance or repair of existing structures, utilities, sewage disposal systems, potable water systems, drainage facilities, detention/retention ponds, or public and private roads and driveways associated with pre-existing residential or commercial development, provided any maintenance or repair activities shall use best management practices (BMPs) with the least amount of potential impact to the critical areas and any impact to a critical area or its buffer shall be restored after the maintenance to the extent feasible.

(d) Normal maintenance, repair, or operation of existing structures, facilities, and improved areas accessory to a single-family residential use, provided any

maintenance or repair activities shall use reasonable methods with the least amount of potential impact to the critical areas and any impact to a critical area or its buffer shall be restored after the maintenance to the extent feasible. This allowance shall not be construed as applying to agricultural activities undertaken outside of the Agriculture-NRL zoning district.

(e) Modification of an existing single-family residence that does not change the use from residential, does not expand the building footprint and does not adversely impact critical areas or their buffers.

(f) Modification of an existing structure other than a single-family residence which does not expand the building footprint, alter the use or increase septic effluent, pursuant to the requirements of the nonconforming use and structure provisions in Chapter 14.16 SCC (Zoning), and does not adversely impact critical areas or their buffers.

(g) Provided the requirements of SCC 14.26.500(9)(d)(iv) are met for ongoing agriculture, the lawful operation and maintenance of public and private diking and drainage systems which protect life and property along the Skagit and Samish Rivers and tidal estuaries in Skagit County. This exemption applies to the existing structures and design prism of levees, dikes, and artificial watercourses 40 feet landward of the landward toe of the structure or facility and 40 feet waterward of the waterward toe of the structure, measured horizontally from the face of the levee, dike or bank of the artificial drainage structure toward the ordinary high water mark. The exempt area for operation and maintenance may be managed to meet Federal standards for funding assistance established by the United States Army Corps of Engineers under Public Law 84-99 or other laws and regulations adopted to guide the diking and drainage functions. This exemption does not apply to public or private activities that expand the levee, dike, or drain beyond its design characteristics as of June 1, 1999, the time of adoption of this Subsection; nor activities that expand or create new facilities.

(h) Education and scientific research activities which do not adversely impact critical areas or their buffers.

(i) Site investigation work necessary for land use applications such as surveys, soil logs and other related activities which does not adversely impact critical areas or their buffers. In every case, critical areas impacts shall be minimized and disturbed areas shall be immediately restored.

(j) Activities adjacent to artificial watercourses which are constructed and actively maintained for irrigation and drainage; provided, that any activity shall comply with Chapter 77.55 RCW by securing written approval from the State Department of Fish and Wildlife; and provided further, that the activity must also comply with all applicable State and local drainage, erosion and sedimentation control requirements for water quality. The operator shall notify

the Shoreline Administrator in writing regarding the location and nature of anticipated activities a minimum of 14 days prior to commencing any such activity. Such notification shall be a condition for allowance of this activity without standard review. This allowance only applies to activities not subject to SCC 14.26.500(9)(d)(iv).

(k) Maintenance activities such as mowing and normal pruning; provided, that such maintenance activities are limited to existing landscaping improvements and do not expand into critical areas or associated buffers, do not expose soils, do not alter topography, do not destroy or clear native vegetation, and do not diminish water quality or quantity. This allowance shall not be construed as applying to agricultural activities undertaken outside the Agriculture-NRL zoning district.

(l) Fish, wildlife, wetland and/or riparian enhancement activities not required as mitigation; provided that the project is approved by the U.S. Department of Fish and Wildlife, U.S. Army Corps of Engineers, the Washington State Department of Fish and Wildlife or the Washington State Department of Ecology.

(5) Standard critical areas review and site assessment procedures.

(a) Determination That an Activity Requires Standard Review. All applications for approval of activities requiring written authorization pursuant to SCC 14.26.500(3) shall require the submission of a critical areas checklist completed and filed by the applicant on the forms provided by Planning and Development Services. If not otherwise required, all applications for critical areas review shall include a description of the proposed activity and a site plan showing the location of the proposed activity and associated area of disturbance in relation to all known critical areas or critical areas indicators. Upon receipt of the application, the Shoreline Administrator shall determine whether the proposed activity fits within any of the activities allowed without standard review found in SCC 14.26.500(4). If the proposed activity is so allowed and meets the associated conditions for such an allowance, no other critical areas review shall be required, except as necessary for the Shoreline Administrator to ensure that any conditions for such an allowance are met in practice. The Shoreline Administrator shall note this determination in the application file and provide written authorization for the project or activity to proceed as proposed in the application when undertaken in accordance with any conditions for such an allowance.

(b) Review Procedures. Upon determination that the proposed activity is not allowed without standard review, and upon receipt of a completed critical areas checklist or a complete critical areas review application, the Shoreline Administrator shall use the following method to determine whether critical areas or their required buffers are within 200 feet or a distance otherwise specified in this Chapter or may be affected by the proposed activity:

(i) Review the critical areas checklist together with the maps and other critical areas resources identified in the relevant sections of this Chapter; and

(ii) Complete the Critical Areas Staff Checklist; and

(iii) Inspect the site; and

(iv) Complete the Critical Areas Field Indicator form.

(c) Determination That Critical Areas Are Not Present or Affected.

(i) If the Shoreline Administrator determines that critical areas or critical area buffers are not present within 200 feet of the proposed activity or within a distance otherwise specified in this Chapter; or

(ii) The project does not expand an existing single-family residence by more than 200 square feet of floor area and does not adversely impact or encroach into critical areas or their buffers; or

(iii) The project does not expand an existing structure, other than a single-family residence, by more than 200 square feet of floor area, does not alter the use or increase septic effluent, pursuant to the nonconforming use and structure provisions of Chapter 14.16 SCC (Zoning), and does not adversely impact or encroach into critical areas or their buffers; then

(iv) The review required pursuant to this Chapter is complete. The Shoreline Administrator shall ensure that the proposed activity is undertaken as described in the application and as shown on the site plan. The determination shall be noted in the application file and written authorization shall be provided. This determination shall not constitute approval of any use or activity nor its compliance with the requirements of this Chapter, outside the scope of that stated in the application. Any proposed change in use or scope of activity from that contained in the application shall be subject to further review under this Chapter.

(d) Determination That Critical Areas Are Present or Affected. If the Shoreline Administrator determines that critical area indicators are present within 200 feet of the proposed activity or within a distance otherwise specified in this Chapter, then the Shoreline Administrator shall note this determination in the application file and the applicant shall be required to provide the critical areas site assessment specified in this Chapter. Development of a site assessment may precede a County site visit; provided, that no disturbance of vegetation or land surface occurs prior to County authorization. If the applicant chooses, the site assessment may be limited to 300 feet surrounding a proposed development only if there are no other activities occurring or proposed on the remainder of the parcel which are in conflict with this Chapter. If the applicant, together with

assistance from the Shoreline Administrator, cannot obtain permission for access to properties within 300 feet of the project area, then the site assessment may also be limited accordingly. The site assessment shall be completed as follows:

(i) The site assessment shall be prepared by a qualified professional for the type of critical area or areas involved and shall contain the information specified for each type of critical area. The qualified professional may consult with the Shoreline Administrator prior to or during preparation of the site assessment to obtain County approval of modifications to the contents of the site assessment.

(ii) The site assessment shall use scientifically valid methods and studies in the analysis of critical areas data and field reconnaissance and reference the source of science used.

(iii) The site assessment shall include:

(A) Project description that includes a detailed narrative describing the project, its relationship to the critical area and its potential impact to the critical area; and

(B) A copy of the site plan for the project proposal including a map to scale depicting critical areas, buffers, the development proposal, and any areas to be cleared; and

(C) Identification and characterization of all critical areas and buffers adjacent to the proposed project area; and

(D) An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development; and

(E) A description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations; and

(F) A description of efforts made to apply mitigation sequencing pursuant to Subsection (v)(B) of this Section; and

(G) A proposed mitigation plan including land use restrictions and landowner management, maintenance and monitoring responsibilities; and

(H) Regulatory analysis including a discussion of any Federal, State, Tribal, and/or local requirements, including but not limited to the Shoreline Management Master Program, or special management

recommendations which have been developed for species and/or habitats located on the site.

(I) If necessary, designate a maintenance corridor to provide an area for construction and maintenance of buildings and other structures. The standard width of the maintenance corridor shall be 15 feet. This distance may be modified with approval of the Shoreline Administrator. The following may be allowed within the maintenance corridor area:

a. Landscaping with non-invasive species only;

b. Uncovered decks;

c. Building overhangs if such overhangs do not extend more than 18 inches into the setback area;

d. Impervious ground surfaces, such as driveways and patios; provided, that such improvements may be subject to special drainage provisions adopted for the various critical areas; and

e. Trails.

(iv) If necessary to ensure compliance with this Chapter, the Shoreline Administrator may require additional information from the applicant, separate from the critical areas site assessment.

(v) General Mitigation Requirements.

(A) Mitigation. All proposed alterations to critical areas or associated buffers shall require mitigation sufficient to provide for and maintain the functions and values of the critical area or to prevent risk from a critical areas hazard and shall give adequate consideration to the reasonable and economically viable use of the property.

(B) Mitigation Sequence. The sequence of mitigation is 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.

(vi) Financial Assurance. The Shoreline Administrator shall require the mitigation proposed in the site assessment to be completed prior to final approval of the development permit. For all projects with an estimated mitigation cost of $10,000 or more, the Shoreline Administrator shall require financial assurance which will guarantee compliance with the mitigation plan if the mitigation proposed in the site assessment cannot be completed prior to final approval of the development permit. Financial assurance shall be in the form of either a surety bond, performance bond, assignment of savings account or an irrevocable letter of credit guaranteed by an acceptable financial institution with terms and conditions acceptable to the County Prosecuting Attorney, shall be in the amount of 125% of the estimated cost of the uncompleted actions or construction, and shall be assigned in favor of Skagit County Planning and Development Services. The term of the financial assurance shall remain in place until the required mitigation is complete.

(6) Protected critical areas (PCA) requirements.

(a) PCA. Approval of projects which trigger a development permit and/or other land use activities that require critical areas site assessment(s) shall require the identification and designation of PCAs. PCAs shall include all critical areas and their associated buffers as well as all areas on the parcel not investigated for critical areas. PCAs shall be depicted on a site plan, suitable for recording, and shall include all critical areas and associated buffers which have been identified through the site assessment process.

The PCA is to be left undisturbed in its natural state. No clearing, grading, filling, logging, or removal of woody material; building; construction or road construction of any kind; planting of non-native vegetation or occupation by livestock is allowed within the PCA areas except as specifically permitted by Skagit County on a case-by-case basis.

(b) PCA Field Identification and Buffer Edge Markers.

(i) Temporary Markers. During construction phases of development, distinct temporary marking consisting of flagging and/or staking shall be

maintained along the outer limits of the delineated PCA or the limits of the proposed site disturbance outside of the PCA. Prior to the start of construction activity, and as necessary during construction, temporary markings shall be inspected by the Shoreline Administrator or qualified professional. Written confirmation is to be included in the record as to whether or not the flagging has been installed consistent with the permit requirements prior to commencement of the permitted activity.

(ii) Permanent Buffer Edge Markers. Except as provided under Subsection (2)(b)(i) of this Section, the outer edges of all PCAs, with the exception of aquifer recharge areas, shall be clearly marked on-site by the applicant or landowner with permanent stakes and critical areas markers. Critical areas markers may be either approved critical areas signs or inexpensive steel posts painted a standard color approved by the Shoreline Administrator that is clearly identifiable as a critical areas marker. Installation of permanent markers shall be the responsibility of the landowner.

(A) The Shoreline Administrator may waive or modify the requirement for permanent buffer edge markers; provided, that any such decision shall be based on a site-specific determination that future verification of PCA locations will not be substantially more difficult without the placement of permanent markers and that such waiver or modification will not result in reduced long-term protection of critical areas.

(B) Where such permanent markers are required, the Shoreline Administrator shall specify their frequency of placement and general location. Permanent markers shall be placed to locate the edge of the PCA to an approximate accuracy of within 5 percent of the specified buffer width or within 5 feet, whichever is larger. The spacing intervals of the markers shall be such as to provide comparable accuracy of line-of-sight determination of buffer edges. The locations of all required stakes/markers shall be shown on the plat map or site plan recorded with the Auditor.

(iii) Signs or Fencing Required as Part of Critical Area Mitigation. The Shoreline Administrator shall require permanent signs or fencing where the Shoreline Administrator determines that it is a necessary component of a mitigation plan. The intent is to provide clear and sufficient notice, identification and protection of critical areas on-site where damage to a critical area or buffer by humans or livestock is probable due to the proximity of the adjacent activity.

(iv) Sign, Marker and Fence Maintenance. It is the responsibility of the landowner, or any subsequent landowner, to maintain the required PCA markers, signs or fences in working order throughout the duration of the development project or land use activity. "Maintenance" includes any necessary replacement. Removal of required signs, markers or fences without prior written approval of the Shoreline Administrator shall be considered a violation of this Chapter.

(c) PCA Recording and Binding Agreements.

(i) All PCAs shall be recorded with the County Auditor in accordance with the procedures established under this Section. The applicant shall be responsible for all fees and other costs associated with recording of PCAs.

(ii) Binding Agreements. For each project or activity that requires recording of PCAs, the following information shall be recorded with the Auditor, using forms provided by Planning and Development Services, as part of a binding agreement between the landowner and the County which shall run with the land and be readily available to the public upon request:

(A) Binding agreement signed by the landowner and the Shoreline Administrator which stipulates any special conditions of approval, protective covenants, binding conditions, or other requirements such as use restrictions, required mitigation, and/or landowner maintenance or monitoring requirements established at the time of approval;

(B) Reference to the County file containing the complete record of information pertaining to approval of the project or activity.

(d) PCAs on Pre-Existing Lots.

(i) For development proposals and other land use activities on pre-existing lots, not part of a proposed land division, planned unit development (PUD) or other form of multiple lot development, PCAs shall be identified on a scaled site plan showing the location of the PCA, structures (existing and proposed) and their distances from the PCA and lot lines to show relative location within the subject parcel(s). All PCAs shall include the necessary labeling to show calculated area (in square feet or acreage), and type or category of critical area designated. The site plan may be prepared by the applicant and all distances and locations of structures may be measured from the established PCA boundary to within plus-or-minus 5 feet.

(ii) Ingress and Egress. Owners of PCAs shall grant ingress and egress by the Shoreline Administrator for monitoring and evaluation of compliance

with established conditions of approval, binding conditions or any required mitigation.

(e) PCA Designations for New Land Divisions.

(i) For land divisions and PUDs where critical areas have been identified through site assessments, all PCAs shall be placed into separate tracts or easements, whose uses shall be regulated by the provisions of this Chapter. Area within a PCA can be included in total acreage for development purposes and may be used in lot area or density calculations. PCAs may be owned and maintained by the owner of the lot of which they are a part or transferred to the County, homeowners association or land trust.

(ii) If the development project is a CaRD application and is within a natural resource land, the remainder parcel shall be put into Os-PA or Os-NRL and shall have all of the constraints that are set forth in this Chapter.

(A) If the development project is a short subdivision conducted pursuant to SCC 14.16.860 (Agricultural land preservation) which segregates an existing single-family residence on a substandard lot while preserving the remainder of the parcel under a County-approved agricultural preservation agreement, said short subdivision shall not include additional development as defined under SCC 14.26.860 and subsequent development on the segregated home site and/or remainder parcel shall require standard review pursuant to this Chapter.

(iii) Recording. PCA designations shall be recorded with the Auditor as part of the plat approval process. The Auditor file number referencing the agreement shall be on the face of the plat and its provisions shall run with the land.

(iv) PCA Plat Map Descriptions. The location of PCAs shall be clearly identified on preliminary and final plat maps. PCAs shall be labeled using the letters A through Z, or another labeling system approved by the Shoreline Administrator. If a survey was not used to map the critical area, a note on the final plat map shall be recorded stating that a legal survey was not performed to delineate the critical area and that the surveyor is not incurring liability for the exact boundaries of the critical area on the plat map. All PCAs shall include the necessary labeling to show calculated area (in square feet or acreage), and type and/or category of critical areas within each lot. This information shall be noted on the face of the approved plat.

(v) PCA Maintenance. The PCA is to be left undisturbed in its natural state. No clearing, grading, filling, logging, or removal of woody material; building; construction or road construction of any kind; planting of non-native vegetation or occupation by livestock is allowed within the PCA areas except as specifically permitted by Skagit County on a case-by-case basis.

(vi) Ingress, Egress and Use. Owners of PCAs shall grant ingress and egress by the Shoreline Administrator for monitoring and evaluation of compliance with established conditions of approval, binding conditions or any required mitigation.

(7) Critical areas determination and conditions of approval. Based on the critical areas site assessment and other available critical areas information, the Shoreline Administrator shall make a determination on the proposed activity. A determination to approve a proposal shall include designation of protected critical areas (PCAs) pursuant to SCC 14.26.500(6) and stipulation of binding conditions and required mitigation, monitoring, maintenance or other conditions of approval pursuant to this Chapter.

(a) If the Shoreline Administrator determines that there are no conditions under which the proposed activity could be approved, then the Shoreline Administrator shall deny the proposal.

(b) Formal determinations made by the Shoreline Administrator shall include the basis and rationale for the determination, as well as detailed specification of related conditions of approval, land use prohibitions, and required landowner mitigation, management, monitoring and/or maintenance.

(c) Complete Record. A complete record of all formal determinations by the Shoreline Administrator, along with related critical areas checklists, site assessments, binding agreements, conditions of approval, land use prohibitions and required mitigation shall be maintained by the County and made available to the public upon request, pursuant to Chapter 40.14 RCW.

(d) ~~Option to Apply for a~~Shoreline Variance. If, as a result of the critical areas site assessment and determination, the applicant believes that he or she is eligible for a Shoreline V~~v~~ariance from one or more of the dimensional requirements of this Chapter, then the applicant may request a Shoreline V~~v~~ariance permit as described in SCC 14.26.810 and as further limited in 14.26.500(11).

~~(e) (5) Option to Apply for a Reasonable Use Exception. If, as a result of the critical areas site assessment and determination, the applicant believes that the requirements of this Chapter, including any request for a variance from the requirements of this Chapter, still leave the applicant with no reasonable and~~

~~economically viable use of his or her property, then the applicant may apply for a reasonable use exception pursuant to SCC 14.24.150.~~

~~(f)~~(e) Reopening of Review Process.

(i) If at any time prior to completion of the public input process on the associated permit or approval, the Shoreline Administrator receives new evidence that a critical area or a critical area buffer may be present within 200 feet of the project area or within a distance otherwise specified in this Chapter, then the Shoreline Administrator shall reopen the critical areas review process pursuant to this Chapter and shall require whatever level of critical areas review and mitigation as is required by this Chapter.

(ii) Once the public input process on the associated permit or approval is completed and the record is closed, then the Shoreline Administrator's determination regarding critical areas pursuant to this Chapter shall be final, unless appealed as described in SCC 14.26.780; provided, however, that the Shoreline Administrator shall not be prevented from reopening the critical areas review process if County staff relied on misinformation provided by the applicant in the application or checklist. Prior to reopening a critical areas review under this Subsection, the Shoreline Administrator shall make a site visit. No critical areas review shall be reopened under this Section unless the Shoreline Administrator determines, after the site visit, that the applicant provided misinformation.

(iii) If a critical areas review is reopened under this Subsection after a permit or approval is granted, the burden of proof on whether the applicant submitted misinformation at the time of the submittal of the checklist shall be on the Shoreline Administrator. The fact that the applicant no longer owns the subject property at the time the Shoreline Administrator discovers the misinformation shall not inhibit reopening critical areas review.

(8) County regulation of forest practices for the protection of critical areas. Forest practices governed under Chapter 76.09 RCW are subject to the provisions of this Section as follows:

(a) All Class IV-General forest practices that propose conversion to a use other than commercial timber production shall be subject to all of the provisions of this Section.

(b) Any request for County approval of a Conversion Option Harvest Plan (COHP) shall be subject to all of the provisions of this Section.

(c) The County shall coordinate the review of forest practice applications within the urban growth areas (UGAs) of incorporated cities and towns through interlocal agreements; provided, that the County shall continue to condition forest practices within all UGAs to the full extent of this Chapter until such time as its jurisdictional responsibility is amended by interlocal agreements.

(d) The following shall be subject to a 6-year moratorium on all future activities which require a permit or land use approval from the County:

(i) Forest practices of any class governed by Chapter 76.09 RCW that:

(A) Do not fall under Subsection (1), (2) or (3) of this Section; and

(B) Where no significant threat to the public safety or welfare is indicated; and

(C) Where no indications exist of future conversion to uses other than forest practices; or

(ii) Where an undeclared conversion of forest land to a specified use has occurred under a non-conversion forest practice application (FPA) without an approved COHP in good standing; or

(iii) When harvesting takes place without an FPA. In this case, the moratorium shall begin on the date the harvest activity was discovered by the DNR or the County.

(e) Waiver of the 6-Year Moratorium. The applicant may apply to the County for a waiver of the 6-year moratorium. The 6-year moratorium may be waived for a lot of record where such activity complies with all applicable County ordinances. Such waiver may be issued by the Shoreline Administrator as a Level I process where a finding can be made that granting the waiver meets the criteria noted below. Before acting on the request for waiver of the moratorium, the Shoreline Administrator shall issue a notice of development application (NODA) consistent with the procedures under 14.26.780 SCC, including a 15-day comment period, and review the project for consistency with SEPA under Chapter 14.12 SCC; provided further, where the initial critical areas review and site visit concludes that no critical areas have been impacted, or do not exist, the Shoreline Administrator may waive the NODA requirement and issue the waiver. The following shall provide the criteria for considering a waiver:

(i) A critical areas site assessment must be prepared where warranted by this Chapter following initial review and site visit of the use proposed for the property subject to the moratorium. The site assessment shall determine the level of impacts to County-regulated critical areas and associated buffers that have occurred due to logging and any associated conversion activity. The site assessment shall also include an estimated time needed

for recovery of the critical area to a state comparable to what it was before the forest practice took place.

(ii) If, based on the prepared site assessment and comments received, the Shoreline Administrator determines that recovery of the critical area(s) and associated buffers can be achieved, then a mitigation plan shall be prepared and implemented consistent with this Chapter and the moratorium shall be lifted. If, however, critical areas and their buffers cannot be restored to a level of critical areas function comparable to what it was prior to the logging activity during the moratorium period, the request for a waiver of the moratorium shall be denied and the County shall not accept applications for development permits for the duration of the moratorium.

(f) In situations where a request for waiver has been denied based on the evidence provided in the site assessment and public comment, restoration to the extent feasible shall occur within the critical areas and their standard buffers (including reforestation), and no further land use approvals shall be issued for the duration of the moratorium.

(9) Ongoing agriculture.

(a) Purpose and Intent. The purpose of this Section is to address two mandates under the Growth Management Act (GMA): (1) to protect the existing functions and values of fish and wildlife habitat conservation areas (FWHCAs) in and adjacent to natural, modified natural, and artificial watercourses as defined in SCC 14.26.860 (collectively "watercourses"), and (2) to conserve and protect agricultural lands of long-term commercial significance, specifically those lands in ongoing agricultural activity as defined by SCC 14.26.860 that are located adjacent to these watercourses.

(i) For purposes of this Section, "existing functions and values" means the following:

(A) Water quality standards identified in Chapter 173-201A WAC, including the provisions that account for natural or baseline conditions.

(B) The existing presence or absence of large woody debris within the watercourse.

(C) The existing riparian buffer characteristics and width, including but not limited to the existing amount of shade provided by the existing riparian buffer.

(D) The existing channel morphology.

(ii) Because many of the areas that are the subject of this Section are located in the Skagit and Samish River deltas or floodplains, where substantial diking and drainage infrastructure have been constructed and where various diking and drainage districts have lawful obligations to maintain agricultural and other drainage functions and infrastructure as established in RCW Titles 85 and 86, this Section also must accommodate those ongoing diking, drainage, and flood control functions.

(iii) It is the goal of Skagit County to administer the provisions of this Section consistent with local, State, and Federal programs, statutes and regulations to protect the health, welfare, and safety of the community, to accommodate continued operation and maintenance of the diking, drainage, and flood control infrastructure and to protect agriculture, natural resources, natural resource industries, and fish and wildlife habitat conservation areas in and adjacent to watercourses. This Section is intended, to the maximum extent possible, to rely on and coordinate with but not substitute for or duplicate other State and Federal programs, statutes, and regulations that address agricultural activities in a manner that protects water quality and fish habitat. This Section is intended to supplement those existing State and Federal programs, statutes, and regulations only in those areas where the County has determined existing programs do not fully address GMA requirements to protect FWHCAs in and adjacent to watercourses and to conserve agricultural lands of long-term commercial significance.

(iv) Skagit County hereby elects to enroll the entirety of unincorporated Skagit County, and all its watersheds, in the Voluntary Stewardship Program established by Engrossed Substitute House Bill 1886 (2011). Skagit County intends the Voluntary Stewardship Program, in conjunction with the provisions of this Section and Chapter, to protect critical areas in areas of agricultural activity.

(b) Applicability. Except as may otherwise be required by ESHB 1933, Chapter 321, Laws of 2003, for agricultural lands located within the jurisdiction of the Shoreline Management Act, Chapter 90.58 RCW, this Section shall apply to the following:

(i) As defined in SCC 14.26.860, all ongoing agriculture (including operation and maintenance of agricultural drainage infrastructure) which is located within 200 feet ~~from~~ of a watercourse, or any ongoing agriculture (including operations and maintenance of agricultural drainage infrastructure) that adversely impacts the existing functions and values of a watercourse, is subject to the requirements of this Section. Isolated, artificial watercourses that have no channelized surface hydraulic connection or no piped hydraulic connection between the artificial

watercourse and any natural or modified natural watercourse or any salt water shall not be subject to the requirements of this Section. Drainage tile used to convey groundwater shall not be considered a piped hydraulic connection.

(ii) The provisions of this Section shall not be interpreted to permit expansion of ongoing agriculture (including agricultural drainage infrastructure) into areas that did not meet the definition of ongoing agriculture on May 13, 1996, including lands that were fallow on that date but had been in agricultural production within 5 years prior to that date, unless such expansion can comply with all of the requirements for critical areas protection found in this Chapter, including but not limited to the requirement to adhere to the standard critical areas buffers and setbacks.

(iii) In this Section, the term "best management practices (BMPs)" refers to one or all definitions of that term in SCC 14.26.860, depending on which definition is relevant within the context used.

(iv) Agricultural operations that do not meet the definition of ongoing agriculture are required to comply with the other provisions of this Chapter.

(c) No Harm or Degradation Standard.

(i) All ongoing agricultural activities must be conducted so as not to cause harm or degradation to the existing functions and values of FWHCAs in and adjacent to watercourses (the "no harm or degradation" standard). For purposes of this Section, the phrase "no harm or degradation" means the following:

(A) Meeting the State water pollution control laws; and

(B) Meeting the requirements of any total maximum daily load (TMDL) water quality improvement projects established by the Department of Ecology (~~ECY~~Ecology) pursuant to Chapter 90.48 RCW; and

(C) Meeting all applicable requirements of Chapter 77.55 RCW (Hydraulics Code) and Chapter 220-110 WAC (Hydraulics Code Rules); and

(D) Meeting the specific watercourse protection measures for ongoing agriculture specified in Subsection (d) of this Section; and

(E) No evidence of significant degradation to the existing fish habitat characteristics of the watercourse from those characteristics identified in the baseline inventory described in Resolution No.

R20040211 that can be directly attributed to the agricultural activities that are described in this Section.

(ii) The references to Chapters 77.55 and 90.48 RCW and Chapters 173-201A and 220-110 WAC contained in this Subsection shall not be interpreted to replace ~~ECY~~ Ecology and the Washington Department of Fish and Wildlife (WDFW) authority to implement and enforce these State programs with County responsibility to do so, but rather are intended to provide County input and a supplemental County involvement as needed to implement the County's GMA obligations under this Section.

~~(iii) Reserved.~~

~~(iv)~~(iii) An owner or operator is responsible only for those conditions caused by agricultural activities conducted by the owner or operator and is not responsible for conditions that do not meet the requirements of this Subsection resulting from the actions of others or from natural conditions not related to the agricultural operations. In those situations where the County is presented with data showing a violation of a State water quality standard at a particular location, but where the County cannot identify any condition or practice existing or occurring at a particular agricultural operation that is causing the violation, the County shall refer the information regarding the State water quality violation to Ecology and shall follow other procedures described in SCC 14.44.085. Conditions resulting from unusual weather events (such as a storm in excess of 25-year, 24-hour storm), or other exceptional circumstances that are not the product of obvious neglect are not the responsibility of the owner or operator, but shall be subject to the requirements for emergency actions described in SCC 14.26.500(4)(a).

(d) Required Watercourse Protection Measures for Ongoing Agriculture. Unless the emergency provisions of SCC 14.26.500(4)(a) apply, the following watercourse protection measures are required:

(i) Livestock and Dairy Management. Livestock and dairy operations must not contribute any wastes or sediments into a natural or modified natural watercourse in violation of adopted State water pollution control laws.

(A) Livestock access to watercourses must be managed consistent with this Subsection. Access to a watercourse for livestock watering and/or stream crossings must be limited to only the amount of time necessary for watering and/or crossing a watercourse. Livestock watering facilities or access must be constructed consistent with applicable NRCS conservation practice standards, and must not be constructed to provide access to agricultural land that does not meet the definition of ongoing

agriculture unless that agricultural land and the crossing can meet all requirements of Part V of this SMP.

(B) Dairy operations must comply with the requirements of Chapter 90.64 RCW (Dairy Nutrient Management Act).

(C) Livestock pasture must be managed so as to maintain vegetative cover sufficient to avoid contributing sediments to a watercourse in violation of State water pollution control laws.

(D) Any existing or new livestock confinement or concentration of livestock areas that is located upgradient from a watercourse which results in bare ground (such as around a watering trough) must be constructed and maintained to prevent sediment and/or nutrient runoff contaminants from reaching a watercourse in violation of State water pollution control laws.

(ii) Nutrient and Farm Chemical Management.

(A) The owner or operator must not place manure in a watercourse or in a location where such wastes are likely to be carried into a watercourse by any means. Spreading of manure within 50 feet of any watercourse, and spreading of liquid manure on bare ground, is prohibited from October 31st to March 1st; unless otherwise permitted pursuant to:

(I) An approved and implemented dairy nutrient management plan (DNMP) as prescribed by Chapter 90.64 RCW; or

(II) A farm plan prepared or approved by the Conservation District.

(B) Agricultural operators may not apply crop nutrients other than at agronomic rates recommended for that particular crop.

(C) Farm chemicals may only be applied consistent with all requirements stated on the chemical container labels and all applicable Federal and State laws and regulations, such as Chapter 15.58 RCW (Pesticide Control Act), Chapter 17.21 RCW (Pesticide Application Act), and 7 USC 136 et seq. (Federal Insecticide, Fungicide, and Rodenticide Act).

(iii) Soil Erosion and Sediment Control Management.

(A) Roads used for ongoing agricultural activities must be designed such that road surfaces, fill, and associated structures are

constructed and maintained to avoid contributing sediment to watercourses.

(B) Agricultural equipment operation must not cause watercourse bank sloughing or other failure due to operation too close to the top of the bank.

(C) Watercourse construction and maintenance must meet the requirements for drainage operation and maintenance described under Subsection (d)(iv) of this Section.

(D) V-ditching must not be constructed to drain into a watercourse that contains salmonids, unless the topography of the field is such that the only alternative to drain the field by gravity is to drain the V-ditch into a watercourse that does contain salmonids. When draining a V-ditch into a watercourse that does contain salmonids, appropriate BMPs should be used to avoid contributing excess amounts of sediment to the watercourse. For the purpose of determining whether a watercourse contains salmonids, the County will use salmonid distribution based on the "limiting factors analysis" data compiled by the Washington State Conservation Commission.

(iv) Operation and Maintenance of Public and Private Agricultural Drainage Infrastructure. The following practices apply to any watercourse that is part of drainage infrastructure, except those practices performed pursuant to a fully-executed Drainage-Fish Initiative or Tidegate-Fish Initiative agreement:

(A) Regularly scheduled agricultural drainage infrastructure maintenance that includes dredging or removal of accumulated sediments in any watercourse shall be conducted between June 15th and October 31st. If an approved hydraulics project permit provides for a different work window, those requirements control. If presence of fall or over-winter crops prevents regularly scheduled maintenance during this time period, then the maintenance may be conducted outside this work window; provided, that the person or entity proposing to conduct the maintenance outside the work window can demonstrate that the presence of crops prevents maintenance within the work window and provided the maintenance is conducted using best management practices to minimize sediment or other impacts to water quality. Owners or operators shall consult with districts conducting drainage maintenance to schedule their crop rotations for crops that may still be in the field after October 31st so that, to

the maximum extent possible, such drainage maintenance can occur in a year when the fall crops are not being raised in the field adjacent to the drainage infrastructure scheduled for drainage maintenance.

(B) Unless there is no feasible alternative, regularly scheduled maintenance that includes dredging or removal of accumulated sediments in any watercourse should be conducted at those times when there is no or minimal water flow in the watercourse being maintained to minimize potential for distributing sediments to salmonid-bearing waters.

(C) Excavation spoils must be placed so as not to cause bank failures and so that drainage from such spoils will not contribute sediment to the watercourse.

(D) Mowing or cutting of vegetation located within a watercourse that is part of drainage infrastructure may be conducted at any time; provided, that the cutting is above the ground surface within the channel and in a manner that does not disturb the soil or sediments; and provided, that the cut vegetation does not block water flow. Watercourse bank vegetation shall be preserved or allowed to reestablish as soon as practicable after drainage construction and maintenance are completed to stabilize earthen ditch banks.

(E) Districts subject to this Section, operating pursuant to authority in RCW Title 85 or 86, which are conducting drainage activities shall complete and submit a drainage maintenance checklist to the County by June 1st of each year. The checklist shall describe the intent of the district to comply with the drainage maintenance requirements of Subsection (d)(iv) of this Section. The districts may seek assistance from NRCS, SCD and/or the County in completing the checklist or addressing the requirements of this Subsection. The checklist shall be available from Skagit County Planning and Development Services, mailed to any entity conducting drainage activities, and shall be submitted to Planning and Development Services when completed. The districts may submit modifications to the information in the checklist, if circumstances affecting district maintenance change after the initial submittal.

(I) The County shall send a written notice to any district not submitting this completed checklist by June 1st of each year, stating that the County has not received the required checklist

and that the district is not authorized to conduct drainage maintenance activity until the district has submitted the completed checklist evidencing intent to comply with this Subsection.

(II) Subsequent commencement of drainage maintenance work without submitting a completed checklist shall be subject to enforcement pursuant to Chapter 14.44 SCC.

(F) Immediate measures necessary to drain fields inundated by an unanticipated flooding event or failure of the agricultural drainage infrastructure shall be subject to the requirements for emergency repair described in SCC 14.26.500(4)(a).

(e) Recognition for Agricultural Owners and Operators Who Have Implemented Extra Watercourse Protection Measures. This Subsection intends to recognize the extra watercourse protection measures for ongoing agriculture taken by landowners or operators who have implemented an approved dairy nutrient management plan (DNMP) or resource management system plan (RMS plan) (including, but not limited to, CREP) from SCD or NRCS.

(i) Those portions of land upon which owners or operators have sought and implemented an approved DNMP or an RMS plan consistent with the conservation practices and management standards that meet the FOTG quality criteria for each natural resource (soil, water, animals, plants and air) are entitled to a presumption of compliance with the "no harm or degradation" standards described in Subsection (c) of this Section. The RMS plan or DNMP must include within the planning unit any watercourses located on the property, as well as all upland areas within the owner's control that could potentially adversely impact the watercourse and/or associated fish habitat.

(ii) Such presumption of compliance may be rebutted and enforcement commenced as described in SCC 14.44.085 if the County obtains credible evidence that the agricultural operation is not meeting the no harm or degradation standards of Subsection (c) of this Section. To be entitled to this presumption, the owner or operator shall provide the County with documented evidence of implementation of those elements of the approved plan that are relevant to the resource impact at issue at the time a Request for Investigation (RFI) is presented to the County under SCC 14.44.010.

(f) Enforcement. The Department is directed to enforce the requirements of this Subsection, including the mandatory watercourse protection measures, as described in SCC 14.44.085.

(10) Hazard tree removal.

(a) In a critical area or critical area buffer, removal of hazardous, diseased or dead trees and vegetation by the landowner may be permitted when necessary to:

(i) Control fire; or

(ii) Halt the spread of disease or damaging insects consistent with the State Forest Practice Act, Chapter 76.09 RCW; or

(iii) Avoid a hazard such as landslides; or

(iv) Avoid a threat to existing structures or aboveground utility lines.

(b) Before hazardous, diseased or dead trees and vegetation may be removed by the landowner pursuant to Subsection (a) of this Section:

(i) Unless there is an emergency pursuant to SCC 14.26.500(4)(a), the landowner shall obtain prior written approval from Planning and Development Services. This consent shall be processed promptly and may not be unreasonably withheld. If the Shoreline Administrator fails to respond to a hazard tree removal request within 10 business days, the landowner's request shall be conclusively allowed; and

(ii) The removed tree or vegetation should be left within the critical areas or buffer unless the Shoreline Administrator, or a qualified professional, warrants its removal to avoid spreading the disease or pests; and

(iii) Any removed tree or vegetation shall be replaced by the landowner with an appropriate native species in appropriate size. Replacement shall be performed consistent with accepted restoration standards for critical areas within one (1) calendar year;

(iv) For this Section only, a "qualified professional" shall mean a certified arborist, certified forester or landscape architect.

(11) Variances.

(a) If the strict application of this Chapter is found to deprive the subject property of rights and privileges enjoyed by other properties in the vicinity, due to special circumstances applicable to the subject property, including size, shape, and topography, a critical areas Shoreline V~~v~~ariance may be authorized as provided in ~~Chapter~~ SCC 14.~~10~~ 26.810~~SCC; provided however, that those surrounding properties that have been developed under regulations in effect prior to the effective date of the ordinance codified in this Chapter shall not be the sole basis for the granting of the variance~~.

(i) Standard buffer widths may be reduced by more than 25% but not more than 50% through an administrative Shoreline ~~v~~Variance. The administrative Shoreline ~~v~~Variance shall be processed as a Level I application pursuant to SCC 14.06.110.

(ii) Standard buffer widths may be reduced by more than 50% through a Hearing Examiner Shoreline ~~v~~Variance. The Hearing Examiner Shoreline ~~v~~Variance shall be processed as a Level II application pursuant to SCC 14.06.120.

(b) The ~~Approving Authority~~Shoreline Administrator or Hearing Examiner shall ensure the opportunity for public comment, including that from appropriate Federal, State, and Tribal natural resource agencies, to ensure the use of the most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern ~~best available science~~ before deciding on Shoreline V~~v~~ariance requests and shall develop and maintain a public record on each Shoreline V~~v~~ariance request which includes all findings, assessments and public comments. Such record shall be made available to the public before the Shoreline ~~v~~Variance decision is made.

(c) Shoreline Variances to the setback and buffer requirements of this Chapter may only be issued by the ~~Approving Authority~~Shoreline Administrator or Hearing Examiner consistent with the review criteria in SCC 14.26.770 and following review of the requirements listed in Subsections (3)(a) through (h) of this Section. The ~~Approving Authority~~Shoreline Administrator or Hearing Examiner shall make a finding for each of the requirements.

(i) The issuance of a zoning variance by itself will not provide sufficient relief to avoid the need for a Shoreline ~~v~~Variance to the dimensional setback and other requirements for the critical areas regulated by this Chapter; and

(ii) Preparation of a site assessment and mitigation plan by a qualified professional pursuant to the requirements of SCC 14.24.080 and all other applicable sections of this Chapter. The site assessment and mitigation plan shall be prepared utilizing the most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern~~best available science~~; and

(iii) The conclusions of the site assessment must utilize the most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern ~~best available science~~ to support a modification of the dimensional requirements of this Chapter; and

(iv) The site assessment and mitigation plan demonstrate that the proposed project allows for development of the subject parcel with the least impact on critical areas while providing a reasonable use of the property; and

(v) The reasons set forth in the application justify the granting of the Shoreline ~~v~~Variance, and the Shoreline V~~v~~ariance is the minimum variance that will make possible the reasonable use of the land, building or structure; and

(vi) The granting of the Shoreline ~~v~~Variance will be consistent with the general purpose and intent of this Chapter, and will not create significant adverse impacts to the associated critical areas or otherwise be detrimental to the public welfare; provided, that if the proposal is within the special flood hazard area (SFHA), the applicant must demonstrate that the proposal is not likely to adversely affect species protected under the Endangered Species Act, or their habitat; and

(vii) The inability of the applicant to meet the dimensional standards is not the result of actions by the current or previous owner in subdividing the property or adjusting a boundary line after the effective date of the ordinance codified in this Chapter; and

(viii) The granting of the Shoreline ~~v~~Variance is justified to cure a special circumstance and not simply for the economic convenience of the applicant.

(d) In granting any Shoreline ~~v~~Variance, the ~~Approving Authority~~Shoreline Administrator or Hearing Examiner shall prescribe such conditions and safeguards as are necessary to secure adequate protection of critical areas from adverse impacts and to ensure that impacts to critical areas or their buffers are mitigated to the extent feasible utilizing the most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern~~best available science~~. The Approving Authority shall consider and incorporate, as appropriate, recommendations from Federal, State and Tribal resource agencies.

(e) The ~~Approving Authority~~Shoreline Administrator or Hearing Examiner shall maintain a record of all decisions made on requests for Shoreline ~~v~~Variances. Such record shall include the basis and rationale for any such decision as well as any comments provided by Federal, State or Tribal natural resource agencies. Such record shall be made available to the public upon request.

~~(6) A variance shall expire if the use or activity for which it is granted is not commenced within three years of final approval by the Approving Authority. Knowledge of the expiration date is the responsibility of the applicant.~~

(f) Appeals of the ~~Approving Authority~~Shoreline Administrator or Hearing Examiner decisions on variance requests shall be made pursuant to the provisions of ~~Chapter 14.06~~ SCC 14.26.700.

~~(12) 14.24.150 Reasonable use exception.~~

~~(13) (1) If the application of this Chapter would result in denial of all reasonable and economically viable use of a property, and if such reasonable and economically viable use of the property cannot be obtained by consideration of a variance pursuant to SCC 14.24.140, then a landowner may seek a reasonable use exception from the standards of this Chapter. Reasonable use exceptions shall only apply to legal lots of record established prior to June 13, 1996. Reasonable use exceptions are intended as a last resort when no plan for mitigation and/or variance can meet the requirements of this Chapter and allow the applicant a reasonable and economically viable use of his or her property. The reasonable use exception shall follow the variance and public notification procedures of Chapters 14.06 and 14.10 SCC.~~

~~(14) (2) The Hearing Examiner shall only grant a reasonable use exception under all of the following conditions:~~

~~(15) (a) The application of this Chapter would deny all reasonable and economically viable use of the property so that there is no reasonable and economically viable use with a lesser impact on the critical area than that proposed; and~~

~~(16) (b) The proposed development does not pose a threat to the public health and safety; and~~

~~(17) (c) Any proposed modification to a critical area will be evaluated by the Hearing Examiner through consideration of a site assessment and mitigation plan prepared by a qualified professional pursuant to the requirements of this Chapter, and will be the minimum necessary to allow reasonable and economically viable use of the property. The site assessment and mitigation plan shall be prepared utilizing best available science; and~~

~~(18) (d) The inability of the applicant to derive reasonable use of the property is not the result of actions by the current or previous owner in subdividing the property or adjusting a boundary line, thereby creating the undevelopable condition, after the effective date of the ordinance codified in this Chapter; and~~

~~(19) (e) The applicant has requested and been denied a variance under the provisions of SCC 14.24.140; and~~

~~(20) (3) The Hearing Examiner may issue conditions of approval including modifications to the size and placement of structures and facilities to minimize impacts to critical areas and associated buffers. The Hearing Examiner may also specify mitigation requirements that ensure that all impacts are mitigated to the maximum extent feasible utilizing best available science; and~~

~~(21) (4) The Hearing Examiner shall provide opportunity for public comment before a decision on a request for a reasonable use exception is made, including comments from appropriate Federal, State and Tribal natural resource agencies. The Hearing Examiner shall maintain a record of all information, including public comments, which were used in making a decision on a request for a reasonable use exception. This record shall be made available to the public upon request.~~

~~(22) (5) A reasonable use shall expire if the use or activity for which it is granted is not commenced within three years of final approval by the Approving Authority. Knowledge of the expiration date is the responsibility of the applicant.~~

~~(23) (6) Decisions issued by the Hearing Examiner on requests for reasonable use exceptions may be appealed pursuant to the provisions of Chapter 14.06 SCC. (Ord. O20080014 (part))~~

~~(24)~~(12)Public notice and records.

(a) Public notice for projects subject to the provisions of this Chapter shall be provided pursuant to Chapter 14.06 SCC (Permit Procedures), ~~and~~ SCC 14.24.350 (Flow-sensitive basins), and SCC 14.26.700 (Administrative Provisions).

(b) Records of all critical area assessments and related land use approvals and conditioning shall be maintained by the County and be made available to the public upon request.

~~(25)~~(13)Incentives.

(a) The following incentives are intended to minimize the burden to individual property owners from application of the provisions of this Chapter and assist the County in achieving the goals of this Chapter:

(i) Open Space. Any property owner on whose property a critical area or its associated buffer is located and who proposes to put the critical area and buffer in a separate open space tract may apply for a current use property tax assessment on that separate tract pursuant to Chapter 84.34 RCW. The County shall develop current use tax assessment programs for agricultural and small forest lands less than 20 acres and other open spaces.

(ii) Conservation Easement. Any person who owns an identified critical area or its associated buffer may place a conservation easement over that portion of the property by naming the County or its qualified designee under RCW 64.04.130 as beneficiary of the conservation easement. This conservation easement can be used in lieu of the creation of a separate critical areas tract to qualify for open space tax assessment described in Subsection (a)(i) of this Section. The purpose of the easement shall be to preserve, protect, maintain, restore and limit future use of the property

affected. The terms of the conservation easement may include prohibitions or restrictions on access and shall be approved by the property owner and the County.

(iii) Density Credit. On lands containing critical areas or their associated buffers, the County shall allow a transfer of density for residential uses from the portion of the property containing the critical areas or buffers to that portion of the property that does not contain critical areas or buffers; provided, that the resulting density on the portion of the property does not contain critical areas or their buffers; and

(A) Does not create any adverse impacts to the critical area that cannot be adequately mitigated; and

(B) All other development regulations can be met on site.

(iv) Conservation Futures Fund. The County has established a conservation futures property tax fund as authorized by RCW 84.34.230. Properties containing critical areas or their associated buffers may be considered for acquisition under a purchase of development rights with these funds. Acquisitions shall be done through the Farmland Legacy Program as recommended by the Conservation Futures Advisory Committee, under the provisions of Ordinance No. 16380 and Resolution No. 16766.

(b) For any tract placed into or encumbered with a PCA, the County shall use its best efforts to assist the property owner in obtaining open-space tax status on that portion of the property and/or in dedicating that property to a nonprofit land trust organization to eliminate or minimize property tax burdens.

(c) The County shall seek to educate the public regarding critical areas, the beneficial functions of critical areas and the requirements of this Chapter in an effort to encourage citizen understanding, compliance and stewardship.

(d) The County shall, where practical, provide incentives to landowners to restore critical areas or their buffers that have been adversely affected by previous land use activities.

14.26.510 Wetlands

(1) Wetlands designations.

(a) Wetlands, as defined in RCW 36.70A.030(21), are areas that are inundated or saturated by surface water or ground water 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 nonwetland 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 nonwetland areas created to mitigate conversion of wetlands.

(b) Wetlands shall be identified and designated through a site visit and/or a site assessment utilizing the definitions, methods and standards set forth in WAC 173-22-035. All areas meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this Chapter. ~~the Washington State Wetland Identification and Delineation Manual, Department of Ecology publication No. 96-94.~~

(2) Wetlands classification. Wetlands shall be rated according to the Washington State Wetland Rating System for Western Washington (Department of Ecology 2004, as amended). This document contains the definitions, methods and a rating form for determining the categorization of wetlands below:

(a) Category I wetlands are those wetlands of exceptional value in terms of protecting water quality, storing flood and stormwater, and/or providing habitat for wildlife.

(b) Category II wetlands do not meet the criteria for Category I rating but occur infrequently and have qualities that are difficult to replace if altered.

(c) Category III wetlands have important resource value.

(d) Category IV wetlands are of limited resource value. They typically have vegetation of similar age and class, lack special habitat features, and/or are isolated or disconnected from other aquatic systems or high quality upland habitats.

(3) Wetlands site assessment requirements. Any proposed high intensity land use as defined in Table 8C-3 of Department of Ecology publication No. 05-06-008 within 300 feet of wetland indicators, and any other proposed land use within 225 feet of wetland indicators, requires a wetlands site assessment. In addition to the requirements of SCC 14.26.500(6), the following shall be included in a wetlands site assessment:

(a) A wetland delineation shall be performed as part of a site assessment. The delineation shall be performed by a qualified professional trained in conducting delineations in accordance with the methodology specified in WAC 173-22-035~~under SCC 14.24.200~~; and

(b) Wetland category, including Cowardin and hydrogeomorphic (HGM) classification, in accordance with SCC 14.26.510(2); and

(c) A site plan indicating wetland and buffer boundaries and the locations of all data points; and

(d) Functions and values analysis that includes but is not limited to a discussion of water quality, fish and wildlife habitat hydrologic regime, flood and stormwater control, base flow and groundwater support, cultural and socioeconomic values; and

(e) All data sheets and rating forms used to assess the wetland conditions on and off site.

(4) Wetland protection standards.

(a) Wetland Buffer Widths.

(i) Standard Wetland Buffers. Standard buffers are based on land use intensity as defined in Department of Ecology publication No. 05-06-008, Wetlands in Washington State, Volume 2, Appendix 8C. ~~The following s~~Standard buffers shown in Table 14.26.510-1 shall be required for regulated wetlands unless otherwise provided for in this Section:

Table 14.26.510-1 Standard Wetland Buffers

Standard Buffers			
	Intensity		
Wetland Rating	**Low**	**Moderate**	**High**
Category I	150 feet	225 feet	300 feet
Category II	150 feet	225 feet	300 feet
Category III	75 feet	110 feet	150 feet
Category IV	25 feet	40 feet	50 feet

~~(i)~~(ii) Optional Wetland Buffers. The applicant may choose to ~~have the following~~use optional wetland buffers, identified in Table 14.26.510-1, ~~apply~~ in place of the standard buffers in Subsection (a)(i) of this Section, provided a site assessment is completed by a qualified professional pursuant to SCC 14.26.500(7). Habitat score is one of three elements used to determine the wetland rating as described in SCC 14.26.510(2).

Table 14.26.510-1 Optional Wetland Buffers

Optional Buffers		
	Intensity	
Habitat Score	**Moderate**	**High**
31 or higher	225 feet	300 feet
30	200 feet	270 feet
29	175 feet	240 feet
28	155 feet	210 feet
27	135 feet	180 feet
26	115 feet	150 feet
25	105 feet	136 feet
24	95 feet	124 feet
23	85 feet	112 feet
22 or lower	75 feet	100 feet

(b) Wetland buffers shall be measured horizontally in a landward direction from the wetland edge, as delineated in the field, pursuant to the requirements of SCC 14.26.510(2). Where lands abutting a wetland display a continuous slope of 25% or greater, the buffer shall include such sloping areas. Where the horizontal distance of the sloping area is greater than the required standard buffer, the buffer should be extended to a point 25 feet beyond the top of the bank of the sloping area.

(c) Any wetland created, restored or enhanced as mitigation for approved wetland alterations shall also include the standard buffer required for the category of the created, restored, or enhanced wetland.

(d) Where a buffer has been previously established after June 13, 1996, through a County development review and is permanently recorded on title or placed within a separate tract or easement, the buffer shall be as previously established. Additional review may be requested by the applicant or required by the Shoreline Administrator to determine whether or not conditions on site have changed resulting in the previously established buffer no longer being applicable.

(e) Where a legally established and constructed public roadway transects a wetland buffer, the Shoreline Administrator may approve a modification of the standard buffer width to the edge of the roadway, provided:

(i) The isolated part of the buffer does not provide additional protection of the wetland; and

(ii) The isolated part of the buffer provides insignificant biological, geological or hydrological buffer functions relating to the wetland; and

(iii) If the resulting buffer distance is less than 50% of the standard or optional buffer for the applicable wetland category, no further reduction shall be allowed.

(f) Category III and IV wetlands less than 4,000 square feet that have been identified through a site assessment may be exempted or partially exempted from the provisions of this Chapter and may be altered by filling or dredging as outlined below.

(i) Category III and IV wetlands less than 1,000 square feet are exempt from County regulation where:

(A) The wetland is isolated; and

(B) The wetland is not associated with a riparian corridor; and

(C) The wetland is not part of a wetland mosaic, as described by the Department of Ecology in publication No. 04-06-025; and

(D) The wetland does not contain Department of Fish and Wildlife-designated priority species or habitat identified as essential for local populations of priority species.

(ii) Category III and IV wetlands between 1,000 and 4,000 square feet may be exempted from the mitigation sequencing requirement to first avoid impacts where:

(A) The wetland meets the criteria listed in Subsection (f)(i) of this Section; and

(B) The project impacts are fully mitigated.

(5) Wetland performance-based buffer alternatives and mitigation standards. Buffer widths may be increased, decreased or averaged in accordance with the following provisions. All mitigation proposed shall be consistent with State and Federal wetland regulations.

(a) Buffer Width Increasing. The Shoreline Administrator may require the standard or optional buffer width to be increased by the distance necessary to protect

wetland functions and provide connectivity to other wetland and habitat areas for 1 of the following:

(i) To maintain viable populations of existing species listed by the Federal or State government as endangered, threatened or sensitive; or

(ii) To protect wetlands against severe erosion that standard erosion control measures will not effectively address; or

(iii) When a Category I or II wetland is located within 300 feet of:

(A) Another Category I, II or III wetland; or

(B) A fish and wildlife HCA; or

(C) A Type S or F stream; or

(D) A high intensity use that is likely to have additional impacts.

(b) The increased buffer distance may be limited to those areas that provide connectivity or are necessary to protect wetland and habitat functions. If the wetland contains variations in sensitivity, increasing the buffer widths will only be done where necessary to preserve the structure, function and value of the wetland.

(c) Buffer Width Averaging. Buffer averaging allows limited reductions of buffer width in specified locations, while requiring increases in others. Averaging of required buffer widths will be allowed only if the applicant demonstrates that all of the following criteria are met:

(i) Averaging is necessary to accomplish the purpose of the proposal and no reasonable alternative is available; and

(ii) Averaging width will not adversely impact the wetland functions and values; and

(iii) The total area contained within the wetland buffer after averaging is no less than that contained within the standard buffer prior to averaging; and

(iv) The buffer width shall not be reduced below 75% of the standard buffer width.

(d) Buffer Width Decreasing.

(i) Prior to considering buffer reductions, the applicant shall demonstrate application of mitigation sequencing as required in SCC 14.26.500(7)(d)(v)B). In all circumstances where a substantial portion of the remaining buffer is degraded, the buffer reduction plan shall include

replanting with native vegetation in the degraded portions of the remaining buffer area and shall include a five-year monitoring and maintenance plan.

(ii) High intensity land use projects may apply moderate intensity buffers if measures to minimize impacts to wetlands from high intensity land uses are implemented. Some of the measures that may be used can be found in Department of Ecology publication No. 05-06-008, Wetlands in Washington State, Volume 2, Appendix 8C.

(e) Any person who alters or proposes to alter regulated wetlands shall reestablish, create, rehabilitate and/or enhance areas of wetland in order to compensate for wetland losses. The following ratios in the tables below apply to reestablishment, creation, rehabilitation or enhancement that is in-kind (i.e., the same type of wetland), on-site and accomplished prior to or concurrently with loss. The first number specifies the acreage of wetlands to be reestablished, created, rehabilitated or enhanced and the second specifies the acreage of wetlands lost:

Table 14.26.510-1 Wetland Reestablishment/Creation Ratios

Wetland Area Reestablished/Created: Wetland Area Lost	
Category I	6:1
Category II or III	
Forested	3:1
Scrub/shrub	2:1
Emergent	2:1
Category IV	1.5:1

Table 14.26.510-2 Wetland Rehabilitation Ratios~~:~~

Wetland Area Rehabilitated: Wetland Area Lost	
Category I	12:1
Category II	6:1
Category III	4:1
Category IV	3:1

Table 14.26.510-3 Wetland Enhancement Ratios

Wetland Area Enhanced: Wetland Area Lost	
Category I	24:1
Category II	12:1
Category III	8:1
Category IV	6:1

If a type and/or combination of mitigation is not mentioned in the tables above, Table 8C-11 of Department of Ecology publication No. 05-06-008 shall be used.

(f) Buffer Width Variance. Standard and optional buffer widths may be reduced by more than 25% through a Shoreline V~~v~~ariance permit.

(g) Allowed Uses in Wetlands or Wetland Buffers. The following activities may be permitted within wetlands or their buffers but shall comply with SCC 14.26.500(7) and 14.26.510(3):

(i) Roads, Bridges and Utilities. Road, bridge and utility construction may be permitted across Category I wetlands and/or their buffers only with a Shoreline Variance permit~~in accordance with SCC 14.24.140~~, and across Category II, III or IV wetlands and/or their buffers under the following conditions:

(A) It is demonstrated to the Shoreline Administrator that there are no alternative routes that can be reasonably used to achieve the proposed development; and

(B) The activity will have minimum adverse impact to the wetland area; and

(C) The activity will not significantly degrade surface or groundwater; and

(D) The intrusion into the wetland area and its buffers is fully mitigated.

(ii) Low impact uses and activities that are consistent with the purpose and function of the buffer and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the wetland involved; provided, that such activity shall not result in a decrease in wetland functions and values and shall not prevent or inhibit the buffer's recovery to at least pre-altered condition or function. Examples of uses

and activities that may be permitted in appropriate cases, as long as the activity does not retard the overall recovery of the buffer, include removal of noxious vegetation, pedestrian trails and viewing platforms less than 200 square feet, which may be covered but not enclosed.

(iii) Stormwater discharges to wetlands shall be controlled and treated in accordance with the Stormwater Management Manual for Western Washington, Department of Ecology publication No. 05-10-029 through No. 05-10-033.

(6) Wetland alternative compensation projects.

(a) Off-Site Compensation. On-site compensation is generally preferred over off-site compensation. Off-site compensation allows replacement of wetlands away from the site on which the wetland has been impacted by a regulated activity. The following conditions apply to off-site compensation:

(i) Off-site compensation shall occur within the same drainage basin of the same watershed where the wetland loss occurs; provided, that Category IV wetlands may be replaced outside of the watershed if there is no reasonable alternative. In such instances, the stormwater storage function provided by Category IV wetlands must be provided for within the design of the development project.

(ii) Off-site compensation can be allowed only under one or more of the following circumstances:

(A) On-site compensation is not feasible due to hydrology, soils, or other physical factors;

(B) On-site compensation is not practical due to probable adverse impacts from surrounding land uses or would conflict with a Federal, State or local public safety directive;

(C) Potential functions and values at the site of the proposed restoration are greater than the lost wetland functions and values;

(D) When the wetland to be altered is of a limited function and value and is degraded, compensation shall be of the wetland community types needed most in the location of compensation and those most likely to succeed with the highest functions and values possible.

(b) Out-of-kind compensation can be allowed when out-of-kind replacement will best meet the provisions of Subsection (c)(i) of this Section and the mitigation sequence outlined in SCC 14.26.500(7)(d)(v)(B).

(c) Selecting Compensation Sites. Except in the case of cooperative compensation projects in selecting compensation sites, applicants shall pursue locations in the following order of preference:

(i) Filled, drained, or cleared sites ~~which~~ that were formerly wetlands and where appropriate hydrology exists;

(ii) Upland sites, adjacent to wetlands, if the upland is significantly disturbed and does not contain a mature forested or shrub community of native species, and where the appropriate natural hydrology exists.

(d) Innovative Wetland Mitigation Projects. The Shoreline Administrator may encourage, facilitate and approve innovative wetland mitigation projects. Advance compensation or mitigation banking are examples of innovative compensation projects allowed under the provisions of this Section wherein 1 or more applicants, or an organization with demonstrated capability, may undertake a compensation project together if it is demonstrated that all of the following circumstances exist:

(i) Creation of one or several larger wetlands may be preferable to many small wetlands; and

(ii) The group demonstrates the organizational and fiscal capability to act cooperatively; and

(iii) The group demonstrates that long-term management of the compensation area will be provided; and

(iv) There is a clear potential for success of the proposed compensation at the identified compensation site; and

(v) Wetland mitigation banking programs consistent with the provisions outlined in the Department of Ecology's publications No. 06-06-011A and No. 06-06-011B (Wetland Mitigation in Washington State, Part 1 and Part 2), Chapter 90.84 RCW and Chapter 173-700 WAC will be considered as a method of compensation for unavoidable, adverse wetland impacts associated with future development.

14.26.520 Geologically Hazardous Areas

(1) Geologically hazardous areas designations. Geologically hazardous areas shall be designated consistent with the definitions provided in WAC 365-190-080(4). These include areas susceptible to the effects of erosion, sliding, earthquake, or other geologic events. They pose a threat to the health and safety of citizens when incompatible residential, commercial, industrial, or infrastructure development is sited in areas of a hazard. Geologic hazards pose a risk to life, property, and resources when

steep slopes are destabilized by inappropriate activities and development or when structures or facilities are sited in areas susceptible to natural or human-caused geologic events. Some geologic hazards can be reduced or mitigated by engineering, design, or modified construction practices so that risks to health and safety are acceptable. When technology cannot reduce risks to acceptable levels, building and other construction in, above and below geologically hazardous areas should be avoided.

(2) Geologically hazardous areas of known or suspected risk. Geologically hazardous areas shall be classified as "known or suspected risk" or "unknown risk." Areas of known or suspected risk are indicated in Subsections (a) through (e) of this Section.

(a) The following are considered known or suspected erosion hazards:

(i) Areas with gradients greater than or equal to 30%.

(ii) Areas located within the following map units: No. 1 Andic Cryochrepts, Nos. 3 and 4 Andic Xerocrepts, No. 13 Birdsview, Nos. 47 and 48 Dystric Xerochrepts, Nos. 50 and 51 Dystic Xerorthents, Nos. 63 and 65 Guemes, No. 69 Hoogdal, No. 90 Lithic Haploxerolls, No. 91 Marblemount, No. 99 Mundt and Nos. 150 and 151 Typic Croyorthods or mapped severe erosion hazard, as identified in the U.S. Department of Agriculture Natural Resources Conservation Service Soil Survey of Skagit County Area, WA (~~1989~~2011).

Comment [SS11]: Date of latest soil map update for Skagit County

(iii) Coastal beaches or bluffs.

(iv) Areas designated in the ~~Department of Ecology, Coastal Zone Atlas, Washington, Volume Two Skagit County (1978)~~Washington State Coastal Atlas as U (Unstable), URS (Unstable Recent Slide), or UOS (Unstable Old Slide).

Comment [SS12]: Other reference was old, and I would imagine, hard for an individual to track down. Unstable bluffs are no longer reported.

(v) Areas susceptible to rapid stream incision and stream bank erosion, including channel migration zones.

(b) Landslide hazards are areas potentially subject to landslides based on a combination of geologic, topographic and hydrologic factors. The following are known or suspected landslide hazards:

(i) Areas designated in the Washington State Coastal Atlas~~Department of Ecology, Coastal Zone Atlas, Washington, Volume Two, Skagit County (1978)~~ as U (Unstable), ~~UB (Unstable Bluff),~~ URS (Unstable Recent Slide), or UOS (Unstable Old Slide).

(ii) Slopes having gradients of 15% or greater:

(A) That intersect geologic contacts with permeable sediments overlying low-permeability sediment or bedrock and springs or groundwater seepage are present; or

(B) That are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials.

(iii) Slopes of 40% or steeper and with a vertical relief of 10 feet or more.

(iv) Areas of previous failure such as earth slumps, earthflows, mudflows, lahars, debris flows, rock slides, landslides or other failures as observed in the field or as indicated on maps or in technical reports published by the U.S. Geological Survey, the Geology and Earth Resources Division of the Washington Department of Natural Resources, or other documents authorized by government agencies.

(v) Potentially unstable areas resulting from rapid stream incision or stream bank erosion, including channel migration zones, and undercutting by wave action.

(vi) Coastal bluffs.

(vii) Slopes with a gradient greater than 80% and subject to rock fall.

(viii) Areas that are at risk from snow avalanches.

(ix) Areas designated on the Skagit County Alluvial Fan Study Orthophoto Maps as alluvial fans or as identified by the Shoreline Administrator during site inspection.

(x) Areas located in a narrow canyon potentially subject to inundation by debris flows or catastrophic flooding.

(xi) Those areas delineated by the U.S. Department of Agriculture's Natural Resources Conservation Service Soil Survey of Skagit County as "severe" (Table 9) limitation for building development.

(c) Seismic hazard areas are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction or surface faulting. The following are known or suspected seismic hazards:

(i) Areas located within a high liquefaction susceptibility as indicated on the Liquefaction Susceptibility Map of Skagit County issued by Washington Department of Natural Resources dated September 3, 2004, or as amended thereafter. A site assessment is not required for high liquefaction hazard areas for single-family residence proposals unless other criteria provided in this Section apply.

(ii) Areas located within 1/4 mile of an active fault as indicated on investigative maps or described in studies by the United States Geologic Survey, Geology and Earth Resources Division of the Washington Department of Natural Resources, or other documents authorized by government agencies, or as identified during site inspection.

(iii) Those known or suspected erosion and landslide hazards referenced in Subsections (a) and (b) of this Section.

(iv) Tsunami and seiche hazard areas include coastal areas and lake shoreline areas susceptible to flooding, inundation, debris impact, and/or mass wasting as the result of coastal or inland wave action generated by seismic events or other geologic events. Suspect tsunami hazard areas are indicated on the Tsunami Hazard Map of the Anacortes-Whidbey Island Area, Washington: Modeled Tsunami Inundation from a Cascadia Subduction Zone Earthquake. A site assessment is not required for tsunami and seiche hazard areas but they are addressed through the frequently flooded section of this Chapter.

(d) Volcanic hazard areas are subject to pyroclastic flows, lava flows, debris avalanche, and inundation by debris flows, mudflows, lahars or related flooding resulting from volcanic activity. Suspect volcanic hazards include those areas indicated in the United States Geologic Survey Open-File Report 95-499 as the volcanic hazard zone for Glacier Peak, Washington; or in the United States Geologic Survey Open-File Report 95-498 as the volcanic hazard area of Mount Baker, Washington. A site assessment is not required for volcanic hazard areas unless other criteria provided in this section apply.

(e) Mine hazard areas as designated on the Department of Natural Resources Map: Coal Measures of Skagit County (1924) or within 200 feet of any other current or historic mine operations determined to be a suspect or known geologically hazardous area by the Shoreline Administrator.

(3) Geologically hazardous areas site assessment requirements.

(a) If the Shoreline Administrator determines that the proposed development activity is located within 200 feet of an area of known or suspected risk as indicated in SCC 14.26.520(2), or within a distance from the base of a landslide hazard area equal to the vertical relief, and that the geologic condition may pose a risk to life and property, or other critical areas on and off the project area, a geologic hazard site assessment as indicated in this Section shall be required. This site assessment shall be prepared by a qualified professional.

(b) The geologically hazardous area site assessment shall classify the type of geologic hazard(s) in accordance with SCC 14. 26.520(1) and 14.26.520(2). In

addition to the requirements of SCC 14.26.500(6), the site assessment shall include the following:

(i) A site plan depicting the height of slope, slope gradient and cross section indicating the stratigraphy of the site. The site plan shall indicate the location of all existing and proposed structures and any significant geologic features such as outcrops, springs, seeps, ponds, streams or other water bodies; and

(ii) An assessment of the geologic characteristics and engineering properties of the soils, sediments, and/or rock of the subject property and potentially affected adjacent properties. Soils shall be described in accordance with the Unified Soil Classification System; and

(iii) A description of load intensity, surface and groundwater conditions, public and private sewage disposal systems, fills and excavations and all structural development; and

(iv) A description of the extent and type of vegetative cover including tree attitude; and

(v) For potential coastal bluff geologic hazards: estimate of the bluff retreat rate, which recognizes and reflects potential catastrophic events such as seismic activity or a 100-year storm event; and

(vi) For potential landslide hazards: estimate slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure. Quantitative analysis of slope stability or slope stability modeling may be required by the Shoreline Administrator; and

(vii) Additional site assessment elements may be required by the Shoreline Administrator.

(c) Properties containing geologically hazardous conditions identified by the Shoreline Administrator and the qualified professional shall require a geologically hazardous area mitigation plan.

(4) Geologically hazardous area mitigation standards. The mitigation plan shall be prepared by a qualified professional and include a discussion on how the project has been designed to avoid and minimize the impacts discussed under SCC 14.26.520(3). The plan shall also make a recommendation for the minimum setback from the geologic hazard. Mitigation plans shall include the location and methods of drainage, locations and methods of erosion control, a vegetation management and/or restoration plan and/or other means for maintaining long-term stability of geologic hazards. The plan shall also address the potential impact of mitigation on the hazard area, the subject property and affected adjacent properties. The mitigation plan must be

approved by the Shoreline Administrator and be implemented as a condition of project approval.

One or more of the following mitigation standards, as required by the Shoreline Administrator, shall be included as components of a mitigation plan pursuant to the requirements of SCC 14.26.520(3). Mitigation standards, other than those listed below, may be required by the Shoreline Administrator depending on the geologic hazard and the site conditions.

(a) Mitigation Standards.

(i) A temporary erosion and sedimentation control plan, that at a minimum accounts for:

(A) Construction Access Route. A Construction Access Route designed and constructed to County Standards shall be provided for each construction site. Construction vehicle access shall be, whenever possible, limited to 1 route. Access points shall be stabilized with quarry spalls or crushed rock to minimize the tracking of soils and debris onto public roads.

Comment [SS13]: From SCC14.32- Drainage ordinance for small projects

(B) Stabilization of denuded area. All exposed soils shall be stabilized by suitable application of approved Best Management Practices (BMPs) including, but not limited to, sod or other vegetation, mat covering, mulching, or application of compacted base material on areas to be paved. All BMPs shall be selected, designed, and maintained in accordance with the Stormwater Design Manual. From October 1st to April 30th, no soils shall remain unstabilized for more than 2 days. From May 1st to September 30th, no soils shall remain unstabilized for more than 7 days. At all times of the year, the contractor shall have sufficient materials, equipment, and labor readily available to stabilize and prevent erosion from all denuded areas within 12 hours as site and weather conditions dictate.

(C) Protection of Adjacent Properties. Adjacent properties shall be protected from sediment deposition by appropriate use of vegetative buffer strips, sediment barriers or filters, dikes or mulching, or by a combination of these measures and other appropriate BMPs.

(D) Maintenance. All erosion and sediment control BMPs shall be regularly inspected and maintained by the applicant and the applicant's contractor to ensure continued performance of their intended function.

(E) Other BMPs. Any adverse effects of increased runoff resulting from land disturbing and/or land development activities shall be controlled by appropriate BMPs.

(ii) A drainage plan for the collection, transport, treatment, discharge and/or recycling of water in accordance with the requirements of Chapter 14.32 SCC, as amended. Surface drainage shall not be directed across the face of a landslide hazard (including marine bluffs or ravines). If drainage must be discharged from the hazard area into adjacent waters, it shall be collected above the hazard and directed to the water by tight line drain and provided with an energy dissipating device at the point of discharge.

(iii) All proposals involving excavation and/or placement of fill shall be subject to structural review under the appropriate provisions of the International Building Code (IBC) as amended by Skagit County.

(iv) Critical facilities as defined under Chapter 14.04 SCC shall not be sited within designated geologically hazardous areas with the exception of volcanic hazard areas. No critical facilities shall be located within 1/4 mile of an active fault.

(v) All infiltration systems, such as stormwater detention and retention facilities and curtain drains utilizing buried pipe or French drains, are prohibited in geologically hazardous areas and their buffers unless the mitigation plan indicates such facilities or systems will not affect slope stability.

(vi) Existing vegetation shall be maintained in landslide and erosion hazard areas and associated buffers. Any replanting that occurs shall consist of native trees, shrubs, and ground cover that is compatible with the existing surrounding native vegetation, meets the objectives of erosion prevention and site stabilization, and does not require permanent irrigation for long-term survival. Normal nondestructive pruning and trimming of vegetation for maintenance purposes; or thinning of limbs of individual trees to provide a view corridor, shall not be subject to these requirements.

(vii) A minimum buffer width of 30 feet shall be established from the top, toe and all edges of all landslide and erosion hazard areas. For landslide and erosion hazard areas with a vertical relief greater than 50 feet, the minimum buffer shall be 50 feet. The buffer may be increased by the Shoreline Administrator for development adjacent to a marine bluff or ravine that is designated as Unstable in the Washington State Coastal Atlas ~~Coastal Zone Atlas, Washington, Volume Two, Skagit County (1978)~~ or where the Shoreline Administrator determines a larger buffer is

necessary to prevent risk of damage to existing and proposed development.

(viii) Structural development proposals within seismic hazard areas shall meet all applicable provisions of the IBC as amended by Skagit County. The Shoreline Administrator shall evaluate documentation submitted pursuant to SCC 14.26.520(3)(b) and condition permit approvals to minimize the risk on both the subject property and affected adjacent properties. All conditions shall be based on known, available, and reasonable methods of prevention, control and treatment. Evaluation of geotechnical reports may also constitute grounds for denial of the proposal.

(ix) No residential structures shall be located in geologic hazard areas or their buffers if that hazard cannot be fully mitigated.

(b) Landslide or Erosion Hazard Buffer Reduction. Buffers of landslide or erosion hazard areas may be reduced to a minimum of 10 feet for development meeting all of the following criteria:

(i) No reasonable alternative to buffer reduction exists; and

(ii) A site assessment is submitted and certifies that:

(A) There is a minimal hazard in the vicinity of the proposed development as proven by evidence of no landslide activity in the past; and

(B) A quantitative slope stability analysis indicates no significant risk to the development proposal and adjacent properties; or the geologically hazardous area can be modified; or the development proposal can be designed so that the hazard is eliminated. The quantitative analysis shall include the minimum setback allowed for development as indicated by a slope stability model with respect to a minimum factor of safety of 1.5 for static conditions, 1.25 for seismic conditions, or 10 feet, whichever results in the greater setback. The elements of the quantitative site assessment shall be determined by the Shoreline Administrator and may include 1 or more of the following:

(I) Subsurface exploration, to include at least 1 boring with sample collection for laboratory analysis.

(II) Laboratory analysis shall assess the soil characteristics and include sieve analysis, moisture, angle of internal friction, and cohesion.

(III) Utilizing the information from the subsurface exploration and laboratory analysis, the quantitative site assessment shall include slope stability modeling with factor of safety analysis. The analysis shall indicate the factor of safety within 50 feet of the top and toe of geologic hazards; and

(C) The development will not significantly increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions; and

(D) The development will not decrease slope stability on adjacent properties; and

(E) Such alterations will not adversely impact other critical areas.

(c) Failed Mitigation Plans. Mitigation plans that do not fulfill the performance requirement based on the site assessment/geotechnical report findings or otherwise fail to meet the intent of this Chapter shall be revised and the subject development brought into compliance with the revised mitigation plan.

(d) Mitigation Plan Verification. Upon completion of the project, a qualified professional shall verify that the mitigation plan has been properly implemented. The verification shall be required prior to final approval of the project by the Shoreline Administrator.

14.26.530 Fish and Wildlife Habitat Conservation Areas

(1) Fish and wildlife habitat conservation area designations.

(a) Fish and wildlife habitat conservation areas (HCAs) are listed in WAC 365-190-080(5) and are designated as follows:

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

(ii) Habitats and species of local importance that have been designated by the County (Subsection (e) of this Section);

(iii) All public and private tidelands suitable for shellfish harvest;

(iv) Kelp and eelgrass beds, herring and smelt spawning areas;

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

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

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

(viii) Areas with which anadromous fish species have a primary association;

(ix) State natural area preserves and natural resource conservation areas;

(x) Other aquatic resource areas;

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

(xii) 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.

(b) In addition to the HCAs identified in Subsection (a) of this Section, additional habitats and species of local importance may be designated by the Shoreline Administrator based on declining populations, sensitivity to habitat manipulation or special value including but not limited to commercial, game or public appeal.

(c) In order to nominate an area or a species to the category of habitats and species of local importance, an individual or organization must:

(i) Demonstrate a need for special consideration based on:

(A) Declining population;

(B) Sensitivity to habitat manipulation; or

(C) Commercial or game value or other special value, such as public appeal; and

(ii) Propose relevant management strategies considered effective and within the scope of this Chapter; and

(iii) Provide species habitat location(s) on a map (scale 1:24,000). Submitted proposals will be reviewed by the Shoreline Administrator and forwarded to the Departments of Fish and Wildlife, Natural Resources, and/or other local and State agencies or experts for comments and recommendations regarding accuracy of data and effectiveness of proposed management strategies.

(d) Skagit County will hold a public hearing for proposals found to be complete, accurate, potentially effective and within the scope of this Chapter. Approved nominations will become designated "habitats/species of local importance" and will be subject to the provisions of this Chapter.

(e) The following species and habitats have been designated on a site-specific basis according to the official Habitats and Species of Local Importance Map:

(i) Great blue heron nest sites;

(ii) Vaux's swifts communal roosts;

(iii) Pileated woodpecker nest sites;

(iv) Osprey nest sites;

(v) Townsend big-eared bat communal roosts;

(vi) Cavity nesting duck breeding areas;

(vii) Trumpeter swan concentrations;

(viii) Harlequin duck breeding areas;

(ix) Waterfowl concentrations.

(2) Fish and wildlife habitat conservation area water type classification. Water types shall be classified according to WAC 222-16-030. Type S streams include shorelines of the State and have flows averaging 20 or more cubic feet per second; Type F streams are those that are not Type S but still provide fish habitat; and Type N streams do not have fish habitat and are either perennial (Np) or seasonal (Ns). All streams are those areas where surface waters flow sufficiently to produce a defined channel or bed as indicated by hydraulically sorted sediments or the removal of vegetative litter or loosely rooted vegetation by the action of moving water. Ns waters must be physically connected by an above-ground channel system to Type S, F, or Np waters.

(3) Fish and wildlife habitat conservation area site assessment requirements.

(a) Any project within 200 feet of a fish and wildlife habitat conservation area outside the special flood hazard area (SFHA) or within the protected review area as defined in SCC 14.26.540 requires a fish and wildlife HCA site assessment. In addition to the requirements of SCC 14.26.500(6), the following shall be included in the site assessment:

(i) Functions and values analysis, which includes but is not limited to a discussion of water quality/quantity and fish and wildlife habitat; and

(ii) An analysis of the riparian buffer areas above the ordinary high water mark including:

(A) Recruitment of large woody debris (LWD) to the stream;

(B) Shade;

(C) Bank integrity (root reinforcement);

(D) Runoff filtration;

(E) Wildlife habitat.

(b) Bald eagle habitats shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292), as revised; a cooperative habitat management plan shall be developed in coordination with the Department of Fish and Wildlife whenever activities that alter habitat are proposed near a verified nest territory or communal roost.

(c) **Critical Salt Water 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 shall 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 shall be consistent with methodology established by Washington State Department of Fish and Wildlife.

~~(F)~~

~~(b)~~(d) All other fish and wildlife habitat conservation areas, including habitats and species of local importance, shall be protected on a case-by-case basis by means of a habitat management plan based on the Washington State Priority Habitat and Species (PHS) program, as set forth in the site assessment requirements in SCC 14.26.500(6) and this Section.

(4) Fish and wildlife habitat conservation area protection standards.

(a) Stream or River Riparian Buffers. ~~Riparian buffers apply only to streams and rivers.~~

~~(i) (a) Intent of Riparian Buffers. The intent of riparian buffers is to protect the following 5 basic riparian forest functions that influence in-stream and near-stream habitat quality:~~

~~(A) (i) Recruitment of Large Woody Debris (LWD) to the Stream. LWD creates habitat structures necessary to maintain salmon/trout and other aquatic organisms' productive capacity and species diversity.~~

~~(B) (ii) Shade. Shading by the forest canopy maintains cooler water temperatures and influences the availability of oxygen for salmon/trout and other aquatic organisms.~~

~~(C) (iii) Bank Integrity (Root Reinforcement). Bank integrity helps maintain habitat quality and water quality by reducing bank~~

~~erosion and creating habitat structure and in-stream hiding cover for salmon/trout and other aquatic organisms.~~

~~(D) (iv) Runoff Filtration. Filtration of nutrients and sediments in runoff (surface and shallow subsurface flows) helps maintain water quality.~~

~~(E) (v) Wildlife Habitat. Functional wildlife habitat for riparian-dependent species is based on sufficient amounts of riparian vegetation to provide protection for nesting and feeding.~~

~~(ii)~~(i) ~~(b)~~ Standard Riparian Buffers Measurement. Riparian buffer areas shall be measured horizontally in a landward direction from the ordinary high water mark. Where lands adjacent to a riparian area display a continuous slope of 25% or greater, the buffer shall include such sloping areas. Where the horizontal distance of the sloping area is greater than the required standard buffer, the buffer shall be extended to a point 25 feet beyond the top of the bank of the sloping area. Riparian areas do not extend beyond the toe of the slope on the landward side of existing dikes or levees within established dike districts along the Skagit and Samish Rivers.

~~(iii)~~(ii) Standard Riparian Buffer Widths. Riparian areas have the following standard buffer widths:

Table 14.26.530-1 Standard Riparian Buffer Widths Based on Stream Type

DNR Water Type	Riparian Buffer
S	200 feet
F > 5 feet wide*	150 feet
F ≤ 5 feet wide*	100 feet
Np	50 feet
Ns	50 feet

*Bankfull width of the defined channel (WAC 222-16-010).

(b) Lake and Marine Shoreline Buffers.

(i) Standard Lake and Marine Shoreline Buffers Measurement. Lake and marine shoreline buffers shall be measured horizontally in a landward direction from the ordinary high water mark. Where lands adjacent to a lake or marine shoreline display a continuous slope of 25% or greater, the buffer shall include such sloping areas. Where the horizontal distance of the sloping area is greater than the required standard buffer, the buffer

shall be extended to a point 25 feet beyond the top of the bank of the sloping area.

(ii) Standard Lake and Marine Shoreline Buffer Widths. Lake and marine shoreline areas have the following standard buffer widths, based on the shoreline area designations defined in Part 2 of this ~~this the Shoreline Master Program (~~Chapter~~14.26 SCC)~~:

Table 14.26.530-2 Lake and Marine Shoreline Buffers Based on Shoreline Environment Designation

Shoreline Area Designations	Shoreline Buffer
Natural	200 feet
Rural Conservancy	150 feet
~~Rural~~Urban Conservancy	~~100~~ 150 feet
~~Rural~~ Shoreline Residential	100 feet
~~Urban~~High Intensity	140 feet

(c) Exceptions. Where a buffer has been previously established after June 13, 1996, through a County development review and is permanently recorded on title or placed within a separate tract or easement, the buffer shall be as previously established. Additional review may be requested by the applicant or required by the Shoreline Administrator to determine whether or not conditions on site have changed resulting in the previously established buffer no longer being applicable.

~~(b)~~

~~(c)~~(d) Roads. Where a legally established and constructed public roadway transects a riparian, lake or marine buffer, the Shoreline Administrator may approve a modification of the standard buffer width to the edge of the roadway, provided:

(i) The isolated part of the buffer does not provide additional protection of the riparian area; and

(ii) The isolated part of the buffer provides insignificant biological, geological or hydrological buffer functions relating to the riparian area; and

(iii) If the resulting buffer distance is less than 50% of the standard buffer for the applicable stream type or shoreline designation, no further reduction shall be allowed.

(5) Critical Saltwater Habitat Standards. Any proposed uses or modifications shall 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.

~~(5)~~(6) Fish and wildlife habitat conservation area performance-based buffer alternatives and mitigation standards.

(a) Buffer Width Increasing. The Shoreline Administrator may require the standard buffer width to be increased or to establish a nonriparian buffer, when such buffers are necessary for ~~1~~ one of the following:

(i) To protect priority fish or wildlife using the HCA.

(ii) To provide connectivity when a Type S or F waterbody is located within 300 feet of:

(A) Another Type S or F waterbody; or

(B) A fish and wildlife HCA; or

(C) A Category I, II or III wetland;

The increased buffer distance may be limited to those areas that provide connectivity or are necessary to protect habitat functions. Increasing the buffer widths will only be done where necessary to preserve the structure, function and value of the habitat.

(b) **Buffer Width Averaging.** Buffer width averaging allows limited reductions of buffer width in specified locations, while requiring increases in others. Averaging of required buffer widths shall be allowed only where the applicant demonstrates to the Shoreline Administrator that all of the following criteria are met:

(i) Averaging is necessary to accomplish the purpose of the proposal and no reasonable alternative is available; and

(ii) The habitat contains variations in sensitivity due to existing physical characteristics; and

(iii) Averaging will not adversely impact the functions and values of fish and wildlife conservation areas; and

(iv) Averaging meets performance standards for protecting fish species; and

(v) The total area contained within the buffer after averaging is no less than that contained within the standard buffer prior to averaging; and

(vi) The buffer width shall not be reduced below 75% of the standard buffer width.

(c) Buffer Width Decreasing. Buffers may be reduced when buffer reduction impacts are mitigated and result in equal or greater protection of the HCA functions and values. Prior to considering buffer reductions, the applicant shall demonstrate application of mitigation sequencing as required in SCC 14.26.500(6). In all circumstances where a substantial portion of the remaining buffer is degraded, the buffer reduction plan shall include replanting with native vegetation in the degraded portions of the remaining buffer area and shall include a ~~5~~five-year monitoring and maintenance plan.

(d) Buffer Width Variance. Standard buffer widths may be reduced by more than 25% through a Shoreline V~~v~~ariance permit ~~pursuant to SCC 14.24.140~~.

~~(d)~~(e) Reasonable use. Nothing in this chapter is intended to preclude reasonable use of property, or to affect a taking in violation of the U.S. Constitution, the State of Washington Constitution and substantive due process. Where project proponents would seek a "Reasonable Use" exception to their proposal, they shall seek exception process and relief through the SMP Shoreline Conditional Use or Shoreline Variance Permit process. Shoreline Variance and Shoreline Conditional Use Permits may be granted by the hearing examiner as set forth in Section 14.26.700, Administrative Provisions.

~~(e)~~(f) Allowed Uses in HCAs or Buffers. The following activities may be permitted within fish and wildlife HCAs, provided the activities comply with SCC 14.26.500(6), 14.26.530(3), and 14.26.540, where applicable.

(i) 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. 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 is 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/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).

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.

(ii) 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.

~~(i)~~(iii) Roads, Bridges and Utilities. Road, bridge and utility construction may be permitted across an HCA and/or its buffer under the following conditions:

(A) It is demonstrated to the Shoreline Administrator that there are no alternative routes that can be reasonably used to achieve the proposed development; and

(B) The activity will have minimum adverse impact to the fish and wildlife HCA; and

(C) The activity will not significantly degrade surface or groundwater; and

(D) The intrusion into the fish and wildlife HCA and its buffers is fully mitigated.

~~(ii)~~(iv) Docks. Docks designed to facilitate low-impact uses, such as education and/or private, noncommercial recreation, may be permitted within fish and wildlife HCAs under the following conditions:

(A) The activity will have minimum adverse impact to the fish and wildlife HCA; and

(B) The activity will not significantly degrade surface or groundwater; and

(C) The intrusion into the fish and wildlife HCA and its buffers is fully mitigated; and

(D) The activity shall be consistent with other provisions of this Chapter~~the provisions of Chapter 14.26 SCC~~.

~~(iii)~~(v) Bulkheads. Bulkheads designed to protect existing single-family residences may be permitted within fish and wildlife HCAs under the following conditions:

(A) The activity will have minimum adverse impact to the fish and wildlife HCA; and

(B) The activity will not significantly degrade surface or groundwater; and

(C) The intrusion into the fish and wildlife HCA shall be fully mitigated; and

(D) The activity shall be consistent with ~~the provisions of Chapter 14.26 SCC~~other provisions of this Chapter including SCC 14.26.470 Shoreline Stabilization; Chapter 173-26 WAC, Shoreline Management Permit and Enforcement Procedures; Chapter 90.58 RCW, the Shoreline Management Act; and Chapter 220-110 WAC, Hydraulic Code Rules.

~~(iv)~~(vi) ~~(d)~~ Limited park or recreational access to an HCA or its required buffer; provided, that all of the following are satisfied:

(A) The access is part of a public park or a recreational resort development that is dependent on the access for its location and recreational function; and

(B) The access is limited to the minimum necessary to accomplish the recreational function; and

(C) The access and the balance of the development are consistent with other requirements of SCC Title 14; and

(D) The proponent obtains written approval from the County for the limited access and associated mitigation.

~~(v)~~(vii) Low-impact uses and activities ~~which~~ that are consistent with the purpose and function of the buffer and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the habitat involved; provided, that such activity shall not result in a decrease in riparian functions and values and shall not prevent or inhibit the buffer's recovery to at least pre-altered condition or function. Examples of uses and activities ~~which~~ that may be permitted in appropriate cases, as long as the activity does not retard the overall recovery of the buffer, include:

(A) Removal of noxious vegetation;

(B) Pedestrian trails;

(C) Viewing platforms less than 200 square feet in size, which may be covered but not enclosed;

(D) Education and scientific research activities.

~~(vi)~~(viii)Stormwater discharges shall be controlled and treated in accordance with the Stormwater Management Manual for Western Washington, Department of Ecology publication Nos. 05-10-029 through 05-10-033, as amended and adopted by the County.

(ix) To allow for greater flexibility in a development proposal, an applicant has the opportunity to remove timber within the standard buffer widths shown above if the applicant's mitigation measures incorporate all of the performance standards based upon water type (for streams or rivers) or environment designation (for marine and lake shorelines) listed in ~~the t~~Table 14.26.530-3 or Table 14.26.530-4, below.

(A) In conformance with professional standards used by the Washington Department of Natural Resources for forest practices in sensitive areas, all removal of timber within HCA buffers shall be subject to conditioning specified by the ~~Administrative Official~~Shoreline Administrator in conjunction with an on-site technical team review in which participation by representatives of the proponent, Ecology, WDFW, WDNR and natural resource representatives of affected Indian tribes is solicited.

(B) ~~The intent of this Section is to provide an additional opportunity for an applicant to propose s~~Some level of timber removal shall be allowed within the ~~riparian habitat zone~~buffer, as long as it can be demonstrated that the function of the buffer can be maintained at the levels described below. If the buffer, in its -current state, cannot meet the~~se~~ standards specified in Table 14.26.530-3 or Table 14.26.530-4, then the ~~Administrative Official~~Shoreline Administrator will not be able to give its approval for any activity which would inhibit recovery of or degrade the current buffer.

The current large woody debris (LWD) recruitment performance of a given buffer area ~~is~~ shall be compared to its potential for LWD recruitment based on site potential tree height and production volume, ~~performance~~ as rated by the Soil Conservation Service, Soil Survey of Skagit County, ~~1989~~2011.

Comment [DN14]: Note: text added for clarity of intended purpose.

(C) In consultation with a representative from the Natural Resource Conservation Service, Soil Conservation District or professional forester, the applicant ~~will~~ shall determine the capability of the site for woodland management, using the most suitable tree species according to the soil survey, and establish the stand characteristics that would be expected from a mature stand of those species established on site.

~~(6)~~ If the current stand ~~can~~ exceeds the riparian protection that could be expected based on site potential, then additional activity may be allowed provided the ~~following~~ performance standards in Table 14.26.530-3 or Table 14.26.530-4 can be met. ~~For Type S streams, an alternative method may be utilized to allow limited timber harvest within the outer 100 feet of a buffer:~~

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Table 14.26.530-3 Performance-based Stream and River Riparian Buffer Standards

Water Type	**Performance Standards**
Type S	• Maintain 95% of total LWD recruitment expected to enter the stream from a mature stand; and • Maintain 85% of the trees that are greater than 24 inches DBH within 100 feet of stream; and • Maintain an average of 75% canopy cover (based on canopy densitometer readings at stream edge). • 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: (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 shall 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.
Type F	• Maintain 85% of total LWD recruitment expected to enter the stream from a mature stand; and • Maintain 85% of the trees which are greater than 18 inches DBH within 100 feet of stream; and • Maintain an average of 75% canopy cover (based on canopy densitometer readings at stream edge).
Types Np and Ns	• Maintain 50% of total LWD recruitment expected to enter the stream from a mature stand; and • Maintain 85% of the trees which are greater than 24 inches DBH within 50 feet of stream; and • Maintain an average of 75% canopy cover (based on canopy densitometer readings at stream edge).

* Note: Applicants electing to employ performance-based mitigation in accordance with the above matrix shall include appropriate analysis and justification in their site assessment/habitat management plan.

Table 14.26.530-4 Performance-based Marine and Lakeshore Buffer Standards

Environment Designation	Performance Standards
Natural	• 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: (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 shall 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.
Rural Conservancy and Urban Conservancy	• 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).
Shoreline Residential and High Intensity	• 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 OWHM).

* Note: Applicants electing to employ performance-based mitigation in accordance with the above matrix shall include appropriate analysis and justification in their site assessment/habitat management plan.

14.26.540 Frequently Flooded Areas

Section 14.26.540 uses 14.24.600-.630 as a base, but integrates key provisions of 14.34 – Flood Damage Prevention (shown in tracks) – particularly provisions of 14.34.150, 14.34.190, 14.34.210, and 14.34.220. Specific building code requirements related to structural safety are omitted from this section, but those standards still apply to developments in shoreline jurisdiction.

(1) Frequently flooded areas designations.

(a) Frequently flooded areas shall be designated as those areas identified as the Special Flood Hazard Area (SFHA), which includes zones A, AO, AH, A1—10,

A12, A14, A16, A18, A21—22, V1 and V4 ~~zones~~ on the official Flood Insurance Rate Map for Skagit County, as amended. Cumulatively these zones represent the floodway and 100-year floodplain.

~~(a)~~(b) All new hydrologic and hydraulic flood studies shall consider future conditions and the cumulative effects from anticipated future land use changes in accordance with Regional Guidance for Hydrologic and Hydraulic Studies in Support of the Model Ordinance for Floodplain Management under the National Flood Insurance Program and the Endangered Species Act, FEMA Region X, 2010.

(2) Protected Review Area. **~~14.24.610 Frequently flooded areas initial project review.~~**The protected review area is comprised of, and shall be the greater of, those lands that lie within the boundaries of the floodway, the riparian habitat zone (RHZ), and the channel migration area (CMA). The riparian habitat zone and channel migration area are defined as follows:

(a) The "riparian habitat zone" includes streams, natural watercourses and adjacent land areas within the special flood hazard area (SFHA), but not artificial watercourses. The width of the RHZ shall be 250 feet from all waters of the State (as defined under WAC 222-16-030) within the SFHA.

(b) The "channel migration area (CMA)" shall be the channel migration zone plus 50 feet, where such migration zones have been delineated on a map or maps that have been adopted by Skagit County for regulatory purposes. When such maps become adopted, they shall be incorporated as a part of this Chapter and shall be used in accordance with this Section.

Exception. Maintained levees subject to annual Corps of Engineers inspections shall be deemed to be the boundaries of the channel migration area.

(3) Frequently flooded areas project review. Applications for permits shall be made on forms provided by the Shoreline Administrator. As a minimum, the following information shall be provided by the applicant at the time of submittal:

(a) Vicinity map.

(b) Description of the project.

(c) Two copies of the site plans drawn to scale that demonstrate the location and dimensions of the property, existing or proposed structures, fill and/or excavations, storage of material, drainage facilities, suspected critical areas, and private or public utilities including sewage. The site plan shall also include the following information:

(i) The elevations and boundaries of the 10-, 50-, and 100-year floods, where such information is available.

(ii) The boundaries of the protected review area as defined in SCC 14.26.540(1).

(iii) Areas of compensatory storage, where applicable.

(d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(e) An assessment of the impact of the project on water quality and aquatic and riparian habitat of salmon and orca species protected under the Endangered Species Act. This assessment may include the following:

(i) Fish and Wildlife Habitat Conservation Assessment prepared consistent with SCC 14.26.530(3).

(ii) In lieu of a FWHCA site assessment, the applicant may provide the following:

(A) A biological evaluation or assessment covering protected salmon and orca species that has been approved by the U.S. Fish and Wildlife Service or the National Marine Fisheries Service.

(B) Documentation that the appropriate State or Federal agency has determined that the activity fits within a habitat conservation plan covering protected salmon and orca species approved pursuant to Section 10 of the Endangered Species Act (ESA).

(C) Documentation that the appropriate State or Federal agency has determined that the activity fits within Section 4(d) of the ESA relating to protected salmon and orca species.

(iii) Exemptions from Habitat Impact Assessments. The following activities are exempt from the requirement to provide a habitat impact assessment or habitat mitigation plan; however, an exemption from the assessment requirements does not exempt an applicant from complying with other provisions of this chapter.

(A) Repairs or remodeling of an existing structure; provided, that the repairs or remodeling are not a substantial improvement or a repair of substantial damage.

(B) Expansion of an existing structure that is no greater than 200 square feet or 10%, whichever is greater, beyond its existing footprint; provided, that the repairs or remodeling are not a substantial improvement or a repair of substantial damage. This measurement is counted cumulatively from the effective date of the ordinance codified in this Chapter.

(C) Activities with the sole purpose of creating, restoring or enhancing natural functions associated with floodplains, streams, lakes, estuaries, marine areas, habitat, and riparian areas that meet Federal and State standards, provided the activities do not include structures, grading, fill, or impervious surfaces.

(D) Development of open space and recreational facilities, such as parks and trails, that do not include structures, grading, fill, impervious surfaces or removal of more than 5% of the native vegetation on that portion of the property in the regulatory floodplain.

(f) Habitat Mitigation Plan. If the assessment conducted under Subsection (3)(e) of this Section concludes that the project is expected to have an adverse effect on water quality and/or aquatic or riparian habitat or habitat functions associated with species protected under the Endangered Species Act, the applicant shall provide a plan to mitigate those impacts.

(g) Final approval of the project or occupancy approval shall not be provided until all work identified in the evaluation, assessment, or mitigation plan has been completed and implemented or the applicant has provided the necessary assurance that any unfinished portions of the project will be completed.

(h) Notice on Title. The applicant for development in a frequently flooded area shall record on the title to the property, on a form approved by the Shoreline Administrator, a notice that a portion of the property is in a frequently flooded area. A final recorded land division shall include a notice that a portion of the property is in a frequently flooded area.

(i) The Shoreline Administrator may require additional information when deemed necessary.

(j) Permit fees shall be paid at the time application is submitted as prescribed in Planning and Development Services Department's adopted fee schedule. The Skagit County Board of County Commissioners may waive, by resolution, all permit fees for the repair of flood damages incurred during a local, State or Federally declared disaster. To be eligible for a fee waiver, the permit applicant shall provide access to the structure for the purposes of damage assessment by County personnel under the direction of the Shoreline Administrator; or provide damage assessment reports prepared by the American Red Cross, FEMA, SBA, or a licensed insurance adjuster. The permit fee waiver applies only to that construction or repair that is necessary for restoration to pre-flood conditions.

~~(7)~~(4) Frequently flooded areas protection standards.

(a) All development shall conform to the provisions of Chapter 14.34 SCC and the International Building Code, which contain structural safeguards to reduce risk to human life, health and property from flooding.

(b) Any use or development shall not alter the normal movement of surface water in a manner that would cause the unnatural diversion of floodwater to otherwise flood-free areas.

(c) The applicant shall demonstrate that the development is not likely to adversely affect species protected under the Endangered Species Act, consistent with the provisions of Chapter 14.34 SCC and this Chapter.

~~(8)~~

~~Project review shall be conducted in accordance with the procedures and requirements for reviewing an application for a permit under Chapter 14.34 SCC as amended. (Ord. O20080014 (part))~~

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(5) ~~14.24.620~~ Frequently flooded areas development requirements.

(a) Siting of Structures. If a lot has a buildable site outside of the SFHA, all new structures must be located in that area. If the lot is fully within the SFHA, structures must be located to have the least impact on habitat as possible by locating structures as far from the water body as possible or placing the structures on the highest ground on the lot. All new structures shall be set back from the protected review area a minimum of 15 feet, unless the applicant can demonstrate that the structure is not likely to adversely affect species protected under the Endangered Species Act, as demonstrated through a habitat impact assessment process set forth in SCC 14.26.540(2)(b)(v).

(b) Stormwater. Construction in the SFHA shall incorporate low impact development techniques where technically feasible to minimize or avoid stormwater effects, such as those described in the Technical Guidance Manual for Puget Sound.

(c) Impervious Surfaces. Creation of new impervious surfaces shall not exceed 10 percent of the surface area of the portion of the lot in the SFHA unless it is demonstrated that there will be no net increase in the rate and volume of stormwater surface runoff that will leave the site or that the impact is mitigated.

(d) Floodplain Storage. Any loss of floodplain storage shall be avoided, rectified or compensated for within the SFHA.

Exception: Areas located landward of maintained levees subject to annual Corps of Engineers inspections, and not hydraulically connected to the source of flooding, need not provide compensatory storage.

(e) Anchoring. All propane (LPG) and home heating oil tanks located above-ground shall be adequately supported and anchored to the ground in such a way that will prevent collapse, overturning, displacement or flotation resulting from floodwaters or waterborne debris.

(f) Recreational Vehicles.

(i) Recreational vehicles shall not be used as permanent dwelling units.

(ii) When located in special flood hazard areas designated as A, A1-A10, A12, A14, A16, A18, A21-A22, V1, V4, AO and AH, the vehicle shall:

(A) Be on site for fewer than 180 consecutive days; or

(B) Be fully licensed and ready for highway use without the requirement for special highway permits, be on its wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions.

(g) Utilities.

(i) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters;

(ii) On-site disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(h) Critical facilities. Critical facilities should be afforded additional flood protection due to their nature. Construction of new critical facilities should be, to the extent possible, located outside the limits of the 100-year floodplain as identified on the County's FIRM. Construction of new critical facilities may be permissible within the 100-year frequency floodplain if no feasible alternative site is available. When allowed, critical facilities constructed within the 100-year frequency floodplain shall have the lowest floor elevated to 3 or more feet above the level of the 100-year frequency flood. Floodproofing and sealing measures shall be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the 100-year frequency flood shall be provided to all critical facilities to the extent possible.

(i) Standards for construction in shallow flooding areas (AO Zones). Shallow flooding zones (AO Zones) appear on the Flood Insurance Rate Maps with flood depth designations from 1 to 3 feet above ground and in some areas with water velocities indicated. New construction and substantial improvements of residential and nonresidential structures within AO Zones shall have the lowest floor elevated above the highest adjacent grade of the building site, and at least 1

foot or more above the flood depth number specified on the Flood Insurance Rate Map (FIRM).

(6) Standards for development activities in floodways.

(a) Encroachments including fill, new construction, substantial improvements, and other development are prohibited in floodways, unless certification by a registered professional engineer licensed in the State of Washington is provided demonstrating, through hydrologic and hydraulic analyses performed in accordance with standard engineering practice as well as the "Procedures for No-Rise Certification" as published by FEMA, that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge. Additionally, Skagit County reserves the right to have this analysis reviewed by a qualified third party to be selected by the County. The cost of such review, if any, shall be the responsibility of the applicant.

(b) Construction or reconstruction, repair or replacement of residential structures in floodways is prohibited except for:

(i) Repairs, reconstruction, or improvements to a structure that do not increase the ground floor area provided the cost of such reconstruction, repair, or improvement shall be calculated cumulatively with any other activity occurring during the previous 10 years and the total of all improvements or repairs shall not exceed 50% of the market value of the structure as established in the first year of the 10-year period.

(ii) Repair of a structure subsequent to sustaining damage of any origin when the cost of restoring the structure to its pre-damaged condition as calculated cumulatively with any other activity occurring during the previous 10 years and the total of all improvements or repairs shall not exceed 50% of the market value of the structure as established in the first year of the 10-year period and prior to the damage.

(iii) Work done on structures to comply with existing health, sanitary, or safety codes when determined by the Shoreline Administrator, or to structures identified as historic places, may be excluded in the 50% determination.

(iv) Repairs, reconstruction, replacement, or improvements to existing farmhouse structures located in designated floodways and which are located on lands designated as agricultural lands of long-term commercial significance under RCW 36.70A.170 shall be permitted subject to the following. For the purposes of this Section, "farmhouse" means a single-family dwelling located on a farm site where resulting agricultural products are not produced for the primary consumption or use by the occupants and the farm owner.

(A) The new farmhouse is a replacement for an existing farmhouse on the same farm site;

(B) There is no potential building site for a replacement farmhouse on the same farm outside the designated floodway;

(C) Repairs, reconstruction, or improvements for a farmhouse shall not increase the total square footage of encroachment of the existing farmhouse;

(D) A replacement farmhouse shall not exceed the total square footage of the encroachment of the structure it is replacing;

(E) A farmhouse being replaced shall be removed, in its entirety, including foundation, from the floodway within 90 days after occupancy of a new farmhouse;

(F) For substantial improvements, and replacement farmhouses, the elevation of the lowest floor of the improvement and farmhouse respectively, including basement, is 1 foot higher than the base flood elevation;

(G) New and replacement water supply systems are designed to eliminate or minimize infiltration of floodwaters into the system;

(H) New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of floodwater into the system and discharge from the system into the floodwaters; and

(I) All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.

(v) For all other residential structures located in a designated floodway and damaged by flooding or flood-related erosion, the Department of Ecology is authorized to assess the risk of harm to life and property posed by the specific conditions of the floodway and, based upon scientific analysis of depth, velocity, and flood-related erosion, may exercise best professional judgment in recommending to the Skagit County Building Official, repair, replacement, or relocation of such damaged structures. The effect of the Department's recommendation to allow repair or replacement of a flood-damaged residence within the designated floodway is a waiver of the floodway prohibition.

(c) Recreational vehicles placed in the floodway shall meet the following requirements:

(i) Be fully licensed and ready for highway use without the requirement for special highway permits, be towable by a regular duty truck without the requirement for special licenses, be on its wheels or jacking system, and have no permanently attached additions.

(ii) (Shall not be placed in the floodway from November through April of any calendar year.

Exception. Recreational vehicles are allowed to be placed for weekend and holiday use for a period not to exceed 14 days.

(7) Encroachment standards for development activities in areas where no floodway is established. In areas where a regulatory floodway has not been designated, the cumulative effect of any proposed development, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than 1 foot at any point.

(8) Standards for construction in coastal high hazard areas. Coastal high hazard areas (V Zones) are located within the SFHA. Coastal high hazard areas (V Zones) have special flood hazards associated with high velocity waters and tidal surges, and, therefore, the following provisions shall apply in these areas:

(a) All new construction shall be located landward of the reach of extreme high tide.

~~(a)~~(b) Manmade alterations to the natural landscape, which would increase potential flood damage shall be prohibited.

(9) Other development criteria and associated engineering requirements for frequently flooded areas shall be addressed under the provisions of Chapter 14.34 S

14.26.550 Critical Aquifer Recharge Areas

(1) ~~14.24.310~~ Aquifer recharge areas designations.

(a) Categories. There are 2 categories of aquifer recharge areas. These categories are designated to assist the Administrative Official in determining the level of assessment necessary to evaluate land use proposals. The categories are based on the determination that certain areas require additional scrutiny of the potential impacts of a proposed land use, with consideration given to hydrogeological susceptibility and vulnerability. All designated areas are subject to change as data and information are updated or become available.

(i) Category I areas are those so designated because of the need for protection due to a pre-existing land use, or because they are identified by the County, State or Federal government as areas in need of aquifer protection where a proposed land use may pose a potential risk

thatwhich increases aquifer vulnerability. Category I areas are shown on the aquifer recharge area map. Category I areas include:

(A) Areas served by groundwater that have been designated as a "sole source aquifer area" under the Federal Safe Drinking Water Act; and

(B) Areas identified by the County as potential or existing sea water intrusion areas; and

(C) Areas designated as "wellhead protection areas" pursuant to Chapter 246-290 WAC and the groundwater contribution area in WAC 246-291-100, or otherwise recognized by the Health Officer or Shoreline Administrator as needing wellhead protection. Wellhead protection areas shall, for the purpose of this regulation, include the identified recharge areas associated with:

a. The 10-year groundwater time of travel for all Group A public water systems; or

b. The 1-year groundwater time of travel for all Group B public water supply wells.

(D) Areas within 1/2 mile of a surface water source limited (SWSL) stream as designated in SCC 14.26.550(5)(c)(iii).

(ii) Areas throughout the County not identified as Category I areas are designated as Category II areas.

(iii) When any portion of the proposed project area is located partly within a Category I area, the proposed project shall be subject to the level of scrutiny provided for a Category I area.

(b) In order to protect aquatic resources, each watershed drainage area identified in SCC 14.26.550(6) is hereby designated as a "flow-sensitive basin." Flow-sensitive basins may include areas that also are designated Category I or Category II areas.

(2) Aquifer recharge areas prohibited activities. The following activities are prohibited in Category I areas due to the probability or potential magnitude of their adverse effects on groundwater:

(a) Landfills, including, but not limited to, hazardous or dangerous waste disposal facilities as defined in Chapter 173-303 WAC, municipal solid waste landfills as defined in Chapter 173-351 WAC, and limited purpose landfills as defined in Chapter 173-350 WAC.

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(b) Underground injection wells. Class I, III, and IV wells and subclasses 5F01, 5D03, 5F04, 5W09, 5W10, 5W11, 5W31, 5X13, 5X14, 5X15, 5W20, 5X28, and 5N24 of Class V wells, such as:

(i) Agricultural drainage wells;

(ii) Untreated sewage waste disposal wells;

(iii) Cesspools;

(iv) Industrial process water and disposal wells; and

(v) Radioactive waste disposal.

(c) Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade).

(d) Facilities that store, process, or dispose of chemicals containing perchloroethylene (PCE) or methyl tertiary butyl ether (MTBE).

(e) Facilities that store, process, or dispose of radioactive substances.

(f) Other activities that the Shoreline Administrator or Health Officer determines would significantly degrade groundwater quality or reduce the recharge to aquifers currently or potentially used as a potable water source or that may serve as a significant source of base flow to a flow-sensitive basin stream. The determination must be made based on credible scientific information.

(3) Aquifer recharge areas site assessment requirements.

(a) Except as provided in Subsection (d) of this Section, the level of study for a site assessment that will be required of the applicant by the Shoreline Administrator for a given development will be based on an initial project review by Skagit County Planning and Development Services that may also include staff from the Health Department and a County staff hydrogeologist. The standard site assessment requirements are provided in Subsection (b) of this Section. The reporting requirements for a particular project can be reduced, at the discretion of the Shoreline Administrator or Health Officer, if it is determined that the preparation of a site assessment is not likely to provide additional information that will aid in the assessment of likely impacts to groundwater quality or quantity.

(b) Site Assessment Requirements. Unless the scope of the site assessment has been reduced by the Shoreline Administrator or the Health Officer, the site assessment shall satisfy the requirements of SCC 14.26.500(6), and shall include:

(i) A site plan acceptable to the Shoreline Administrator or Health Officer, which indicates the approximate location of known or geologically

representative wells (abandoned and active), springs, and surface watercourses within 1,000 feet of the project property.

(ii) A description of the site-specific hydrogeological characteristics regarding potential impact(s) to the quantity or quality of underlying aquifer(s). At a minimum this will include a description of the lithology, depth and static water level of known underlying aquifer(s), and depiction of groundwater flow direction and patterns on the appropriate map; and

(iii) Identification of the initial receptors of potential adverse impacts located hydraulically down-gradient and within 1,000 feet of the project or as otherwise directed by the Shoreline Administrator or Health Officer.

(c) Additional Site Assessment Elements. After the initial project review, 1 or more of the site assessment elements listed below may be required based upon the proposed project activity, aquifer recharge area classification, complexity of underlying hydrogeological conditions, and/or the perceived potential to adversely impact hydraulically downgradient receptors. One or more of these additional site assessment elements may also be required if the applicant chooses to demonstrate that certain mitigation measures are not necessary to protect the quantity or quality of the underlying aquifer(s), or that the project does not pose a detrimental risk to hydraulically downgradient receptors. Additional site assessment elements include:

(i) Lithologic characteristics and stratigraphic relationships of the affected aquifer(s) and overlying geologic units and soil types including thickness, horizontal and vertical extent, permeability, and infiltration rates of surface soils.

(ii) Delineation of identified structural features such as faults, fractures, and fissures.

(iii) Aquifer characteristics including determination of recharge and discharge areas, transmissivity, storage coefficient, hydraulic conductivity, porosity, and estimate of groundwater flow direction, velocity and patterns for the affected aquifer(s).

(iv) Estimate of precipitation and evapotranspiration rates for the project area.

(v) Preparation of appropriate hydrogeological cross sections depicting underlying lithology and stratigraphy, aquifer(s), and potential or probable contaminant pathways from a chemical release.

(vi) Contaminant fate and transport including probable migration pathways and travel time of potential contaminant release(s) from the site through the unsaturated zone to the aquifer(s) and through the aquifer(s), and

how the contaminant(s) may be attenuated within the unsaturated zone and the aquifer(s) with consideration to advection, dispersion, and diffusion of contaminants in the groundwater.

(vii) Delineation of areas potentially affected by contaminant migration on the ground surface and/or through potentially affected aquifer(s).

(viii) Determination of background or existing groundwater quality underlying the project area.

(ix) Development of a groundwater monitoring program to measure potential impacts of the development to underlying aquifer(s).

(x) Development of a spill plan and/or contingency plan describing the specific actions that will be taken if a release of a contaminant(s) occurs, or if groundwater monitoring results indicate a contaminant(s) from the site has entered the underlying aquifer(s).

(xi) Determination of the degree of continuity between groundwater and nearby surface water including potential impacts to flows in surface water source limited (SWSL) streams and flow-sensitive basins from proposed groundwater withdrawals, and potential impacts to surface water quality from site runoff or contaminated groundwater discharge.

(xii) Assessment of the potential for pumping-induced seawater intrusion.

(xiii) Nitrate Loading Assessment. For projects that have the potential to adversely impact groundwater quality by nitrate loading, the applicant shall test existing wells and/or required test wells for nitrate as nitrogen and calculate the current and projected future groundwater nitrate concentrations at full project build-out, at an appropriate point of compliance, as determined by project characteristics, and in a methodology approved by the County. If the calculated nitrate loading in the intended water supply equals or exceeds 5 milligrams per liter nitrate as nitrogen, the applicant shall develop a mitigation plan with the point of compliance determined based on project characteristics.

(d) Exemptions. The following activities are exempted from the provisions of this Section:

(i) Activities that legally existed on or before June 13, 1996. Expansions or changes in use shall comply with the applicable provisions of this Section.

(ii) Single-family residential building permits, including accessory building permits and accessory dwelling unit (ADU) building permits, which are outside Category I areas.

(iii) Residential short plats outside Category I areas where each lot is 2.5 acres or greater.

(iv) Single-family residential building permits where a site assessment was required to be completed for the land division. To meet the conditions of this exemption, the applicant must comply with the recorded plat notes and the applicable mitigation measures contained in the site assessment.

(v) Activities allowed without standard critical areas review pursuant to SCC 14.26.500(5).

(4) Aquifer recharge areas impact mitigation. The Shoreline Administrator and Health Officer shall review development proposals to assess aquifer(s) vulnerability and establish needed mitigation measures. Where determined to be necessary through the site assessment process, or otherwise required under SCC 14.26, development approvals shall include conditions designed to prevent significant degradation of water quality or reduction in recharge to underlying aquifer(s). Mitigation for groundwater withdrawals is presented in SCC 14.26.550(7). The project shall not cause exceedance of the water quality standards specified in Chapter 173-200 WAC or otherwise violate the anti-degradation requirements of Chapter 173-200 WAC or Skagit County's seawater intrusion policy.

(a) Mitigation Plan Elements. For proposals requiring aquifer recharge area impact mitigations, in addition to adhering to any of the required mitigation measures identified above, the applicant shall develop for approval by the Shoreline Administrator and the Health Officer a mitigation plan for the proposed development. All mitigation conditions applied to permits shall be based on all known, available, and reasonable methods of prevention, control, and treatment. Compliance with the mitigation plan shall be enforceable by the Shoreline Administrator or Health Officer. The applicant may amend the plan with the approval of the Shoreline Administrator and Health Officer. The Shoreline Administrator and Health Officer may, based on performance criteria and monitoring results, require additional amendments to the plan. The mitigation plan shall contain the project's permit conditions and, as applicable:

(i) A description of the mitigation measures to be taken, how they will be implemented, and performance criteria.

(ii) An environmental monitoring plan describing the monitoring program, maintenance, and reporting requirements.

(iii) A contingency plan describing corrective actions to be taken if monitoring results indicate that mitigation measures are not effectively protecting groundwater resources and human health. The Health Officer or the Shoreline Administrator shall have the authority to impose additional required corrective actions where such measures are necessary to protect

groundwater resources or human health. Where appropriate contingencies are not feasible and result in an activity posing unacceptable risk to the groundwater resources or human health, the Shoreline Administrator or Health Officer shall deny the proposal.

(iv) Multiple-stage (or phased) development must consider the total build-out of the project in terms of critical aquifer recharge areas protection to allow for an assessment of the cumulative impacts of the entire development.

(v) Conditions that would precipitate ceasing the project operation altogether.

(vi) Wellhead Protection Mitigation. Where a wellhead protection plan addressing the project area exists, the Shoreline Administrator or Health Officer shall use the recommendations contained in the wellhead protection plan as a basis for formulating required mitigation measures. In the absence of such a mitigation plan, the Shoreline Administrator or the Health Officer shall contact the owner of the public water system impacted by the proposed project and jointly develop mitigation measures, a summary of which shall be signed by the applicant and recorded with the applicant's property title.

(vii) Seawater Intrusion Mitigation. Mitigation shall be consistent with the Skagit County Public Health Department's "Seawater Intrusion Policy" and Chapter 12.48 SCC.

(viii) "Sole Source Aquifer" Mitigation. There shall be no density bonus for CaRD developments in areas designated as a "sole source aquifer," except where the source of water for the project is a public water system whose source is not located within the designated sole source aquifer area.

(ix) Nitrate Loading Mitigation.

(A) General Requirements. If a calculated nitrate loading concentration for a project at the designated point of compliance per SCC 14.26.550(3)(c)(xiii) is equal to or greater than 5 milligrams per liter nitrate as nitrogen, then the applicant shall be required to place a notification on the documents of title for the property affected and a monitoring plan shall be developed to monitor the nitrate level and include a contingency plan to be implemented if the nitrate level exceeds 10 milligrams per liter nitrate as nitrogen.

(B) Land Divisions. If the calculated nitrate loading concentration for a land division at the designated point of compliance per SCC

14.26.550(4)(c)(xiii) is equal to or greater than 5 milligrams per liter nitrate as nitrogen, then the applicant shall:

a. Develop a mitigation plan to minimize the nitrate loading rate; and

b. Develop a contingency plan to be implemented if the nitrate concentration exceeds 10 milligrams per liter nitrate as nitrogen; and

c. Place notification on the plat stating that mitigation and contingency plans exist.

(C) Mitigation of nitrate in groundwater from on-site septic systems may include decreasing the density of septic system drainfields.

(b) Recording of Mitigation Plan Summaries.

(i) General Requirements. The Shoreline Administrator or Health Officer may require that the applicant record a County-approved summary of the mitigation plan on the property title. A copy of the recorded summary shall be provided to the Shoreline Administrator. If a property owner can demonstrate, to the satisfaction of the Shoreline Administrator or Health Officer, that mitigation measures are no longer necessary, the Shoreline Administrator or Health Officer shall approve the addition of language on the title for the property nullifying the mitigation requirements.

(ii) Land Divisions. The Shoreline Administrator shall require the applicant for a land division to record the mitigation plan as part of the plat notes. If the mitigation plan is not recorded as or referenced by a plat note, the applicant shall record the mitigation plan on the affected property title(s).

(c) Surface Water Source Limited (SWSL) Stream Mitigation.

(i) If a project, excluding additions to a single-family dwelling unit that rely on an existing domestic groundwater system, is located within 1/2 mile of any of the streams identified in Subsection (c)(iii) of this Section as SWSL streams the following mitigation measures shall be required, as applicable:

(A) Public Water. If an existing public water system, the source for which is located outside of the watershed containing the project, is timely and reasonably available to a project property within a SWSL watershed, and where the water provider is willing and able to provide safe and reliable potable water service, then the project shall be required to connect to the public water supply as a condition of project approval.

(B) Interim Groundwater Withdrawals. If public water is not timely and reasonably available, as specified in Subsection (c)(i)(A) of this Section, the applicant may utilize groundwater withdrawn from the SWSL watershed on an interim basis, providing that the property shall be subject to mandatory participation in a local utility district (LUD) or special improvement district that will provide potable water service to the property if and when that occurs. The property owner shall be required to sign a written agreement with the County agreeing not to protest the LUD or special improvement district, and have those conditions recorded on the property title before a County permit or land division is approved. The property owner shall also agree through the above written agreement to connect all water fixtures to this public water system as soon as it is timely and reasonably available, and shall decommission any well(s) utilized for interim groundwater withdrawals in accordance with applicable State and County rules and regulations expediently following connection to the public system.

(C) Lawn Watering. Lawn water restrictions or other water use conservation measures shall be required for properties included in land divisions approved after the date of adoption of the ordinance codified in this Chapter. Lawn watering restrictions for interim groundwater withdrawals shall not apply under the following conditions:

a. The proposed development connects to an existing public water supply as described in Subsection (c)(i)(A) of this Section; or

b. The proposed development is drawing water from an aquifer that meets the demonstration standard as specified in Subsection (c)(iv) of this Section.

(D) Public Water Lines. The County should encourage extension of new public water lines to serve existing legal lots of record in SWSL watersheds through establishment of a utility improvement district or other shared funding mechanism provided any such extension outside of an urban growth area is consistent with the County's Comprehensive Plan.

(E) Comprehensive Plan. Where economically feasible, the County shall consider as part of its Comprehensive Plan limitations on the uses and densities within designated SWSL stream corridors to

limit new individual wells as necessary to protect tributary base flows.

(ii) If a project is located within 1/2 mile of any of the streams identified in Subsection (c)(iii) of this Section as SWSL then the total impervious surface of the proposed project shall be limited to 5% of the total lot area, unless the proposed development provides mitigation that will collect runoff from the proposed development, treat that runoff, if necessary to protect groundwater quality, and discharge that collected runoff into a groundwater infiltration system on site. The impervious surface limitation may be waived under the following conditions:

(A) A project is connected to a public water system that has a source of water located outside of the watershed and if the project uses an approved on-site sewage disposal system and it is determined that the on-site sewage disposal system is providing acceptable compensating recharge to the aquifer; or

(B) The project is located in an area that the County Engineer determines is not suitable for stormwater infiltration; or

(C) The limitation is inconsistent with applicable stormwater regulations.

(iii) For the purposes of implementing this Chapter, the following streams are designated as surface water source limited streams:

(A) Carpenter Creek;

(B) Coal Creek;

(C) Diobsud Creek;

(D) Friday Creek;

(E) Grandy Creek;

(F) Jones Creek;

(G) Lake Erie;

(H) Nookachamps Creek;

(I) Samish River;

(J) Whitehall Creek.

(iv) Exceptions. Projects are exempt from the mitigation measures described in Subsections (c)(i) and (ii) of this Section under the following conditions:

(A) The applicant demonstrates, through an appropriate hydrogeologic characterization, that any groundwater withdrawal proposed for the project will not adversely impact stream flows deemed critical to salmonids in a SWSL stream; provided, that a mitigation report referencing the hydrological determination shall be recorded on the plat and/or title; or

(B) If the project is located outside of the watershed of the streams listed in Subsection (c)(iii) of this Section; or

(C) If the project is located in an area where groundwater is under tidal influence.

(5) Flow-sensitive basins.

(a) Except as provided in Subsection (b) of this Section, average daily groundwater withdrawals for projects initiated after the effective dates indicated below shall be limited in each flow-sensitive basin to the amounts indicated below. The Health Officer, in coordination with the Washington Department of Ecology, shall be responsible for tracking water uses in flow-sensitive basins.

(i) Skagit River Basin.

(A) Flow-Sensitive Basins.

Lower Skagit Flow-Sensitive Basins	Groundwater Withdrawal Limit (gallons per day)
Alder Creek	81,430
Anderson/Parker/Sorenson Creeks	20,034
Careys Creek	11,633
Carpenter/Fisher Creeks	11,633
Childs/Tank Creeks	18,096
Coal Creek	18,742
Cumberland Creek	25,851
Day Creek	131,839
Gilligan Creek	25,851
Hansen Creek	38,130

Lower Skagit Flow-Sensitive Basins	Groundwater Withdrawal Limit (gallons per day)
Jones Creek	67,212
Loretta Creek	11,633
Mannser Creek	15,511
Morgan Creek	13,572
Muddy Creek	28,436
Nookachamps Creek – East Fork	14,218
Nookachamps Creek – Upper	12,279
O'Toole Creek	23,266
Red Cabin Creek	42,653
Salmon/Stevens Creek	5,170
Wiseman Creek	18,095

Upper Skagit Flow-Sensitive Basins	Groundwater Withdrawal Limit (gallons per day)
Aldon Creek	25,851
All Creek	25,851
Bacon Creek	25,851
Barr Creek	25,851
Big Creek	25,851
Boulder Creek	25,851
Boyd Creek	25,851
Clark Creek	25,851
Corkindale Creek	25,851
Diobsud Creek	25,851
Everett Creek	25,851
Finney Creek	25,851
Flume Creek	25,851
Grandy Creek	147,350

Upper Skagit Flow-Sensitive Basins	Groundwater Withdrawal Limit (gallons per day)
Gravel Creek	25,851
Hilt Creek	25,851
Hobbit Creek	25,851
Illabot Creek	25,851
Irene Creek	25,851
Jackman Creek	25,851
Jordan Creek	25,851
Mill Creek	25,851
Miller Creek	25,851
O'Brian Creek	25,851
Olson Creek	25,851
Ossterman Creek	25,851
Prairie Creek	25,851
Pressentin Creek	25,851
Rinker Creek	25,851
Rocky Creek	25,851
Savage Creek	25,851
Sutter Creek	25,851
Tenas Creek	25,851
White Creek	25,851

(B) Effective Date. Groundwater withdrawals from the flow-sensitive basins listed in Subsection (a)(i)(A) of this Section that were established after April 14, 2001, will be debited from the respective groundwater withdrawal limits.

(ii) Samish River Basin. There shall be no density bonus for CaRD developments that rely on groundwater as the water source and where the well is located within 1/2 mile of the Samish River or Friday Creek.

(iii) Stillaguamish River Basin.

(A) Flow-Sensitive Basins.

Flow-Sensitive Basin	Groundwater Withdrawal Limit (gallons per day)
Stillaguamish River and tributaries	302,400

(B) Effective Date. Groundwater withdrawals from the flow-sensitive basins listed in Subsection (a)(iii)(A) of this Section that were established after September 26, 2005, will be debited from the respective groundwater withdrawal limits.

(b) The Shoreline Administrator shall report to the Health Officer the number of new residential connections or the estimated amount of consumptive water use for non-residential projects that will be created for each building permit or lot that relies on a groundwater withdrawal in a flow-sensitive basin. Groundwater withdrawals shall not be debited from the groundwater withdrawal limits established in Subsection (a) of this Section, where:

(i) The proposed groundwater withdrawal is exempt from permitting in RCW 90.44.050; and

(A) The Health Officer, using criteria developed in coordination with the Washington Department of Ecology, determines that the groundwater withdrawal will not adversely impact stream flows deemed critical to salmonids in a flow-sensitive basin; or

(B) The applicant adopts mitigation measures approved by the Health Officer, using criteria developed in coordination with the Washington Department of Ecology, to prevent the groundwater withdrawal from adversely impacting stream flows deemed critical to salmonids in flow-sensitive basins; or

(ii) The proposed groundwater withdrawal is not exempt from permitting in RCW 90.44.050 and the proposed withdrawal for a project is included in a water right permit issued by the Washington Department of Ecology and is covered by a mitigation plan approved by the Washington Department of Ecology; or

(iii) The groundwater withdrawal is from an interruptible source and the applicant provides measures to supply adequate water at all times necessary for the project applied for, subject to the approval of the Health Officer; or

(iv) Groundwater use for projects initiated prior to the effective date of the corresponding flow-sensitive basin designated in SCC 14.26.550(6), by:

(A) The applicant filing with the Shoreline Administrator a complete application for a building permit pursuant to Chapter 15.04 SCC or for approval of a land division pursuant to Chapter 14.18 SCC prior to the effective date of the corresponding flow-sensitive basin groundwater withdrawal limit; or

(B) The applicant filing a well log with the Washington Department of Ecology prior to the effective date of the corresponding flow-sensitive basin groundwater withdrawal limit indicating the applicant's intent to rely on a groundwater withdrawal that is exempt from permitting in RCW 90.44.050; or

(C) The Washington Department of Ecology issuing a water right permit or certificate with a priority date that is earlier than the effective date of the respective flow-sensitive basin groundwater withdrawal limit designated in this Section.

(c) In addition to the provisions for public notice provided under SCC 14.06.150 and notice of decision under SCC 14.06.200, the Shoreline Administrator shall provide electronic notice to the public, by use of the County's official website or otherwise, of all building permit and short subdivision applications and approvals in flow-sensitive basins.

(6) Flow-sensitive basin water withdrawal mitigation. If a project hydrologically is located within a flow-sensitive basin, in addition to conditions imposed by the Health Officer pursuant to Chapter 12.48 SCC, mitigation measures required in SCC 14.26.550(5) and groundwater withdrawal mitigation measures required by the Washington State Department of Ecology, the total impervious surface area of the project containing the project shall be limited to 20%, unless:

(a) The applicant implements mitigation measures that collect stormwater runoff from the proposed development, treat that runoff, if necessary to protect groundwater quality, and discharge that collected runoff into a groundwater infiltration system on site, providing that the project is located in an area that the Shoreline Administrator or Health Officer determines is suitable for stormwater infiltration; or

(b) The project will be served by a public water system the source for which is located hydrologically outside of a flow-sensitive basin, and wastewater will be disposed in an approved on-site wastewater treatment system that the Health Officer or Shoreline Administrator determines will provide adequate compensating recharge to the aquifer for the total amount of impervious surface proposed; or

(c) The applicant demonstrates, through an appropriate hydrogeological characterization, that the placement of the proposed impervious surfaces will not adversely impact stream base flows in the subject tributary basin; or

(d) The applicant demonstrates that the project is located in an area where groundwater and/or surface water is influenced by tidal fluctuation.

(7) Delineation of flow-sensitive basins. The Shoreline Administrator shall produce maps delineating the boundaries of flow-sensitive basins, which are hereby incorporated by reference. The Shoreline Administrator shall update maps of flow-sensitive basins as provided in SCC 14.24.050 and WAC 173-503-116.

Part VI: Legal Pre-Existing Uses and Structures

Proposed Sections:

14.26.600 Purpose
In review with Shoreline Advisory Committee

14.26.610 Applicability
In review with Shoreline Advisory Committee

14.26.620 Determination of Legal Pre-Existing Use, Site or Structure
In review with Shoreline Advisory Committee

14.26.630 Legal Pre-Existing Uses of Land
In review with Shoreline Advisory Committee

14.26.640 Legal Pre-Existing Structures and Other Improvements
In review with Shoreline Advisory Committee

14.26.650 Maintenance Repair or Reconstruction of Damaged Legal Pre-Existing Structures or Other Improvements
In review with Shoreline Advisory Committee

14.26.660 Lots of Record
In review with Shoreline Advisory Committee

14.26.670 Illegal Use, Structure, or Other Improvement
In review with Shoreline Advisory Committee

Part VII: Administrative Provisions

14.26.700 Purpose
Text to be added – In development.

14.26.710 Administrative Responsibilities
Text to be added – In development.

14.26.720 Review and Processing Requirements
Text to be added – In development.

14.26.730 Exemption from Permit Requirements
Text to be added – In development.

14.26.740 Pre-Application Conference
Text to be added – In development.

14.26.750 Jurisdiction or Environment Designation Boundary Line Dispute Process
Text to be added – In development.

14.26.760 Interpretations
Text to be added – In development.

14.26.770 Permit Applications
Text to be added – In development.

14.26.780 Procedures Applicable to All Shoreline Permits
Text to be added – In development.

14.26.790 Procedures Applicable to Substantial Development Permits
Text to be added – In development.

14.26.800 Procedures Applicable to Shoreline Conditional Use Permits (SCUP)
Text to be added – In development.

14.26.810 Shoreline Variances
Text to be added – In development.

14.26.820 Revisions to Permits
Text to be added – In development.

14.26.830 Enforcement Authority
Text to be added – In development.

14.26.840 Monitoring
Text to be added – In development.

14.26.850 SMP Amendments
Text to be added – In development.

14.26.860 Definitions.

[SOURCE NOTE: unless a source, such as RCW or WAC, is specifically noted in brackets at the end of the definition, the definition is from the County's existing SMP. If an original SMP definition matches a required RCW or WAC definition, then both sources are noted. Definitions in the original SMP that are no longer valid or relevant are shown in strikeout. New definitions that are not derived from the WAC or RCW are noted in brackets as [new]. This is a WORKING DRAFT, and subject to ongoing addition, deletion and revision through the duration of SMP development.]

(1) Tense and Number. When consistent with the context, words used in the present tense shall include the future; the singular shall include the plural, and the plural the singular.

(2) Interpretation

(a) The word "shall" means ~~mandatory~~ mandate; the action must be done. [WAC]

(b) The word "should" means ~~that which is recommended but not absolutely required~~ 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.

(c) The word "may" ~~is permissive~~ means the action is acceptable, provided it conforms to the provisions of this Master Program. [WAC]

(d) The word "must" means a mandate; the action is required [WAC]

(3) **Accessory development or uses** means any structure or use incidental, subordinate, and usually adjacent to a primary shoreline development or use.

(4) **Accretion shoreform or 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.

(5) **Act** means the Washington State Shoreline Management Act of 1971 (RCW 90.58), as amended. [WAC/original SMP]

(6) **Adoption by rule** means an official action by the Department of Ecology to make a local government shoreline master program effective through rule consistent with the requirements of the Administrative Procedure Act, chapter 34.05 RCW, thereby incorporating the adopted shoreline master program or amendment into the state master program. [WAC]

(7) **Administrator** means the Skagit County Planning Director or designee.

(8) **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 includes, but is not limited to:

(a) 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;

(b) corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;

(c) farm residences and associated equipment, lands, and facilities; and

(d) roadside stands and on-farm markets for marketing fruit or vegetables. [WAC]

(9) **Agricultural land** means those specific land areas on which agriculture activities are conducted as of the date of adoption of a local master program pursuant to these guidelines as evidenced by aerial photography or other documentation. After the effective date of the master program land converted to agricultural use is subject to compliance with the requirements of the master program. [WAC]

(10) ~~**Agricultural Land** means all land mapped by Soil Conservation Service as Class 1, 11, 111, or IV which is capable of being used for production of food and fiber, and which has not been developed for urban density housing, industry, business or other uses generally incompatible with agriculture.~~

(11) ~~**Agricultural practices** are all methods of livestock, crop, vegetation and soil management. These include but are not necessarily limited to the related activities of tilling, fertilizer application, soil preparation and maintenance, the raising of livestock, and the control of weeds, plant diseases, and insect pests.~~

(12) **Agricultural products** includes but is not limited to horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary

products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and livestock including both the animals themselves and animal products including but not limited to meat, upland finfish, poultry and poultry products, and dairy products. [WAC]

(13) **Agriculture** is the farming or raising of livestock, crops, fruit, nursery stock on land, and may require development such as buildings, feed lots, fences, ditches, bridges, ponds, wells, grading, as well as use of native pasture and woodlots.

(14) **Agriculture, ongoing** means the continuation of any existing agricultural activity on Agricultural—Natural Resource lands or Rural Resource—Natural Resource lands, including crop rotations; provided, however, that for lands in RRc-NRL that are subject to the provisions of SCC 14.26.500(9), any property owner who applies for and receives CaRD approval under SCC 14.18.300 through 14.18.330 shall, at the time of CaRD approval, automatically be subject to the buffer requirements of SCC 14.26.530 and shall no longer be subject to the provisions of SCC 14.26.500(9). Activities undertaken for the first time after May 13, 1996, the date Skagit County adopted Ordinance 16156, the Critical Areas Ordinance, do not constitute "ongoing agriculture"; provided, that any lands that were fallow on May 13, 1996, but had been in agricultural production within 5 years prior to May 13, 1996, shall be considered "ongoing agriculture" for purposes of this definition. Activities that bring an area into agricultural use are not considered ongoing agriculture. In addition, in order for parcels of land under 20 acres to qualify under this definition, they must meet the criteria of RCW 84.34.020(2)(b) and (c).

~~(14)~~(15) **Amendment** means a revision, update, addition, deletion, and/or reenactment to an existing shoreline master program. [WAC]

~~(15)~~(16) **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]

~~(16)~~(17) **Aquaculture** is the farming or culture of food fish, shellfish, or other aquatic plants and animals in fresh or salt water areas, and may require development such as fish hatcheries, rearing or acclimation pens and structures, and shellfish rafts, as well as use of natural spawning and rearing areas.

~~(17)~~(18) **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. [WAC]

Comment [DN15]: consider merging WAC definition below with existing Skagit SMP definition above

~~(18)~~(19)**Aquaculture practices** means any activity directly pertaining to growing, handling, or harvesting of aquaculture produce including but not limited to propagation, stocking, feeding, disease treatment, waste disposal, water use, development of habitat and structures. Excluded from this definition are related commercial or industrial uses such as wholesale and retail sales, or final processing and freezing.

~~(19)~~(20)~~**Aquatic Shoreline Area** is the surface of all rivers, all marine water bodies, and all lakes, together with their underlying lands and their water column seaward or waterward of the ordinary high water mark (OHWM); including but not limited to bays, straits, harbor areas, waterways, coves, estuaries, streamways, tidelands, bedlands, and shorelands.~~

~~(20)~~(21)**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).

~~(21)~~(22)**Average grade level** shall mean the average of the natural or existing topography at the center of all exterior walls of a building or structure to be placed on a site; PROVIDED, that in the case of structures to be built over water, average grade level shall be the elevation of the ordinary high water mark.

~~(22)~~(23)**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 waterbody, 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]

~~(23)~~(24)**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 shall be the elevation of the ordinary high water mark. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure. [WAC]

~~(24)~~(25)**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.

~~(25)~~(26)**Barbs** are low relief projections from a bank, angled upstream, to redirect flow away from the bank towards the center of the channel. As opposed to groins or jetties, barbs are not barrier types of structures; they function by re-directing flows that pass over the top of the structure. [new]

~~(26)~~(27)**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.

~~(27)~~(28)**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.

~~(28)~~(29)**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.

~~(29)~~(30)**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.

~~(30)~~(31)**Berth** means a temporary or permanent wet moorage space for watercraft. One berth shall consist of not more than 30 linear feet of dock moorage space at a water depth of at least -4.0 Feet (MLLW).

(32) **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]

(33) **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 shall apply. Where no new standard has been developed, the existing NRCS standard shall

apply. BMPs are used in various voluntary Federal programs that provide technical support and funding incentives. [SCC]

~~(31)~~(34)**Board** means the Board of County Commissioners of Skagit County.

~~(32)~~(35)**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.

~~(33)~~(36)**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).

~~(34)~~(37)**Boulder zone** is the steepest gradient of a stream or river where the slope ranges from 25 to more than 700 feet per mile. The channel is generally fixed, has high, steeply sloping banks, with bed material ranging in size from cobbles to boulders in the upper reaches. There are also rapids, deep pools, eddies, and waterfalls; flooding is infrequent.

~~(35)~~(38)**Braided streamway or zone** of a river is where the slope of the river averages more than 5 but less than 25 feet per mile; bed material is of coarse to small size gravel; channels are generally shifting, changing in size and are multiple, reflecting fluctuations in volume discharge, slope changes, and erosiveness of materials; islands, beaches and bars of gravel are also changing in size and form, and the streamway or floodway is wider than the Boulder zone upstream and the Pastoral zone downstream.

~~(36)~~(39)**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. ~~They are built to protect harbors, moorages, navigation, and shorelines to retard or prevent wave action.~~ Breakwaters may be fixed, i.e., made of quarry rock, floating, or submerged. [new/current SMP]

~~(37)~~(40)**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.

~~(38)~~(41)**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.

~~(39)~~(42)**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]

~~(40)~~(43)**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.

~~(41)~~(44)**Chemicals** shall be any substance, some synthetic, or mixture of such substances used as a fertilizer, herbicide, pesticide, insecticide, or rodenticide.

~~(42)~~(45)**Clam harvesting** is the removal or dredging of bottom materials or substrate by mechanical means other than with hand equipment in subtidal or intertidal areas for the purposes of extracting native or planted clam stock.

~~(43)~~(46)**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.

~~(44)~~(47)**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 shall be considered a marina.

~~(45)~~(48)**Comprehensive master program update** means a master program that fully achieves the procedural and substantive requirements of the department guidelines effective January 17, 2004, as now or hereafter amended. [RCW]

~~(46)~~(49)~~**Conditional use** for the purpose of this master program means a particular type or form of shoreline use or development that is permitted in certain Shoreline Area Designations pursuant to Chapter 11 and/or the regulations of this Master Program.~~

~~(47)~~(50)**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]

~~(48)~~(51)~~**Conservancy Shoreline Area** means (1) an area containing natural resources which can be used/managed on a multiple use basis without extensive alteration of topography or banks; including but not limited to forest, agricultural and mineral lands, outdoor recreation sites, fish and wildlife habitat, watersheds for public supplies, and areas of outstanding scenic quality; and/or (2) a shoreline area containing hazardous natural conditions or sensitive natural or cultural features which require more than normal restrictions on development and use of such areas; including but not limited to:~~

~~eroding shores, geologically unstable areas, steep slopes, floodways, natural accretion beaches, and valuable natural wetlands or historic sites.~~

~~(49)~~(52)**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.

~~(50)~~(53)**Critical areas** as defined under chapter 36.70A RCW includes the following areas and ecosystems:

(a) Wetlands;

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

(c) Fish and wildlife habitat conservation areas;

(d) Frequently flooded areas; and

(e) Geologically hazardous areas. [WAC]

~~(51)~~(54)**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]

~~(52)~~(55)**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.

~~(53)~~(56)**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.

~~(54)~~(57)**Department** means the Skagit County Planning and Development Services department, unless otherwise noted.

~~(55)~~(58)**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 Act at any state of water level. [RCW/original SMP]

~~(56)~~(59)**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]

~~(57)~~(60)**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.

~~(58)~~(61)**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 floats, covered moorages, boathouses, water ski jumps, or launch ramps.

~~(59)~~(62)**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]

~~(60)~~(63)**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)].

~~(61)~~(64)**Dredge material or spoil** refer to is the material removed by dredging.

~~(62)~~(65)**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]

~~(63)~~(66)~~**Drift sector** is a reach of marine or lake shoreline within which waterborne drift and accretion of eroded material occurs without significant interruption; drift sectors generally contain these shore process elements: feeder bluff or other erodable shore form, driftway, littoral drift, and accretion terminal or shoreforms.~~

~~(64)~~(67)**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.

~~(65)~~(68)**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]

~~(66)~~(69)**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]

(70) **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.

~~(67)~~(71) **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.

~~(68)~~(72) **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]

~~(69)~~(73) **Extreme low tide** means the lowest line on the land reached by a receding tide. [RCW]

~~(70)~~(74) **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 shall include the fair market value of any donated, contributed or found labor, equipment or materials. [WAC]

~~(71)~~(75) **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:

(a) 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;

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

(c) 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]

~~(72)~~(76)**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 shall not include land for growing crops or vegetation for livestock feeding and/or grazing nor shall it include normal livestock wintering operations.

~~(73)~~(77)**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.

~~(74)~~(78)**Fill** means the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land. [WAC]

~~(75)~~(79)**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)

~~(76)~~(80)**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]

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

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

(c) All public and private tidelands suitable for shellfish harvest;

(d) Kelp and eelgrass beds, herring and smelt spawning areas;

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

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

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

(h) Areas with which anadromous fish species have a primary association;

(i) State natural area preserves and natural resource conservation areas;

(j) Other aquatic resource areas;

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

(l) 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.

~~(77)~~(81)**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; live-on boats, and other watercraft that are not permanently affixed to a dock, piling, mooring, or anchor system.

~~(78)~~(82)**Floats** are those platform structures 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 but for the purposes of this master program are not considered as docks, piers, or mooring buoys.

~~(79)~~(83)**Flood control works and flood protection** means 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.

~~(80)~~(84)~~**Floodplain** means all lands along a river or stream which may be inundated by the base flood of such river or stream. The floodplain includes the streamway, a floodway and floodway fringe.~~

~~(81)~~(85)**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 shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the act. [WAC]

~~(82)~~(86)**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.

~~(83)~~(87)**Flood protection** - See "Flood control works and flood protection" above.

~~(84)~~(88)~~**Floodway** means those portions of the area 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. The floodway shall not include those lands that can reasonably be expected to be protected from floodwaters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.~~

~~(85)~~(89)**Floodway** means the area, as identified in a master program, that either:

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

(b) 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 shall 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]

~~(86)~~(90)**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.

~~(87)~~(91)**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.

~~(88)~~(92)**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 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.

~~(89)~~(93)**Freestanding sign** is a self-supporting sign placed off and away from the building or use to which it is related.

~~(90)~~(94)**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.

~~(91)~~(95)**Geohydraulics** is the action of erosion - transport - accretion that produces, alters, or maintains a shore form.

~~(92)~~(96)**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 shall 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]

~~(93)~~(97)**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]

~~(94)~~(98)**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.

~~(95)~~(99)**Guidelines** means those standards 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 shall also provide criteria to local governments and the Department of Ecology in developing master programs. [RCW/WAC/original SMP]

~~(96)~~(100)**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.

~~(97)~~(101)**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.

~~(98)~~(102)**Hearing Examiner** means the Skagit County Hearing Examiner.

~~(99)~~(103)**Hearings Board** means the State Shoreline Hearings Board established by the Act in RCW 90.58.170.

~~(100)~~(104)~~**Height** means the vertical distance measured from the average elevation of the area occupied by the structure to the highest point of the structure, or of the roof for flat and mansard roofs, and the ridge on gable, shed, hip or other peaked roofs.~~

~~(101)~~(105)**Height** is measured from average grade level to the highest point of a structure; provided that television antennas, chimneys, and similar appurtenances shall 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]

~~(102)~~(106)**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 shall include 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)]

~~(103)~~(107)**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.

~~(104)~~(108)**Industrial development, industry** means privately owned/operated facilities for the processing, manufacturing, storage, and transfer of raw, semi-finished, or finished goods. For the purposes of this master program, the following categories of industrial activities in relation to water dependency shall apply:

(a) **Water-~~and shoreline~~dependent industries and activities** - the following uses are those that cannot logically locate in any other areas except on shorelines:

(i) Waterborne commerce and transfer to include general cargo, solid and/or liquid bulk products, petroleum, forest and lumber products, mineral products.

(ii) Terminal and transfer facilities for commerce and industry.

(iii) Ship construction, repair, and storage facilities, not to include construction of private, noncommercial pleasure craft.

(iv) Commercial fishing facilities and services.

(v) Marinas.

(b) **Water-~~and shoreline~~related industries and activities** - The following do not necessarily need to be located on shorelines, but rely on and are related to shoreline dependent activities:

(i) Nonwater-related warehouse and storage areas and facilities which are associated with shoreline dependent activities.

(ii) Sand, gravel, and quarry rock extraction (except for river sand extraction).

(iii) Fish and food processing, canning and freezing plants.

(iv) Forest, lumber, and allied wood products plants, including log storage and transport.

(v) Petroleum refining, chemical plants, smelters and reduction plants.

(c) **Water-using industries and activities** - The following may require large volumes of water for cooling, processing, and production but also do not need to be located on shorelines:

(i) Thermal electric power plants.

(ii) Sewage treatment plants.

(iii) Desalinization plants.

(iv) Petroleum refining.

(v) Wood, lumber, paper, and allied products plants.

(vi) Fish and food processing plants.

(vii) Smelters, metal reducing plants, chemical plants.

(viii) Processing of minerals and mined materials

~~(105)~~(109)**Inland** means that land area which lies beyond shoreline management jurisdiction or 200 feet from the ordinary high water mark, whichever is greater.

(110) **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.

~~(106)~~(111)**In-stream Structures** are structures waterward of the ordinary high water mark that either cause or have 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.

~~(107)~~(112)**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.

~~(108)~~(113)~~**Landfill** is the creation, extension, or raising of land area by filling or depositing sand, soil, gravel, dredge spoils, or other materials onto a shoreline, wetland, or water body area.~~

~~(109)~~(114)**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 regulated as a community dock. [new]

(115) **Large utilities** serve more than one community (e.g. 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.

~~(110)~~(116)**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.

~~(111)~~(117)**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.

~~(112)~~(118)**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. [WAC]

~~(113)~~(119)**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).

~~(114)~~(120)**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]

~~(115)~~(121)**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.

~~(116)~~(122)**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]

~~(117)~~(123)**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.

~~(118)~~(124)**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.

~~(119)~~(125)**Master program** See Shoreline Master Program.

~~(120)~~(126)**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.

~~(121)~~(127)**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.

~~(122)~~(128)**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]

~~(123)~~(129)~~**Natural Shoreline Area** is a shoreline area that has experienced little or no material encroachment and has not been materially affected by human use. Areas recognized as unique and reasonably capable of being restored to a natural condition and those areas~~

~~where former encroachment has been restored by natural processes may be considered under this definition.~~

~~(124)~~(130)~~**Natural wetlands** are any shoreline areas that experience water table levels from within two feet to levels above the average surface grade on a periodic or seasonal basis; including but not limited to bogs, marshes, swamps, estuarine shores, and wetlands associated with shorelines of the state. See "Wetlands".~~

~~(125)~~(131)**Non-conforming development or use** for the purposes of this master program means a development in lawful use at the effective date of adoption or amendment as appropriate, of this master program, which is either prohibited by or does not conform to regulations and policies of this master program, including Shoreline Area designations.

~~(126)~~(132)**Nonwater-oriented uses** means those uses that are not water-dependent, water-related, or water-enjoyment. [WAC]

~~(127)~~(133)**Normal protective bulkhead** - See "Bulkhead".

~~(128)~~(134)**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.

~~(129)~~(135)**Off-premise sign** is a sign situated on premises other than those premises to which the sign's message is related.

~~(130)~~(136)**On-premise sign** is a sign, located on the premises, advertising the goods, services, or activities, manufactured, produced, conducted or available on that property.

~~(131)~~(137)**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 master program, are normally required of residential and/or recreational developments.

~~(132)~~(138)~~**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 or as it may naturally change thereafter: PROVIDED, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water.~~

~~(133)~~(139)**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 ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining freshwater shall be the line of mean high water. [RCW]

~~(134)~~(140)**Outdoor advertising** is all publicly displayed messages such as signs, billboards, placards, pennants, or posters, whose purpose is to provide official and commercial information, direction, and advertising.

~~(135)~~(141)**Over-the-water 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 along and over waterbodies.

~~(136)~~(142)**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]

~~(137)~~(143)**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.

~~(138)~~(144)**Permit.** See Shoreline Permit.

~~(139)~~(145)**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]

~~(140)~~(146)**Piers or wharves** are those large, platform structures, fills or anchored devices in or floating upon waterbodies 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.

~~(141)~~(147)**Planning Department** means the Skagit County Planning and Development Services.

~~(142)~~(148)**Planning Commission** means the Skagit County Planning Commission.

~~(143)~~(149)**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.

~~(144)~~(150)**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.

~~(145)~~(151)**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.

~~(146)~~(152)**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:

(a) Comparatively high fish or wildlife density;

(b) Comparatively high fish or wildlife species diversity;

(c) Fish spawning habitat;

(d) Important wildlife habitat;

(e) Important fish or wildlife seasonal range;

(f) Important fish or wildlife movement corridor;

(g) Rearing and foraging habitat;

(h) Important marine mammal haul-out;

(i) Refugia habitat;

(j) Limited availability;

(k) High vulnerability to habitat alteration;

(l) Unique or dependent species; or

(m) 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]

~~(147)~~(153)**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.

(a) 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.

(b) 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.

(c) 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.

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

(154) **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]

~~(148)~~(155)**Protective berms** are naturally or artificially placed linear mounds of gravel, sand, and beach material lying parallel to the shore at or above the ordinary high water mark. Berms can be the most effective and economical defense work if designed and built to suit the conditions.

~~(149)~~(156)**Provisions** means policies, regulations, standards, guideline criteria or environment designations [WAC]

~~(150)~~(157)**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]

(158) **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]

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

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

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

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

~~(151)~~(160)**Recreation** is the recreation and refreshment of body and mind through forms of play, sports, relaxation, amusement, or contemplation.

(a) **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.

(b) **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."

~~(152)~~(161)**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.

~~(153)~~(162)**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.

~~(154)~~(163)**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."

~~(155)~~(164)**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.

~~(156)~~(165)**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]

~~(157)~~(166)**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.

~~(158)~~(167)**Riprap** means hard, angular quarry rock used for stream bank stabilization or other flood control works.

~~(159)~~(168)**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 shall be considered wall signs.

~~(160)~~(169)~~**Rural Shoreline Area** is a shoreline typified by low overall structural density and low to moderate intensity of uses; primary uses include agriculture, outdoor recreation, forestry operations, and low to moderate residential density.~~

~~(161)~~(170)~~**Rural Residential Shoreline Area** is a shoreline area characterized by low to medium intensity land uses that exhibit small scale alterations to the natural shoreline environment. These land uses are generally of a residential, commercial, recreational, and agricultural nature with utilities and services provided on an individual or community basis.~~

~~(162)~~(171)**Scenic route signs** - signs on those streets, roads, or highways designated by law as scenic routes. These signs shall be considered official signs. Commercial and/or private scenic route signs are considered normal outdoor advertising.

~~(163) **Scientific and Educational Resources** are all those shoreline areas and sites of archaeological, historic, cultural, educational, and scientific value to citizens of this county, region, and/or state.~~

Comment [MD16]: Definition deleted because references to "educational resources" have been removed from the SMP and "scientific resources" has own definition.

~~(164)~~(172)**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.

~~(165)~~(173)**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.

~~(166)~~(174)**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)

~~(167)~~(175)**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.

~~(168)~~(176)~~**Shoreland** means the periodically submerged land on the shore of a navigable lake or navigable river upstream of tidal flow between OHWM and the line of navigability.~~

~~(169)~~(177)**Shorelands** or **shoreland areas** means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; 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.

~~(170)~~(178)**Shoreline areas** and **shoreline jurisdiction means** all "shorelines of the state" and "shorelands" as defined in RCW 90.58.030 [WAC]

~~(171)~~(179)~~**Shoreline dependent use** - Any reasonable use that requires a shoreline or water surface location because of its functional nature, including but not limited to navigation, ports, marinas, docks, piers, floats, boat fueling stations, shipyards, seafood harvest, aquaculture, recreational boating and swimming, and research and observation of natural shoreline phenomena.~~

~~(172)~~(180)**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 shall be 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, shall be considered a part of the county or city's development regulations. [WAC]

~~(173)~~(181)**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]

~~(174)~~(182)~~**Shoreline related use** is any use dependent upon a shoreline location for the following reasons:~~

(a) ~~is an integral part of the operation of a shoreline dependent use; or~~

(b) ~~cannot operate successfully inland from shorelines under existing physical and economic conditions; or~~

(c) ~~provides a substantial number of people with opportunities to enjoy shorelines without causing significant adverse impacts upon other more appropriate uses and shore features.~~

~~(175)~~(183)**Shoreline permit** means a permit issued by Skagit County pursuant to RCW 90.58.140 as required for substantial development on shorelines of the state (also includes shoreline conditional use and variance permits).

~~(176)~~(184)~~**Shoreline stabilization** - Shoreline stabilization activities include river and streamway modifications designed to stabilize eroding or erosion prone stream banks, protecting the adjacent property and existing developments. These modifications commonly occur in the form of riprap, revetments, and other structural stream bank defense works.~~

~~(177)~~(185)**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]

~~(178)~~(186)**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]

~~(179)~~(187)**Shorelines of statewide significance** means the following shorelines of the state:

(a) The area between the ordinary high water mark 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;

(b) Those areas of Puget Sound and adjacent salt waters and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide as follows:

(i) Nisqually Delta -- from DeWolf Bight to Tatsolo Point,

(ii) Birch Bay -- from Point Whitehorn to Birch Point,

(iii) Hood Canal -- from Tala Point to Foulweather Bluff,

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

(v) Padilla Bay -- from March Point to William Point;

(c) 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;

(d) Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark;

(e) Those natural rivers or segments thereof as follows:

(i) 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,

(ii) 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;

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

~~(180)~~(188)**Shorelines of the state** are the total of all "shorelines" and "shorelines of statewide significance" within the state. [RCW]

~~(181)~~(189)**Sign** - See "Outdoor advertising".

Comment [DN17]: There are many other references to signs to consider here as well.

~~(182)~~(190)**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 master program shall be allowed on each face of a double-faced sign. A double-faced sign is considered one sign.

~~(183)~~(191)**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.

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

(193) **Significant vegetation removal** means the removal or alteration of trees, shrubs, and/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]

(194) **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) (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. East of the summit, the species could be ponderosa pine, lodgepole pine, western larch, Englemann spruce, subalpine fir, grand fir, or Douglas fir.

(b) 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.

(195) **Small utilities** serve adjacent properties and include, but are not limited to, power lines not specified under "large facilities," water, sanitary sewer, and storm water 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 shall be considered part of the primary use.

~~(184)~~(196)**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.

~~(185)~~(197)**State master program** is the cumulative total of all master programs approved or adopted by the Department of Ecology. [RCW]

~~(186)~~(198)**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 master program including the policy of the Act ~~(RCW 90.58.020)~~.

(199) "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]

~~(187)~~(200)**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.

~~(188)~~(201)~~**Structure** is anything constructed or erected with a fixed location on the earth and joined together in a different manner (pursuant to the Uniform Building Code).~~

~~(189)~~(202)**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]

~~(190)~~(203)~~**Substantial development** shall mean any development of which the total cost or fair market value exceeds one thousand dollars, or any development which materially interferes with the normal public use of the water or shorelines of the state; except that the following shall not be considered substantial developments for the purpose of this chapter: See Chapter 2, Section 2.05 for list of exemptions.~~

~~(191)~~(204)**Substantial development** means any development that:

(a) 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 shall be 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 shall include the fair market value of any donated, contributed or found labor, equipment or materials; or

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

~~(192)~~(205)**Substantially degrade** means to cause significant ecological impact. [WAC]

~~(193)~~(206)**Tideland** means the land on the shore of marine water bodies between the ordinary high water mark (OHWM) or mean higher high water (MHHW) and the line of extreme low tide which is submerged daily by tides.

~~(194)~~(207)**Timber** shall mean forest trees standing or down of a commercial species including Christmas trees.

~~(195)~~(208)**Transmit** means to send from one person or place to another by mail or hand delivery. The date of transmittal for mailed items is the date that the document is certified for mailing or, for hand-delivered items, is the date of receipt at the destination. [WAC]

~~(196)~~(209)**Transportation facilities** are those structures and developments that aid in land and water surface movement of people, goods, and services. For this master program, these facilities include:

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

(b) Parking areas for vehicles of all types.

(c) Bridges and causeways.

(d) Rail transportation.

Excluded are ferry terminals (See "Ports").

~~(197)~~(210)**Upland** shall mean those shoreline areas landward of OHWM except backshores, natural wetlands, and floodplains.

~~(198)~~(211)~~**Urban Shoreline Area** is a shoreline area of intensive development including, but not limited to residential, commercial, and industrial uses. Areas suitable are those presently subjected to intensive use as well as those planned to accommodate urban expansion.~~

~~(199)~~(212)**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. Also included are fire fighting facilities and administrative structures associated with the operation of the utilities.

~~(200)~~(213)~~**Variance** for the purpose of this master program means an adjustment in the application of bulk, dimensional or performance standards to a particular site (property) pursuant to Chapter 10 of this Master Program.~~

~~(201)~~(214)**Variance** is a means to grant relief from the specific bulk, dimensional or performance standards set forth in the applicable master program. It is not a means to allow a use that is otherwise prohibited. [WAC]

~~(202)~~(215)**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.

~~(203)~~(216)**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]

~~(204)~~(217)~~**Wetlands or wetland areas** mean those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all marshes, bogs, swamps, 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; PROVIDED, that any county or city may determine that portion of a 100 year floodplain to be included in its master program as long as such portion includes, as a minimum, the floodway and the adjacent land extending landward 200 feet therefrom.~~

(218) **Watercourse** includes all natural watercourses, modified natural watercourses, and artificial watercourses, as defined below.

(a) 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.

(b) **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.

(c) **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]

~~(205)~~(219)**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]

~~(206)~~(220)**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]

~~(207)~~(221)**Water-oriented use** means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses. [WAC]

~~(208)~~(222)**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]

~~(209)~~(223)**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:

(a) 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

(b) 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]

~~(210)~~(224)**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 nonwetland 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 nonwetland areas to mitigate the conversion of wetlands. [RCW]

~~(211)~~(225)**Wharves** - See "Piers or wharves."