Chapter 17.05A – Shoreline Master Program Regulations and Procedures

17.05A.010 - Title.

This chapter is the Island County Shoreline Master Program Regulations and Procedures.

17.05A.020 - Short title.

This chapter may be referred to as the "Island County Shoreline Master Program," "Shoreline Master Program," "Master Program," "Program," or "SMP," which is comprised of the components described in ~~section~~ ICC 17.05A.040.

17.05A.030 - Purpose.

The purposes of this chapter are:

A. To carry out the responsibilities imposed on Island County by Chapter 90.58 RCW, the Shoreline Management Act (SMA or Act) of 1971, as now or hereafter amended;

B. To provide clear, effective goals, policies, shoreline environment designations, development standards, and procedures consistent with the implementing guidelines set forth in WAC 173-26;

C. To provide for wise and proper management of shorelines, wetlands, and water bodies in a manner that will allow present and future generations of users the opportunity to enjoy marine oriented resources, consistent with the goals, policies, and stated purposes of the Island County Shoreline Master Program;

D. To implement the Shoreline Master Program goals, policies, and shoreline restoration plan;

E. To set forth procedures for regulating uses and activities governed by the SMA; and

F. To protect and enhance the natural shoreline systems and critical areas while at the same time protecting the rights of the private property owners for the timely and reasonable use and enjoyment of their properties, consistent with the protection of the natural systems and the public trust doctrine.

17.05A.035 - Caveat disclaimer.

A. It is the specific intent of this chapter to place the obligation of complying with its requirements upon the owner of the land within its scope, and no provision or term used in this chapter is intended to impose any duty whatsoever upon Island County or any of its officers or employees running to any specific person or entity. Nothing contained in this chapter shall be construed as

a guarantee or warranty on the part of the county that site development has or will be accomplished in accordance with the provisions of this chapter, nor shall it be construed to create or form the basis for any liability on the part of the county or its officers, employees, or agents for any injury or damages resulting from the failure or consequence of any inspection notice, order, certificate, permission, or approval authorized or issued or done in connection with the implementation or enforcement of this chapter, or by reason of any action or inaction on the part of the county related in any manner to the enforcement of this chapter by its officers, employees, or agents.

B. Further, the administration of this chapter shall not be construed to impose or create a basis for any liability on the part of the county, its appointed and elected officials, officers, agents, or employees, nor shall this chapter be construed to create any special relationship with or otherwise protect any specific person or class of persons.

C. Island County shall require a written disclosure statement be provided to a prospective buyer or a lessee that specifically notifies them of any recorded covenants, the provisions and acknowledgements contained within the covenants, and that such covenants run with the land.

D. Island County shall require that the applicant for any variances that are granted sign a statement holding Island County harmless. The signed statement shall be recorded in the Island County Auditor's Office with the property title to inform future owners of the property.

E. Before the placement of any structures within the shoreline setback or buffer, property owners are encouraged to consult the Projected Sea Level Rise for Washington State, a 2018 Assessment (or as amended) and all related risk assessment and sea level rise planning guidance prepared by Island County.

17.05A.040 - Shoreline Master Program.

The Island County Shoreline Master Program, as adopted pursuant to Chapter 90.58 RCW, shall consist of the following:

A. The goals, policies, shoreline environment designation management policies and the shoreline restoration plan contained in the shoreline master program element of the Island County Growth Management Act (GMA) Comprehensive Plan; ~~and~~

B. The shoreline regulations, administrative procedures, and shoreline environment designations map as contained in this chapter.

C. The following regulations from Island County Critical Areas Regulations Chapter 17.02B are incorporated into this Shoreline Master Program by reference:

1. 17.02B.040.H Assessment

2. 17.02B.060 Definitions

3. 17.02B.080 General mitigation requirements

4. 17.02B.300 Exempt activities – only to include the exemptions listed below:

a. 17.02B.300.B.3 Transportation infrastructure repair

b. 17.02B.300.B.5 Utility repair

c. 17.02B.300.B.6 Utility construction in improved right-of-way

d. 17.02B.300.B.7 Existing structures

8. 17.02B.460 Wetlands (Evaluation and Protection Standards)

9. 17.02B.500 Requirements (Mitigation Requirements)

10. 17.02B.510 Wetlands (Mitigation Requirements

11. 17.02B.520 Surface Water Quality (Monitoring and Adaptive Management)

12. 17.02B.530 Wetlands (Monitoring and Adaptive Management)

D. The standards for protection of aquifer recharge areas in ICC 8.09.097 are incorporated into this Shoreline Master Program by reference.

E. If a conflict exists between the development regulations outlined in this Chapter and those of another Chapter of Island County Code, the more restrictive shall apply.

17.05A.050 - Applicability.

A. Except as exempted in this section, ICC 17.05A.050, ~~T~~this Shoreline Master Program shall apply to every person, individual, firm, partnership, association, organization, corporation, local or state government agency, public or municipal corporation, or other nonfederal entity which develops, owns, leases, or administers lands, wetlands, or waters subject to this Shoreline Master Program.

B. Except as exempted in this section, ICC 17.05A.050, ~~T~~this Shoreline Master Program applies to all "development" as defined by this chapter and Chapter 90.58 RCW ~~90.58~~, whether or not a shoreline permit or statement of permit exemption is required. All proposed uses, activities, and development occurring within shoreline jurisdiction shall comply with this Shoreline Master Program and Chapter 90.58 RCW ~~90.58~~.

C. ~~Applicability to federal agencies~~ Applicability to lands subject to federal ownership interests or federal control or federal jurisdiction.

1. The policies and provisions of Chapter 90.58 RCW and this Shoreline Master Program shall be applied to federal lands and agencies as provided by the Coastal Zone Management Act (Title 16 United States Code § 1451 et seq.) and Washington Administrative Code (WAC) 173-27-060(1) and (3).

2. The requirements of this chapter shall apply to nonfederal activities undertaken on lands subject to nonfederal lease or easement, even though such lands may be under federal ownership.

3. The shoreline permit system shall apply to substantial developments undertaken on lands not federally owned but under lease, easement, license, or other similar federal property rights short of fee ownership, to the Federal government.

4. The provisions of this program shall not apply to lands held in trust by the United States for Indian Nations, tribes, or individuals.

5. Requirements to obtain a shoreline substantial development permit, shoreline conditional use permit, shoreline variance, shoreline exemption, or other shoreline review to implement the Shoreline Management Act do not apply to lands under exclusive federal jurisdiction.

D. Relationship to comprehensive plan. This SMP provides regulations and development standards to implement the goals and policies of the Island County GMA Comprehensive Plan, Shoreline Master Program Element. These regulations apply to all land and waters of Island County under the jurisdiction of the Shoreline Management Act (Chapter 90.58 RCW).

E. Applicability to substantial development.

1. This Shoreline Master Program applies to all "substantial development" as defined by this chapter and Chapter 90.58 RCW ~~90.58~~.

2. No substantial development may be undertaken unless a valid shoreline substantial development permit is first issued by the county and unless all work proceeds in compliance with the requirements of the Shoreline Management Act, this Master Program, and other applicable federal, state, and local laws and regulations.

3. This Program applies to all uses and development within the shoreline jurisdiction whether or not a shoreline permit or statement of permit exemption is required.

F. The Shoreline Master Program does not apply to the following activities:

1. Certain remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to Chapter 70A.305 RCW, or to the department of ecology when it conducts a remedial action under Chapter 70A.305 RCW.

2. Boatyard improvements to meet National Pollutant Discharge Elimination (NPDES) permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.

3. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356.

4. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.

5. Projects authorized through the energy facility site evaluation council process, pursuant to Chapter 80.50 RCW.

17.05A.060 - Shoreline environment designations and maps.

A. Shorelines of the state within Island County shall be designated on official shoreline maps to be kept in the office of the Island County Planning and Community Development Department. (See Appendix: Island County Shoreline Environment Designations Map.)

B. Shorelines shall be categorized into shoreline environment designations using the following six (6) designations: ~~a~~Aquatic, ~~n~~Natural, ~~r~~Rural ~~c~~Conservancy, ~~u~~Urban ~~c~~Conservancy, ~~s~~Shoreline ~~r~~Residential, and ~~h~~High ~~i~~Intensity. The ~~s~~Shoreline ~~r~~Residential designation includes the sub-designations of ~~s~~Shoreline ~~r~~Residential-~~c~~Canal ~~c~~Community and ~~s~~Shoreline ~~r~~Residential-~~h~~Historic ~~b~~Beach ~~c~~Community. For each shoreline designation, this section establishes the purpose and the criteria that are to be applied in establishing the extent of each designation.

C. In accordance with WAC 173-26-211, undesignated shorelines shall be automatically assigned an environment designation of Rural Conservancy.

~~C~~D. Whenever there is a conflict between the descriptions of shoreline environment designations, the parcel or other administrative boundaries and the mapped boundaries of the shoreline environment designations the county will rely on criteria contained in Department of Ecology's Shoreline Master Programs Handbook ~~SMP~~ ~~c~~Chapter ~~III~~ 13 (shoreline environment designations), RCW 90.58.030, and ~~c~~Chapters 173-22 and 173-26 WAC pertaining to determinations of shorelands, as amended, rather than the incorrect or outdated map. When the Planning Director finds that a county map is in error, a correction shall be approved through a Shoreline Master Program Amendment.

~~D~~E. Aquatic shoreline environment designation.

1. Purpose: The purpose of the aquatic designation is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high water mark.

2. Criteria for designation: Areas designated Aquatic should meet one (1) or more of the following criteria:

   a. All saltwater areas waterward of the ordinary high water mark, including estuarine channels and coastal lagoons, other than those designated high intensity.

   b. All SMA jurisdiction freshwater lakes waterward of the ordinary high water mark.

~~E~~F. Natural shoreline environment designation.

1. Purpose: The purpose of the natural designation is to preserve, protect, and restore areas that are relatively free of human influence or that include minimally degraded natural features and resources.

2. Criteria for designation: Areas designated natural should meet one (1) or more of the following criteria:

    a. Areas that are generally free from development, including shoreline modifications, structures, roads, high intensity agricultural uses, or that have the potential to regain natural conditions with minimal or no restoration activity.

    b. Areas critical for the support of priority, threatened, or endangered species.

    c. Areas of waterfowl and other bird concentration.

    d. Areas where the shoreline, whether minimally disturbed or intact, represents an ecosystem type or geologic feature that is of particular scientific or educational interest.

    e. Forested riparian areas predominantly composed of native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent water bodies.

    f. Areas of shoreline-associated wetlands with generally intact buffers.

    g. Salt marsh areas that are intact or, if previously used for agriculture, are capable of being restored.

    h. Feeder bluffs without existing development above or below the slope, or development that is sufficiently set back from the top of slope so that the slope can function normally without endangering the development.

    i. Undisturbed estuaries or accretional spits.

    j. Areas unable to support new development or uses without significant adverse impacts to ecological functions, or that possess serious development limitations or human health and safety risks due to the presence of environmental hazards related to flooding, erosion or landslides and similar occurrences.

    k. For areas designated due to the presence of specific habitat features, the designated areas should be large enough to protect the value of the habitat resource.

~~F~~G. Rural conservancy shoreline environment designation.

1. Purpose: The purpose of the rural conservancy designation is to protect, conserve, and manage ecological functions, harvestable natural resources, and aesthetic, cultural, historic, and recreational areas in order to provide for rural residential use and recreational opportunities.

2. Criteria for designation: Areas designated rural conservancy should meet one (1) or more of the following criteria:

a. The shoreline is generally undeveloped or 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 supports human uses but is subject to environmental limitations, including steep slopes presenting erosion and slide hazards, wetlands, streams, areas prone to flooding, or contains areas that cannot provide adequate water supply or sewage disposal.

c. The shoreline supports or can support low impact outdoor recreational activities.

d. The shoreline has aesthetic, cultural, historic, or recreational qualities of regional or statewide importance.

e. The shoreline is predominantly low density residential use.

f. The shoreline has low intensity water-dependent uses.

~~G~~H. Urban conservancy shoreline environment designation.

1. Purpose: The purpose of the urban conservancy designation is to protect and restore ecological functions of open space and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

2. Criteria for designation: Areas inside urban growth areas and non-municipal urban growth areas, as defined in RCW 36.70A.110, should be designated urban conservancy if any of the following characteristics apply:

a. They are suitable for water-related or water-enjoyment uses.

b. They include open space, floodplains, 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.

e. They have the potential for development that is compatible with ecological restoration.

~~H~~I. Shoreline residential shoreline environment designation.

1. Purpose: The primary purpose for designating an area shoreline residential is to allow for residential development and for moderate to high impact recreational uses in appropriate areas of the shoreline.

2. Criteria for designation: Areas inside county-adopted rural areas of more intense development (RAIDs), if they are characterized by predominantly single-family or multi-family residential development or are planned and platted for residential development, but

are not predominantly covered by wetlands, stream corridors, or annually flooded areas shall be designated shoreline residential when any of the following characteristics apply:

a. Areas that are legally subdivided for residential use at a density of one (1) or more units per acre and are not constrained by inadequate water supply and the inability to dispose of sewage due to soil conditions or lot sizes; or

b. Areas developed with or planned for moderate to high impact recreational uses.

3. Shoreline ~~r~~Residential-~~c~~Canal ~~c~~Community and ~~s~~Shoreline ~~r~~Residential-~~h~~Historic ~~b~~Beach ~~c~~Community are higher density residential areas adjacent to manmade canals or ~~low bank~~ marine shorelines that have historical platting and development patterns no longer allowed by zoning or the SMP. These waterfront lots are designated and mapped based on approved subdivision limits and are subject to the regulations for ~~s~~Shoreline ~~r~~Residential designated areas, except when regulations specifically state that a regulation applies only to these specific communities.

4. Island County Historic Beach Communities include small parcels and historically dense shoreline neighborhoods ~~the following platted subdivisions and other similarly situated plats~~ meeting the definition of ~~h~~Historic ~~b~~Beach ~~c~~Community set forth in ~~section~~ ICC 17.05A.070. Historic Beach Communities shall be designated and mapped by the county as an overlay of the Shoreline Environment Designation map.

~~Madrona Beach (auditors file # 3997780 Nov. 1926)~~

~~Maple Grove Beach (auditors file # 3997763 Sept. 1930)~~

~~Maple Grove Beach No. 2 (auditors file # 3997761 Oct. 1930)~~

~~1st Addition Maple Grove Beach #2 (auditors file # 3997741 Oct. 1941)~~

~~Sunnyshore Acres (auditors file # 3997776 Aug. 1928)~~

~~Tyee Beach (auditors file # 3997748 July 1939)~~

~~Juniper Beach (auditors file # 3997784 June 1920)~~

~~Pebble Beach Div. 1 (auditors file # 3997764 Aug. 1930)~~

~~Utsalady (auditors file # 3997706 Apr. 1881)~~

~~Utsalady Beach (auditors file # 3997814 Nov. 1950)~~

~~Columbia Beach (auditors file # 3998015 Aug.1961)~~

~~Clinton Beach (auditors file # 3997789 Sept.1920)~~

~~Bush Point Beach (auditors file # 3998106 Sept.1967)~~

~~Pattons Beachwood Manor (auditors file # 3998033 Feb.1966)~~

~~Hidden Beach Lots (auditors file # 3998078 Aug.1964)~~

~~Whidbey Shores (auditors file # 3997878 May 1961)~~

~~Saratoga (auditors file # 3997698 June 1907)~~

~~Bell's Beach Waterfront Tracts (auditors file # 3997743 Dec. 1941)~~

~~Moonwink Div 1 (auditors file # 3999017 Oct. 1971)~~

~~Maxwelton Beach (North of Swede Hill Road, Maxwelton Rd. and Mill Beach Lane)~~

~~Possession Beach Walk (R32812-010-0100, R32812-054-0130, R32812-067-0130)~~

~~Sunlight Beach (S8220-01-00038-0, S8220-01-00040-0, S8220-01-00007-0, S8220-00-00004-0, S8220-00-00006-0, S8220-00-00007-0, S8220-00-00008-0, S8220-00-00009-0, S8220-00-00039-0 and S8220-00-00040-0)~~

~~Shore Ave. (R22923-153-3900, S6080-00-00001-0, S6080-00-00001-0, S6080-00-00003-0, & S6080-00-00004-0)~~

~~Sandy Point (lots R32902-458-3820, R32902-459-3950, R32902-460-4020, S8080-00-02001-0, S8080-00-02002-0, S8080-00-02003-0, and S8080-00-02004-0 on west end of Whale Walk)~~

~~West Beach and Seaview (Beachwood Drive/Whitecap Lane S7675-00-00001-0, S7675-00-00003-0, S7675-00-00004-0, S7675-00-00005-0, S7675-00-00006-0, & S7675-00-00007-0; W Crosby Rd., going south along W Beach Rd., starting at S7700-00-0000A-0 and ending at S8385-00-00020-0)~~

I. High intensity shoreline environment designation.

1. Purpose: The purpose of the high intensity designation is to provide for high intensity water-oriented commercial, transportation, and industrial uses while protecting existing ecological functions and, where feasible, restoring ecological functions in areas that have been previously degraded.

2. Criteria for designation: Areas designated high intensity should include only areas that currently support water-dependent uses related to commercial boatyards and marinas, transportation or navigation facilities, or are suitable and needed to accommodate similar water-oriented uses in the next twenty (20) years.

17.05A.070 - Definitions.

Words used in this chapter, unless defined herein or the context clearly otherwise implies, shall assume the definitions contained in Chapter 90.58 RCW, as now or hereafter amended, and such guidelines as have been, or may be, adopted pursuant to Chapter 90.58 RCW, including ~~WAC~~ Chapter 173-26 WAC. Definitions that are provided in other titles, chapters, and sections of the Island County Code shall apply in the interpretation and enforcement of this chapter. When not inconsistent with the context, words used in the present tense shall include the future, the singular shall include the plural, and the plural the singular.

Accretion shoreform means shoreline with a backshore which has been produced by the long-term deposition of sand or gravel by littoral drift from a feeder bluff or other source. Such shoreforms include barrier beaches, points, spits, and hooks.

Act means Shoreline Management Act ~~of 1971~~, Chapter 90.58 RCW (also SMA or Act).

Administrator, Shoreline. See Shoreline Administrator.

Adverse impact or effect means the result of a condition that creates, imposes, aggravates, or leads to unsafe, or unhealthy conditions or reduces ecological functions or values.

Affected tribe means any tribe recognized by the federal government and subject to established treaty rights whose ancestral villages, campsites, grave sites, fishing sites, or other territory within the county may be impacted by a proposed development project in or near an archaeological site.

Agriculture means the cultivation of soil, production of plant crops, or the raising of livestock.

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.

Agricultural land means specific land areas on which agriculture activities are conducted.

Alteration means any human activity which results or is likely to result in an impact to existing vegetation, hydrology, wildlife or wildlife habitat. Alterations do not include walking, fishing, or any other passive recreation or other similar activities.

Appurtenance, normal. S~~s~~ee normal appurtenance.

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. Aquaculture is of statewide interest.

Aquaculture, commercial means ~~commercial aquaculture is~~ the cultivation or farming of fish, shellfish or other aquatic plants and animals for sale.

Aquaculture, non-commercial means the cultivation or farming of fish, shellfish or other aquatic plants and animals for personal consumption, research, or restoration or enhancement of native species.

Archaeology means the systematic, scientific study of material remains of past human life and activity. In Island County examples include shell middens, lithic sites, earthworks, rock cairns, and burial grounds. While shell middens and burial grounds are strongly associated with shorelines, the other types may also be found within the shorelines of the county.

Backshore means a berm, together with associated marshes or meadows on marine shores, landward of the ordinary high water mark which is normally above high tide level and has gradually been built up by accretion.

Baseline (for no net loss) means shoreline ecological conditions existing as documented in the Island County Shoreline Master Program Shoreline Inventory and Characterization report dated March, 2012. nm

Beach access structure means a permanent or temporary structural pathway/walkway whether installed on, above, or below the surface of the ground or water, for purposes of providing pedestrian access to a beach or shoreline area, not for motorized vehicle access. It often includes a stairway, tram, elevator, stair tower, platform and/or elevated walkway anchored to the ground surface by structural means.

Beach enhancement or restoration means process of restoring a beach to a state more closely resembling a natural beach using beach feeding, vegetation, drift sills, or other non-intrusive means, as applicable.

Beach feeding means process of replenishing a beach by delivery of materials dredged or excavated elsewhere.

Berm means a linear mound or series of mounds of sand or gravel generally paralleling the water at or landward of the line of ordinary high tide.

Best available science means current scientific information used in the process to designate, protect, or restore critical areas, that is derived from a valid scientific process as defined by WAC 365-195-900 through 365-195-925. Sources of best available science are included in Citations of Recommended Sources of Best Available Science for Designating and Protecting Critical Areas published by the Washington State Department of Commerce. The term "best available science" as used in this title includes the most current, accurate and complete scientific and technical information available as contemplated under WAC 173-26-201(2)(a). Projected Sea Level Rise for Washington State, a 2018 Assessment (or as amended), is considered the best available science for sea level rise.

Board or **BOCC** means Board of Island County Commissioners.

Boat means vessels less than twenty tons which are designed and used as a private pleasure craft for navigation and travel on water, are propelled by paddles, oars, sails, or one or more engine(s) or motor(s).

Boathouse means a structure specifically designed or used for the storage of boats.

Boat launch or **ramp** means graded slopes, slabs, pads, planks, or rails used for launching boats by means of a trailer, hand, or mechanical device. A boat launch also includes associated wash station and parking.

Boat lift means a mechanical device, with or without a canopy, that can hoist vessels out of the water for storage, commonly located along a pier. A boat lift is to be differentiated from a hoist or crane used for the launching or haul-out of vessels. See also boat lift, drive on floating.

Boat lift, drive-on floating means a mooring platform onto which a boat can be driven, for the purposes of storing the boat above the surface of the water. Drive-on floating boat lifts are generally secured to a dock or pier and have no moving parts.

Boating facility means any public or private facility for storing or launching vessels or watercraft. This includes marinas, open water moorage and anchorage areas, boat launch ramps, boat lifts, mooring buoys, piers, floats and docks, or any other similar single-user or shared-use facility for public recreational use or private residential use. For purposes of this Program, upland boat storage structures such as boathouses, boat repair shops, and other similar structures, and docks serving four (4) or fewer single-family residences are not considered boating facilities.

Breakwater means protective structures which are normally built offshore to protect beaches, bluffs, dunes, or harbor areas from wave action.

Buffer, marine means the landward area adjacent to the OHWM (or other feature as designated in Table 3 of ICC 17.05A.090), measured in feet, which protects the SMA waterbody from alterations caused by a development proposal. Buffers are established based on the shoreline environment designation. A buffer is measured horizontally and perpendicular from the ordinary high water mark (or other feature as designated in Table 3 of ICC 17.05A.090), it runs parallel to the ordinary high water mark (or other feature as designated in Table 3 of ICC 17.05A.090), and it includes the three-dimensional airspace above.

Buffer area means a parcel or strip of land that is designed and designated to permanently remain vegetated in an undisturbed and natural condition to protect an adjacent aquatic or wetland site from upland impacts, to provide habitat for wildlife, to regulate temperature and microclimate, preserve water quality, and allow for adaptation to sea level rise and environmental change, and to afford limited public access.

Buffer width means the horizontal, perpendicular measurement from the ordinary high water mark (or other feature as designated in Table 3 of ICC 17.05A.090). See also Buffer, marine.

Bulkhead means a form of structural shoreline stabilization erected parallel to and near the ordinary high water mark for the purpose of stabilizing a slope and preventing natural shoreline erosion to protect ~~protecting the~~ adjacent structures from the action of waves or currents.

Buoy means ~~a float attached by rope to the seabed to mark channels in a harbor or underwater hazards, or to be used to moor a boat in a harbor or channel.~~ an anchoring system for mooring vessels or navigational aids. Mooring buoys typically include an anchor, anchor line and a white, cylindrical float to mark its location.

Campground and **camping facilities** means facilities in which sites are offered for persons using tents or other personal, portable overnight shelters. Campgrounds are for short-term stays and do not include trailer parks.

Campground, marine means a campground where camping is restricted to users that access the site by water.

Canal community means the communities of Lagoon Point, Sandy Hook, and Mariners' Cove are discrete residential communities developed along engineered canals. The locations and boundaries of the canal communities are designated on official shoreline maps to be kept in the office of the Island County Planning and Community Development Department.

Canopy, boat lift means a cover installed as a component of a boat lift.

Canopy, tree means the branches, leaves, or other foliage from one (1) or more trees.

Clearing means the cutting and removal of vegetation by mechanical or chemical methods.

Commercial development means a business use or activity involving retail or wholesale marketing of goods and services as defined in ~~c~~Chapter 17.03 ICC. This definition does not include bed and breakfast inns or country inns, which are named as specific uses in the shoreline use table in ~~section~~ ICC 17.05A.080. This definition does not include home industry and home occupation, as defined in ICC 17.03.040.

Commercial-industrial pier or dock means a pier or dock including a gangway and/or float which is intended for any commercial or industrial use other than storage or moorage of boats used for recreational purposes.

Community beach means a beach area jointly owned by a homeowners association for use of the neighborhood.

Community pier or dock means a pier or dock including a gangway and/or float which is intended for use in common by lot owners or residents of a subdivision, Homeowner's Association (HOA), or residential planned development district.

Compensatory mitigation means the restoration (re-establishment or rehabilitation), establishment (creation), and enhancement of an area for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved. Mitigation ratios are based on the degree of a proposal's expected impact on regulated marine and near-shore ecosystems as determined by submitted environmental reports.

Conditional uses, shoreline means a use or development which requires issuance of a shoreline conditional use permit pursuant to the use table in ~~section~~ ICC 17.05A.080 or a use which is not classified within the SMP. Conditional uses must be evaluated according to the review criteria established in WAC 173-27-160.

Consumer price index means for any calendar year, that year's annual average Consumer Price Index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor. The Office of Financial Management must calculate the new dollar threshold and transmit it to the Office of the Code Reviser for publication in the Washington State Register at least one (1) month before the new dollar threshold is to take effect.

Covered moorage means a pier, or float, or system of floats covered by a roof.

Critical saltwater habitat includes the following areas within marine shorelines: mudflats and intertidal habitats with vascular plants; subsistence, commercial and recreational shellfish beds; kelp and eelgrass beds; spawning and holding areas for forage fish, such as herring, smelt, and sand lance; and areas with which priority species, as defined by WAC 173-26-020(~~29~~30), have a primary association.

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 this Program at any state of water level. Development does not include dismantling or removing structures if there is no other associated development or re-development.

Dike means a system of one or more levees or banks, usually constructed of earth to control or confine water and create a protection against tidal or floodwaters.

Disabled (person) means a person likely to meet the federal supplemental security income disability standard. In making this determination, the department should give full consideration to the cumulative impact of an applicant's multiple impairments, an applicant's age, and vocational and educational history (RCW 74.62.030).

Dock means a structure which abuts the shoreline and is generally used as a landing or moorage place for commercial or pleasure craft. A mooring platform (e.g., pier, ramp, drive-on floating boat lift, or float) that extends waterward of the OHWM but due to topography, critical areas, etc. may also extend landward of the OHWM to provide a connection to land. Waterward of the OHWM they are held in place with pilings/anchors. Pilings located around their perimeter (whether detached or attached) that are not utilized to hold the dock in place but instead utilized for berthing/mooring to that facility (e.g., dolphins) shall be considered part of the dock.

Dolphin means a cluster of piles used as a fender, as at the entrance to a dock.

Dredging means the removal of earth, sand, gravel, silt, or debris from the bottom of a stream, river, lake, bay, or other water body for the purpose of deepening a navigational channel, or to obtain use of the bottom materials for fill. Dredging includes any harvesting of natural resources by any mechanical or

hydraulic means which involves substrate displacement or disturbance. Dredging does not include removal of obstructions or sediment as part of regular maintenance and repair of infrastructure.

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.

Drive-on floating boat lift, see boat lift, drive-on floating.

Dune means a hill or ridge of sand deposited by wind or wave action.

Ecological 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.

Ecological processes, ~~means ecological processes, ecosystem processes, or ecosystem-wide processes~~ means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; the presence of living, functioning organisms; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions. See also ecosystem-wide processes.

Ecosystem-wide processes, or ecosystem 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. See also ecological processes.

Emergency means an unanticipated and imminent threat to public health, safety, or the environment which requires immediate actions within a time too short to allow full compliance.

Erosion means the geological process in which earthen materials are detached and transported away by natural forces such as wind, rain, waves, currents, tidal action, frost wedging, and/or gravity, among others.

Exceptional feeder bluff means a shoreline bluff area with substantial sediment input into the netshore drift system with a shorter recurrence interval as compared to a non-exceptional feeder bluff, as identified on a map available from Island County Department of Community Development. Exceptional feeder bluffs can be identified by the general absence of vegetative cover or portions of the bluff face fully exposed. Other indicators include the presence of slide debris, boulder or cobble lag deposits, and fallen trees across the beachface. Exceptional feeder bluff segments lack a backshore, old or rotten logs, and coniferous bluff vegetation.

~~**Existing lot** means a lot or parcel of land which was legally established and recorded with the County Auditor as a fractional part of divided lands having fixed boundaries prior to adoption of this chapter and consistent with chapter 17.03.~~

Expansion means any structural modification, which increases an existing structure's envelope, footprint, or volume.

Experimental aquaculture means an aquaculture project that uses methods or technologies which are unprecedented or unproven.

Extreme low tide means the lowest line on the tidelands reached by a receding tide.

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

1. 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;

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

3. The action does not preclude achieving the project's primary intended legal use; and

4. The costs of the action do not substantially outweigh the benefits.

Feeder bluff means a coastal bluff that, as a result of its natural erosion, delivers sand and gravel to the beach that is subsequently transported by waves and currents along the shoreline to maintain beaches and accretion shoreforms elsewhere within the local drift cell.

Feedlot means an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for livestock feeding or grazing, nor shall it include normal livestock wintering operations.

Fender means a device installed adjacent to a dock to lessen shock and prevent chafing. A pile or a row or cluster of piles placed to protect a dock or ferry loading ramp from damage by docking vessels.

Ferry terminal (includes dolphins, ramp, ticket booths, and waiting structures) means piers, docks and associated dolphins, ramps, fenders, floats, ticketing structures, and waiting structures associated with the loading and landing of vehicle and passenger ferry vessels.

Fetch means the distance across a body of water measured in a straight line from the most waterward point along the ordinary high water line or lawfully established bulkhead on a given stretch of shoreline to the closest point on the ordinary high water line or lawfully established bulkhead on a separate stretch of shoreline.

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.

Finfish facility means rearing facilities where finfish are hatched, fed, nurtured, held, maintained, or reared for commercial purposes or harvest. This includes fish farms, fish hatcheries, rearing ponds, spawning channels, and other similarly constructed or fabricated facilities. Facilities that discharge or allow the exchange of unfiltered water into waters of the state are "open." Facilities that do not discharge or allow the exchange of unfiltered water into waters of the state are "contained."

Fish and wildlife habitat conservation areas means the following critical areas and their associated buffers ~~including the following~~:

1. Areas with which endangered, threatened, sensitive, and priority species listed by the federal or state government have a primary association;

2. Areas that are priority habitats as listed by the Washington Department of Fish and Wildlife;

3. Streams;

4. Commercial and recreational shellfish beds;

5. Kelp and eelgrass beds;

6. Herring, smelt, and sand lance spawning and holding areas;

7. Priority habitat areas for marine shellfish, including but not limited to pandalid shrimp, Dungeness crab, geoduck, hardshell clam, subtidal hardshell clam, and red sea urchin;

8. Areas with which priority species, as defined by WAC 173-26-020(~~29~~31), have a primary association;

9. State natural area preserves;

10. State natural resource conservation areas;

11. Species and habitats of local importance;

12. Flora species' habitat when included in the protected species list; and

13. All areas designated by the Department of Natural Resources ("DNR") through the Washington Natural Heritage Program as high quality wetland ecosystems and high quality terrestrial ecosystems and shown on a map prepared by Island County dated October 11, 1999, or as amended.

14. Lake buffers when the lake is greater than twenty (20) acres in size.

15. The shoreline marine buffers.

Float means a floating structure that is moored, anchored, or otherwise secured in the water offshore and that may be associated with a fixed-pile pier, or may be a standalone structure, such as platforms used for swimming and diving.

Float plane base means a transportation facility consisting of multiple float plane docks, which is used exclusively by aircraft that take off and land directly on the water.

Float plane dock means a structure which abuts the shoreline and is generally used as a landing or moorage place for commercial or pleasure aircraft. A mooring platform (e.g., pier, ramp or float) that extends waterward of the OHWM but due to topography, critical areas, etc. may also extend landward of the OHWM to provide a connection to land. Waterward of the OHWM they are held in place with pilings/anchors. Pilings located around their perimeter (whether detached or attached) that are not utilized to hold the dock in place but instead utilized for berthing/mooring to that facility (e.g., dolphins) shall be considered part of the dock.

~~Floating home means a floating home is a building constructed on a float, used in whole or in part as a dwelling, and not a vessel, and is typically characterized by permanent utilities, a semi-permanent anchorage/moorage design, and by the lack of adequate self propulsion to operate as a vessel.~~

Floating home means a single-family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed.

Floating on-water residence means any floating structure other than a floating home that is designed or used primarily as a residence on the water and has detachable utilities, and whose owner or primary occupant has held an ownership interest in space in a marina, or has held a lease or sublease to use space in a marina, since a date prior to July 1, 2014.

Flood control works means structural techniques for area-wide flood control, including but not limited to berms, rock ripraps, sandbags, application of soil cements to slopes, drainage channels, levees, dikes,

dams, and retention or detention basins. Raising single-family residential structures above base flood elevation is not considered flood control works.

Floodplain (100-year) means the 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.

Flushing capacity means the ability of a water body to completely renew the volume of water it retains.

Forest practice permit means a permit which is required for the removal of five thousand board feet or more of merchantable timber. Class IV—General forest practice permits are administered by the Department of Natural Resources. This permit is often approved as an adjunct to another development permit such as a building permit or residential subdivision.

Forest practices means activities conducted on or directly related to forest land and relating to growing, harvesting, or processing timber. These activities include but are not limited to: road and trail construction, final and intermediate harvesting, pre-commercial thinning, reforestation, fertilization, prevention and suppression of disease and insects, salvage of trees, and brush control. See WAC 222-16-010.

Gabions means a form of structural shoreline stabilization composed of masses of rocks, rubble or masonry held tightly together, usually by wire mesh, so as to form blocks or walls. Sometimes used on heavy erosion areas to retard wave action or as foundations for breakwaters or jetties.

Geocoastal analysis means a scientific study or evaluation conducted by a qualified expert that includes a description of the conditions at the site of proposed development, including the geology, coastal processes, erosion or accretion status of the shoreline, current and future sea level conditions, 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 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. Geocoastal reports for shoreline stabilization shall include analysis per ICC 17.05A.095.D and 17.05A.095.E when required by Table 5: Shoreline Stabilization Requirements. Geocoastal 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.

Geologically hazardous areas means those areas that because of their susceptibility to erosion, sliding, or other geologic events, are generally not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns, including:

1. Erosion hazard areas including areas designated in the Department of Ecology Coastal Zone Atlas dated April 1979, as it may be amended or revised, as land which has had recent or historical slide activity or has unstable slope conditions, including those lands within 100 feet (either top or base) thereof, and other areas likely to become unstable, such as bluffs, steep slopes, and areas with unconsolidated soils.

2. Landslide hazard areas including:

    a. Areas with all three (3) of the following characteristics:

        (i) Slopes steeper than fifteen (15) percent;

(ii) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

(iii) Springs or groundwater seepage.

b. Areas that have shown movement during the ~~h~~Holocene ~~e~~Epoch (from 10,000 years ago to the present) or which are underlain or covered by mass wastage debris of this epoch;

c. Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;

d. Slopes having gradients steeper than eighty (80) percent subject to rockfall during seismic shaking;

e. Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action, including stream channel migration zones; and

f. Any area with a slope of forty (40) percent or steeper and with a vertical relief of ten (10) or more feet except areas composed of bedrock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten (10) feet of vertical relief.

3. Seismic hazard areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement or subsidence, soil liquefaction, surface faulting, or tsunamis.

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.

Grade level (average) means calculation made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure.

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.

Groin means structures designed to modify or control water flow and sand movement.

Ground floor means the floor of a structure or building that is approximately level with the ground.

Hazard tree means any tree, or portion thereof, that is susceptible to immediate fall due to its condition (damaged, diseased, or dead) or other factors, and which because of its location is at risk of damaging permanent physical improvements to property, damaging utilities, or causing personal injury.

Hearings Board means the Shoreline Hearings Board (not the Growth Management Hearing Board(s)).

Height, building means the vertical dimension measured from average grade to the highest point of a structure; provided that antennas, chimneys, and similar appurtenances shall not be used in calculating height, unless such appurtenance obstructs the view of a substantial number of adjacent residences.

High intensity agriculture shall mean existing and on-going agriculture including dairies, animal feeding operations and concentrated animal feeding operations as those terms are used in federal and state regulations and livestock operations with an animal unit density greater than three (3) per acre.

Historic beach community means limited areas within the shoreline of Island County that have been platted in a dense pattern with small lots and greater impervious surface relative to other areas of the county. The existing marine waterfront lots are generally developed with residential structures constructed approximately thirty (30) feet or less from the ordinary high water mark and the original structures were established prior to enactment of the Shoreline Management Act.

Houseboat means a vessel used for living quarters but licensed and designed substantially as a mobile structure by means of detachable utilities, anchoring, and the presence of adequate self-propulsion to operate as a vessel.

Illegal use means any unapproved use of land or structure which is not compliant with current codes and was not compliant with codes in effect when the use or structure was established. An illegal use is different than a nonconforming use.

Impervious surface means a surface area that prevents or impedes infiltration of water into the soil mantle; or retards the infiltration of water into the soil mantle such that it causes water to run off the surface in greater quantities or at a greater rate of flow than under natural conditions. Common impervious surfaces include roof tops including eaves, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled surfaces. Open, uncovered retention or detention facilities are not considered impervious surfaces. Decks with gaps of at least 1/8" between boards located over a pervious surface shall be considered pervious.

In-water facilities means boat-launching facilities, marinas, visitor docks, mooring buoys, residential docks, floats, float plane facilities, docking facilities for cruise boats, and waterborne transportation facilities.

In-water fill means activities that involve the addition of soil, sand, rock, gravel, earth retaining structure, or other material to an area waterward of the ordinary high water mark in a manner that raises the elevation or creates dry land.

Industrial means a use relating to or concerning the assembling, fabrication, finishing, manufacturing, packaging, or processing of goods, or mineral extraction. This definition does not include home industry and home occupation, which are defined in ICC 17.03.040.

Infeasible means not feasible. See also feasible.

Infrastructure means facilities and services needed to sustain industry, residential, commercial, and all other land-use activities, including water, sewer lines, and other utilities, streets and roads, communications, and public facilities such as fire stations, parks, schools, etc.

Jetty means jetties are structures designed to modify or control water flow and sand movement and are generally employed at inlets for the purpose of improving navigation.

Joint use pier or dock means a pier or dock including a gangway and/or float which is intended for private, noncommercial use by two (2) to four (4) waterfront building lots under separate ownership, where at least one (1) boundary of each building lot lies within 1,000 feet of the boundary of the lot on which the joint use pier or dock is to be constructed.

Lake means a body of freshwater that occurs in a depression of land or expanded part of a stream that is greater than 6.6 feet in depth at the deepest point at ordinary low water, and has a water salinity of less than 0.5 parts per thousand.

Landward means horizontally toward the land and away from the water.

Legally established use or structure means any use or structure that complies with current code or is a nonconforming use.

Littoral drift means the natural movement of sediment, particularly sand and gravel, along marine or lake shorelines as a result of wave and wind action.

Live-aboard vessel means a seaworthy vessel that was designed primarily for navigation but is used as a residence. A boat or other floating structure is a residence if it is occupied thirty (30) out of forty-five (45) days or ninety (90) out of 365 days while moored or anchored in the same area, or if the local government, the marina, or the occupant of the boat defines it as a residence. The phrase "in the same area" means within a radius of one (1) mile of any location where the same vessel previously moored or anchored. A vessel that is occupied and is moored or anchored in the same area, but not for the number of days described in this subsection, is considered a recreational or transient vessel ~~(WAC 332-30-106)~~.

Log storage (rafting and stockpiling) means the management of timber for a commercial forestry industry by means of either, rafting bound logs along the shoreline for transportation, or by stockpiling logs that are ready for transportation via land.

Low intensity agriculture ~~shall~~ means existing and on-going agriculture including livestock management with an Animal Unit density of less than one (1) per acre; seasonal hay mowing and related activities and horticulture involving one (1) acre or less of cultivated land.

Maintenance and repair, normal, see normal maintenance and repair.

Marina~~s. Marinas are~~ means a facility~~ies~~ which provide~~s~~ boat launching, storage, supplies, and services for small pleasure craft. There are two (2) basic types of marinas: open type construction (floating breakwater or open pile work) and solid type construction (bulkhead or fill).

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.

Marine buffer, see buffer, marine.

Marine campground means a primitive, waterfront campground accessible by hand-carried watercraft (e.g., kayak, canoe) with each site in the campground accommodating up to three (3) tents. Overflow may be allowed at the discretion of the land manager.

May indicates that the action is within the discretion and authority of the approving agency.

Moorage structure means a structure built over or floating upon the water, typically used as a landing place for marine transport or for commercial or recreational purposes.

Mudflat (marine) means areas along a shoreline composed of fine sediment often with a high organic material content that are typically exposed during low tides and submerged during high tides.

Must means a mandate; the action is required.

No net loss means the maintenance of the aggregate total of the county shoreline ecological functions over time. The no net loss standard contained in WAC 173-26-186 requires that the impacts of shoreline use or development, whether permitted or exempt from permit requirements, be identified and mitigated such that there are no resulting adverse impacts on ecological functions or processes.

Non-structural shoreline stabilization means shoreline erosion control and restoration practices using ~~only plantings or~~ mostly organic materials and plantings to restore, protect, or enhance the natural shoreline environment. Focus on the use of woody plants and limited structural-mechanical systems that are integrated in a structurally and environmentally sound manner to repair and protect slopes against shallow mass wasting and surface erosion. At least eighty (80) percent of the stabilization project must be constructed of naturally-occurring materials used in ways that are consistent with current nearshore processes. Measures such as live stake, live fascine, brushlayer, live cribwall, vegetated geogrid, branchpacking, and live slope grating are examples of soft shore protection techniques. Also called bioengineering or soft shore stabilization.

Non-water-oriented use means those uses that are not water dependent, water related, or water enjoyment.

Nonconforming development or **nonconforming structure** means an existing structure that was lawfully constructed at the time it was built but is no longer fully consistent with present regulations such as setbacks, buffers or yards; area; bulk; height or density standards due to subsequent changes to the master program.

Nonconforming lot means a lot that met dimensional requirements of the applicable master program at the time of its establishment but now contains less than the required width, depth or area due to subsequent changes to the master program.

Nonconforming use means an existing shoreline use that was lawfully established prior to the effective date of the Act or the applicable master program, but which does not conform to present use regulations due to subsequent changes to the master program.

Normal appurtenance means a structure that is necessary~~ily connected to the~~ for the use and enjoyment of a single-family residence, including a garage, ~~deck,~~ driveway, utilities, ~~fences, gazebo,~~ septic tank and drainfield, and grading less than 250 cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark.

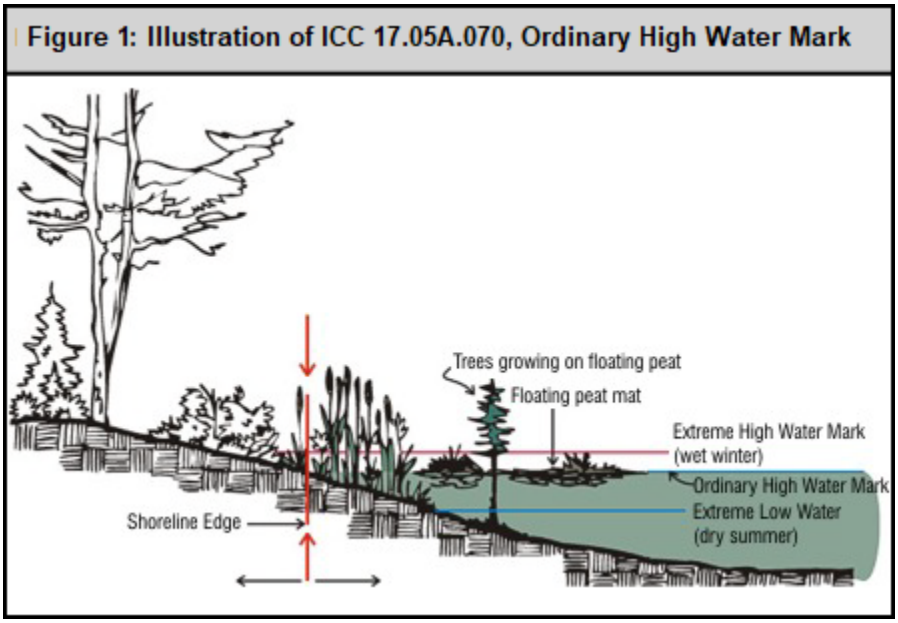
Normal maintenance and repair means usual acts to prevent a decline, lapse, or cessation from a lawfully established condition or restores a development to a state comparable to its original condition, including but not limited to maintaining the same size, shape, configuration, location and appearance~~.~~, except where repair causes substantial adverse effects to shoreline resources or environment. Replacement of a structure is not considered normal maintenance or repair~~.~~, except where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.

Normal protective bulkhead means structural and nonstructural shoreline stabilization installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and normal appurtenant structures from loss or damage by erosion.

Ordinary high water mark (OHWM) means, on all lakes, streams, and tidal water, ~~is~~ that mark ~~that~~ which 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 of Ecology; 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. See RCW 90.58.030(2)(c). See Figures 1, 2, and 3.

Figure 1: Illustration of ICC 17.05A.070, Ordinary High Water Mark



Outfall means the point where water flows out from a conduit, drain, or stream.

Parking lot means an off-street, ground level open area, usually improved, for the temporary storage of motor vehicles. A vista parking lot is a parking lot directly associated with an area established to provide a public view of the shoreline or water.

~~**Passive recreation** means outdoor activities such as walking, biking, and wildlife viewing.~~

Passive recreation see recreation, passive.

Permitted uses means uses which are allowed within the applicable shoreline designation, provided that they must meet the policies, use requirements, and regulations of this ~~c~~Chapter 17.05A ICC and any other applicable regulations of the county or state.

Pervious pavement means a low impact development material that promotes storm water drainage, reduces runoff, and improves filtration of water for aquifer recharge. Pervious pavements include, but are not limited to: pervious concrete, pervious asphalt, pervious pavers, and products such as Grasscrete®. Pervious pavement shall be considered as 50% pervious for the calculation of impervious surface area.

Pervious surface means a surface area that allows the natural infiltration of water into the soil mantle including pervious pavement.

Pier means a structure which abuts the shoreline and is generally used as a landing or moorage place for commercial and pleasure craft. A pier is a fixed platform above the water.

Pile, pilings and **pile driving** means a column of wood or steel or concrete that is driven into the ground to provide support for a structure, a number of piles, and the process of installing piles into the ground.

Port means any harbor area under the jurisdiction of a legally constituted port district, as prescribed under Washington State law, or any harbor area which is largely devoted to shipping and cargo handling. A port may include water-dependent uses such as boat building and repair, cargo or passenger facilities, commercial and recreational moorage, float plane facilities, and similar uses. A port may also include water-related uses.

Primary association means use of an area by a protected species for rearing young, roosting, breeding, or foraging on a regular basis during the appropriate season, as well as habitats that are used less frequently or regularly but which provide for essential life cycle functions. Areas of primary association for listed salmonids shall include all aquatic environments in which they reside, as well as riparian environments necessary to support the formation and function of the aquatic environment. Areas of primary association for protected flora and fungi include both the immediate area where the species occurs and the contiguous habitat necessary for its long term persistence.

Primary structure means the structure associated with the principal use of the property. If more than one (1) structure is associated with the principal use of the property, the one with the highest assessed value shall be considered the primary structure. For purposes of interpreting ~~section 17.05A110 (shoreline modification regulations)~~ this Chapter, the phrases "primary structure or appurtenance" and "primary structures and appurtenances" shall mean the primary structure and those appurtenances which cannot be relocated because they are either (a) structurally attached to the primary structure (such as garages and decks) or, (b) no other suitable location exists for their relocation and the primary structure would become unusable if the appurtenance were damaged or destroyed.

Priority habitat means a habitat type with unique or significant value to one (1) or more species per WAC 173-26-020(30). An area classified and mapped as priority habitat must have one (1) or more of the following attributes: comparatively high fish or wildlife density; comparatively high fish or wildlife species diversity; fish spawning habitat; important wildlife habitat; important fish or wildlife seasonal range; important fish or wildlife movement corridor; rearing and foraging habitat; important marine mammal haul-out; refugia habitat; limited availability; high vulnerability to habitat alteration; unique or dependent species; or shellfish bed. A priority habitat may also 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.

Production facility means a structure used for or in connection with the generation, production, transmission, or distribution of electricity; the production, manufacture, storage, distribution, transportation, or conveyance of gas, oil, or other fluid substance by pipeline; or the diverting, pumping, impounding, distributing, or furnishing of water.

Protected habitats means habitats listed by the federal government, habitats designated by the Washington Department of Fish and Wildlife as Priority Habitats, and those habitats which are determined by Island County to be worthy of a higher level of protection than other habitats and are designated as habitats of local importance under ~~c~~Chapter 17.02B ICC.

Protected species means species of flora and fauna listed by the federal government or the State of Washington as endangered, threatened, sensitive, or priority which are present in Island County and those species of flora and fauna which are determined by Island County to be worthy of a higher level of protection than other species and are designated as species of local importance under ~~c~~Chapter 17.02B ICC.

Public access means a trail, path, road, or launching ramp by which the general public can reach the public waters from a public road.

Public boat launching ramps means boat launching ramps that are used by the public. Ownership of the facilities can be either private or public.

Public recreational pier or dock means a pier or dock including a gangway and/or float either publicly or privately owned and maintained intended for use by the general public for recreational purposes, but not to include docks constructed as part of a marine development.

Ramp. See boat ramp.

Recreation means the exercise and refreshment of body and mind through forms of play, sports, relaxation, amusement, or contemplation. ~~Passive shoreline recreation is light to moderate intensities of recreation, such as hiking, day camping, viewing nature, boating, swimming and fishing. Active recreation is a more intensive and land consumptive use of the shoreline areas, such as sports fields, swimming pools, or indoor recreation centers.~~

Recreation, active means more intensive and land consumptive use of the shoreline areas, such as sports fields, swimming pools, or indoor recreation centers. See also recreation, passive.

Recreation, passive means outdoor activities such as walking, biking, and wildlife viewing, scientific research activities, water-based recreation, and boating. See also recreation, active.

Recreational development means public and private parks and facilities for hiking, camping, indoor and outdoor sports, or similar developments.

Regulated activity means:

1. Removing, excavating, disturbing, or dredging soil, sand, gravel, minerals, organic matter, or materials of any kind;

2. Dumping, discharging, or filling;

3. Draining, flooding, or disturbing the water level or water table. In addition, an activity which involves intentional draining, flooding, or disturbing the water level or water table in a wetland or stream in which the activity itself occurs outside the regulated area may be considered a regulated activity;

4. Driving piling or placing obstructions, including placement of utilities;

5. Constructing, reconstructing, demolishing, or altering the size of any structure or infrastructure;

6. Altering the character of a regulated area by destroying or altering vegetation through clearing, harvesting, cutting, intentional burning, shading, or planting;

7. Activities which result in significant changes in water temperature or physical or chemical characteristics of wetland or stream water sources, including changes in quantity of water and pollutant level;

8. Application of pesticides, fertilizers, and/or other chemicals unless demonstrated not to be harmful to the regulated area;

9. The division or redivision of land pursuant to ~~c~~Chapter 16.06 ICC; and

10. The creation of impervious surfaces.

Repair, see normal maintenance and repair.

Replacement means the construction of a new structure to perform the same function when an existing structure can no longer serve its purpose. In addition, repairs that exceed a certain threshold are also ~~effectively [a]~~ considered to be a replacement. ~~The following are thresholds for considering a~~ A repair is considered to be ~~effectively~~ a replacement when: 1) ~~when~~ more than fifty (50) percent of a structure, by volume, is being replaced; or 2) the cost of maintenance or repairs to an existing structure exceeds fifty (50) percent of the value of the existing structure.

Residence means a structure used as a home or dwelling.

Residential development means the development of single-family residences, including appurtenant structures and uses, multi-family development, and the creation of new residential lots through land division.

Restoration means to reform, revitalize, or establish the characteristics and natural processes of a degraded shoreline resource back into a persistent, resilient system.

Retaining wall, upland means a structure placed ~~behind the~~ landward of the OHWM which acts as a stabilizing mechanism for unstable geologic conditions, foundation support for structures, or to retain land behind the retaining wall.

Revetment means a form of structural shoreline stabilization comprising a sloping facing of stone, concrete, or similar material, built to protect a scarp, embankment, or shore structure against erosion by waves or currents.

Riprap means a form of structural shoreline stabilization comprising a foundation or sustaining wall of stones ~~or chunks of concrete~~ thrown together without order (as in deep water) or a layer of similar material on an embankment slope to prevent erosion.

Seaward means the direction away from land and toward the sea.

Setback means the distance a structure is placed behind a specified line or feature.

Shall means a mandated action that must be done.

Shorelines means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (i) shorelines of statewide significance; (ii) shorelines on segments of streams upstream of a point where the mean annual flow is twenty (20) cubic feet per second or less and the wetlands associated with such upstream segments; and (iii) shorelines on lakes less than twenty (20) acres in size and wetlands associated with such small lakes.

Shoreline Administrator (Administrator) means the Island County Planning and Community Development Director (Director) or his or her designee.

Shoreline buffer means the lake or marine buffer as designated in Table 3 of ICC 17.05A.090.

Shoreline 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 permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to Chapter 90.58 RCW at any stage of water level (RCW 90.58.030; WAC 173-27-030).

Shoreline environment designations means the categories of shorelines established by local shoreline master programs in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas. ~~WAC 173-16-0060(4)~~. The designation boundaries extend above and below the earth's surface on a vertical plane. WAC 173-26-211.

Shoreline ecological functions means shoreline functions or shoreline ecological functions are the work performed or role played individually or collectively within ecosystems by a wide variety of interacting physical, chemical, and biological components that are interdependent in varying degrees and scales, and that produce the landscape and habitats as they exist at any one (1) time. Shoreline ecological functions include, but are not limited to those included in WAC 173-26-201(3)(d)(i)(C).

Shoreline exemption means an exemption from the requirement ~~needing~~ to obtain a shoreline substantial development permit, where the proposed development meets the precise terms of one or more exemptions ~~. Exemptions are~~ defined or referenced in ICC 17.05A.130.D.2.e or WAC 173-27-~~020~~030(7) ~~and~~. The exemptions are available for uses and developments set forth in WAC 173-27-040 and RCW 90.58.030(3)(e), RCW 90.58.140(9), RCW 90.58.147, RCW 90.58.355, and elsewhere in Chapter 90.58 RCW. An activity that is~~. Although~~ exempt from the ~~requiring a~~ substantial development ~~permit, these uses must comply with applicable~~ provisions of the SMA must still be carried out in compliance with policies and standards of the Act~~this Program~~ and the SMP and obtain a statement of shoreline exemption. A shoreline conditional use permit or a shoreline variance permit may also be required even though the activity does not require a shoreline substantial development permit (RCW 90.58.030(3)(e)); WAC 173-27-030(7) and 173-27-040).

Shoreline jurisdiction means the following geographic areas regulated by the SMA, related rules, and the applicable master program: all shorelines and shorelines of statewide significance, plus lands extending landward for 200 feet in all directions, as measured on a horizontal plane from the ordinary high water mark of shorelines; associated floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters subject to the SMA. Ordinary high water mark is located at the inland boundary of a tidally influenced wetland area, extending the shoreline jurisdiction 200' from the inland boundary. Shoreline jurisdiction is extended by shoreline associated wetlands only to the extent of the wetland boundary. Any wetland buffer outside of shoreline jurisdiction is subject to Chapter 17.02B ICC. See RCW 90.58.030(2)(f)~~, WAC 173-16-030(17)~~ and WAC 173-22-030(10). ~~Also see the definitions of "~~See also shorelines~~"~~ and ~~"~~shorelines of statewide significance.~~"~~ See Figures 2 and 3.

Figure 2: Illustration of ICC 17.05A.070, Shoreline Jurisdiction

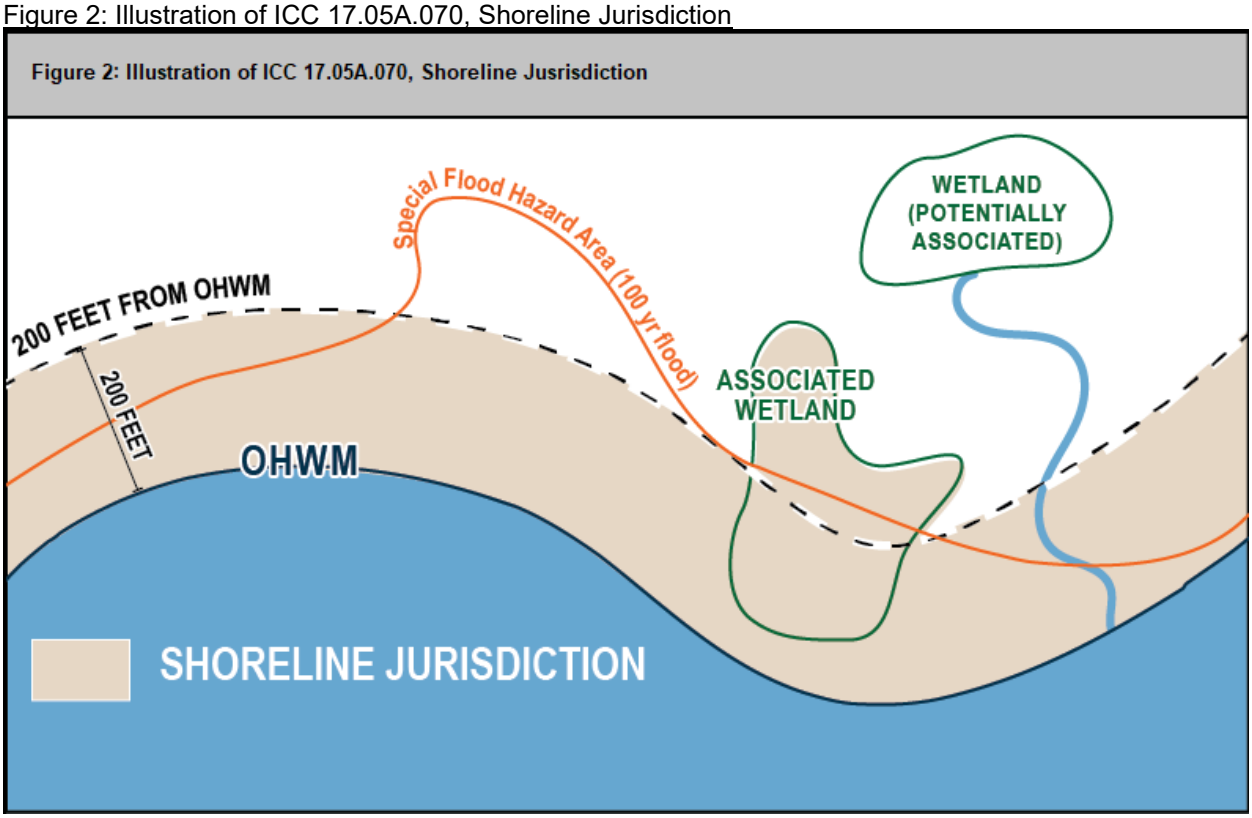
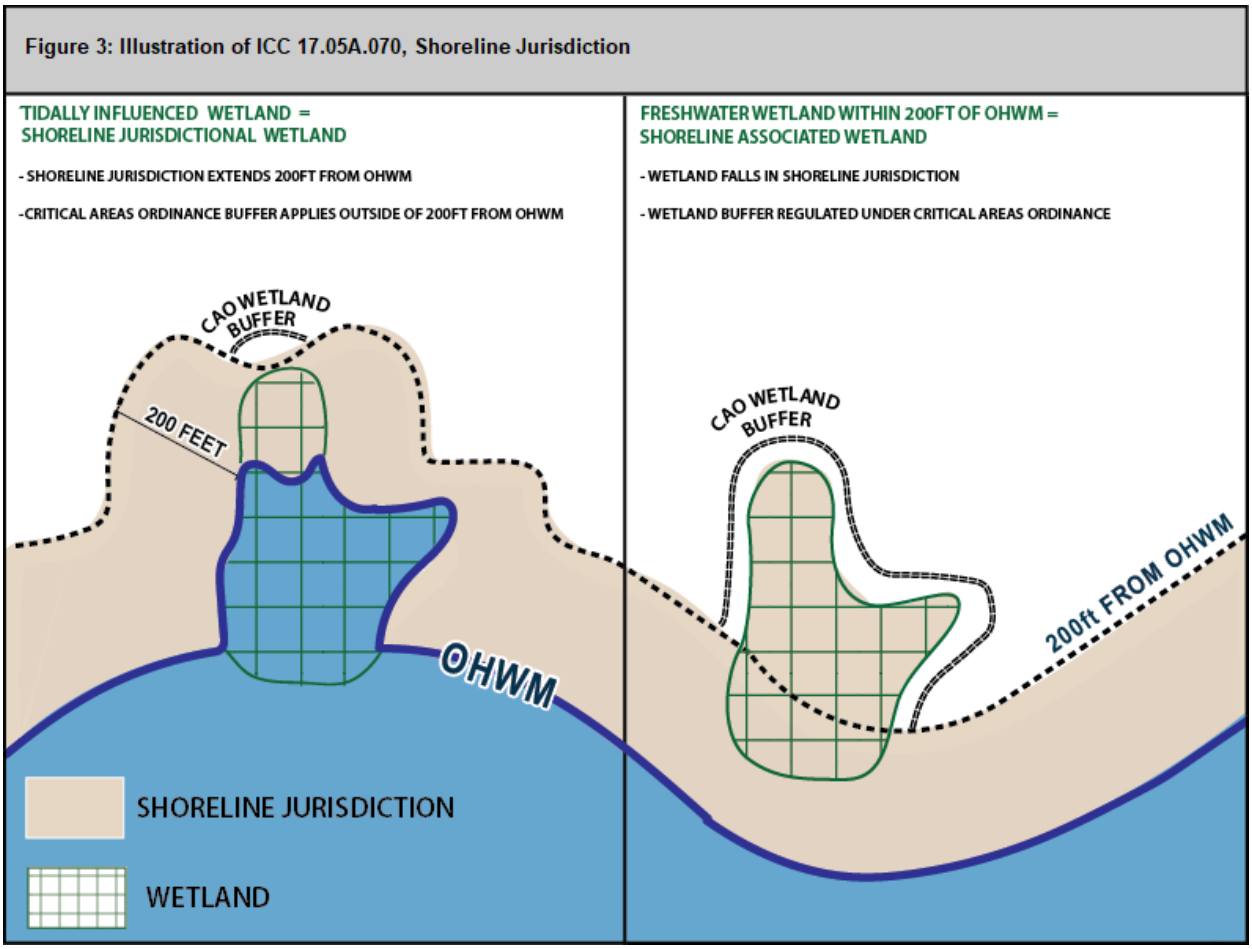


Figure 3: Illustration of ICC 17.05A.070, Shoreline Jurisdiction



Shoreline Management Act (SMA or Act) means Shoreline Management Act of 1971, Chapter 90.58 RCW.

Shoreline Master Program (SMP) or **Master Program** or **Program** means the Island County Shoreline Master Program, being the Shoreline Master Program Element of the Comprehensive Plan and Chapter 17.05A. Master programs must be developed in accordance with the policies of the SMA in RCW 90.58.020 and the implementing guidelines in ~~WAC~~ Chapter 173-26 WAC, be approved by the state, and be consistent with the rules (WACs) adopted by the Washington State Department of Ecology.

Shoreline stabilization means structures or modifications for the purpose of retarding shore erosion from wave or current action, protecting channels and harbors from wave action, encouraging deposition of beach materials, or preventing shoreline overflow and retaining uplands. Shoreline stabilization may consist of bulkheads, seawalls, dikes, revetments, breakwaters, jetties, groins, gabions, large woody material placement, beach nourishment, vegetation enhancement, biotechnical methods, or similar structures or modifications.

~~**Shoreline substantial development permit exemption** means certain developments that meet the precise terms of listed exemptions are granted exemptions from the requirements of the substantial development permit process of the Act. An activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the Act and the SMP and obtain a statement of shoreline exemption. A shoreline conditional use permit or a shoreline variance permit may also be required even though the activity does not require a shoreline substantial development permit (RCW 90.58.030(3)(e)); (WAC 173-27-030(7) and -040).~~

Shorelines of statewide significance means those areas of Puget Sound and the Strait of Juan de Fuca and adjacent saltwater north to the Canadian line and lying seaward from the line of extreme low tide; and those additional areas specified in the Act (RCW 90.58.030(2)(~~e~~f), which in Island County, includes the Skagit Bay shoreline from Brown Point to Yokeko Point.

Should means a particular action is required unless there is a demonstrated, compelling reason, based on policies of the Shoreline Management Act and this ~~c~~Chapter, against taking the action.

Signs means publicly displayed messages on signs, billboards, placards, or buildings whose purpose is to provide information, direction, or advertising.

Single-family residence means a detached dwelling designed for and occupied by one (1) family, including those structures and developments within a contiguous ownership which are a normal appurtenance. An approved home industry and home occupation, which are defined in ICC 17.03.040, are incidental to and secondary to a single-family residence.

Soft shore stabilization. ~~(~~See non-structural shoreline stabilization~~)~~.

Solid waste means all solid and semisolid wastes including but not limited to garbage and rubbish, pet waste, recyclable materials, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities.

Solar access means the ability of one property to continue to receive direct sunlight across property lines without obstruction.

Spit means an accretion shoreform which extends seaward from and parallel to the shoreline. They are usually characterized by a wave-built berm on the windward side and a more gently sloping muddy or marshy shore on the leeward side. A curved spit is normally called a hook.

Stormwater means the flow of water which results from precipitation, and which occurs immediately following rainfall or a snowmelt.

Structural shoreline stabilization, new shall be defined as the establishment of shoreline stabilization where legally established stabilization is not present.

Structural shoreline stabilization means shoreline stabilization that includes placement of riprap, fitted stone, poured-in-place or precast concrete, driven wood or metal piles, or other similar hard armoring.

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 173-27-030).

Structure, overwater means a structure extending on or over the surface of the water.

Subdivision means the division or redivision of land, including short subdivisions, as defined in Chapter 58.17 RCW and ~~Title XVI~~Chapter 16.06 ICC.

Substantial development means any development meeting the definition in RCW 90.58.030(3)(e), now or as hereafter amended, which includes any development of which the total cost, or fair market value, exceeds ~~five thousand seven hundred and eighteen dollars ($5,718.00)~~ the Substantial Development Dollar Threshold as set by the Office of Financial Management or any development which materially interferes with normal public use of the water or shorelines of the state; except that developments meeting the precise terms of the exemptions specified in RCW 90.58.030(3)(e)(i through xii) shall not be considered substantial development.

Tidal/wave energy means a form of hydropower that converts the energy in the flow of tidal waters or currents into a form that may be transmitted or transported elsewhere, typically as electricity through the use of submerged turbines.

Tide gate means a hinged door or panel, or similar structure that serves to drain tidelands, usually for agricultural or other uses.

Tidelands means beds and shores of navigable tidal waters lying between the line of ordinary high tide and the line of extreme low tide.

Tram means a power-assisted shoreline access device that includes a car or gondola suspended on a cable.

Transmission, utility means pipes or lines for sewer, water, electrical, or other utilities.

Transportation facility means transportation facilities include roads, trails, airports, barge landings, County docks, float plane facilities, ferries and related terminals, and parking areas.

Tribe means any Indian tribe, band, nation, or other organized group or community formally recognized by the federal government (See affected tribe).

Use means the purpose that land, buildings, or structures now serve or for which they are or may be occupied, maintained, arranged, designed, or intended.

Utilities includes major and minor facilities and infrastructure that serve individual home owners as well as area wide populations. Utilities include, but are not limited to, sewer infrastructure, water infrastructure, communications infrastructure, stormwater infrastructure, power infrastructure, etc.

Utilities, accessory means those utilities associated with a permitted use, such as single-family residences, and are intended for that uses specific purpose. Accessory utilities include but are not limited to natural gas lines, power lines and other communication lines, sanitary lines, and stormwater outfall pipes.

View corridor means the waterside area of a developed section of shoreline, within the Shoreline Setback and Marine Buffer, that shall not be blocked with accessory structures, except for those structures noted in ICC 17.05A.090.J.2.

Walkway means the portion of a dock, float, ramp, pier, platform, or beach access structure for use by a person travelling by foot or using a mobility device. Floating devices shall not be included in walkway width.

Water courses means streams and manmade surface water conveyance ditches, including portions that are within culverts.

Water-dependent uses means a use or a portion of a use which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. Examples of water dependent uses may include ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities, and sewer outfalls.

Water-enjoyment uses means a recreational use or other use facilitating 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 its location, design, and operation assures 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. Primary water-enjoyment uses may include, but are

not limited to, parks, piers, and other improvements facilitating public access to shorelines of the state. General water-enjoyment uses may include but are not limited to, restaurants, museums, aquariums, scientific or ecological reserves, resorts, and mixed-use commercial. Provided, however, that water enjoyment uses conform to the above water-enjoyment specifications and the provisions of the Shoreline Master Program.

Water-oriented uses refers to any combination of water-dependent, water-related, or water-enjoyment uses. "Non-water-oriented" serves to describe those uses which have little or no relationship to the shoreline and are not considered priority uses under the Act. Examples of "non-water-oriented" uses include facilities primarily devoted to professional offices, automobile sales or repair shops, mini-storage facilities, multi-family residential development, department stores, and gas stations that serve land based modes of transportation.

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

1. Of 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

2. The use provides a necessary service supportive of water-dependent commercial activities and the proximity of the use to its customers makes its service less expensive or more convenient. Examples include manufacturers of ship parts large enough that transportation becomes a significant factor in the product's cost, professional services serving primarily water-dependent activities, and storage of water-transported foods. Examples of water-related uses may include warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker, and log storage.

Water quality means the physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation related, and biological characteristics.

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

~~**Wetland identification and delineation** means the process of evaluating vegetation, soils, and hydrology to determine whether a wetland is present, and if so determining the upland boundary of the wetland. Wetlands must be identified and delineated using the Corps of Engineers Wetlands Delineation Manual (Environmental Laboratory 1987) and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0, 2010 or as revised).~~

Wild harvest (shellfish) means the harvest of shellfish naturally occurring in the open waters or tidelands of Island County or Puget Sound. Wild harvest does not include the harvest of any fish or shellfish that have been cultivated for commercial purposes.

17.05A.080 – Shoreline use classification.

The Shoreline Master Program's shoreline uses and developments shall be classified as follows:

~~**Permitted uses and developments.** Uses and developments that are consistent with this Program and Chapter RCW 90.58 RCW. Such uses or developments shall require a shoreline substantial development permit, a shoreline conditional use permit, a shoreline variance, or a statement that the use or development is exempt from a shoreline substantial development permit.~~

~~**Prohibited uses and developments.** Uses and developments that are inconsistent with this Program or Chapter RCW 90.58 RCW and cannot be allowed through any permit.~~

~~Classification of a use or development as permitted does not necessarily mean the use or development will be allowed in all circumstances. It means the use or development may be permitted subject to review and approval by the county or the Department of Ecology. Many permitted uses or developments, including those that do not require a substantial development permit, can individually or cumulatively affect adjacent properties or natural resources and, therefore, must comply with the Program in order to avoid or minimize such adverse impacts. The county may attach conditions of approval to any permitted use via a shoreline substantial development permit or statement of permit exemption, or may deny a permit, as necessary to ensure consistency of the project with the Shoreline Management Act and the Shoreline Master Program.~~

~~The shoreline use classification table identifies the permitted (P), prohibited (X), and shoreline conditional (C) uses within the designated shoreline environments. Permitted uses apply only to shoreline uses as regulated by this SMP and must comply with all applicable SMP goals, policies, and use regulations and may require a substantial development permit. Residential, commercial, and industrial shoreline uses, densities, and intensities of use are also subject to those specific uses and standards defined in the Island County Zoning Code, chapter 17.03.~~

~~**Unclassified uses:** Unclassified uses are those uses which are not specified in the definitions or shoreline use classification table in this section. Consistent with WAC 173-27-160(3), such uses shall be reviewed as conditional uses pursuant to the criteria in WAC 173-27-160(1).~~

Permitted uses and developments: Uses and developments that are consistent with this Program and Chapter 90.58 RCW. Such uses or developments must comply with all applicable SMP goals, policies, and use regulations and shall require a shoreline substantial development permit, or a statement identifying a specific provision of this Program exempting the use or development from a shoreline substantial development permit.

Conditional uses and developments: Uses and developments that are consistent with this Program and Chapter 90.58 RCW, but which may require that special conditions be attached to the permit to prevent undesirable effects of the proposed use. Such uses or developments shall require a shoreline conditional use permit, or a statement identifying a specific provision of this Program exempting the use or development from a shoreline conditional use permit.

Prohibited uses and developments: Uses and developments that are inconsistent with this Program or Chapter 90.58 RCW and cannot be allowed through any permit.

Unclassified uses: Unclassified uses are those uses which are not specified in the definitions or shoreline use classification table in this section. Consistent with WAC 173-27-160(3), such uses shall be reviewed as conditional uses pursuant to the criteria in WAC 173-27-160(1).

Additional considerations for permitted and conditional uses.

Classification of a use or development as permitted does not necessarily mean the use or development will be allowed in all circumstances. It means the use or development may be permitted subject to review and

approval by the county or the Department of Ecology. Many permitted uses or developments, including those that do not require a substantial development permit, can individually or cumulatively affect adjacent properties or natural resources and, therefore, must comply with the Program in order to avoid or minimize such adverse impacts. The county may attach conditions of approval to any permitted use via a shoreline substantial development permit or statement of permit exemption, or may deny a permit, as necessary to ensure consistency of the project with the Shoreline Management Act and the Shoreline Master Program.

Residential, commercial, and industrial shoreline uses, densities, and intensities of use are also subject to those specific uses and standards defined in the Island County Zoning Code, Chapter 17.03 ICC.

Where some specific dimensional or performance attribute of a project would result in permit denial, even though the use is classified as permitted or conditional, the use or development may be permitted through the shoreline variance process set forth in ICC 17.05A.130.F.

SEE SHORELINE USE CLASSIFICATION TABLE ON FOLLOWING PAGE

TABLE 1: Shoreline Use Classification Table

The shoreline use classification table identifies the permitted (P), prohibited (X), and shoreline conditional (C) uses within the designated shoreline environments.

Allowed uses (P) in the shoreline must be allowed in the underlying zoning (~~c~~Chapter- 17.03 ICC) in addition to the shoreline environment designation. All allowed uses are subject to the limitations, conditions, or exceptions as provided in this Shoreline Master Program.

NOTES:– P - Shoreline Permitted use X - Shoreline prohibited use C - Shoreline conditional use

SHORELINE USES	**SHORELINE DESIGNATIONS**					
	Aquatic	Natural	Rural Conservancy	Urban Conservancy	Shoreline Residential	High Intensity
Residential Uses						
Single-family (and normal appurtenances)	X	P[16]	P[16]	P[16]	P[16]	C
Accessory dwelling units (e.g., guest houses)	X	C	C	P	P	X
Accessory Beach Access Structures on Private Lots	C	P[1]/C	P	P	P	C
Mobile/manufactured home parks	X	X	X	X	X	X
Multi-family	X	X	X	X	P	X

Floating homes, houseboats, Floating on-water residences	X	NA	NA	NA	NA	X
Land subdivision	P[5]	P	P	P	P	P
Accessory structures (e.g., garden house, boat house, etc.)	X	P	P	P	P	C
Commercial Uses						
Water-dependent commercial	X	X	X	P	P	P
Water-related and water-enjoyment commercial	X	X/C[20]	X/C[20]	X/C[20]/P[2]	P	P
Non-water-oriented commercial	X	X	X	X/P[2]	X/P[2]	X/P[2]
Industrial Uses						
Port facilities	C	X	X	X	X	P
Water-dependent industry	C	X	X	X	X	P
Water-related industry	C	X	X	X	X	P
Log storage (rafting and stockpiling)	C	X	X	X	X	C
Non-water-dependent industry	X	X	X	X	X	X
Boating and Related Facilities						
Boat launches	P[3] /C	C[3]	C[3]	C[3]	P[3] /C	P
Private piers, docks, and floats	C/P[13]	C	C	C	C/P[1]	P

Public piers, docks, and floats	C	C	P	P	P	P
~~Mooring~~ Buoys	P	NA	NA	NA	NA	X
Float plane bases	C	X	X	C	C	P
Float plane docks	C	X	C	C	C	P
Marinas	C[4]	X	C	C	C	P
Boat lift	X	X	X	X	C[18]	X
Covered moorage	X	X	X	X	C[18]	X
Scientific, Educational, Historic, or Archaeological Uses (e.g., museums, schools, colleges, research institutes)						
Water-dependent or -related	C	P	P	P	P	P
Non-water-related	X	X	C	C	C	C
Resource Management and Extraction						
Agriculture (low intensity)	NA	C	P	P	P	X
Aquaculture, Commercial, In-water, including mechanical or hydraulic harvest of shellfish	C[15]	NA	NA	NA	NA	C[15]
Aquaculture, Commercial, On-land activities, structures, processing, etc.	NA	X	C[15]	C[15]	X	C[15]

Aquaculture, Non-Commercial, On-land and in-water	X/P[14]	X	P	P	P	P
Forest practices	X	C[17]	C[17]	C[17]	P[17]	P[17]
Mining	X	X	X	X	X	X
Transportation						
Parking lots	X	P [12]	X	C	P	P
Railroads	X	X	X	X	X	X
Ferry terminals	C	X	C	C	X	P
Vehicular routes and facilities (new)	X	X	C[6]	C	C	P
Vehicular routes and facilities(existing)	X	C[6]/P[19]	C[6]/P[19]	C/P[19]	C/P[19]	P
Bridges and culverts	C/P[19]	C/P[19]	C/P[19]	C/P[19]	C/P[19]	P
Utilities	C	C	C	C	C	C
Production facilities[7]	C[7]	C[7]	C[7]	C[7]	C[7]	C[7]
Tidal and wave energy production facilities	C[7]	C[7]	C	C	C	C
Accessory utilities	C[7]	C[7]	P	P	P	P
Below ground transmission	C[7]/P[19]	C[7]/P[19]	P	P	P	P
Above ground transmission[7]	C[7]/P[19]	C[7]/P[19]	C[7]/P[19]	C[7]/P[19]	C[7]/P[19]	C[7]/P[19]
Recreational Uses						

Marine campgrounds, marine trails	P	P	P	P	P	X
Campgrounds, scenic overlooks and RV parks (i.e., private)	X	X	X	C	X	P
Natural preserves/parks (undeveloped)	P	P	P	P	P	P
Non-vehicular trails and paths (unpaved)	P	P	P	P	P	P
Passive recreation	P	P	P	P	P	P
Public parks	C	C	P	P	P	P
Tourist Accommodations						
Hotels and motels	X	X	C	C	C	P
Bed and breakfast Inns, country inns	X	C	C	P	P	P
Signs[8]						
Navigational signs	P	P	P	P	P	P
Off-premises identification and directional	X	X	X	X	X	C
On-premises identification and directional	X	P[8]	P	P	P	P
<u>Protective Structures and Activities</u>						
Breakwaters	C	NA	NA	NA	NA	C
Shoreline stabilization-structural	C	C	C	P	P	P

Shoreline stabilization- Non-structural	P	P	P	P	P	P
Shoreline Restoration/Beach Enhancement	P	P	P	P	P	P
Dikes	C	X	C	C	C	P
Grading (i.e., excavation and filling)	C/P[10]	C/P[10]	C/P[10]	P	P	P
Dredging	C/P[9]	C[9]	C	C	P	P
Groins and jetties	C[9]/P[11]	X/P[10]	X/C[9,11]	C[9,11]	C[9,11]	C[9,11]
Dolphins	P[12]	X	X	X	X	P[12]
Tide gates	C/P[19]	C/P[19]	C/P[19]	C/P[19]	C/P[19]	C/P[19]

NOTES: P - Shoreline permitted use X - Shoreline prohibited use C - Shoreline conditional use

1	Permitted use only for public access over private lots, including required public access for a subdivision. All other beach access structures in the natural designation require a conditional use permit.
2	If part of a mixed-use development with a water-dependent use.
3	Public and community boat launches only.
4	Marinas are a conditional use in the aquatic designation. Where the adjacent upland is designated natural, marinas are prohibited.
5	Tidelands for public acquisition or preservation purposes.
6	Conditionally permitted for public transportation projects only.
7	Permitted conditionally only if no feasible alternative exists.
8	Signs identifying public access are exempt. ~~For~~ In natural designation, use table applies only to navigation aids and public information signs ~~only~~.
9	For restoration or enhancement of natural resources only.
10	As part of an ecological restoration project.

11	As part of an approved marina or for navigational purposes.
12	As part of a permitted water-dependent use.
13	New and replacement docks, piers, and floats located within a designated canal community that are consistent with an approved canal community master plan may be reviewed as a permitted use provided that the approved canal community master plan contains standards applicable to docks, piers, and floats, and provided that these standards, are consistent with the standards enumerated in ~~section~~ ICC 17.05A.~~110.B.23~~100.D.27.
14	Non-commercial aquaculture is a permitted use in the aquatic environment unless the adjacent (landward) area is designated as a natural shoreline environment.
15	Any geoduck aquaculture operation that causes substantial interference with normal public use of the surface waters shall require a substantial development permit.
16	Legally established single-family residences that do not meet current standards and which are enlarged or expanded within the shoreline setback beyond that which is allowed by ICC 17.05A.090.J.5, shall be reviewed as a shoreline variance in accordance with ICC 17.05A.130.F.
17	A forest practice that only involves timber cutting is not a development under the Act and does not require a shoreline substantial development permit or a shoreline exemption. A forest practice that includes activities other than timber cutting may be a development under the Act and may require a substantial development permit, as required by WAC 222-50-020.
18	Covered moorage and boat lifts are only allowed in Shoreline Residential-Canal Communities
19	Proposals which meet the definition of normal maintenance and repair per ICC 17.05A.070 only
20	Nonconforming, legally established water-related and water-enjoyment commercial uses may be enlarged or expanded upon approval of a conditional use permit per ICC 17.05A.140.C.1.b. All other Shoreline Master Program standards apply.

17.05A.090 – Shoreline use and development regulations.

All developments and uses located within the jurisdiction of this Shoreline Master Program shall comply with all the regulations of this section.

A. General shoreline development standards.

1. All shoreline development shall be located, constructed, and operated so as to protect public health, safety, and welfare.

2. In shoreline areas, access, utilities, and public services are required to be available and adequate to serve existing needs and planned future development.

3. The location, design, construction, and management of all shoreline developments and uses shall protect the quality and quantity of surface and ground water on and adjacent to the lot and shall adhere to applicable water quality management programs and regulatory agencies.

4. No structure within the shoreline shall exceed thirty-five (35) feet in height, except in the following specific circumstances.

   a. ~~that~~ bridges and ferry facilities may be allowed to exceed thirty-five (35) feet in height when necessary to accommodate navigation and docking requirements.

   b. In cases where a legally established home must raise its foundation to meet FEMA flood elevations, the height above grade level may exceed 35 feet provided that such a height will not further obstruct the view of any residences on or adjacent to such shorelines, and that the legally established home is not a replacement as defined in ICC 17.05A.070.

5. Land clearing, grading, filling, or alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. Surfaces cleared of vegetation and not developed shall be replanted and maintained in perpetuity. Surface drainage systems or substantial earth modifications shall be ~~professionally~~ designed by a licensed professional to prevent maintenance problems or adverse impacts on shoreline features.

6. All shoreline developments and uses shall be located, designed, constructed, and managed to avoid disturbance of or minimize adverse impacts to fish and wildlife habitat conservation areas including, but not limited to spawning, nesting, rearing and habitat areas, and migratory routes. Where avoidance of adverse impacts is not practicable, the Shoreline Administrator may require that mitigation measures to protect species and habitat functions be developed in consultation with state resource management agencies and federally recognized tribes, as needed.

7. Solid and liquid wastes and untreated effluents shall not enter any bodies of water or be discharged onto the land.

8. The release of oil, chemicals, or other hazardous materials onto or into the water shall be prohibited. Equipment for the transportation, storage, handling, or application of such materials shall be maintained in a safe and leak proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been corrected.

9. The use of chemicals to control invasive aquatic weeds is prohibited, except when applied by a licensed pesticide applicator and approved for aquatic use.

10. All shoreline developments and uses shall control erosion during project construction and operation.

11. All shoreline developments and uses shall be located, designed, constructed, and managed to minimize interference with or adverse impacts to beneficial natural shoreline processes such as water circulation, erosion, and accretion.

12. All shoreline developments and uses shall be located, designed, constructed, and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area.

13. All development activities shall be located and designed to minimize or prevent the need for shoreline defense and stabilization measures and flood protection works such as bulkheads, other bank stabilization, landfills, levees, dikes, groins, jetties, or substantial site regrading.

14. All debris, overburden and other waste materials from construction shall be disposed of in such a way as to prevent their entry by erosion from drainage, high water, or other means into any water body.

15. Storage, collection, and handling of solid waste associated with shoreline residences or commercial development shall be conducted so as to create no health hazards, rodent harborage, insect breeding areas, fire hazards, or air or water pollution.

16. Navigation channels shall be kept free of hazardous or obstructing development or uses.

17. Development and use of the shoreline shall be conducted in such a manner that unreasonable levels of noise, light, or glare will not intrude into adjacent areas. Shoreline activities may be restricted to ~~reasonable~~ daylight hours (no earlier than 7:30 am and no later than 8:00 pm) ~~and days~~ of operation when necessary to protect residents and properties from adverse impacts such as noise, light, and glare.

18. Subdivision of property shall be in a configuration that will not require significant vegetation removal or shoreline modification and that will not adversely impact ecological functions. Each new parcel must be able to support its intended development without significant ecological impacts to the shoreline ecological functions.

19. Subdivision of property for residential development is subject to the density limits in the underlying zone described in Chapter 17.03 ICC and the maximum density limits outlined in ICC 17.05A.100.K, whichever is more restrictive.

20. No lot segregation, land division, or boundary line adjustment shall create a lot which does not include an adequate building site outside of critical areas and their associated buffers unless the resulting lot is being created solely for conservation purposes and a conservation easement encompassing the lot is established and recorded which prohibits all future development.

21. Dumping of yard waste over shoreline bluffs or at road ends shall not be allowed.

22. All debris shall be disposed of properly and legally. Any debris that enters the water shall be removed promptly.

B. Mitigation Measures.

1. Mitigation measures shall be applied in the following sequence of steps listed in order of priority:

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.

2. When compensatory mitigation measures are required, all of the following shall apply:

a. The quality and quantity of the replaced, enhanced, or substituted resources shall be the same or better than the affected resources;

b. The mitigation site and associated vegetative planting shall be nurtured and maintained such that the healthy native plant communities can grow and mature over time;

c. The mitigation shall be informed by pertinent scientific and technical studies, including but not limited to the shoreline inventory and characterization report, the shoreline restoration plan and other background studies prepared in support of this Shoreline Master Program;

d. The mitigation shall replace the functions as quickly as possible following the impacts to ensure no net loss; and

e. The mitigation activity shall be monitored and maintained to ensure that it achieves its intended functions and values. The monitoring timeframes for wetland and wetland buffer mitigation shall be consistent with ICC 17.02B.510.

3. The county shall require the applicant or owner to post a bond or provide other financial surety equal to the estimated cost of the mitigation or restoration in order to ensure the mitigation or restoration is carried out successfully. The bond or surety shall be released to the applicant upon completion of the mitigation or restoration activity and any required monitoring.

4. Compensatory mitigation measures shall occur in the vicinity of the impact or at an alternative location within the same watershed sub-basin for impacts to freshwater shorelines or within the same marine shoreline drift cell for marine shoreline impacts, if the off-site location provides greater and more sustainable ecological benefits. When determining whether offsite mitigation provides greater and more sustainable benefits, the

county shall consider limiting factors, critical habitat needs, and other factors identified by the locally adopted shoreline restoration plan, or an approved watershed or comprehensive resource management plan. The county may also approve use of alternative mitigation practices such as in-lieu fee programs, mitigation banks, and other similar approaches provided they have been approved and sanctioned by the Department of Ecology, the Department of Fish and Wildlife, the Army Corps of Engineers, and Island County. Mitigation banks shall comply with the standards and procedures in RCW 90.84 and WAC 173-700.

C~~B~~. Archaeological, historic, and cultural resources.

1. The Shoreline Administrator shall ensure that known or suspected locations of archaeological resources are protected consistent with provisions and procedures in the GMA Comprehensive Plan and Memorandum of Understanding between the county and the state Department of Archaeology and Historic Preservation (DAHP).

2. All shoreline permits shall contain a provision requiring permittees to immediately stop work and notify Island County, DAHP, and affected Native American tribes if human remains or archaeological resources are encountered during site disturbance, excavation, or development.

3. No permit for an application requiring an archaeologist's report will be issued prior to the receipt by the county of the required archaeological report and review and approval of the report by DAHP. All permits issued for development in areas known to be archaeologically significant or having the potential for the presence of archaeological resources shall provide for site inspection and reporting by a professional archaeologist during any development activity that is considered to have a high probability of encountering cultural resources.

4. All developments proposed for locations adjacent to historical sites which are registered on the state or National Historic Register shall be sited and designed so as to be complementary to the historic site. Development which degrades or destroys the historic character of such sites shall not be permitted.

D~~C~~. Environmental protection and critical areas.

1. All shoreline use and development, including preferred uses and uses that are exempt from shoreline substantial development permit requirements, shall be sited, designed, constructed, conducted, and maintained in a manner that maintains shoreline ecological processes and functions, and protects the natural character of the shoreline.

2. Uses and developments that cause a net loss of ecological functions shall be prohibited, unless accompanied by mitigation that compensates for the ecological function or functions that would otherwise be lost.

3. Uses and developments shall provide a level of protection equal to or better than countywide critical areas regulations and result in no net loss of ecological functions.

4. The county shall consider the cumulative impacts of individual uses and developments, including preferred uses and uses that are exempt from permit requirements, when

determining whether a proposed use or development could cause a net loss of ecological functions.

a. The county shall have the authority to require the applicant/proponent to prepare special studies, assessments and analyses as necessary to identify and address cumulative impacts including, but not limited to, impacts on fish and wildlife habitat, public access/use, aesthetics, and other shoreline attributes.

b. Proponents of shoreline use and development shall take the following factors into account when assessing cumulative impacts:

(i) Current ecological functions and human factors influencing shoreline natural processes; and

(ii) Future ecological functions and human factors influencing shoreline natural processes; and

(iii) Reasonably foreseeable future use and development of the shoreline; and

(iv) Beneficial effects of any established regulatory programs under other local, state, and federal laws; and

(v) Mitigation measures implemented in conjunction with the proposed project to avoid, reduce and/or compensate for adverse impacts.

5. The applicant for or owner of any new shoreline use or development shall mitigate adverse environmental impacts and impacts to shoreline ecological functions whether or not the use or development requires a shoreline substantial development permit or is exempt from a shoreline permit, consistent with WAC 173-26-201(2)(e).

6. Projects shall be designed to protect hydrologic connections between water bodies, water courses, and associated wetlands.

~~7. Mitigation measures shall be applied in the following sequence of steps listed in order of priority:~~

~~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.~~

~~8. When compensatory mitigation measures are required, all of the following shall apply:~~

~~a. The quality and quantity of the replaced, enhanced, or substituted resources shall be the same or better than the affected resources;~~

~~b. The mitigation site and associated vegetative planting shall be nurtured and maintained such that healthy native plant communities can grow and mature over time;~~

~~c. The mitigation shall be informed by pertinent scientific and technical studies, including but not limited to the shoreline inventory and characterization report, the shoreline restoration plan and other background studies prepared in support of this Shoreline Master Program;~~

~~d. The mitigation shall replace the functions as quickly as possible following the impacts to ensure no net loss; and~~

~~e. The mitigation activity shall be monitored and maintained to ensure that it achieves its intended functions and values. The monitoring timeframes for wetland and wetland buffer mitigation shall be consistent with section 17.02A.070.~~

~~9. The county shall require the applicant or owner to post a bond or provide other financial surety equal to the estimated cost of the mitigation or restoration in order to ensure the mitigation or restoration is carried out successfully. The bond or surety shall be refunded to the applicant upon completion of the mitigation or restoration activity and any required monitoring.~~

~~10. Compensatory mitigation measures shall occur in the vicinity of the impact or at an alternative location within the same watershed sub-basin for impacts to freshwater shorelines or within the same marine shoreline drift cell for marine shoreline impacts, if the off-site location provides greater and more sustainable ecological benefits. When determining whether offsite mitigation provides greater and more sustainable benefits, the county shall consider limiting factors, critical habitat needs, and other factors identified by the locally adopted shoreline restoration plan, or an approved watershed or comprehensive resource management plan. The county may also approve use of alternative mitigation practices such as in-lieu fee programs, mitigation banks, and other similar approaches provided they have been approved and sanctioned by the Department of Ecology, the Department of Fish and Wildlife, the Army Corps of Engineers, and Island County.~~

7.~~11~~. Land that is constrained by critical areas or buffers shall not be subdivided to create parcels that do not contain a buildable site outside of critical areas and their required buffers, unless the parcel is an open space tract created for the purposes of protecting and managing a critical area, and a conservation easement indicating that the parcel cannot be built upon is recorded with the County Auditor.

8. Modifications to wetlands and stream buffers which exceed 25 percent of the original buffer width may only occur if approved through a Shoreline Variance in accordance with the criteria in ICC 17.05A.130.F.7. Projects listed in ICC 17.05A.095.A.3, may exceed this standard without triggering the need for a Shoreline Variance.

E. Geologically Hazardous Areas.

~~12. Geologically hazardous areas shall be regulated pursuant to the following:~~

1a. Development within Erosion hazard areas, landslide hazard areas, and steep slopes shall comply with cChapters 11.02 and 11.03 ICC.

2b. Development within seismic hazard areas shall comply with the applicable International Residential Code or the International Building Code.

3c. Development within tsunami hazard areas shall comply with cChapter 14.02A ICC.

4d. Geologically hazardous areas are hereby declared to be "environmentally sensitive areas" pursuant to WAC 197-11-748 and 197-11-908.

5e. New development that, during the life of the development, would cause foreseeable risk to the structure or the safety of its inhabitants from geological conditions or would require shoreline stabilization is prohibited, except where there is no alternative location for an allowed use and the development would not cause a net loss of ecological functions.

F.13. Fish and wildlife habitat conservation areas.

1.a Fish and wildlife habitat conservation areas (FWHCAs) are defined in section ICC 17.05A.070 and include their associated buffers.

2.b Buffers and use restrictions for each shoreline environment designation (see Table 3) have been developed in consideration of the protection of fish and wildlife habitat conservation Areas (FWHCAs). Buffer restrictions for portions of streams within shoreline jurisdiction are provided in Table 2. Buffers or restrictions on proposed shoreline uses or modifications may be required for the protection of FWHCAs if, through project specific project review, the Administrator finds that a significant impact on a FWHCA would occur as a direct result of the project.

3.c Applications for projects located adjacent to within marine waters, marine buffers, their associated wetlands, or any other FWHCA, shall include a complete and accurate biological site assessment (BSA), in accordance with ICC 17.05A.095. Biological site assessments shall be prepared by a professional ecologist, biologist, or similarly qualified professional at the applicant's expense. and shall include the following information: .

(i) A site plan indicating all FWHCAs within shoreline jurisdiction that exist on or within 100 feet of the portion of the subject property proposed for development;

(ii) Identification of FWHCAs that meet the definition of critical saltwater habitat or critical freshwater habitat as defined in this Program;

(iii) Descriptions of all FWHCAs shown on the site plan, including qualitative and quantitative information regarding habitat value and condition of each FWHCA, including identification of measures to fully protect nesting sites of the Bald Eagle, Osprey and Heron;

(iv) Description of the proposed project, including, but not limited to, associated earthwork (grading, excavation, filling), structures, utilities, and existing habitat other than FWHCAs, including wetlands and areas that may act as wildlife corridors;

(v) Regulatory summary, identifying other agencies with jurisdiction, protection measures required by other regulations, and mitigation provided as part of the project;

(vi) Analysis of impacts to all protected species or habitats designated as FWHCAs, after consideration of compliance with other regulations and the requirements of this Shoreline Master Program;

(vii) If adverse impacts to protected species or habitats are likely to occur, a conceptual mitigation plan, including an analysis of feasible mitigation alternatives that would mitigate adverse impacts of the project. The effectiveness of the proposed mitigation measures shall be compared to other feasible alternatives. Mitigation sequencing shall be as required in section 17.05A.090.C.7; and

(viii) Best management practices, including a discussion of on-going maintenance practices that will assure protection of all FWHCAs on-site after the project has been completed. If monitoring is required, this section shall include a description of proposed monitoring criteria, methods, and schedule.

(ix) The recommendations of the approved biological site assessment, habitat management plan and mitigation plan, if required, shall be included as conditions of approval of the underlying permit.

d. If the biological site assessment (BSA) concludes that protected habitat may be affected by the proposed development, a habitat management plan must be prepared by a professional ecologist, biologist, or similarly-qualified professional at the expense of the applicant. The habitat management plan may be combined with the BSA, or a wetland mitigation plan, if required for the project. The habitat management plan must consider management Recommendations adopted by the Washington Department of Fish and Wildlife, and the specific attributes of the affected properties, such as, but not limited to, property size and configuration, surrounding land use, the practicability of implementing the habitat management plan, and the adaptation of the species to human activity.

Habitat management plans shall include:

(i) An ecological assessment of the fish and wildlife habitat conservation areas present and potential adversely altered, to determine the gross area of loss and the functions, habitat, and types, sizes, and quantities of vegetation affected;
(ii) Statement of goals. Such statements shall include a discussion of any functions and values lost and the plan for replacement;
(iii) Methods. Information discussing "what, where, when, and how," i.e., acreage of mitigation, wetland or other habitat types to be constructed or restored, location, dates for beginning and completing the project, methods of construction, and maintenance requirements shall be included;

(iv) Standards of success. A qualitative and to the extent possible, a quantitative description of what will be considered a successful, functioning wetland or fish and wildlife habitat conservation area shall be provided;

(v) Monitoring. Same as requirements set forth in section 17.03.260.I;

(vi) Contingency plan. A contingency plan may be required by the Administrator to outline restorative measures to be taken should the mitigation fail or only partially succeed;

(vii) Standard habitat management plan: In cases when the county has developed a standard habitat management plan for a specific species, the applicant may either accept and sign the standard habitat management plan or prepare his or her own habitat management plan pursuant to this program.

e. Any person may nominate for designation a species or habitat of local importance within shoreline jurisdiction. Nominations for a species or habitat of local importance must meet the following criteria:

(i) Protection by other county, state or federal policies, laws, regulations, or non-regulatory tools is not adequate to prevent degradation of the species or habitat in Island County; and

(ii) Proposed management strategies are supported by best available science; and

(iii) Proposed management strategies are practicable; and

(iv) Without protection, there is a likelihood that the species will not maintain and reproduce over the long term; and

(v) Nominated species must satisfy the following criteria:

(1) Local populations which are in danger of extirpation based on existing trends; and

(2) The species is sensitive to habitat manipulation; and

(3) The species or habitat has commercial, game, or other special value such as locally rare species; and

(vi) Habitats nominated to protect a particular species must satisfy the following criteria:

(1) The nominated habitat areas represent either high-quality native habitat or habitat that has an excellent potential to recover to a high quality condition and which is either of limited availability or highly vulnerable to alteration.

(2) Where a habitat is nominated to protect a species, the use of the habitat by that species is documented or is highly likely or the habitat is proposed to be restored with the consent of the affected property owner so that it will be suitable for use by the species; and

(3) Long-term persistence of the species is dependent on the protection, maintenance or restoration of the habitat.

f. Nominations for designation of a species or habitat of local importance within shoreline jurisdiction shall be processed pursuant to chapter 16.26. The burden for providing

information required for designation rests with the party nominating the habitat or species. Nominations shall be reviewed and approved as follows:

(i) The nomination shall:

(1) Indicate the specific habitat features to be protected (for example, nest sites, breeding areas, nurseries, etc.);

(2) Include management strategies for the species or habitats, supported by best available science; and

(3) Where restoration or habitat is proposed, include a specific plan for restoration, including a conceptual design and a means of financing of the restoration.

(ii) Pursuant to section 16.19.060, the Planning and Community Development Department shall determine whether the proposal is complete. For nominations that are complete, it shall evaluate the proposal for compliance with the criteria enumerated in section 17.05A.090.C.13.e.i—vi and make a recommendation to the Planning Commission based on those standards.

(iii) The Planning Commission shall hold a public hearing and make a recommendation to the Board of Commissioners.

(iv) Following the recommendation of the Planning Commission, the Board of County Commissioners shall designate a FWHCA if the nomination satisfies the nomination criteria in section 17.05A.090.C.13.e.i—vi.

(v) Approved nominations shall be subject to the provisions of this chapter and may include additional specific restrictions for the protection of the habitat or species designated.

g. Portions of streams within the shoreline jurisdiction of Island County shall be classified using the water type classification system of WAC 222-16-030, which include the following classifications and criteria:

(i) **Type S water** means all waters within their bankfull width, as inventoried as "shorelines of the state," and the rules promulgated pursuant to Chapter 90.58 RCW, including periodically inundated areas and their associated wetlands.

(ii) **Type F water** means segments of natural waters other than Type S waters, which are within the bankfull widths of defined channels and periodically inundated areas of their associated wetlands, or within lakes, ponds, or impoundments having a surface area of 0.5 acre or greater at seasonal low water and which in any case contain fish habitat or are described by one (1) of the following four (4) categories:

(1) Waters, which are diverted for domestic use by more than ten (10) residential or camping units or by a public accommodation facility licensed to serve more than ten (10) persons, where such diversion is determined by the department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type F water upstream from the

point of such diversion for 1,500 feet or until the drainage area is reduced by fifty (50) percent, whichever is less;

(2) Waters, which are diverted for use by federal, state, tribal, or private fish hatcheries, as further defined in WAC 222-16-030(2)(b);

(3) Waters, which are within a federal, state, local, or private campground having more than ten (10) camping units, as further defined in WAC 222-16-030(2)(c); or

(4) Riverine ponds, wall-based channels, and other channel features that are used by fish for off-channel habitat, as further defined in WAC 222-16-030(2)(d).

(iii) **Type Np water** means all segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are flowing waters that do not go dry any time of a year of normal rainfall and include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow.

(iv) **Type Ns water** means all segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np Waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np Water. Ns Waters must be physically connected by an above-ground channel system to Type S, F, or Np Waters.

h. Stream buffers: Protective buffers shall be required to preserve stream and riparian functions within shoreline jurisdiction. Buffer distances shall be measured horizontally from the ordinary high water mark of the stream. The following standard buffers apply to streams regulated under this Shoreline Master Program.

TABLE 2: Stream Buffers

Water type	**Standard Stream Buffer**
S—Shoreline of the State [1]	150 feet
F—Known to contain fish habitat	100 feet
Np—Perennial stream, does not contain fish habitat	50 feet

Water type	**Standard Stream Buffer**
Ns—Seasonal stream, does not contain fish habitat	50 feet

[1] There are currently no streams classified as shorelines of the state in Island County; streams within shoreline jurisdiction would be classified as F, Np, or Ns.

(i) **Increasing stream buffer widths.** The Director has the authority to increase the standard buffer widths on a case-by-case basis based on the intensity of the proposed use, the functions of the stream and the characteristics of the existing buffer when a larger buffer is determined to be necessary to protect stream water quality or a protected species. However, an applicant may enhance any such buffer (such as by planting native plants) to maintain the standard buffer width following submittal, review, and approval of a biological site assessment, habitat management plan and mitigation plan, when required, which demonstrate that the enhancement will provide a buffer that protects stream water quality or a protected species, as applicable.

(ii) **Decreased stream buffer widths.** If the lot buildable area is less than 2,200 square feet, after the applicable buffers and setbacks have been deducted from the total lot area, the required stream buffer may be decreased provided that the following standards are met:

(1) Decreasing the stream buffer width will not adversely affect fish and wildlife habitat functions and values;

(2) If a portion of a buffer is reduced, an area of the remaining buffer equal to two (2) times the area removed from the standard buffer shall be enhanced using native vegetation or installed habitat features. For example, if a buffer is reduced by 1,000 square feet, then 2,000 square feet of remaining buffer shall be enhanced;

(3) The perimeter of the reduced buffer must be screened with dense vegetation or barrier fencing (other measures necessary to provide adequate protection for fish and wildlife habitat should be identified in the Biological Site Assessment or Habitat Management Plan); and

(4) The standard stream buffer width shall not be reduced by more than twenty-five (25) percent of the standard buffer width.

(iii) **Averaging stream buffer widths.** Buffer widths may be modified by "averaging." Buffer width averaging shall be allowed only where the applicant demonstrates through an approved biological site assessment or habitat management plan that the following criteria are met:

~~(1) A decrease in a portion of the buffer is necessary to accomplish the purpose of the proposed project and no reasonable alternative is available;~~

~~(2) Averaging would allow the applicant to establish a corridor of native vegetation between natural systems;~~

~~(3) Decreasing the buffer width will not adversely affect fish and wildlife habitat functions and values;~~

~~(4) If a portion of a buffer is reduced through averaging, an area of additional buffer, contiguous with the existing buffer, shall be designated that is equal in size to the reduced portion of the standard buffer so that the total buffer area remains unchanged; and~~

~~(5) The standard stream buffer width shall not be reduced by more than twenty-five (25) percent.~~

~~(iv) **Allowed uses in buffers.** Buffers are intended to protect natural resources and shoreline functions. Buffers are typically required to be well vegetated with native plants. Up to twenty (20) percent of the buffer area can be disturbed with a pedestrian (pervious) trail.~~

4.~~i.~~ Standards: Critical saltwater habitats. The following standards apply to all development adjacent to or containing critical saltwater habitat:

a.~~(i)~~ Development shall not intrude into, over, or within ten (10) feet from eelgrass meadows and kelp beds except when there is no feasible alternative alignment or location and the development would result in no net loss of the plant species and habitat.

b.~~(ii)~~ Except for boat launches, disabled persons/emergency response vehicles, and authorized temporary use of construction equipment, motorized vehicular travel is prohibited on private and public tidelands.

c.~~(iii)~~ New docks, bulkheads, bridges, fill, floats, jetties, and utility crossings shall not intrude into or over critical saltwater habitats below the ordinary high water mark, except when:

(i)~~(1)~~ Public need is clearly demonstrated;

(ii)~~(2)~~ Avoidance of impacts is not feasible or would result in unreasonable cost;

(iii)~~(3)~~ The project includes mitigation as required by this chapter; and

(iv)~~(4)~~ The project is consistent with resource protection and species recovery.

d.~~(iv)~~ Private, non-commercial docks, piers, and floats for individual residential or community use may be allowed pursuant to the requirements of this chapter.

e.~~(v)~~ New over-water structures shall only be allowed for water-dependent uses, public access, ecological restoration, or except where otherwise explicitly allowed pursuant to the requirements of this chapter.

f.~~(vi)~~ All developments and uses on navigable waters or their beds shall be located and designed to allow for the safe, unobstructed passage of fish, marine mammals, and birds, particularly species dependent on migration.

h.~~(vii)~~ Uses that adversely impact the ecological functions of critical saltwater shall be prohibited except uses necessary to achieve the objectives of RCW 90.58.020, and then only when all potential impacts are mitigated as necessary to ensure maintenance of shoreline ecological functions and processes;

i.~~(viii)~~ On-site sewage systems. The design of new and the replacement of existing on-site sewage systems shall comply with ~~c~~Chapter 8.07 ICC.

j.~~(ix)~~ Stormwater management: Applications for residential subdivisions or for construction of any new non-residential facility shall require preparation, submittal, and approval of a storm water collection, treatment, and disposal system designed by a Professional Engineer and reviewed pursuant to ~~c~~Chapters 11.01 and 11.03 ICC. Infiltration of storm water shall be encouraged, except where this practice would be injurious or potentially injurious to the quality of groundwater in designated aquifer recharge areas, or would potentially destabilize an unstable or steep slope area.

k.~~(x)~~ Agricultural facilities and livestock.

(i)~~(1)~~ If construction of new agricultural facilities in the commercial agriculture zone is proposed within shoreline jurisdiction, a county-approved farm management plan will be required.

(ii)~~(2)~~ Construction of new agricultural facilities or activities involving the raising or keeping of livestock in the rural agriculture zone shall require compliance with water quality regulations.

5.~~j.~~ Protection standards: Nesting sites and territory. The following buffers and standards shall apply to all Heron, Osprey, and Bald Eagle nesting sites within shoreline jurisdiction:

a.~~(i)~~ Heron—1,000 feet for non-residential development and 300 feet for residential development.

b.~~(ii)~~ Osprey—600 feet for non-residential development and 200 feet for residential development.

c.~~(iii)~~ Bald Eagle—Prior to authorizing any development on a site containing a Bald Eagle nesting site, the applicant shall submit documentation demonstrating compliance with all applicable federal laws and regulations. A biological site assessment will not be required by Island County based solely on the presence of a Bald Eagle nesting site.

6.~~k.~~ Protection standards: Washington Natural Heritage Program Areas.

a.~~(i)~~ For designated significant plant communities dominated by Big Leaf Maple (Acer macrophyllum) or Douglas Fir (Pseudotsuga menziesii), natural vegetation between the ordinary high water mark and a line fifty (50) feet landward of the top of banks and bluffs ten (10) feet or higher shall be retained, except for removal of hazard~~ous, diseased or damaged~~ trees and to allow for pedestrian waterfront access. Removal of invasive non-native species is authorized. Trimming but not removal for view enhancement is authorized.

b.~~(ii)~~ For designated significant plant communities including white-top aster (Aster curtus) and golden indian paintbrush (Castileja levisecta), a biological site assessment and habitat management plan shall be prepared to ensure protection of the protected species.

c.~~(iii)~~ All other designated Washington Natural Heritage Program Areas. Requests for permit approval by Island County will be acted on only after consultation with the Washington Natural Heritage Program.

7.~~l.~~ Protection standards: Habitats of local importance. Property owners within these areas are required to comply with ~~c~~Chapter 17.02~~A~~B ICC, the Island County Critical Areas Ordinance; ~~c~~Chapter 17.03 ICC, the Island County Zoning Ordinance; ~~c~~Chapter 11.02 ICC, the Island County Clearing and Grading Ordinance; the Island County Shoreline Master Program; and all other applicable federal, state, and county regulations. Variances from any shoreline or critical areas regulations shall specifically address any designated habitats of local importance located on or adjacent to the property proposed for development. Additional protections may be adopted with designation of a habitat of local importance.

8.~~m.~~ Protection standards: All other fish and wildlife habitat conservation areas shall be protected on a case-by-case basis. A biological site assessment shall be prepared pursuant to section 17.05A.095.A~~C.13.c~~, and a habitat management plan, if required, shall be prepared pursuant to ~~section~~ ICC 17.05A.090.B~~C.13.d~~.

G. Shoreline Species and Habitats of Local Importance.

1. Any person may nominate for designation a species or habitat of local importance within shoreline jurisdiction. Nominations for a species or habitat of local importance must meet the following criteria:

   a. Protection by other county, state or federal policies, laws, regulations, or non-regulatory tools is not adequate to prevent degradation of the species or habitat in Island County; and

   b. Proposed management strategies are supported by best available science; and

   c. Proposed management strategies are practicable; and

   d. Without protection, there is a likelihood that the species will not maintain and reproduce over the long term; and

e. Nominated species must satisfy the following criteria:

(i) Local populations which are in danger of extirpation based on existing trends; and

(ii) The species is sensitive to habitat manipulation; and

(iii) The species or habitat has commercial, game, or other special value such as locally rare species; and

f. Habitats nominated to protect a particular species must satisfy the following criteria:

(i) The nominated habitat areas represent either high-quality native habitat or habitat that has an excellent potential to recover to a high-quality condition and which is either of limited availability or highly vulnerable to alteration.

(ii) Where a habitat is nominated to protect a species, the use of the habitat by that species is documented or is highly likely or the habitat is proposed to be restored with the consent of the affected property owner so that it will be suitable for use by the species; and

(iii) Long-term persistence of the species is dependent on the protection, maintenance, or restoration of the habitat.

2. Nominations for designation of a species or habitat of local importance within shoreline jurisdiction shall be processed pursuant to ~~c~~Chapter 16.26 ICC. The burden for providing information required for designation rests with the party nominating the habitat or species. Nominations shall be reviewed and approved as follows:

a. The nomination shall:

(i) Indicate the specific habitat features to be protected (for example, nest sites, breeding areas, nurseries, etc.);

(ii) Include management strategies for the species or habitats, supported by best available science; and

(iii) Where restoration or habitat is proposed, include a specific plan for restoration, including a conceptual design and a means of financing of the restoration.

b. Pursuant to s~~ection~~ ICC 16.19.~~060~~080, the Planning and Community Development Department shall determine whether the proposal is complete. For nominations that are complete, it shall evaluate the proposal for compliance with the criteria enumerated in ~~section~~ ICC 17.05A.090.~~C.13.e.~~(i) – (vi)G.1.a through f, and make a recommendation to the Planning Commission based on those standards.

c. The Planning Commission shall hold a public hearing and make a recommendation to the Board of Commissioners.

d. Following the recommendation of the Planning Commission, the Board of County Commissioners shall designate a FWHCA if the nomination satisfies the nomination criteria in ~~section~~ ICC 17.05A.090.~~C.13.e.(i) - (vi)~~G.1.a through f.

e. Approved nominations shall be subject to the provisions of this chapter and may include additional specific restrictions for the protection of the habitat or species designated.

H. Classification of Water Types and Buffer Widths

1. Portions of streams within the shoreline jurisdiction of Island County shall be classified using the water type classification system of WAC 222-16-030, which include the following classifications and criteria:

a. **Type S water** means all waters within their bankfull width, as inventoried as "shorelines of the state," and the rules promulgated pursuant to Chapter 90.58 RCW, including periodically inundated areas and their associated wetlands.

b. **Type F water** means segments of natural waters other than Type S waters, which are within the bankfull widths of defined channels and periodically inundated areas of their associated wetlands, or within lakes, ponds, or impoundments having a surface area of 0.5 acre or greater at seasonal low water and which in any case contain fish habitat or are described by one (1) of the following four (4) categories:

(i) Waters, which are diverted for domestic use by more than ten (10) residential or camping units or by a public accommodation facility licensed to serve more than ten (10) persons, where such diversion is determined by the department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type F water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by fifty (50) percent, whichever is less;

(ii) Waters, which are diverted for use by federal, state, tribal, or private fish hatcheries, as further defined in WAC 222-16-030(2)(b);

(iii) Waters, which are within a federal, state, local, or private campground having more than ten (10) camping units, as further defined in WAC 222-16-030(2)(c); or

(iv) Riverine ponds, wall-based channels, and other channel features that are used by fish for off-channel habitat, as further defined in WAC 222-16-030(2)(d).

c. **Type Np water** means all segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are flowing waters that do not go dry any time of a year of normal rainfall and include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow.

d. **Type Ns water** means all segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np Waters. These are seasonal, nonfish

habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np Water. Ns Waters must be physically connected by an above-ground channel system to Type S, F, or Np Waters.

2. Stream buffers: Protective buffers shall be required to preserve stream and riparian functions within shoreline jurisdiction. Buffer distances shall be measured horizontally from the ordinary high water mark of the stream. The following standard buffers apply to streams regulated under this Shoreline Master Program.

TABLE 2: Stream Buffers

Water Type	Standard Stream Buffer
S – Shoreline of the State[1]	150 feet
F – Known to contain fish habitat	100 feet
Np – Perennial stream, does not contain fish habitat	~~50~~75 feet
Ns – Seasonal stream, does not contain fish habitat	50 feet

[1] There are currently no streams classified as shorelines of the state in Island County; streams within shoreline jurisdiction would be classified as F, Np, or Ns.

a. **Increasing stream buffer widths.** The Director has the authority to increase the standard buffer widths on a case-by-case basis based on the intensity of the proposed use, the functions of the stream and the characteristics of the existing buffer when a larger buffer is determined to be necessary to protect stream water quality or a protected species. However, an applicant may enhance any such buffer (such as by planting native plants) to maintain the standard buffer width following submittal, review, and approval of a biological site assessment, habitat management plan and mitigation plan, when required, which demonstrate that the enhancement will provide a buffer that protects stream water quality or a protected species, as applicable.

b. **Decreased stream buffer widths.** If the lot buildable area is less than 2,200 square feet, after the applicable buffers and setbacks have been deducted from the total lot area, the required stream buffer may be decreased provided that the following standards are met:

(i) Decreasing the stream buffer width will not adversely affect fish and wildlife habitat functions and values;

(ii) If a portion of a buffer is reduced, an area of the remaining buffer equal to two (2) times the area removed from the standard buffer shall be enhanced using native vegetation or installed habitat features. For example, if a buffer is reduced by 1,000 square feet, then 2,000 square feet of remaining buffer shall be enhanced;

(iii) The perimeter of the reduced buffer must be screened with dense vegetation or barrier fencing (other measures necessary to provide adequate protection for fish and wildlife habitat should be identified in the Biological Site Assessment or Habitat Management Plan); and

(iv) The standard stream buffer width shall not be reduced by more than twenty-five (25) percent of the standard buffer width.

c. **Averaging stream buffer widths.** Buffer widths may be modified by "averaging." Buffer width averaging shall be allowed only where the applicant demonstrates through an approved biological site assessment or habitat management plan that the following criteria are met:

(i) A decrease in a portion of the buffer is necessary to accomplish the purpose of the proposed project and no reasonable alternative is available;

(ii) Averaging would allow the applicant to establish a corridor of native vegetation between natural systems;

(iii) Decreasing the buffer width will not adversely affect fish and wildlife habitat functions and values;

(iv) If a portion of a buffer is reduced through averaging, an area of additional buffer, contiguous with the existing buffer, shall be designated that is equal in size to the reduced portion of the standard buffer so that the total buffer area remains unchanged; and

(v) The standard stream buffer width shall not be reduced by more than twenty-five (25) percent.

d. **Allowed uses in buffers.** Buffers are intended to protect natural resources and shoreline functions. Buffers are typically required to be well vegetated with native plants. Up to twenty (20) percent of the buffer area can be disturbed with a pedestrian (pervious) trail.

~~14. Critical areas regulations adopted by reference:~~

~~a. The following critical areas provisions of chapter 17.02A dated July 1, 2008 (Ordinance C-02-08), are incorporated into this Shoreline Master Program by reference:~~

~~(i) 17.02A.030 Definitions.~~

~~(ii) 17.02A.040(B) Critical area protection.~~

~~(iii) 17.02A.040(E) Alteration of critical areas.~~

~~(iv) 17.02A.040(F) Property assessment.~~

~~(v) 17.02A.070 Critical area mitigation.~~

~~(vi) 17.02A.080 Monitoring and adaptive management.~~

~~(vii) 17.02A.090 Wetlands.~~

b. In the event development or performance standards in chapter 17.02A are inconsistent with standards and requirements in this Shoreline Master Program, the standard that is more protective of natural resources in the shoreline shall govern.

c. The standards for protection of aquifer recharge areas in section 8.09.097 are incorporated into this Shoreline Master Program by reference.

I~~D~~. Shoreline buffers, ~~building~~ shoreline setbacks, and impervious surface limits.

1. In order to protect shoreline ecological functions and shoreline scenic quality, minimum shoreline buffers are established as follows for all SMA shorelines in Island County. The minimum required buffer widths for each shoreline environment designation are shown in Table 3.

2. Residential development, including ~~principal~~ primary structures and all associated impervious surfaces, shall be located landward of the shoreline buffer plus ~~building~~ shoreline setback except as specified in this SMP or with the approval of a shoreline variance.

3. In all shoreline environment designations, a ~~building~~ shoreline setback shall be maintained from the landward edge of the required buffer. The minimum required ~~building~~ shoreline setbacks for each shoreline environment designation are shown in Table 3. Without a shoreline variance as provided in ICC 17.05A.130.F. No ~~no~~ permanent structure or impervious surface may extend within the ~~building~~ setback, except ~~as follows:~~ as outlined in ICC 17.05A.090.J below.

~~a. Impervious surfaces may not cover more than twenty (20) percent of the building setback area; and~~

~~b. Structures less than thirty (30) inches in height may be allowed; and~~

~~c. A single garden or storage structure over thirty (30) inches in height may be allowed as accessory to a single-family residence. Such structures shall be limited to 200 square feet and shall be subject to a maximum height of twelve (12) feet.~~

4. The steep slope buffers in Table 3 below are established to allow the natural erosion of bluffs as an important component of natural shoreline processes, while minimizing threats to structures. For this reason, any structures as defined in ICC 17.05A.070, except for upland retaining walls, when allowed pursuant to ICC 17.05A.110.A.2.f, shall not be allowed within the steep slope buffer without approval of a Shoreline Variance.

TABLE 3. Minimum Shoreline Buffers, Setbacks, Lot Widths, & Maximum Impervious Surface Limits

Shoreline/Resource Type	Shoreline Environment Designation[1]						
	N	RC	UC	SR	SRCC	SRHBC[5]	HI

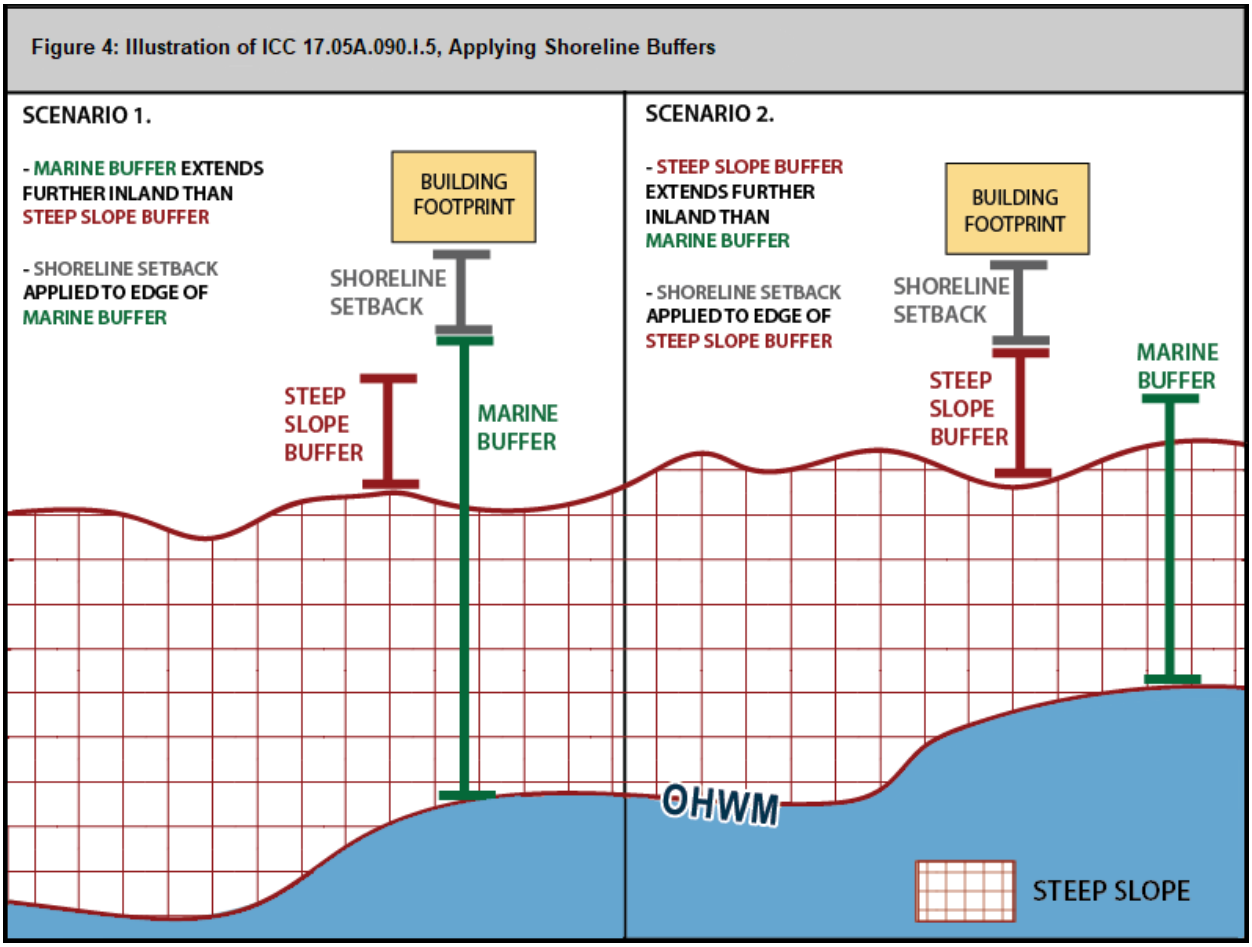
Marine buffer--measured landward from OHWM on marine shorelines (feet)[2]	125	75	50	30	0	20	30
Lake buffer--measured landward from OHWM on lake shorelines (feet)[2]	130	80	80	30	N/A	N/A	NA
Steep slope buffer--measured landward from top of bluff on marine shorelines with slopes greater than 40% (feet)	50	30	30	30	N/A	N/A	50
Steep slope buffer--measured landward from top of bluff on marine shorelines with exceptional feeder bluffs (feet)	50	50	50	30	N/A	N/A	N/A
Setback-, measured landward from the most landward of the required marine, lake, or steep slope buffer (feet)[2]	25	25	25	45	40	10	20
Minimum lot width-(feet)	150	150	60	60	60	N/A	0
Maximum impervious surface-(~~percent of lot within~~ applies to only that portion of the lot within shoreline jurisdiction)[3, 4]	10%	10%[6]	10%	35%	40%	80%	80%

Environment Designations		
N: Natural RC: Rural Conservancy UC: Urban Conservancy		SR: Shoreline Residential SRCC: Shoreline Residential-Canal Community SRHBC: Shoreline Residential-Historic Beach Community HI: High Intensity

1. The buffers and setbacks in this table only apply within shoreline jurisdiction and do not extend beyond the 200ft jurisdiction.
2. These standards may be amended in accordance with the provisions of ICC 17.05A.090.J.
3. Pervious pavement or surfaces shall be considered as 50% pervious for the calculations of impervious surface area. Specifications of the proposed pervious product shall be submitted with the land use/building permit application. Pervious pavement of surfaces shall be installed per manufacturer's standards.
4. Decks with gaps of at least 1/8" between boards located over a pervious surface shall be considered pervious.
5. The Shoreline Residential-Historic Beach Community Marine buffer and setback shall not be used to develop structures waterward of those on adjacent lots, based on a measurement of the common line, using the provisions of ICC 17.05A.090.J.6. Therefore, development should use the common line setback or the Shoreline Residential-Historic Beach Community buffer and setback; whichever is greater.
6. Lots that are less than one acre in size, that were legally created prior to adoption of the Shoreline Management Act in 1972, may develop impervious surfaces to a maximum of 15% lot coverage.

Note: The Aquatic designation does not have a minimum buffer or ~~building~~ shoreline setback.

Figure 4: Illustration of ICC 17.05A.090.I.5, Applying Shoreline Buffers



5. ~~4.~~ Buffers shall be measured landward in a horizontal direction perpendicular to the Ordinary High Water Mark (OHWM) of the shoreline water body (or other feature as designated in Table 3 of ICC 17.05A.090, and shall be a three-dimensional space that includes the airspace above. See Figure 4.

6. ~~5.~~ Native vegetation within shoreline buffers shall be maintained in a predominately natural, undisturbed, undeveloped, and well-vegetated condition. Shoreline buffer vegetation may be modified only as specified in this SMP.

7. ~~6.~~ Shoreline buffers may be modified to include a trail up to five (5) feet in width that is the minimum length necessary to provide access to the shoreline. Beach access structures may be allowed as provided in ~~section~~ ICC 17.05A.100.C.

8. ~~7.~~ Shoreline buffer areas that contain non-native trees, shrubs, and herbaceous vegetation may be maintained in their existing condition until such time as the existing landscaping in the shoreline buffer is removed. At such time, the landscaping shall be replaced with native vegetation in accordance with ICC 17.05A.090.M. ~~or the entire site is developed or redeveloped under these regulations.~~

~~8. When development is proposed on a site where the shoreline buffer area does not have native vegetation throughout, the buffer shall be required to be enhanced with native trees and shrubs that contribute to habitat quality and ecological functions, proportionate to the impacts of the proposed development as determined by the Shoreline Administrator. If the site will not support trees and shrubs, the Shoreline Administrator may allow use of native herbaceous plants. As a general guideline, for development outside of any required setback or buffer, the percentage of the buffer to be enhanced should equal the percentage increase in impervious lot coverage on the site. Any enhancement required pursuant to setback or buffer modification provisions of this Program would be in addition to this general guideline.~~

9. Buffer areas and any required enhancement plantings, shall be shown on the site plan, require approval of the Administrator, and be recorded with the County Auditor as requirements that remain for as long as the approved development remains on the property.

10. The applicant shall monitor the condition of any buffer enhancement required by this Program and report annually in accordance with ICC 17.05A.090.M.1.e. ~~for a period of five (5) years on the condition of any buffer enhancement required by this Program. Monitoring shall include photographs of the plantings and an inventory of plant survival and cover expressed as a percent of the planting area. Buffer enhancement plantings shall have targets for vegetative cover that must be met within or by the fifth growing season. At that time, if the vegetative cover does not meet the target, additional planting or other action may be required and the monitoring period extended. The target for vegetative cover shall be ninety (90) percent unless the Shoreline Administrator modifies the required target after determination that environmental conditions indicate less vegetative cover more nearly matches what a naturally occurring plant community would achieve at the particular location.~~

11. If buffers for any shoreline or critical areas are contiguous or overlapping, the buffers and setbacks that are most protective of shoreline resources shall apply.

12. Impervious surfaces shall be limited to the greater of the percentage listed in ~~section~~ ICC 17.05A.090~~.D,~~ Table 3 or, the percentage of impervious surface within shoreline jurisdiction on any existing legal lot as of the date of adoption of this program.

J~~E~~. ~~Shoreline setback and buffer modifications.~~ **Developments affecting shoreline setbacks and buffers.**

~~1. On lots where the area of the lot outside of the standard shoreline buffer and building setback as indicated in Table 3, the required side setbacks in chapter 17.03, and any required critical area buffer is less than 2,200 square feet, development may extend into the building setback provided:~~

~~a. The maximum building footprint (including principal structures and all associated impervious surfaces) shall be no larger than 2,200 square feet;~~

~~b. There is no opportunity to consolidate lots under common ownership that will alleviate the nonconformity;~~

~~c. The proposed development has utilized the maximum portion of the lot outside of the shoreline buffer, building setback, critical areas, and critical area buffers before extending into the building setback; and~~

~~d. Buffer enhancement is provided consistent with section 17.05A.090.G.~~

1. Requirements for all development proposed in the shoreline buffer or shoreline setback.

   a. Buffer enhancement shall be provided consistent with ICC 17.05A.090.L and M.

   b. If the proponent removes impervious surface between the OHWM and the shoreline buffer or setback, the area (square feet) of removed impervious surface may be deducted from the total of new impervious surface area for which enhancement of the buffer is required.

   c. The residence shall be located in the least environmentally damaging location relative to the shoreline and any critical areas as demonstrated by a biological site assessment;

   d. The residence shall be located outside of areas subject to geologic hazards as demonstrated by a geotechnical or geocoastal analysis;

   e. A geotechnical or geocoastal analysis indicates that with the reduced setback or buffer, the proposed structure will not require shoreline stabilization for the life of the single-family residence, typically 100 years;

   f. The applicant has signed and recorded with the county a covenant that meets all the requirements as provided in ICC 11.02.170 and runs with the title of the property that waives any claim against Island County by reason of or arising out of issuance of the permit or approval by Island County for the development of the property and acknowledges that the structure was built in a location on the lot closer than normally permitted on the condition that it would not require future shoreline stabilization over the life of the structure, and that county regulations would not allow stabilization to protect the structure or other improvement should this presumption prove incorrect.

   g. Any septic drainfield shall be located landward of the single-family residence, whenever possible, in compliance with Island County Health regulations;

   h. Measures shall be taken to mitigate all adverse impacts, such as pervious pavement for driveways and other hard surfaces and infiltrating stormwater runoff through bioswales, except where this would threaten slope stability, increase erosion, or potentially degrade groundwater quality;

i. Copper shall not be used in any exterior finish material; and

j. Any alteration to the buffer area will not result in a net loss of shoreline ecological function nor increase the risk of slope failure or downslope stormwater drainage impacts as demonstrated by a biological site assessment, and a geotechnical or geocoastal analysis.

2. Requirements for development proposed within the shoreline setback.

a. Impervious surfaces may not cover more than twenty (20) percent of the shoreline setback area.

b. Structures less than thirty (30) inches in height may be allowed, such as patios, decks, planter beds, or short fences.

c. In the Shoreline Residential environment, a single garden or storage structure over thirty (30) inches in height may be allowed as accessory to a single-family residence. Such structures shall be limited to 200 square feet and shall be subject to a maximum height of twelve (12) feet.

d. Single-family residential development may be allowed in a shoreline setback per the requirements of ICC 17.05A.090.J.4 through 6 below.

e. Beach access structures must meet the requirements of ICC 17.05A.100.C.

3. Requirements for development proposed within the shoreline buffer.

a. Beach access structures must meet the requirements of ICC 17.05A.100.C.

b. Moorage facilities must meet the requirements of ICC 17.05A.100.D.

c. Boating facilities must meet the requirements of ICC 17.05A.100.E.

d. Shoreline stabilization must meet the requirements of ICC 17.05A.110.A.

e. Breakwaters, jetties, groins, tide gates, and weirs must meet the requirements of ICC 17.05A.110.E.

f. Single-family residential development may be allowed in a shoreline setback per the requirements of ICC 17.05A.090.J.4 through 6 below.

g. Stormwater outfalls and culverts must meet the requirements of ICC 17.05A.100.L.

4. Development on nonconforming lots. New single-family development on any legal lot in shoreline jurisdiction that is nonconforming with respect to the required buffer and setback standards may be allowed without a shoreline variance when:

a. The depth of the lot (distance from the ordinary high water mark to the inside edge of the front yard setback) is equal to or less than the standard shoreline buffer and setback as indicated in Table 3 of this section; or

b. The buildable area lying landward of the shoreline buffer and interior to required side and front yard setbacks is not more than 2,200 square feet and the driveway is not more than 1,100 square feet. The buildable area means the entire area that will be disturbed to construct the home, normal appurtenances (except drainfields), and landscaping; and

c. The maximum footprint (including structures and all associated impervious surfaces) shall be no larger than 2,200 square feet; and

d. Appropriate measures are taken to mitigate all adverse impacts, including using low impact development measures such as pervious pavement for driveways and other hard surfaces within the buffer and setback; and

e. Opportunities to vary the side yard and/or frontage setbacks are implemented to reduce the nonconformity when doing so will not create a hazardous condition or a condition that is inconsistent with this program or other chapters of Island County Code; and

f. The residence is located in the least environmentally damaging location relative to the shoreline and any critical areas; and

g. The lot is not subject to steep or unstable slopes; and

h. All structures are as far landward as possible and shall not reduce the buffer by 50 percent; and

i. At least 80 percent of the buffer area between the structures and the shoreline and/or critical area is maintained in a naturally vegetated condition under a buffer enhancement plan developed in accordance with ICC 17.05A.090.M.1.

5. Replacement and expansion of existing residential structures in shoreline setbacks and buffers.

~~2.~~a. Expansion of existing residential structures into the shoreline setback. A legally established residential structure (including ~~principal~~primary structures and all associated impervious surfaces) located wholly or partially within shoreline buffer or ~~building~~ shoreline setback may expand into the shoreline ~~building~~ setback provided:

(i).~~a.~~ The maximum building footprint (including ~~principal~~primary structures and all associated impervious surfaces) within shoreline jurisdiction shall be no larger than 2,200 square feet; and

~~b. There is no opportunity to consolidate lots under common ownership that will alleviate the nonconformity;~~

(ii).~~c.~~ The proposed development has utilized the maximum portion of the lot outside of the shoreline buffer, shoreline ~~building~~ setback, critical areas, and critical area buffers before extending into the shoreline ~~building~~ setback.~~; and~~

~~d. Buffer enhancement is provided consistent with section 17.05A.090.G.~~

~~3.~~b. Replacement of existing residential structures. A legally established residential structure (including ~~principal~~primary structures and all associated impervious surfaces) located wholly or partially within shoreline buffer or ~~building~~ shoreline setback may be replaced provided the footprint and height of the replacement structure in the ~~building~~ shoreline setback and shoreline buffer is less than or equal to the footprint and height of the original structure, the replacement structure is placed in the same location ~~or~~ and no closer to the OHWM than ~~as~~ the original structure~~, and buffer enhancement is provided per section 17.05A.090.G~~.

~~4.~~c. Expansion or modification of existing residential structures in the Rural Conservancy environment. In the rural conservancy environment, an existing legally established or nonconforming residential structure (including ~~principal~~primary structures and all associated impervious surfaces) located wholly within the shoreline buffer may be modified or expanded provided~~:~~ ~~a. A~~ any expansion of the building's footprint or any new impervious surface are located landward of the rear foundation wall (the wall furthest from the water) of the existing structure~~.~~;

~~b. There is no opportunity to consolidate lots under common ownership to alleviate the nonconformity.;~~

~~c. Buffer enhancement is provided consistent with section 17.05A.090.G.~~

~~5. The following provisions shall apply to any development proposed within a shoreline buffer or building shoreline setback:~~

~~a. The residence shall be located in the least environmentally damaging location relative to the shoreline and any critical areas;~~

~~b. The residence shall be located outside of areas subject to geologic hazards;~~

~~c. A geologic geocoastal analysis indicates that with the reduced setback or buffer, the proposed structure will not require shoreline stabilization for the life of the single-family residence, typically 100 years;~~

~~d. The applicant has signed and recorded with the county a covenant that meets all the requirements as provided in section 11.02.170 and runs with the title of the property that waives any claim against Island County by reason of or arising out of issuance of the permit or approval by Island County for the development of the property and acknowledges that the structure was built in a location on the lot closer than normally permitted on the condition that it would not require future shoreline stabilization over the life of the structure, and that county regulations would not allow stabilization to protect the structure or other improvement should this presumption prove incorrect.~~

~~e. Any septic drainfield shall be located landward of the single-family residence, whenever possible, in compliance with Island County Health regulations;~~

~~f. Measures shall be taken to mitigate all adverse impacts, including using low impact development measures where appropriate, such as pervious pavement for driveways and other hard surfaces and infiltrating stormwater runoff through bioswales except~~

~~where this would threaten slope stability, increase erosion, or potentially degrade groundwater quality; and~~

~~g. Copper shall not be used in any exterior finish material.~~

~~F.~~6. ~~Commonline~~ Shoreline setback and shoreline buffer reductions (refer to Figures ~~1~~ 5 through 7 below ~~at the end of this chapter~~). The common line setback and shoreline buffer reduction procedures described in this section shall only apply to the residence and shall not be used to reduce a steep slope buffer.

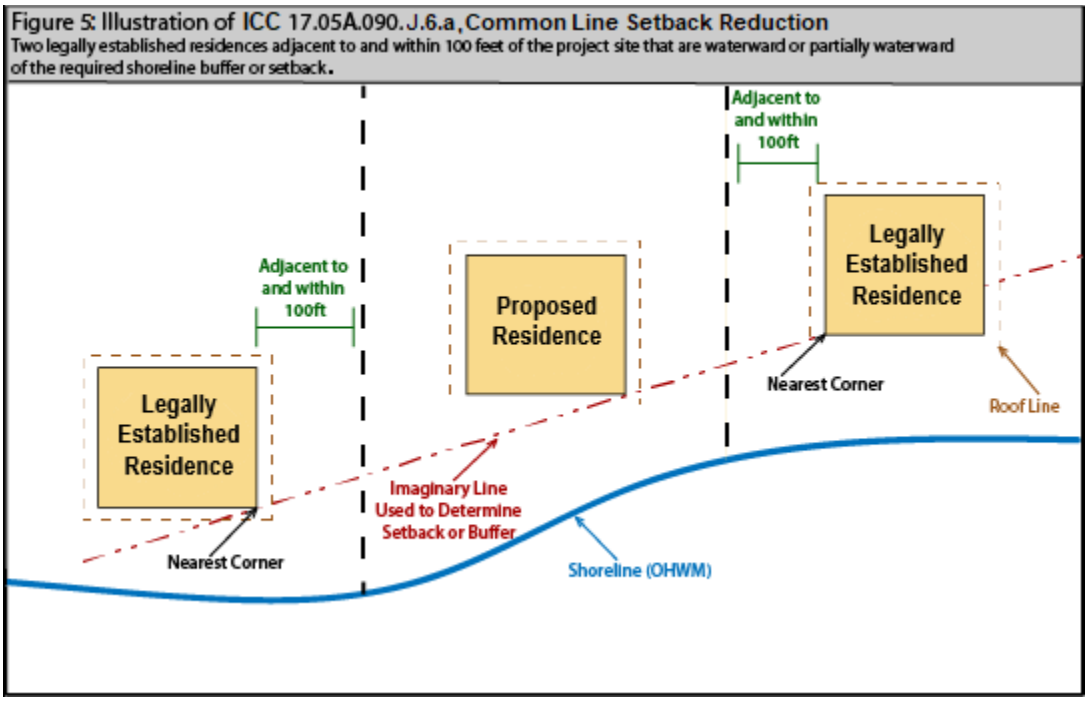
a.~~1.~~ Common line setback reduction. Single-family residential development may be allowed in a shoreline setback, or a marine or lake buffer, where there are legally established residences on adjacent parcels ~~adjacent to~~ and within 100 feet of the proposed residence ~~project site~~ that are waterward or partially waterward of the required shoreline buffer or ~~building~~ shoreline setback. In such cases, a single-family residential structure may be constructed within a marine or lake buffer, or within a shoreline setback provided the proposed structure is set back from the OHWM to a common line drawn between the waterward ~~side~~ corners of the facades of each adjacent residence, excluding attached appurtenances, ~~residential structure~~ that are nearest to the proposed structure.

(i) Notwithstanding the rules for determining a common line setback reduction, in no case may a residence encroach in the shoreline buffer by a distance of more than fifty (50) percent of the buffer width.

(ii) If the common line setback allows the placement or expansion of a residence in the shoreline buffer or shoreline setback the proponent shall enhance the remainder of the buffer that is unaffected by the placement or expansion of the residence.

(iii) Use of the common line setback shall not allow for upper-story decks or other components of the residence to project beyond the common line, except for eaves which may extend beyond the common line by 18 inches.

Figure 5: Illustration of ICC 17.05A.090.J.6.a, Common Line Setback Reduction



b.~~2.~~ Setback averaging reduction.

(i). If a lot proposed for development has:

(1) two (2) legally established residences within 100 feet of the proposed residence; and

(2) both are waterward or partially waterward of the required marine or lake buffer or shoreline setback; but

(3) only one (1) of the legally established residences within 100 feet is on an abutting parcel; then ~~only one (1) residentially developed lot adjacent to and within 100 feet of the project site where there is a legally established residence that is waterward or partially waterward of the required marine or lake buffer or building setback,~~

(4) the minimum ~~building~~ shoreline setback may be reduced to the average of the two (2) nearest residences~~tial structures~~ within 100 feet of the proposed residence ~~project site~~ on lots abutting the same shoreline or the required marine or lake buffer width for the shoreline designation in which the proposed structure is located, whichever is the greater distance from the OHWM.

(ii). If a lot proposed for development has:

(1) only one (1) legally established residence within 100 feet of the proposed residence that is waterward or partially waterward of the required marine or lake buffer or shoreline setback; and

(2) such legally established residence is on an abutting parcel; then

(3) the minimum shoreline setback may be reduced to the average between the setback of the nearest residence within 100 feet of the proposed residence on a lot abutting the same shoreline and the required marine or lake buffer width for the shoreline designation in which the proposed structure is located, whichever is the greater distance from the OHWM.

(iii). Use of setback averaging shall not allow for upper-story decks or other components of the residence to extend beyond the averaged setback line, except for eaves which may extend beyond the averaged setback by 18 inches, provided that eaves shall not extend into the shoreline buffer.

Figure 6: Illustration of ICC 17.05A.090.J.6.b(i), Setback Averaging Reduction

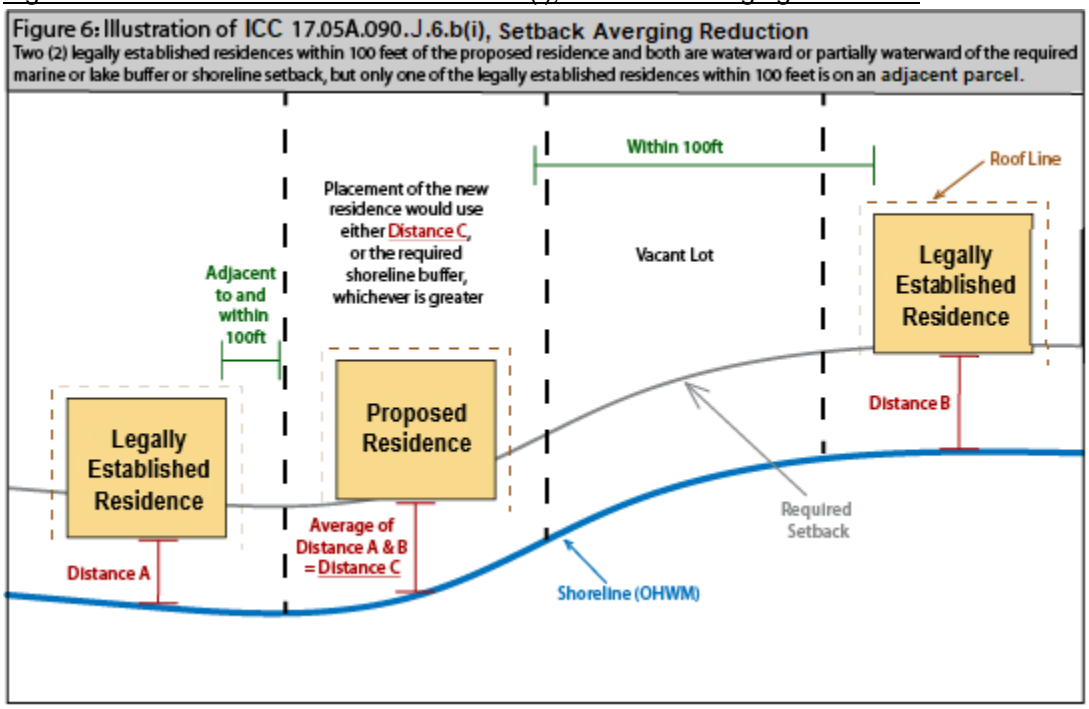
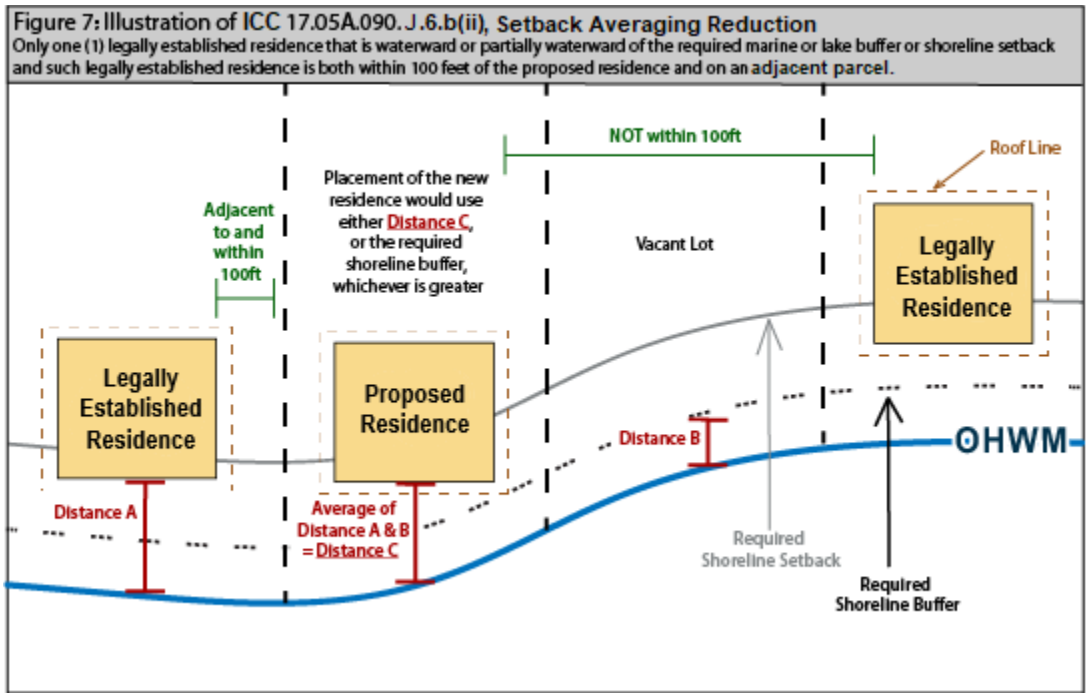


Figure 7: Illustration of ICC 17.05A.090.J.6.b(ii), Setback Averaging Reduction



~~3. If the common line setback allows the placement of a residential structure in the shoreline buffer, the area of the buffer shall not be reduced by more than fifty (50) percent.~~

~~4. If the common line setback allows the placement or expansion of a residential structure in the shoreline buffer or building setback the proponent shall enhance the remaining buffer consistent with section 17.05A.090.G~~

c. Setback reductions within canal communities. Within canal communities, the shoreline setback may be reduced to 24ft for new residential development or expansion of existing residential development, including the primary structure, all accessory structures and appurtenances and all impervious surfaces under the following conditions:

(i). The setback may not be reduced less than the amount that would be allowed under the common line setback reduction regulations or setback averaging regulation at ICC 17.05A.090.J; and

(ii). For any new structure or expansion of an existing structure, in which the footprint of the expansion will increase total impervious surface in the setback, the proponent shall enhance an equal area of the setback with native vegetation meeting the requirements of ICC 17.05A.090.M.

K. Modification of shoreline buffer and setback requirements to encourage restoration. If a property owner removes existing structural shoreline stabilization and replaces it with natural soft shore stabilization in accordance with Army Corps of Engineers and National Marine Fisheries Service standards for shoreline restoration, and after such removal of the shoreline stabilization the OHWM shifts inland toward the primary structure on the site, causing the structure to be non-conforming with regards to the shoreline setback or buffer, then the standard shoreline buffer (or setback in the canal communities) may be reduced on site in accordance with the following

standards. Approval of a shoreline buffer reduction for removal of structural shoreline stabilization shall be contingent on Island County approval of a project shoreline restoration plan. The Shoreline Administrator shall make final decisions on approval of buffer reduction requests based on the information provided and compliance with the provisions of this Program.

1. The standard shoreline buffer (or setback in canal communities) may be reduced by a distance not greater than the distance that the OHWM has shifted inland toward the primary structure on the site; and

2. The shoreline buffer shall in no case be reduced by more than fifty (50) percent of the standard buffer width.

3. An earned buffer reduction, if approved, may be applied to a project on the site if a completed application is submitted within five years of the approval of the buffer reduction under this subsection, and used to reduce the standard shoreline buffer (or setback in a canal community) from ICC 17.05A.090 Table 3 only for expansions or modifications of structures which existed at the time the hard armoring was proposed for removal.

L~~C~~. **Shoreline buffer enhancements required** (refer to Figure ~~2~~ 8 below~~at the end of this chapter~~).~~1. In cases where new, expanded (greater than 200 square feet), or replaced residential structures (including principal structures and all associated impervious surfaces) are permitted in the shoreline building setback or buffer,~~ ~~b~~Buffer enhancement shall be ~~provided~~ required in accordance with the table below for residential structures, including primary structures, all accessory structures and appurtenances, and all associated impervious surfaces, when allowed within the shoreline setback or buffer under the provisions of ICC 17.05A.090.L and 17.05A.090.M. ~~as follows:~~

TABLE 4: Shoreline Buffer Enhancements Required[1]	
Scope of development within the shoreline setback or buffer (except as noted)	
	Buffer Enhancements Required/Not Required
New ≤ 50sqft	Not Required
New > 50sqft	Required
Replacement, same footprint	Not Required
Replacement, different footprint	Required[2]
Expanded or Modified ≤ 200sqft[3] and adds impervious surface[3]	Required
Expanded or Modified ≤ 200sqft[3] and does not add impervious surface[3]	Not Required
Expanded or Modified > 200sqft[3] and adds impervious surface[3]	Required
Expanded or Modified > 200sqft[3] and does not add impervious surface[3]	Required

Expanded upwards, within same footprint	Not Required[4]
1. For residential structures, including primary structures, all accessory structures and appurtenances, and all associated impervious surfaces, in accordance with ICC 17.05A.090.L. 2. Except where the difference between the existing and new footprint is ≤ 200sqft and does not add impervious surface to the shoreline setback or buffer. 3. Within the shoreline setback or buffer. 4. The permit process shall be consistent with the requirements of ICC 17.05A.090.J.1.c.	

~~a. If the expansion or modification is greater than 200 square feet and adds impervious surface to the building setback, including the primary structure and all accessory structures and appurtenances, the proponent shall be required to enhance an equal area of the shoreline buffer with native vegetation.;~~

~~b. If the expansion or modification is greater than 200 square feet and adds any new impervious surface within the shoreline buffer, including the primary structure and all accessory structures and appurtenances, the proponent shall be required to enhance an equal area of the shoreline buffer with native vegetation; and~~

~~2. Buffer enhancement shall meet the requirements of section 17.05A.090.H.~~

~~3~~1. Requirements for vegetation enhancement associated with development in the ~~building~~ shoreline setback or buffer shall apply to the total of all new building area added on a project site after the effective date of this Program.

~~4~~2. If the proponent removes impervious surface from within the shoreline buffer or ~~building~~ shoreline setback, the horizontal area (square feet) of removed impervious surface may be deducted from the total of new impervious surface area for which enhancement of the buffer is required.

3. For shoreline property owners that have removed structural shoreline stabilization in advance of shoreline development or redevelopment permitting, Island County may give on site mitigation credit to any beneficial restoration action that occurred within five (5) years of the proposed development or redevelopment activity, provided that:

   a. The applicant or property owner provides conclusive evidence of the pre- and post-restoration conditions using photographs, reports, plans, affidavits, or similar evidence;

   b. The county confirms via site inspection, photographs, affidavits or other evidence that the restoration actions have improved ecological functions and shoreline conditions; and

c. The applicant or property owner provides assurances that the restoration area will be maintained for the life of the development or redevelopment activity. The assurance can be in the form of a notice on title, conservation easement, or similar mechanism.

4. When development involving greater than 200 square feet of new impervious surface creation is proposed on a site where the shoreline buffer area is vegetated with less than fifty (50) percent native vegetation, the buffer shall be required to be enhanced with native trees, shrubs, and herbaceous plants. The applicant shall install native plants based on a standard shoreline buffer enhancement plan adopted by Island County Planning and Community Development. For development outside of any required setback or buffer, the percentage of the buffer to be enhanced shall equal the percentage increase in impervious lot coverage on the site. Any enhancement required pursuant to setback or buffer modification provisions of this Program shall be in addition to this requirement. Shoreline buffer enhancement protects and preserves water quality, wildlife habitat, and human health and safety. All enhancement measures shall be protected in perpetuity and pass an initial inspection and 5-year inspection that meets the following performance standards:

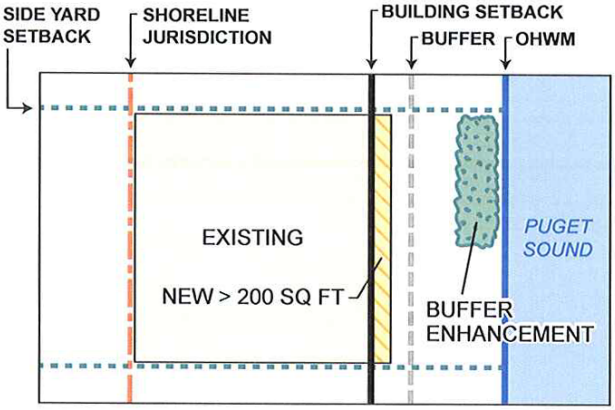
a. Greater than 90% survival of native plants at 5 years; and

b. less than 10% coverage with invasive species.

Figure 8: Shoreline Buffer Enhancements

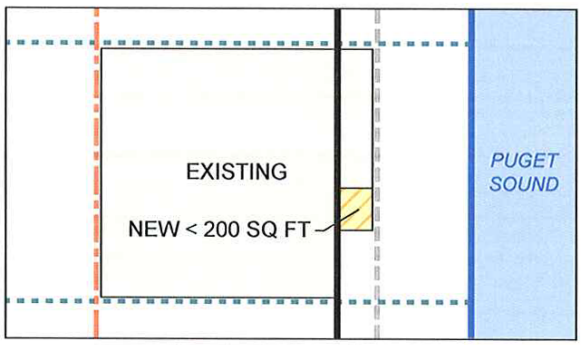
Expansion of Existing Residential Structures within Shoreline Setback

Development in the shoreline setback may be allowed under ICC 17.05A where the area of a lot outside of the standard shoreline buffer, building setback, side setbacks, and any critical areas or buffer is less than 2,200 square feet. In most cases, buffer enhancement is required with such development.



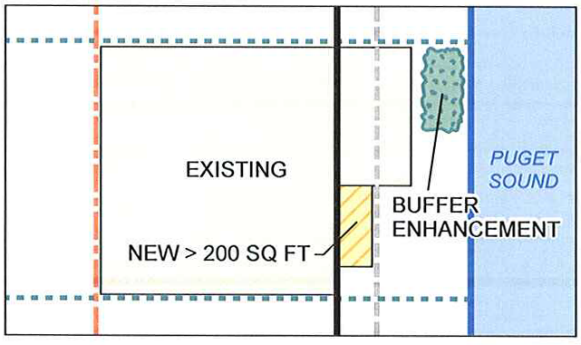
EXAMPLE 1

- Existing structure outside of shoreline setback
- Buildable area < 2,200 square feet
- Expansion within shoreline setback allowed
- Expansion > 200 square feet
- Buffer enhancement required next to water



EXAMPLE 2

- Existing structure within shoreline setback
- Buildable area < 2,200 square feet
- Expansion within shoreline setback allowed
- Expansion < 200 square feet
- Buffer enhancement not required



EXAMPLE 3

- Existing structure within shoreline setback and buffer
- Buildable area < 2,200 square feet
- Expansion within shoreline setback allowed
- Expansion > 200 square feet

M~~H~~. Shoreline buffer enhancement standards.

1. In all cases where shoreline buffer enhancement is a required condition of development in the shoreline buffer or ~~building~~ shoreline setback, the following shall apply:

a. An approved ~~landscape~~ buffer enhancement plan subject to county approval is required and shall contain the following:

(i) ~~A buffer enhancement plan subject to county approval shall be submitted.~~ The plan will describe how the requirements of this section will be met;

(ii) The plan shall take into account native growing conditions and specify appropriate plants and planting density for achieving a viable and self-sustaining buffer. If the site will not support trees and shrubs, native herbaceous plants shall be planted; and

(iii) Failure to implement the approved landscape enhancement plan is a violation of this chapter and will result in immediate revocation of all issued development permits.

b. An approved certificate of occupancy and/or final building inspection shall be contingent upon installation of the shoreline buffer enhancement sufficient to meet the target for vegetative cover in ICC 17.05A.090.M.1.e(v) and inspection by Island County staff.

~~b~~c. Enhancement location. For lots that are fifty (50) feet wide or less, the required buffer enhancement shall be located adjacent to the OHWM for at least twenty (20) feet of the width of the lot.

(i) For lots fifty-one (51) to 100 feet in width, the required buffer enhancement shall be located adjacent to the OHWM for at least twenty-five (25) feet of the width of the lot.

(ii) For lots greater than 100 feet in width, the required buffer enhancement shall be located adjacent to the OHWM for at least twenty-five (25) percent of the width of the lot.

~~c~~d. Vegetation standards.

(i) All existing impervious area shall be removed from the enhanced shoreline buffer.

(ii) No noxious weeds as listed by the Island County Noxious Weed Board shall be present on the property five (5) years after development approval.

(iii) Only native species will be introduced to the enhancement area, except that short lived non-invasive nonnative species may be used to provide temporary vegetative cover while the native species become established.

(iv) Enhancement areas shall have ninety (90) percent vegetative cover of native species five years after enhancement begins, unless on-site environmental conditions indicate that the naturally occurring plant community at the particular location would have less vegetative cover, as determined by the Shoreline Administrator.

(v) Native trees and shrubs shall dominate the enhancement area after five (5) years unless a longer time of up to ten (10) years is necessary to meet this standard as determined by the Shoreline Administrator.

(vi) If site-specific environmental conditions indicate that trees and shrubs will not survive on the site, or the enhancement area is contiguous to a coastal native prairie or dunes, the enhancement area shall be dominated by native herbaceous species.

(vii) If these vegetation standards are not met after five (5) years, additional enhancement actions such as planting, seeding, and weed control may be required if in the judgment of the Shoreline Administrator they are necessary to meet these standards.

~~d~~e. Monitoring requirements.

(i). Monitoring reports shall be submitted annually to the Shoreline Administrator for at least five (5) years after planting, unless the Shoreline Administrator determines that a longer period or different frequency is appropriate. Monitoring must continue until all vegetation standards are met.

(ii). Monitoring reports shall include photographs of plantings taken at approximately the same locations and time each year, preferably during the growing season.

(iii). Monitoring ~~shall~~ reports shall describe the extent and type of vegetation present in the enhancement area as the proportion (percent cover) of the enhancement area they cover. The methods used to determine the cover shall be described and reported for the following categories of plants: native trees, shrubs, and herbaceous plants; non-native trees, shrubs, and herbaceous plants.

(iv). Buffer enhancement plantings shall have targets for vegetative cover that must be met within or by the fifth growing season. Buffer enhancement shall be inspected by county staff upon installation of plantings and upon completion of the fifth year of monitoring, but inspections may occur throughout the monitoring period. Upon completion of the fifth year, if the vegetative cover does not meet the target, additional planting or other action may be required and the monitoring period extended.

(v). The target for vegetative cover shall be ninety (90) percent within the enhancement area unless the Shoreline Administrator modifies the required target after determination that environmental conditions indicate less vegetative cover more nearly matches what a naturally occurring plant community would achieve at the particular location.

~~l. Modification of shoreline buffer and setback requirements to encourage restoration.~~

~~1.If a property owner removes existing structural shoreline stabilization and replaces it with natural soft shore stabilization in accordance with Army Corps of Engineers and National Marine~~

Fisheries Service standards for shoreline restoration, the standard shoreline buffer (or setback in the canal communities) may be reduced by a distance equal to the distance that the OHWM is moved toward the principal structure on the site following removal of the structural stabilization, up to fifty (50) percent of the required buffer width.

2.Approval of a shoreline buffer reduction for removal of structural shoreline stabilization shall be contingent on Island County approval of a project shoreline restoration plan. The Shoreline Administrator shall make final decisions on approval of buffer reduction requests based on the information provided and compliance with the provisions of this Program.

3.An approved buffer reduction granted by the county as the result of removal of structural shoreline stabilization may be held as a credit for up to five (5) years and used to reduce the standard shoreline buffer (or setback in a canal community) from section 17.05A.090.D (Table 3) for future onsite development.

4.For shoreline property owners that have removed structural shoreline stabilization in advance of shoreline development or redevelopment, Island County may give mitigation credit to any beneficial restoration action that occurred within five (5) years of the proposed development or redevelopment activity, provided that:

a. The applicant or property owner provides conclusive evidence of the pre- and post-restoration conditions using photographs, reports, plans, affidavits, or similar evidence;

b. The county confirms via site inspection, photographs, affidavits or other evidence that the restoration actions have improved shoreline conditions; and

c. The applicant or property owner provides assurances that the restoration area will be maintained for the life of the project. The assurance can be in the form of a notice on title, conservation easement, or similar mechanism.

J. Shoreline setback modification in canal communities.

1. New residential development or expansion of existing residential development, including the primary structure, all accessory structures and appurtenances and all impervious surfaces may be placed in the landward forty (40) percent of the shoreline setback under the following conditions:

a. The setback may not be reduced by an amount greater than would be allowed under the common line setback reduction regulations at section 17.05A.090.F; and

b. For any new structure or expansion of an existing structure, in which the footprint of the expansion will increase total impervious surface in the setback, the proponent shall enhance an equal area of the setback with native vegetation meeting the requirements of section 17.05A.090.H.

2. Requirements for vegetation enhancement associated with development in the setback shall apply to the total of all new building area added on a project site after the effective date of this Program.

3. If the proponent removes impervious surface between the OHWM and the shoreline buffer or building setback, the area (square feet) of removed impervious surface may be deducted from the total of new impervious surface area for which enhancement of the buffer is required.

K. Shoreline vegetation conservation.

1. Unless otherwise specified, all shoreline use and development, including preferred uses and uses exempt from permit requirements, shall comply with the buffer provisions of this Program to protect and maintain shoreline vegetation and habitat.

2. Removal of native vegetation shall be avoided, where feasible. Where removal of native vegetation cannot be avoided, it shall be minimized to protect ecological functions. If non-native vegetation is to be removed, then it shall be replaced with native vegetation within the shoreline jurisdiction.

3. Native plant materials that are equivalent to those which would typically occur with respect to size, structure, and diversity at maturation shall be used in restoration, rehabilitation, or enhancement projects.

4. Natural features such as snags, stumps, logs, drift logs, or uprooted trees shall be left undisturbed to support fish and other aquatic systems, except where they would adversely affect navigation or represent a human health or safety risk.

5. Proponents of all new shoreline uses or developments shall demonstrate that site designs and layouts are consistent with the policies of this section to ensure shoreline functions, values, and processes are maintained and preserved. A shoreline permit or written statement of exemption shall not mandate, nor guarantee, unobstructed horizontal or lateral visibility of the water, shoreline, or any specific feature near or far.

6. Topping trees is prohibited.

7. Selective pruning or thinning of trees for safety or view protection or maintenance may be allowed when it is limited to:

a. Removal of no more than twenty-five (25) percent of the canopy of any tree or group of trees (calculated based on the area of the crown, or upper portion(s) comprised of branches and leaves or as determined by a certified arborist) in any given five-year period; or

b. Pruning of trees that does not affect ecological functions. No more than twenty (20) percent of the limbs on any single tree may be removed and no more than twenty (20) percent of the canopy cover in any single stand of trees may be removed in a given five-year period. Pruning shall comply with the National Arborist Association pruning standards, unless the tree is a hazard tree as certified by an arborist and approved by the Shoreline Administrator.

8. The Shoreline Administrator may deny a request or condition approval of vegetation management or removal proposals for view maintenance if it is determined the action will result in an adverse effect to any of the following:

~~a. Slope stability;~~

~~b. Habitat value;~~

~~c. Health of surrounding vegetation;~~

~~d. Risk of wind damage to surrounding vegetation;~~

~~e. Nearby surface or ground water; or~~

~~f. Water quality of a nearby water body.~~

~~9. Clearing by hand-held equipment of invasive or non-native shoreline vegetation or plants listed on the state noxious weed list is permitted in shoreline locations if provision is made for re-establishment of native vegetation in the disturbed area. Ground based motorized equipment may be used if accompanied by a plan for the re-establishment of native vegetation, and with prior written approval of the Shoreline Administrator.~~

~~10. Aquatic weed control shall occur in compliance with all other applicable laws and standards. Use of chemical methods of weed control shall only be allowed when done by a qualified professional.~~

~~11. Subdivision of property shall be in a configuration that will not require significant vegetation removal or shoreline modification and that will not adversely impact ecological functions. Each new parcel must be able to support its intended development without significant ecological impacts to the shoreline ecological functions.~~

N~~L~~. Flood hazard reduction.

1. The following flood damage prevention ordinance provisions of ~~c~~Chapter 14.02A ICC, dated August 22, 2005 (Ordinance C-98-05), are incorporated into this Shoreline Master Program by reference:

   a. ICC 14.02A.030 General provisions.

   b. ICC 14.02A.040 Administration.

   c. ICC 14.02A.050 Provisions for flood hazard reductions.

2. Small scale structural flood hazard reduction measures such as raising a building above the base flood elevation, or the creation of underfloor spaces meeting the requirements of FEMA/FIA Technical Bulletin (TB) 11-1 (as amended), are not subject to the regulations of this subsection, ICC 17.05A.090.N.

3~~2~~. New structural flood hazard reduction measures will be allowed only where demonstrated to be necessary, and when non-structural methods are infeasible and mitigation is accomplished.

4~~3~~. New structural flood hazard reduction measures will be allowed landward of associated wetlands and buffer areas except where no alternative exists as documented in a geotechnical analysis.

5~~4~~. New publicly funded dikes or levees will be required to dedicate and improve public access pathways unless it would cause unavoidable health or safety hazards.

6~~5~~. All proposed development in the shoreline shall comply with the county's stormwater and surface water standards (~~c~~Chapter 11.03 ICC).

7~~6~~. In the event development or performance standards in ~~c~~Chapter 14.02A ICC are inconsistent with standards and requirements in this Shoreline Master Program, the standard that is more protective of natural resources in the shoreline shall govern.

8~~7~~. New or expanding development or uses in the shoreline, including subdivision of land, that would likely require structural flood control works within a stream, floodway, or coastal flood zone shall be prohibited.

9~~8~~. New flood control works are only allowed in the shoreline jurisdiction if it is demonstrated by analyses prepared by qualified professionals that: ~~Flood control works shall only be allowed in the shoreline if~~

a. ~~they~~They are necessary to protect ~~existing~~ development existing prior to the adoption of this chapter;

b. The primary use being protected is consistent with this Program;

c. ~~non~~Non-structural flood hazard reduction measures have been demonstrated to be infeasible~~.~~;

d. The flood control works can be developed in a manner that is compatible with multiple use of shoreline resources for the long term, including shoreline ecological functions, fish and wildlife management, and recreation;

e. Impacts to critical areas can be successfully mitigated to result in no net loss of shoreline ecological functions;

f. Appropriate vegetation conservation actions will be undertaken; and

g. Work within regulated streams or other fish and wildlife habitat must conform to all environmental protection criteria and provide for enhanced ecological function and fish access.

~~9. Flood control works to protect existing development shall be permitted only when the primary use being protected is consistent with this Program, and the flood control works can be developed in a manner that is compatible with multiple use of shoreline resources for the long term, including shoreline ecological functions, fish and wildlife management, and recreation.~~

10. When allowed, new structural flood hazard reduction measures shall be located landward of associated wetlands and buffer areas except where no alternative exists as documented in a geo~~technical~~coastal analysis.

11. Solid waste shall not be stored in areas subject to flooding unless it can clearly be demonstrated that complete and effective flood-proofing of structures or equipment can be accomplished.

12. All new development proposals must select the least impactful area for development. Where feasible, development shall ~~should~~ be located outside of the Special Flood Hazard Area.

13. The removal of substrate for flood management purposes is prohibited.

14. In addition to other project application requirements, applicants to construct flood hazard control projects must provide the following information:

    a. Flood hazard area characteristics adjacent to the project area;

    b. Physical, geological and soil characteristics of the area;

    c. An analysis of alternative flood protection measures, both structural and nonstructural;

    d. Shoreline stabilization measures and flood protection works within the area existing at the time of application;

    e. Predicted impact upon area shore and hydraulic processes, adjacent properties, and shoreline and water uses; and

    f. Biological resources and predicted impact to fish, vegetation and animal habitat associated with shoreline ecological systems.

O~~M~~. Public Access.

1. Visual access: Where feasible, new development, uses, and activities shall be designed and operated to avoid blocking, reducing, or adversely interfering with the public's visual access (including existing views) of the shoreline from public properties or a substantial numbers of residences. Where it can be demonstrated that it is not feasible to avoid such impacts, every effort shall be made to minimize impacts to existing shoreline views.

2. Any unauthorized encroachment of development onto a shoreline public access or easement, including any public street end adjoining public shorelands or tidelands, shall be considered a violation of this chapter and subject to enforcement and penalties as provided in this chapter.

3. Physical access: Existing public physical access shall not be eliminated except in conjunction with a public project which serves a valid purpose, and then only when the applicant shows that there is no feasible alternative and replaces the public access with public access of comparable functions and value at another location in the same vicinity.

4. Opportunities to provide or enhance a system of visual or physical public access shall be considered during the review and conditioning of all proposed commercial shoreline developments, publicly funded dikes or levees, or residential developments involving five (5) or more residential lots or dwelling units.

5. Physical public access shall be incorporated into all development proposals on public lands, all public and private commercial and industrial developments, all publicly funded projects, and all residential subdivisions of five (5) or more lots as required by ICC 17.05A.100.K, unless the project proponent demonstrates that any of the following conditions exist:

    a. Unavoidable health or safety hazards to the public exist that cannot be prevented by any practical means;

    b. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;

    c. The cost of providing the access, easement, alternative amenity, or mitigating the impacts of public access are unreasonably disproportionate to the total proposed development;

    d. Significant environmental impacts that cannot be mitigated will result from the public access; or

    e. Significant undue and unavoidable conflict between public access requirements and the proposed use or adjacent uses would occur, provided that the applicant has first demonstrated and the county determines that all reasonable alternatives have been evaluated and found infeasible, including but not limited to:

        (i) Regulating access by such means as maintaining a gate or limiting hours of use;

        (ii) Designing separation of uses and activities (including but not limited to, fences, terracing, use of one-way glazing, hedges, landscaping); and

        (iii) Provisions for access at a site geographically separated from the proposal such as a street end, vista, or trail system.

6. When physical public access is deemed to be infeasible based on considerations listed in 5a—e of this subsection, the proponent shall provide visual access to the shore or provide physical access or access improvement at an off-site location geographically separated from the proposed developmental (e.g., a public street end, vista, or trail system).

7. Required public access on privately owned land shall be commensurate with the scale and intensity of the proposed use or development.

8. Public access shall be located and designed to be compatible with the natural shoreline character, to avoid adverse impacts to shoreline ecological functions and processes, and to ensure public health and safety.

9. Public shoreline access provided by public road ends, public road rights-of-way, and public utilities rights-of-way shall not be diminished by the county, neighboring property owners, or other citizens.

10. Public access sites shall be directly connected to the nearest public street and shall include improvements that conform to the requirements of the Americans with Disabilities Act (ADA) when feasible and appropriate.

11. Public access shall include provisions for protecting adjacent properties from trespass and other possible adverse impacts to neighboring properties.

12. Signs indicating the public's right of access to shoreline areas shall be installed and maintained in conspicuous locations in accordance with county approved standards.

13. Required public access shall be fully developed and available for public use at the time of occupancy of the use or activity or final plat approval.

14. Public access shall consist of a dedication of land or a physical improvement in the form of a walkway, trail, bikeway, corridor, viewpoint, park, deck, observation tower, pier, kayak or canoe haul-out, boat launching ramp, dock or pier area, or other area serving as a means of view or physical approach to public waters and may include interpretive centers and displays.

15. Public access easements and permit conditions shall be recorded as a separate tract on the deed of title and on the face of a plat or short plat as a condition running contemporaneous with the authorized land use, as a minimum. Said recording with the County Auditor's Office shall occur at the time of final plat recording.

16. Maintenance of the public access facility shall be the responsibility of the fee simple owner unless otherwise accepted by a public or non-profit agency through a formal agreement approved by the Shoreline Administrator and recorded with the County Auditor's Office.

P~~N~~. Water quality and quantity.

1. The location, design, construction, and management of all shoreline uses and activities shall protect the quality and quantity of surface and ground water adjacent to the site.

2. Best management practices (BMPs) for control of erosion and sedimentation shall be implemented for all shoreline development.

3. All shoreline uses and activities shall use best management practices (BMPs) for control of erosion and sedimentation during both project construction and operation.

4. All proposed developments and activities in the shoreline shall require compliance with the current edition of the Department of Ecology's Stormwater Management Manual, NPDES General Permit requirements, and the erosion control provisions of ~~section~~ ICC 11.02.330 and the stormwater management provisions of ~~c~~Chapter 11.03 ICC.

5. To avoid water quality degradation by malfunctioning or failing septic systems located within shoreline jurisdiction, on-site sewage systems shall be located and designed to meet all applicable water quality, utility, and health standards.

6. All dock and pier components that may come in contact with the water shall consist of non-toxic materials, such as 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 shall be approved by the Department of Ecology and the Washington Department of Fish and Wildlife for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote, copper chromium arsenate, or pentachlorophenol is prohibited.

7. Herbicides, fungicides, fertilizers, and pesticides shall not be applied within twenty-five (25) feet of a water of the state, except by a qualified professional in accordance with state and federal laws. Further, pesticides subject to the final ruling in Washington Toxics Coalition, et al., v. EPA shall not be applied within sixty (60) feet for ground applications or within 300 feet for aerial applications of the subject water bodies and shall be applied by a qualified professional in accordance with state and federal law.

8. Low impact development (LID) techniques, including the use of pervious materials, shall be considered and implemented to the greatest extent feasible throughout the various stages of development including site assessment, planning and design, vegetation conservation, retrofitting, and built-out management techniques.

Q. Lighting.

1. Except as necessary to meet federal, state, and local safety or navigation standards, all external lighting fixtures must be shielded, recessed and dark sky rated. Light must be directed downward and away from:

   a. Wetlands and associated buffers;

   b. Fish and wildlife habitat conservation areas and associated buffers;

   c. Adjoining properties; and

   d. Public roads or rights-of-way.

2. All glare and reflections from external light sources must be contained within lot boundaries.

3. Flashing or blinking lights are prohibited.

4. Dock lighting shall be designed to shine downward but not on the surface of the water, and be of low wattage~~,~~.

5. For residential docks lighting ~~and~~ shall not exceed a height of three (3) feet above the dock surface and should be turned off when not in use.

6. For marinas and commercial docks, a lighting plan shall be provided in accordance with the biological site assessment to determine when lights will be in use and the appropriate height to minimize ecological impacts.

17.05A.095 – Shoreline Reports

A. Biological Site Assessment.

1. A Biological Site Assessment shall include the following information:

   a. A site plan indicating all FWHCAs within shoreline jurisdiction that exist on or within 100 feet of the portion of the subject property proposed for development;

   b. Identification of FWHCAs that meet the definition of critical saltwater habitat as defined in this Program;

   c. Descriptions of all FWHCAs shown on the site plan, including qualitative and quantitative information regarding habitat value and condition of each FWHCA, including identification of measures to fully protect nesting sites of the Bald Eagle, Osprey, and Heron;

   d. Description of the proposed project, including, but not limited to, associated earthwork (grading, excavation, filling), structures, utilities, and existing habitat other than FWHCAs, including wetlands and areas that may act as wildlife corridors;

   e. Regulatory summary, identifying other agencies with jurisdiction, protection measures required by other regulations, and mitigation provided as part of the project;

   f. Analysis of impacts to all protected species or habitats designated as FWHCAs, after consideration of compliance with other regulations and the requirements of this Shoreline Master Program;

   g. If adverse impacts to protected species or habitats are likely to occur, a conceptual mitigation plan, including an analysis of feasible mitigation alternatives that would mitigate adverse impacts of the project. The effectiveness of the proposed mitigation measures shall be compared to other feasible alternatives. Mitigation sequencing shall be as required in ICC 17.05A.090.B.1;

   h. Best management practices, including a discussion of on-going maintenance practices that will assure protection of all FWHCAs on-site after the project has been completed. If monitoring is required, this section shall include a description of proposed monitoring criteria, methods, and schedule; and

2. The recommendations of the approved biological site assessment, habitat management plan and mitigation plan, if required, shall be included as conditions of approval of the underlying permit.

3. The requirement for a biological site assessment for development within the shoreline buffer or shoreline-associated critical area buffers may be waived by the Planning Director in the following circumstances:

   a. The repair of a legally established single family residence, normal appurtenance, or shoreline stabilization that protects a legally established single family residence.

b. The replacement of a legally established single family residence or normal appurtenance within the same footprint.

c. The development of a single family residence located within the shoreline buffer in accordance with the provisions of ICC 17.05A.090.J unless the portion of the development within the shoreline buffer exceeds 1,000 square feet of gross floor area.

d. The installation of a tight-line for storm water management when permitted as a normal appurtenance to a single family residence.

e. The normal maintenance and repair of public infrastructure.

f. The replacement or repair of culverts, provided that there is no increase in conveyance capacity or size of the culvert, and no change in configuration.

g. Minor utility repair within the improved right-of-way provided that relocation of utility lines, equipment, or appurtenances shall occur as far as feasible from shoreline-associated critical areas, their buffers and the shoreline buffer.

h. Site investigative work necessary for permit submittals or county-authorized monitoring activities, such as surveys, soil logs, and percolation tests, provided there is no clearing, fill, or use of heavy equipment in a shoreline-associated critical area.

i. Clearing by hand-held equipment of invasive or non-native shoreline vegetation or plants listed on the state noxious weed list in shoreline-associated critical areas if provision is made for re-establishment of native vegetation in the disturbed area per ICC 17.05A.110.C.11.

j. Provided no gasoline powered boats or equipment are used, conservation, recreation, education and scientific research activities within shoreline-associated critical areas and critical area buffers including fishing, hunting, hiking and bird watching.

k. Installation of fences to protect habitat in buffers provided best management practices adopted by the county are implemented.

l. Trail development within shoreline-associated critical areas and buffers when meeting the following criteria:

(i) Up to twenty (20) percent of a shoreline-associated critical area buffer can be disturbed with a pedestrian (pervious) trail for private or public use when no supporting structures such as upland retaining walls, boardwalks, bridges, or stairs are proposed.

(ii) Replacement of damaged legally established trail structures that cross streams or other FWHCAs for public and private trails, provided that:

(1) Like-for-like replacement is proposed, unless the design is changed to improve ecological impact as documented by a qualified environmental consultant;

(2) No further expansion into the shoreline-associated critical areas is proposed;

(3) A geotechnical analysis is submitted for replacement within steep slopes or other geologically hazardous areas; and

(4) All temporary disturbance is immediately restored with native plantings at appropriate densities.

B. Habitat Management Plan.

1. If the biological site assessment (BSA) concludes that protected habitat may be affected by the proposed development, a habitat management plan must be prepared by a professional ecologist, biologist, or similarly-qualified professional at the expense of the applicant. The habitat management plan may be combined with the BSA, or a wetland mitigation plan, if required for the project.

a. The habitat management plan must consider management recommendations adopted by the Washington Department of Fish and Wildlife, and the specific attributes of the affected properties, such as, but not limited to, property size and configuration, surrounding land use, the practicability of implementing the habitat management plan, and the adaptation of the species to human activity.

b. Habitat management plans shall include the following information.

(i) An ecological assessment of the fish and wildlife habitat conservation areas present and potential adversely altered, to determine the gross area of loss and the functions, habitat, and types, sizes, and quantities of vegetation affected;

(ii) Statement of goals. Such statements shall include a discussion of any functions and values lost and the plan for replacement;

(iii) Methods. Information discussing "what, where, when, and how," i.e., acreage of mitigation, wetland or other habitat types to be constructed or restored, location, dates for beginning and completing the project, methods of construction, and maintenance requirements shall be included;

(iv) Standards of success. A qualitative and to the extent possible, a quantitative description of what will be considered a successful, functioning wetland or fish and wildlife habitat conservation area shall be provided; and

(v) Monitoring. Same as requirements set forth in ICC 17.03.260.I.

c. Contingency plan. A contingency plan may be required by the Administrator to outline restorative measures to be taken should the mitigation fail or only partially succeed;

d. Standard habitat management plan: In cases when the county has developed a standard habitat management plan for a specific species, the applicant may either accept and sign the standard habitat management plan or prepare his or her own habitat management plan pursuant to this program.

C. Geocoastal Analysis.

1. Where required, no shoreline stabilization project shall be permitted unless a geocoastal analysis demonstrates all of the following:

a. the primary structure or appurtenance is in danger of damage from shoreline erosion caused by tidal action, currents, or waves;

b. That the erosion is not due to landslides, sloughing or other forms of shoreline erosion unrelated to water action at the toe of the slope;

c. A significant possibility that the primary structure or appurtenance will be damaged within three (3) years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate would foreclose the opportunity to use measures that avoid adverse impacts on ecological functions;

d. That the shoreline stabilization would not adversely affect the property of others by changing rates of sediment, redirection of wave energy, or impoundment of or redirection of floodwater or tidal action; stabilization that would cause significant impacts to adjacent or down-current properties and shoreline areas is prohibited; and

e. Include an assessment of on-site drainage and vegetation characteristics and their effects on slope stability.

2. Where a geocoastal analysis confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, the report may still be used to justify more immediate authorization to protect against erosion using soft measures.

D. Demonstration of Need. When required, a demonstration of need shall address the following items:

1. Whether the shoreline stabilization is necessary to support a project a material purpose of which includes enhancing or restoring ecological functions.

2. Whether the shoreline stabilization is necessary to remediate hazardous substances pursuant to Chapter 70.105 RCW.

3. Whether the shoreline stabilization is necessary to protect public transportation infrastructure, existing dikes, or essential public facilities and other options are infeasible.

4. Whether the shoreline stabilization is necessary to protect a water-dependent developments, or single family residences, and other options are infeasible.

5. The proposal is the minimum necessary to protect the primary structure or appurtenance consistent with the requirements of ICC 17.05A.110.A.1.b and 17.05A.095.E.

6. Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

E. Alternatives Analysis.

1. In order of priority from least to greatest impact, subject to site-specific conditions, alternatives include but are not limited to:

a. Taking no action (allow the shoreline to retreat naturally);

b. Upland drainage control;

c. Vegetation protection, enhancement, and replacement;

d. Relocation of improvements or structures;

e. Beach nourishment;

f. Large woody material placement;

g. Soft shore protection methods—at least eighty (80) percent of the project must be constructed of naturally-occurring materials used in ways that are consistent with current nearshore processes;

h. Upland retaining walls placed at least ten feet landward of the OHWM;

i. Bulkheads and rock revetments placed landward of the OHWM;

j. Individual rock placement located at the OHWM; and

k. Bulkheads and rock revetments located at the OHWM.

17.05A.100 - Shoreline specific use regulations.

A. **Agriculture.**

1. This program does not limit or modify existing and ongoing agricultural activities occurring on agricultural lands in cultivation or other agricultural use as of the effective date of this chapter.

2. New agricultural uses and development proposed on land not currently in agricultural use, and conversion of agricultural lands to non-agricultural uses, shall conform to this Program, including but not limited to use restrictions, buffer and setback requirements, vegetation management, and impervious surface coverage limits.

3. Erosion control measures shall conform to guidelines and standards established by the Natural Resource Conservation Service and the U.S. Department of Agriculture.

4. Pesticides shall be used, handled, and disposed of in accordance with provisions of the Washington Pesticide Application Act (~~RCW~~Chapter 17.21 RCW) and the Washington Pesticide Control Act (~~RCW~~Chapter 15.5~~7~~8 RCW).

5. New agricultural use and development shall be managed to:

   a. Prevent livestock intrusion into the water;

   b. Ensure that changes to the quantity and rate of surface water runoff do not harm shoreline ecological functions;

   c. Prevent water quality degradation caused by manure, fertilizer, or agricultural chemicals;

   d. Prohibit clearing of riparian areas;

   e. Prevent shoreline erosion; and

   f. Ensure no net loss of ecological functions and avoid adverse effects on shoreline resources and values.

6. Livestock waste shall be disposed of in such a manner as to prevent surface or groundwater contamination as specified by Island County Health regulations and Natural Resource Conservation Service (NRCS) guidelines and standards.

7. Watering areas for livestock within required buffers are prohibited except when:

   a. No other feasible watering method is available;

   b. Adequate provisions are made to protect existing water quality;

   c. A water right allowing withdrawals for this purpose has been obtained;

   d. Adequate provisions are made to prevent the erosion of soil; and

   e. Measures to protect against impacts to wetlands and wetland buffers is provided through a farm management plan as required in ~~section~~ ICC 17.02~~A.050.F~~B.

8. Buffer zones conforming to NRCS guidelines and standards shall be established and maintained between tilled or grazed areas and associated water bodies to retard surface runoff, reduce siltation, filter and remove pollutants, provide habitat for fungi, plants, and wildlife, and provide shade for fish and other wildlife.

B. Aquaculture.

1. Aquaculture is an activity of statewide interest. When properly managed, aquaculture can result in long-term over short-term benefit and protect the resources and ecology of the shoreline. Aquaculture is defined as dependent on the use of the water area (WAC 173-

26-241(3)(b)(i)(A) and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area.

2. Commercial aquaculture operations require a shoreline conditional use permit which outlines uses and monitoring requirements based on site specific conditions and scientific indicators of the proposed operation. When a shoreline substantial development or conditional use permit is issued for a new aquaculture use or development, that permit shall apply to the initial siting, construction, and planting or stocking of the facility or farm. Authorization to accomplish initial siting, construction and planting shall be valid for a period of five (5) years with a possible extension per ~~section~~ICC 17.05A.130.C.13. After an aquaculture use or development is established under a shoreline permit, continued operation of the use or development, including, but not limited to, maintenance, harvest, replanting, restocking or changing the culture technique shall not require a new or renewed permit unless otherwise provided in the conditions of approval or if required pursuant to permit revision criteria in WAC 173-27-100 or this Program. Changing the species cultivated shall be subject to applicable standards of this Program.

3. The rights of treaty tribes to aquatic resources within their usual and accustomed areas shall be addressed through direct coordination between the project proponent and the affected tribes(s).

4. The location, design and operation of aquaculture facilities shall not significantly impact the aesthetic qualities of the shoreline, or result in adverse impacts to fish and wildlife habitat conservation areas as required by ~~section~~ ICC 17.05A.090.~~C.13~~F.

5. Aquaculture facilities are required to identify and use best management practices from appropriate sources, including those from the Pacific Coast Shellfish Growers Association, to minimize impacts such as light, noise, and odor from the construction and management of the facilities.

6. New aquatic species that have not been previously cultivated in Washington State shall not be introduced into Island County waters without written approval from the Washington Department of Fish and Wildlife.

7. A shoreline conditional use permit is required for any new commercial aquaculture use or development including conversions from non-geoduck aquaculture to geoduck aquaculture. Any geoduck aquaculture operation that causes substantial interference with normal public use of the surface waters shall require a substantial development permit. The following standards and requirements shall apply to commercial geoduck aquaculture:

    a. All subsequent cycles of planting and harvesting of commercial geoduck shall not require a new conditional use permit.

    b. A single conditional use permit may be submitted for multiple sites within an inlet, bay or other defined feature, provided the sites are all under control of the same applicant and within county shoreline jurisdiction.

    c. Commercial geoduck aquaculture shall only be allowed where sediments, topography, land and water access support geoduck aquaculture operations without significant clearing or grading.

d. Unless already addressed in other applications, applications for new commercial geoduck aquaculture shall contain:

(i). A narrative description and timeline for all anticipated geoduck planting and harvesting activities if not already contained in the federal or state permit application or comparable information mentioned above.

(ii). A baseline ecological survey of the proposed site to allow consideration of the ecological effects if not already contained in the federal or state permit application or comparable information mentioned above.

(iii). Measures to achieve no net loss of ecological functions consistent with the mitigation sequence described in ~~section~~ ICC 17.05A.090.~~C.7~~B.

(iv). Management practices that address impacts from mooring, parking, noise, lights, litter, and other activities associated with geoduck planting and harvesting operations.

e. Island County will provide public notice to all property owners within 300 feet of proposed commercial geoduck project boundaries. The county will also provide notice to tribes with usual and accustomed fishing rights to the area.

f. Conditional use permits for geoduck aquaculture shall include allowance for work during low tides at night or on weekends but may require limits and conditions to reduce impacts, such as noise and lighting, to adjacent existing uses.

g. Conditional use permits shall include monitoring and reporting requirements necessary to verify that geoduck aquaculture operations are in compliance with permit limits and conditions and to support cumulative impact analysis. The county shall consider the reporting and monitoring conditions of other permitting agencies before adding additional conditions to a permit.

h. Conditional use permits shall be reviewed using the best scientific and technical information available. This requirement may be met through review and approval of information provided under federal and state agency permit reviews.

i. Applicants shall apply best management practices to accomplish the intent of permit limits and conditions.

j. To avoid or limit impacts from geoduck aquaculture siting and operations and achieve no net loss of ecological functions, permits shall consider the following and place conditions where applicable and not redundant with other agency permit conditions:

(i). The practice of placing nursery tanks or holding pools or other impervious materials directly on the intertidal sediments.

(ii). Use of motorized vehicles, such as trucks, tractors and forklifts below the ordinary high water mark.

(iii). Specific periods when limits on activities are necessary to protect priority habitats and associated species. The need for such measures shall be identified in the baseline ecological survey conducted for the site.

(iv). Alterations to the natural condition of the site, including significant removal of vegetation or rocks and regrading of the natural slope and sediments.

(v). Installation of property corner markers that are visible at low tide during planting and harvesting.

(vi). Mitigation measures such as buffers between commercial geoduck aquaculture and other fish and wildlife habitat conservation areas as necessary to ensure no net loss of ecological functions.

(vii). Use of predator exclusion devices with minimal adverse ecological effects and requiring that they be removed as soon as they are no longer needed for predator exclusion.

(viii). Use of the best available methods to minimize turbid runoff from the water jets used to harvest geoducks.

(ix). Number of barges or vessels that can be moored or beached at the site as well as duration limits.

(x). Public rights to navigation over the surface of the water.

(xi). Good housekeeping practices at geoduck aquaculture sites, including worker training and regular removal of equipment, tools, extra materials, and all wastes.

(xii). Where the site contains existing public access to publicly owned lands, consider recommendations from the Washington Department of Natural Resources or other landowning agencies regarding protection of the existing public access.

8. Aquaculture uses and developments shall be operated to avoid the spread of disease to native marine or aquatic life. All aquaculture uses and developments shall comply with WDFW's transfer and import policies and requirements, including acquiring state-certified seed, shell, and eggs from a registered source.

9. Floating and submerged aquaculture structures shall be located so as to not unduly restrict navigational access to waterfront property or interfere with general navigation, and other water-dependent uses, including normal public use of the surface waters. Floating and submerged aquaculture structures and facilities in navigable waters shall be marked in accordance with U.S. Coast Guard requirements.

10. Aquaculture structures constructed on public tidelands shall be located so as to not unduly restrict pedestrian circulation along public beaches.

11. Aquaculture wastes shall be disposed of in a manner that will ensure compliance with all applicable government waste disposal standards, including but not limited to, the Federal Clean Water Act, Section 401, and Chapter 90.48 RCW, Water Pollution Control. No garbage, wastes, or debris shall be allowed to accumulate at the site of any aquaculture operation.

12. No processing of any aquacultural product, except for the sorting or culling of the cultured organism and the washing or removal of surface organisms, shall occur in or over the water after harvest, unless specifically approved by permit. All other processing shall be located on land and shall be governed in addition by the provisions of ~~c~~Chapter 17.03 ICC.

13. Odors shall be controlled through the proper storage and disposal of feed and other organic materials and by maintaining a clean operation. A specific plan for identifying and controlling odors shall be developed and approved as part of the permit approval process. Odors shall not unreasonably interfere with the enjoyment of life and property of a substantial number of persons.

14. Commercial finfish net pen aquaculture is prohibited in marine waters.

15. Contained finfish facilities are allowed and must use filtration or other methods that assure that any discharged water does not harbor diseases or parasites known to afflict wild fish.

16. Aquaculture proposals that hydraulically, mechanically, or by digging (except traditional low impact hand implement digging), displace, or disturb bottom sediments through dredging, trenching, or excavation shall not be permitted unless consistent with the environmental, critical area, and critical saltwater habitat protection standards of the SMP.

17. Predator control shall not involve the intentional killing or abusive harassment of birds, mammals, or other aquatic species. Aquaculture operations shall comply with the Endangered Species Act, Marine Mammal Protection Act, Department of Fish and Wildlife regulations, and other wildlife protection laws as is determined by applicable federal and state agencies.

18. For aquacultural projects using over-water structures, storage containers of necessary tools and apparatus seaward of the line of ordinary high tide shall be limited to permanent containers of not more than four (4) feet in height as measured from the surface of the raft or dock; provided that in locations where the visual impact of the proposed aquacultural structure will be minimal, the Shoreline Administrator may authorize storage containers of greater height. In such cases, the burden of proof shall be on the applicant. No chemicals, antibiotics, or toxins shall be stored seaward of the ordinary high water mark.

19. For aquaculture which uses antibiotics, an annual report of antibiotic use shall be submitted to the Shoreline Administrator. The report shall indicate the type and amount of antibiotics used during the previous calendar year. In no case will antibiotics use be allowed to impair local habitat or species.

20. In promotion of the Island County solid waste management plan and with the associated goal of eliminating marine debris, aquaculture permit applicants shall submit for approval, a solid waste reduction and recycling plan.

21. Overwater work shelters and sleeping quarters accessory to aquaculture use/development shall be prohibited.

22. Floating/hanging aquaculture structures and associated equipment shall not exceed 10 feet in height above the water's surface. The administrator may approve hoists and similar structures greater than 10 feet in height when there is a clear demonstration of need. The 10-foot height limit shall not apply to vessels.

23. Floating/hanging aquaculture facilities and associated equipment, except navigation aids, shall use colors and materials that blend into the surrounding environment in order to minimize visual impacts.

~~21~~24. Proposed aquaculture applications shall submit the following information at a minimum:

a. Species to be reared;

b. Aquaculture method(s);

c. Schedule, method, and type of feeding (if applicable);

d. Manpower/employment necessary for the project;

e. Harvest method and timing;

f. Location and plans for any shore-side activities including loading and unloading of the product and processing;

g. Methods and quantities of chemicals or antibiotics used for predator control or disease control, or to enhance production;

h. Disposal of aquaculture mortalities and other waste products by approved methods;

i. Environmental assessments including further baseline studies may be required depending upon existing conditions, the nature of the proposal, and probable adverse environmental impacts. Baseline and periodic monitoring, as required by permit, shall be at the applicant's expense by county approved consultants unless otherwise provided for;

j. Existing water quality conditions;

k. Other project specific information deemed necessary by the Shoreline Administrator to evaluate the potential effects of the proposal consistent with applicable regulations; and

l. Methods proposed for removal of effluent, and by-products for closed system finfish facilities.

m. Permit applications for commercial aquaculture shall include a biological site assessment and habitat management plan. The biological site assessment and habitat management plan shall be consistent with the requirements and standards

described in ~~section~~ ICC 17.05A.095~~0.C.13~~. In addition, biological site assessments and habitat management plans associated with commercial aquaculture shall specifically address localized water quality effects, impacts to benthic species and habitats, and impacts to native salmonid species.

25. No pesticides, herbicides, antibiotics, vaccines, growth stimulants, anti-fouling agents, feed, chemicals or other such materials shall be used until approval is obtained from all appropriate state and federal agencies, including the U.S. Food and Drug Administration, the Washington Department of Agriculture, Washington Department of Health (WDOH), WDOE, and WDFW, and proof of such approvals has been submitted to the department.

C. Beach access structures.

1. Beach access structures shall only be allowed where the structure would provide access to a publicly owned beach or where the party proposing the beach access structure has rights of access to the adjoining tidelands.

2. In all shoreline designations beach access structures shall be prohibited on or adjacent to exceptional marine feeder bluffs.

3. In shorelines designated natural:

   a. On bluffs higher than ten (10) feet in height, beach access structures may be permitted for public access and for new subdivisions when the structure is for public access;

   b. On banks lower than ten (10) feet in height, beach access structures are prohibited; and

   c. On banks lower than ten (10) feet in height, beach access for single-family residences may be provided by means of a low impact trail.

4. When permitted, beach access structures shall be located, designed and operated to avoid critical areas and prevent a net loss of shoreline ecological functions or processes, including, but not limited to:

   a. Habitat;

   b. Slope stability;

   c. Sediment transport; and

   d. Water quality.

5. No portion of a beach access structure shall be constructed waterward of the ordinary high water mark, unless there is no other feasible alternative, in which case the waterward extension shall be the minimum necessary to provide pedestrian access to the beach, shall be designed and located to avoid or minimize adverse impacts to shoreline functions and shall comply with the mitigation sequencing noted in ~~section~~ ICC 17.05A.090.~~C.7~~B.

6. When in-water, overwater, or waterward of the OHWM, construction is allowed in accordance with this section, it shall be limited to a small pier or pile-supported pedestrian landing platform of twenty-five (25) square feet or less that is otherwise consistent with the provisions of this Program.

7. Public beach access structures shall conform to applicable Americans with Disabilities Act (ADA) standards.

8. When allowed, one beach access structure~~s~~ may be located per lot within the shoreline buffer, provided that:

    a. There is no other available public or community (where no membership fee is required for access) beach access within ~~500 feet~~ a ¼ mile walk of the lot or lots to be served by the proposed access;

    b. The structure is the minimum size necessary to provide access;

    c. Walkways shall not be covered;

    d. The clear width of any walkway, staircase, tower, or tram shall be at least three (3) feet, and not exceed five (5) feet;

    e. Landings may not exceed fifty (50) square feet each, except that for public access structures, a mid-slope resting area of up to 100 square feet may be allowed; and

    f. The structure shall not extend more than twelve (12) vertical feet above the bank or slope.

    g. A property owner of multiple adjacent lots shall be limited to a total of one beach access structure between all adjacent lots.

9. Where not already required by the provisions of ICC 17.05A.100.K.7, and where communities of five (5) lots or more create a shared community beach access, the following increased size limitations to beach access structures apply.

    a. The maximum clear width of a shared community walkway, staircase, tower, or tram shall be six (6) feet.

    b. Landings may not exceed 100 square feet.

10.~~9.~~ Beach access structures shall be prohibited if any of the following apply:

    a. The structure would adversely impact a critical area or marine feeder bluff, or increase landslide or erosion hazards; or

    b. The structure is likely to interfere with natural erosion and accretion processes; or

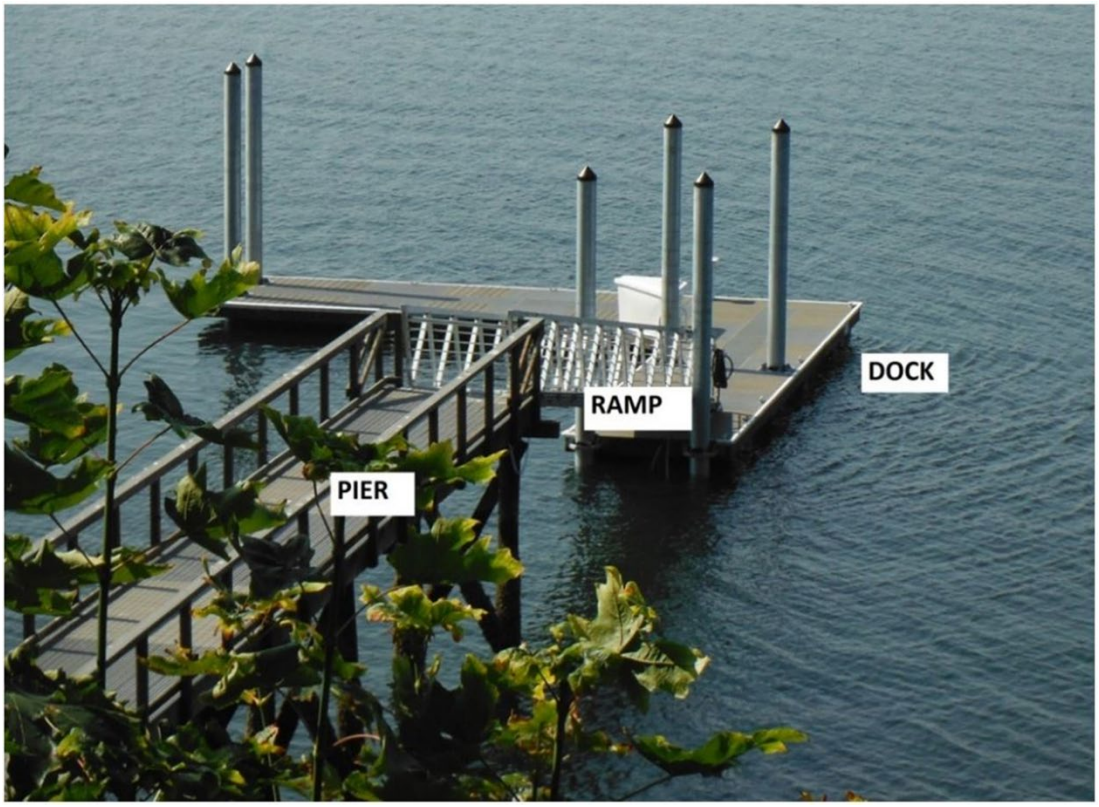
    c. The bank slope where the structure is placed is likely to require shoreline stabilization/shoreline defense works in the future to protect the beach access structure; or

d. Substantial bank or slope modification is required.

11~~10~~. Permit applications for beach access structures shall include adequate geotechnical and biological analysis to determine whether the structure meets the standards of this section.

12~~11~~. Existing lawfully constructed nonconforming beach access structures may be repaired or replaced in kind consistent with other provisions of this Program.

D. Moorage facilities (docks, piers, boat lifts, canopies, covered moorage, mooring buoys and floats).



1. New docks, piers, and floats shall be limited to the minimum size necessary for the project's intended water-dependent uses, public access, or ecological restoration.

2. New docks, piers, and floats shall be located and designed in a manner so as not to interfere with shoreline processes.

3. The location and design of new or replaced docks, piers, and floats, as well as the subsequent use, shall minimize adverse effects to fish, shellfish, wildlife, and water quality and shall not result in a net loss of shoreline ecological function.

4. New or replaced docks, piers, and floats shall be located, designed, and operated so as not to interfere with rights of adjacent property owners, navigation, or adjacent water uses.

5. All docks, piers, and floats shall be constructed consistent with state and federal requirements.

6. New or replaced docks, piers, and floats associated with single-family residences shall not be approved unless the following information has been provided:

   a. Demonstrate by submitting documentation including but not limited to a written narrative, photographs, and vicinity maps that existing shared, public or community facilities are not adequate or available for use; and

   b. Indicate by submitting documentation including but not limited to a written narrative, feasibility studies, photographs, correspondence with neighboring property owners, and vicinity maps that a multiple-owner or multiple-user facility has been thoroughly investigated and is not feasible.

7. Each dock, pier, or float proposal shall be evaluated on the basis of multiple considerations, including but not necessarily limited to the potential and cumulative impacts on littoral drift, sand movement, water circulation and quality, fish and wildlife, navigation, scenic views, and public access to the shoreline and the best available background information on tidal currents, wave height, and prevailing storm wind conditions. This information shall be provided in the biological site assessment and/or geocoastal analysis.

8. New docks, piers, and floats associated with residential uses on marine waters shall be the minimum size required to provide for moorage. Single family piers or docks shall not exceed ninety (90) feet in length measured perpendicularly from the OHWM. Shared moorage may extend up to 110 feet in length if demonstrated to be necessary to provide adequate moorage.

9. New piers and ramps on marine waters shall have a maximum width of four (4) feet and a maximum walkway width of four (4) feet for docks and floats.

10. New piers, docks, or floats on lakes shall have a maximum width of four (4) feet, or five (5) feet for shared docks.

11. For new docks, piers, and floats associated with residential uses on lakes, the maximum waterward intrusion of any portion of any pier or dock shall not extend further waterward than the average intrusion of the piers, docks, and floats on lots abutting the location of the new dock as measured perpendicularly from the OHWM unless an alternative dimension is required to prevent impacts to critical habitat or navigation. In no circumstances shall the maximum waterward intrusion of any portion of the pier, dock, or float extend more than sixty (60) feet from the OHWM, or the point where the water depth is eight (8) feet below the OHWM, whichever is reached first.

12. Overwater surfaces shall be constructed of unobstructed grating to provide at least fifty (50) percent open surface area.

13. Pier skirting is prohibited.

14. Repairing existing pilings via encapsulation may be allowed when removal is infeasible.

15. Repair of existing docks, piers, and floats shall be allowed through proper permitting pursuant to ICC 17.05A.100.D. Repair of a dock, pier, or float in which more than fifty (50) percent of the decking is replaced or more than half the existing piles are replaced over a

five-year period shall be considered new construction and shall conform to all substantive and procedural regulations of this SMP.

16. Existing docks, piers, or floats that are non-conforming to the current required dimensional standards may be replaced or reconstructed to the existing dimensions, provided they are consistent with all other performance standards of this section and the standards of the U.S. Army Corps of Engineers and the Washington State Department of Fish and Wildlife and shall include measures that increase light transmission through the deck, maximize the height of piers above the water surface, reduce the overall number or size of piles, enhance the shoreline vegetation, and minimize impacts on shallow-water habitat.

17. For commercial and industrial uses, docks, piers, and floats are only allowed for water dependent uses and shall be the minimum size necessary to accommodate the proposed use.

18. Commercial and industrial docks upon which toxic or flammable materials are handled or stored shall make provisions to minimize the probability of spill. Provision shall be made to control accidental spills that do occur.

19. Docks, piers, or floats associated with marinas shall make adequate provisions for parking, fueling, sewage pump-out, and liquid and solid waste disposal.

20. All new or replaced docks, piers, floats, and similar devices shall be designed and located so as not to be a hazard to navigation and so marked as to prevent a hazard to navigation at any time during the day or night.

21. All floats and floating docks shall include stops to keep the floats off the tidelands at low tide.

22. For waterfront subdivisions, planned residential developments, multi-family residences, and inns permitted on or after January 19, 2016, only joint use docks and piers may be permitted.

23. Unsafe docks, piers, and floats shall be removed or repaired by the owner~~.~~ at the earliest possible opportunity, not to exceed ninety (90) days.

24. Covered moorage associated with nonresidential docks, piers, and floats shall be prohibited.

25. Covered moorage associated with single-family residential development shall be prohibited.

26. New and replaced docks, piers and floats, with the exception of those in the Canal Communities of Lagoon Point, Sandy Hook and Mariners' Cove, shall comply with the following design standards:

    a. Designed and constructed to avoid or, if that is not feasible, to minimize shading and other impacts on nearshore habitats and processes;

    b. Pilings must be structurally sound prior to placement in the water;

c. When plastics or other non-biodegradable materials are used in float, pier, or dock construction, containment features in the design of the structures shall be required;

d. Docks, piers, and floats shall be spaced and oriented to shoreline in a manner that minimizes hazards and obstructions to navigation, fishing, swimming, and pleasure boating;

e. Overhead wiring or plumbing is not permitted on piers, docks, or floats;

f. Dock lighting shall be designed to shine downward but not on the surface of the water, be of low wattage, and shall not exceed a height of three (3) feet above the dock surface;

g. Where feasible, floats shall be secured with anchored cables in place of pilings; and

h. Piles, floats or other members in direct contact with water shall be approved by applicable federal and state agencies for use in water and shall not be treated or coated with biocides such as paint, or pentachlorophenol. Use of arsenate compounds or creosote treated members is prohibited. Steel is preferred.

27. A local canal community dock master plan may be permitted as a shoreline conditional use for a duration of six (6) years for the communities of Lagoon Point, Sandy Hook and Mariners' Cove. Once adopted, new and replaced docks, piers and floats in the Canal Communities that comply with the standards of the master plan and are adjacent to the canal would be allowed as permitted uses. An approved master plan would be required to contain, at a minimum, the following:

    a. Dock, pier and float dimensional standards;

    b. Standards for light penetrating materials (e.g., grating);

    c. Standards for materials that touch the water, specifying that they must be approved by applicable federal and state agencies for use in water and not treated or coated with biocides such as paint, creosote or pentachlorophenol; and

    d. Protections for existing shoreline ecological functions, views, and navigation.

28. Through the conditional use process, dimensional standards may be established as part of an approved canal community dock master plan that differ from those for docks, piers, and floats in other parts of the county as provided in ICC 17.05A.100.D.

29. Private docks, piers, and floats in the canal communities that face the open waters of the Puget Sound shall comply with the general requirements for docks, piers, and floats in ICC 17.05A.100.D.

30. Prior to adoption of a local canal community dock master plan, private docks and piers shall be permitted as conditional uses in the canal communities of Lagoon Point, Sandy Hook, and Mariners' Cove, provided that:

a. New or replaced docks and piers use materials that touch the water that are approved by applicable state agencies for use in water and are not treated or coated with biocides such as paint, creosote or pentachlorophenol;

b. Repaired or replaced docks do not increase the total area of overwater coverage and do not extend beyond the average length of the two (2) closest adjacent docks; and

c. New docks do not exceed the average overwater area of the two (2) closest docks, and the length of the dock, pier, or float does not extend beyond the average length of the two (2) closest adjacent docks, piers, or floats.

31. Boat Lifts and Canopies

a. Boat lifts and canopies shall be placed as far waterward as possible in water with a depth of six (6) feet or greater, and no less than 30 feet waterward of OHWM. No more than one (1) boat lift shall be located on any residential lot.

(i) Replacement boat lifts can be located in the same location, but where feasible should be relocated in water depth six feet or greater.

(ii) Feasibility limitations include bathymetry, existing overwater structures, or conflicts with adjacent properties

b. One canopy per residential lot that is associated with a legally established boat lift may be permitted through a local canal community dock master plan. Canopies established through a local canal community dock master plan must be made of light permeable fabric.

E. ~~D.~~ **Boating facilities** (marinas, boat launches, mooring buoys, and float planes).

1. **Marinas and float plane bases.**

a. Marinas are a permitted use in the aquatic designation where adjacent uplands are designated high intensity and as conditional uses where adjacent uplands are designated ~~r~~Rural ~~c~~Conservancy, ~~u~~Urban ~~c~~Conservancy and ~~s~~Shoreline ~~r~~Residential.

b. Marinas are prohibited adjacent to the ~~n~~Natural designation. Float plane bases are prohibited in the aquatic zone adjacent to the natural and rural conservancy designations.

c. Float plane bases shall comply with all applicable use requirements relating to marinas.

d. Fill shall only be allowed when necessary to support water dependent portions of the marina facility and not for parking, unless no alternatives exist and such fill would be consistent with this Shoreline Master Program.

e. Marinas shall be sited to minimize degradation of commercial and recreation shellfish beds, water quality, existing geohydraulic shoreline processes and shall be

consistent with the Washington Department of Health's "Environmental Health Guidelines for Marina Development and Operation."

f. Where moorage is offered in new, expanded, or renovated marinas, pump-out, holding or treatment facilities shall be provided for sewage contained on boats or vessels. Such facilities shall be located so as to be conveniently accessible to all boats capable of being moored at the marina. The marina operator shall be responsible for adequate and approved collection and disposal of sewage, solid waste, and petroleum waste from the marina.

g. Marinas shall be located, designed, constructed, and operated so as not to interfere with the rights of adjacent property owners, adjacent water uses, or navigation.

h. Long term moorage shall not be allowed in areas adjacent to shellfish beds, commercial aquaculture, or shallow water embayments with poor flushing action.

i. Parking and loading areas shall be located a minimum of 100 feet from the immediate water's edge and beaches, where feasible.

j. Marinas shall develop and implement a spill prevention, control, and countermeasure plan.

k. Marinas shall provide adequate on-shore sewage and waste disposal facilities and restrooms. Such facilities shall be adequate to serve transient boaters as well as live-aboard boaters.

l. Dredging or filling of wetlands for the sole purpose of constructing a marina shall be prohibited.

m. New marina-related structures or uses that are not in and of themselves water-dependent shall not be located over water.

n. Adaptive reuse of existing overwater structures for non-water-dependent water-oriented uses, may be permitted as a conditional use when the structure is historically significant but has become functionally obsolete for use by water-dependent uses.

o. Public access facilities shall be required for all marinas, provided that marinas may restrict access to specific areas and times for safety and security reasons. The design and any operational restrictions of public access shall require approval of the Shoreline Administrator.

p. Surface runoff from marina areas shall be controlled so that pollutants will not be carried into water bodies.

q. Parking areas shall be subject to the policies and regulations of ~~section~~ ICC 17.03.180.Q. No over water parking shall be allowed.

r. Marinas shall be subject to the design standards for docks, piers, and floats in ~~section~~ ICC 17.05A.~~110.B~~100.D and the non-residential design, landscape and screening guidelines of ~~section~~ ICC 17.03.180.P.

s. When reviewing proposals for new or expanded marina facilities, the county shall require the proponent to prepare and implement appropriate technical studies and plans. Examples of studies and plans that may be required include, but are not limited to:

(i) A maintenance plan for maintaining pump-out and waste/sewage disposal facilities and services.

(ii) A spill response plan for oil and other spilled products. Compliance with federal or state law may fulfill this requirement.

(iii) An operational plan that, at a minimum, describes procedures for fuel handling and storage; measures, including signage, for informing marina users of applicable regulations; measures for collecting garbage and recyclables; measures and equipment for ensuring public safety.

(iv) A visual assessment of views from surrounding residential properties, public viewpoints, and the view of the shoreline from the water surface.

(v) An assessment of existing water-dependent uses in the vicinity including but not limited to, navigation, fishing, shellfish production and harvest, swimming, beach walking, and picnicking and shall document potential impacts and mitigating measures. The county shall evaluate impacts on these resources and impose specific conditions to mitigate impacts as necessary.

(vi) New or expanded marina facilities shall be located and designed to prevent traffic hazards and minimize traffic impacts on nearby access streets.

2. **Public boat launches.**

a. Public and community boat launches may be permitted when they are located, designed, and constructed in a manner that avoids or minimizes adverse impacts on coastal or fluvial processes, biological functions, aquatic and riparian habitats, water quality, navigation, area aesthetics, or neighboring uses. When permitted, public and community boat launches shall be:

(i) Located in areas where there is adequate water mixing and flushing action to ensure that minor discharges from normal operation of marine engines does not harm local shoreline ecology;

(ii) Designed so as not to retard or reduce natural shoreline flushing characteristics or littoral drift;

(iii) Designed and constructed using methods/technology that have been recognized and approved by state and federal resource agencies as the best currently available;

(iv) Designed so that existing or potential public access along beaches is not blocked or made unsafe, and so that public use of the surface waters is not unduly impaired;

(v) Designed in accordance with generally accepted coastal engineering principles and boating industry standards; and

(vi) Developed and maintained to support waterfront access for watercraft. In those limited instances where separate or associated uses are permitted, other than restrooms or septic facilities, only uses that are water-dependent or afford public access uses shall be approved.

b. Public boat launches shall provide adequate restroom and sewage and solid waste disposal facilities in compliance with applicable health regulations.

c. When overwater development is proposed in association with a public boat launch facility, it may be permitted only where such use requires direct water access.

d. Public and community boat launches shall be located and designed to prevent traffic hazards and minimize traffic impacts on nearby access streets.

e. Public boat launch sites shall include parking spaces for boat trailers commensurate with projected demand and shall comply with the transportation provisions of this Shoreline Master Program.

3. **Private boat launches.**

a. Private boat launches shall be allowed only when public boat launches are unavailable within one (1) mile of the site.

b. When permitted, private boat launches including launches accessory to residential development shall be designed and constructed using methods or technology that have been recognized and approved by state and federal resource agencies as the best currently available. Rail and track systems shall be preferred over concrete ramps or similar facilities that may require on-going maintenance or may block sediment transport.

c. No more than one (1) private boat launch facility or structure shall be permitted on a single parcel or residential lot.

d. Designed in accordance with generally accepted coastal engineering principles and boating industry standards.

4. **Mooring buoys.**

a. Commercial or recreational mooring buoys may be permitted provided that they are consistent with this Program and that individually or cumulatively:

(i) They do not impede the ability of other landowners to access private property; and

(ii) They do not pose a hazard to or obstruct navigation or fishing; and

(iii) They do not contribute to water quality or habitat degradation; and

(iv) They do not pose a threat to a commercial shellfish growing area classification or reduce the ability to upgrade the classification.

b. The installation and use of mooring buoys (including commercial and recreational buoys) in marine waters shall be consistent with all applicable state laws, including ~~WAC~~ Chapter 246-282 WAC, the current National Shellfish Sanitation Program standards, and Washington State Department of Fish and Wildlife, Health, and the Department of Natural Resources standards.

c. Private recreational mooring buoys on state-owned aquatic lands shall not be used for residential (living on the boat) or commercial purposes.

d. Mooring buoys shall be located to:

(i) Avoid eelgrass beds and other critical saltwater habitats; and

(ii) Prevent obstruction to navigation.

e. Mooring buoys shall use neutral buoyancy rope, mid-line float, helical anchors, or other state-approved designs that have minimal adverse effects on aquatic ecosystem and fish.

f. Mooring buoys shall not be allowed on lake shorelines of the state.

g. Mooring buoys shall be clearly marked and labeled with the owner's name and contact information and permit number(s).

h. The Shoreline Administrator shall plan for and coordinate with other agencies to control the placement and number of mooring buoys within bays and other areas to protect water quality and habitat and ensure that transit channels are maintained. Under no circumstances shall mooring buoys exceed the density limits in state Department of Health guidelines and National Shellfish Sanitation Program standards.

i. The capacity of each mooring buoy may not exceed one (1) boat and its appurtenant shore access craft.

F. ~~E.~~ Commercial development.

1. New water-related commercial development may be allowed in the shoreline jurisdiction within the urban conservancy, shoreline residential, and high intensity designations where allowed by the underlying zone classification according to ~~c~~Chapter 17.03 ICC.

2. New commercial development is prohibited in the aquatic, natural and rural conservancy shoreline designations.

3. Water-oriented commercial uses and developments shall be allowed in the shoreline when it is demonstrated that the use or development will not result in a net loss of shoreline ecological functions or processes, or have significant adverse impact on other shoreline uses, resources and values such as navigation, recreation and public access.

4. Commercial uses shall provide public access to the shoreline. Public access and ecological restoration shall be considered as potential mitigation of impacts to shoreline resources for all water-related and -dependent commercial uses consistent with all relevant constitutional and other legal limitations on the regulation of private property.

5. If there is a change in commercial use to another use, the altered use must comply with the SMP as if it were a new use.

6. Non-water-oriented commercial uses are prohibited in shoreline jurisdiction unless they meet the following criteria:

    a. The site is physically separated from the shoreline by another property or public right-of-way; or

    b. The use is part of a mixed-use project that includes an associated water-dependent use; or

    c. Navigability is severely limited at the proposed site; or

    d. The commercial use provides a significant public benefit in the form of public access or ecological restoration~~.~~; or

    e. The commercial use is a home occupation and is therefore accessory to the use of the property as residential.

7. Existing non-water dependent and non-water related commercial use or development on shorelines that conform to this SMP may be permitted to expand landward, but not waterward of existing structures, provided the expansion otherwise conforms to this Program.

8. Commercial developments shall not interfere with the enjoyment of adjacent recreational or residential uses.

9. In low bank areas, commercial development including parking and loading areas shall comply with the buffer requirements of ~~section~~ ICC 17.05A.090.~~D~~H and ~~c~~Chapter~~s 17.02 and 17.02A~~ 17.02B ICC.

10. Water-dependent commercial development in the high intensity shoreline designation shall not be required to maintain a shoreline setback.

11. In geologically hazardous areas or unstable bluff areas, commercial development shall conform with the bluff standards and setback requirements established under ~~c~~Chapters~~ 17.02 and 17.02A as well as chapter~~ 11.02 and 17.02B ICC.

12. Commercial parking and loading areas shall be located landward from the principal building being served, except when the parking facility is within or beneath the structure and adequately screened, or in cases when an alternate location would have less environmental impact on the shoreline.

13. Legally established existing commercial developments and activities within the shoreline jurisdiction may be maintained or expanded without a shoreline variance subject to the requirements of ~~c~~Chapter 17.03 ICC, and the provisions of this Program. In cases where the existing setback is less than thirty (30) feet from the OHWM, the proposed expansion may not occur any further seaward towards the OHWM, except for water-dependent uses.

14. Design of parking and loading areas shall ensure that surface runoff does not pollute adjacent water or cause soil or beach erosion.

15. Outdoor advertising and signs shall comply with the section on outdoor advertising, signs and billboards, ~~section~~ ICC 17.05A.100.~~K~~L.

16. Applications for commercial development shall include a detailed statement explaining the nature and intensity of water orientation of the proposed activity. Such statement shall include the following:

    a. Nature of the commercial activity;

    b. Need for shoreline frontage;

    c. Special considerations being planned to enhance the relationship of the activity to the shoreline and to mitigate adverse effects;

    d. Provisions for public visual or physical access to the shoreline.

17. Accessory developments and uses such as warehousing, outdoor storage, waste storage and treatment, stormwater runoff control facilities, and utilities that do not require a shoreline location must be located landward of OHWM.

G. ~~F.~~ Forest Practices

1. To be consistent with WAC 173-26-241(3)(e), the county shall rely on the Forest Practices Act (RCW 76.09), its implementing rules, and the 1999 Forest and Fish Report as adequate management of commercial forest uses within shoreline jurisdiction, except for forest conversion activities, and in shorelines of statewide significance.

2. When forest lands are converted to another use, there shall be no net loss of shoreline ecological functions or significant adverse impacts to other shoreline uses, resources and values such as navigation, recreation, or public access.

3. Within shorelines of statewide significance, only selective commercial timber cutting shall be allowed.

4. Selective commercial timber cutting on shorelines of statewide significance shall not exceed thirty (30) percent of the merchantable trees in any ten-year period as required by

RCW 90.58.150. The Shoreline Administrator may allow exceptions to the thirty (30) percent limit with a conditional use permit in accordance with WAC 173-26-241(3)(e).

5. On shorelines of statewide significance, other timber harvesting methods may be permitted as conditional uses in those limited instances where the topography, soil conditions or silviculture practices necessary for regeneration render selective logging ecologically detrimental.

6. All allowed forest practices in shorelines shall comply with the following:

   a. Forest practices, including construction of logging roads, on slopes that exceed thirty-five (35) percent shall require a conditional use permit;

   b. Forest practices within Island County's shorelines shall maintain critical area buffers consistent with ~~section~~ Chapter 17.02B and ICC 17.05A.090.~~D~~H ~~as well as chapters 17.02 and 17.02A~~;

   c. Disposal or removal of accumulations of slash and other debris shall be conducted in a safe manner and minimize impacts to the environment and to neighboring properties. Slash burning shall be conducted according to best management practices, including compliance with burn bans during high fire hazard conditions;

   d. For shoreline areas having scenic qualities, such as those providing a diversity of views, unique landscape contrasts or landscape panoramas, the Shoreline Administrator may restrict removal of trees to maintain the quality of scenic views;

   e. Seeding, mulching, matting, and replanting shall be required where necessary to ensure soil stability on areas that have been logged. Replanted vegetation shall be of native plants appropriate to site conditions; and

   f. All logging operations shall protect the adjacent and downstream shorelands against erosion, uncontrolled drainage, slides, pollution, excavations and fills and other factors detrimental to the environment.

7. A forest practice that only involves timber cutting is not a development under the Act and does not require a shoreline substantial development permit or a shoreline exemption. A forest practice that includes activities other than timber cutting may be a development under the Act and may require a substantial development permit, as required by WAC 222-50-020

H. ~~G.~~ Industry

1. Port facilities and water-dependent industrial uses are allowed in the high intensity shoreline designation where the proposed use or activity is permitted in the underlying zone by ~~c~~Chapter 17.03 ICC.

2. Non-water-dependent industrial uses are prohibited in all shoreline environment designations.

3. Port and industrial uses are prohibited in the ~~n~~Natural, ~~r~~Rural ~~c~~Conservancy, ~~u~~Urban ~~c~~Conservancy and ~~s~~Shoreline ~~r~~Residential designations.

4. Water-dependent industrial structures may be allowed within required buffers to the minimum extent necessary to support the water dependent use, provided mitigation is provided in the form of buffer enhancement in a degraded buffer on nearby shorelines. Off-site mitigation may be allowed provided that a permanent easement protecting the mitigation area is secured with a record on the title to be approved by the Shoreline Administrator, and that the mitigation claimed has not also been claimed as mitigation for any other development.

5. Industrial development shall be located, designed, constructed and operated in such a manner as to minimize effects on aquatic life.

6. Industrial developments shall comply with all federal, state, regional and local requirements regarding air and water quality.

7. Industrial and port facilities shall be located, designed, constructed, and operated so as to avoid interference with the rights of adjacent property owners, and to minimize interference with the normal public use of the adjacent shoreline.

8. Industrial and port facilities shall not duplicate, but shall share overwater structures such as docks and piers whenever practicable. Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate firefighting and fire prevention equipment and by such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved. Best management practices shall be used in the storage and handling of flammable, explosive and hazardous materials in industrial and port facilities.

9. Industrial and port facilities shall make adequate provisions to minimize the probability of spills of fuel or other toxic substances. Provisions shall be made to handle accidental spills that do occur.

10. Noise which is objectionable due to volume, frequency, or beat shall be muffled or otherwise controlled. Emergency warning sirens or alarms and related apparatus used solely for public purposes are exempt from this requirement.

11. Industrial facilities shall ensure that no direct or reflected glare is visible from adjacent properties, streets, or water areas.

12. Port and industrial facilities shall provide public access to shoreline areas when feasible, taking into consideration public safety, public health, and security.

13. Log storage shall only be allowed in high intensity areas and only under the following circumstances:

    a. Where it will not interfere with navigation or other beneficial water uses; and

    b. It will not result in a net loss of ecological functions.

14. Whenever feasible, log storage facilities shall be located on land and properly sited to avoid fish and wildlife habitat conservation areas.

15. Log storage facilities shall not be sited where dredging would be required in order to accommodate log storage or transport.

16. In-water log storage shall only be allowed on a temporary basis, and shall be located where natural tidal or current flushing and water circulation are adequate to disperse polluting wastes.

17. Log storage facilities shall be adequately maintained and repaired to prevent log escapement from the storage site.

I.~~H.~~ Mining. Mining is prohibited in all shoreline designations.

J.~~I.~~ Recreation.

1. Water-oriented recreational development may be allowed when the proponent demonstrates that the use will not result in a net loss of shoreline ecological functions or processes or have significant adverse impact on other shoreline uses, resources or values such as navigation and public access.

2. Non-water-oriented recreational facilities including playing fields or similar active uses shall be located outside of the shoreline.

3. Recreational uses that provide access to and use of the county's shorelines shall be preferred.

4. For lands designated natural or rural conservancy that are operated by Washington State Parks, active recreational facilities (e.g., water access facilities, restrooms, parking areas) are an allowed use and activity, including the replacement or upgrading of such facilities, consistent with all permitting requirements.

5. Trailer spaces, camping sites, and similar facilities shall not be located on beaches and tidelands or within required buffers, with the exception of designated camping spots on marine trails.

6. Recreation facilities shall be designed to provide adequate water supply, sewage disposal, and garbage collection.

7. Screening, buffer strips, fences, and signs to prevent park overflow and to protect the value and enjoyment of adjacent or nearby private or public properties may be required when deemed necessary by the Shoreline Administrator.

8. Tree cutting and driftwood removal in public recreational areas shall be prohibited, except when conducted by the agency operating the recreational area in accordance with the vegetation management regulations of this chapter.

9. Signs indicating the public's right to access shoreline areas shall be installed and maintained in conspicuous locations at recreational facility points of access, street ends,

and public viewpoints. Signs shall be kept to the minimum number and size necessary to ensure public awareness of the recreational area and to ensure continued public control of the site.

10. When a public recreation site abuts private property or tidelands, signs and other similar markers shall indicate geographic limits of public access to minimize conflicts with adjacent use and development and to ensure continued public control of the site.

11. All-terrain vehicles for off-road use are prohibited on tidelands and beaches; except when necessary to launch or retrieve boats or to provide access in the course of emergency response.

12. Applicants for shoreline substantial development permits for recreation facilities may be required to provide data to demonstrate the safety of proposed equipment and facilities.

K.~~J.~~ Residential

1. All residential use and development should be properly managed to avoid damage to the shoreline environment and prevent cumulative impacts associated with shoreline armoring, overwater structures, stormwater runoff, septic systems, introduction of pollutants, and vegetation clearing.

2. Subdivision of property for residential development is subject to the density limits in the underlying zone described in ~~c~~Chapter 17.03 ICC and the following maximum density limits, whichever is more restrictive:

   a. **Aquatic.** Subdivision for residential purposes is prohibited, but tidelands may be subdivided for conservation purposes or public acquisition from adjacent uplands, with no limit on lot size;

   b. **Natural.** One (1) unit per five (5) acres;

   c. **Rural ~~c~~Conservancy.** One (1) unit per five (5) acres;

   d. **Urban ~~c~~Conservancy.** Four (4) units per acre;

   e. **Shoreline ~~r~~Residential.** Four (4) units per acre;

   f. **High ~~i~~Intensity.** Subdivision for residential purposes is prohibited.

3. Those lands waterward of the ordinary high water mark and within the boundaries of any waterfront parcel shall not be used to compute required lot area, and lot dimensions.

4. Lots which are partially located within shoreline jurisdiction may be subdivided at the shoreline jurisdiction boundary or landward thereof as long as the following criteria are met:

   a. the resulting lot which is outside of shoreline jurisdiction, meets the minimum lot size and density restrictions of Chapter 17.03 ICC; and

b. the resulting lot which is within shoreline jurisdiction, meets the minimum lot size for the specific environmental designation as outlined in this section, ICC 17.05A.100.K.

~~3~~5. Residential development shall not be permitted seaward of the ordinary high water mark. Live-aboard vessels and houseboats licensed as vessels are restricted to approved marinas only. Floating homes are prohibited.

~~4~~6. Public access to publicly owned shorelines shall be maintained. When properties are subdivided or developed with residential uses, survey markers and signage shall be placed indicating the location of any adjacent public right-of-way or easement providing access to the shoreline.

~~5~~7. Subdivisions containing five (5) or more lots shall provide public access in accordance with ~~section~~ ICC 17.05A.090.~~M~~O.

~~6~~8. Subdivisions and all individual residential structures, appurtenances, and accessory structures shall be designed to ensure that surface runoff does not pollute adjacent waters or cause soil or beach erosion either during or after the construction phase.

~~7~~9. Subdivisions containing marshes, swamps, lagoons, portions of floodplains, or similar wetlands shall use those areas only for the purposes of parks, open space, or recreation facilities as permitted by ~~c~~Chapter~~s~~ 17.02B ICC~~and 17.02A~~.

~~8~~10. Construction of residential structures, appurtenances, accessory structures and amenities shall not be detrimental to the geohydraulic processes occurring within the shoreline corridor.

~~9~~11. Residential structures located waterward of the ordinary high water mark are not permitted. Residential structures located in ~~on~~ wetlands or their buffers shall adhere to the provisions of ICC 17.05A.090.B and D. ~~areas or in areas subject to flooding or tidal inundation may be permitted only when the property qualifies for a shoreline variance, and only where complete flood proofing measures have been provided, and then only when the location of such structures will not aggravate flooding possibilities of nearby properties.~~

~~10~~12. Residential structures shall only be located upon geologically hazardous areas (as defined in ~~c~~Chapter 17.02B ICC~~A~~) if in compliance with the bluff setback standards and conditions contained in ~~c~~Chapter 11.02 ICC or set back fifty (50) feet from the top of a bank greater than 100 feet in height, whichever is more restrictive.

~~11~~13. The following shoreline setbacks shall be applied to residential development:

a. All residential development shall comply with the buffer requirements of ~~section~~ 17.05A.090 ICC and the critical areas buffers established in ~~c~~Chapter~~s~~ 17.02B ~~and 17.02A~~.

b. A greater setback may be required if necessary to comply with the grading, geologically hazardous area, erosion control and drainage requirements of ~~c~~Chapter~~s~~ 11.02 and ~~chapter~~ 11.03 ICC and the critical areas regulations contained in ~~c~~Chapter~~s~~ 17.02B ICC ~~and 17.02A~~.

~~12~~14. Normal appurtenances may be located within the shoreline setback so long as they do not obstruct the water view corridor of adjacent waterfront primary residences and are not located within the standard shoreline buffer.

~~13~~15. New residential development shall be designed and built in a manner that avoids the need for structural shore armoring and flood hazard reduction over the life of the development in accordance with ~~section~~ ICC 17.05A.090.~~L~~N, flood hazard reduction~~control structures~~, and ~~section~~ ICC 17.05A.110.A, shoreline stabilization, of this Shoreline Master Program and other applicable plans and laws.

~~14~~16. Subdivision for residential development shall provide sufficient lot depth for development to occur without the need for shoreline stabilization for the life of the development.

~~15~~17. Creation of new residential lots through land division shall be designed, configured and developed to ensure that no net loss of ecological functions and processes occurs from the plat or subdivision, even when all lots are fully built out.

~~16~~18. Subdivision of land within the Natural designation shall be restricted to the creation of new parcels with a minimum lot size of five (5) acres and a minimum shoreline frontage of 330 feet within shoreline jurisdiction. The 330 feet lot width standard may be modified to accommodate aliquot sections.

~~17~~19. Building buffers and setbacks from shorelines consistent with the requirements of this Shoreline Master Program and ~~c~~Chapters 17.03 and 17.02B ICC shall be established as conditions of preliminary plat approval in all new waterfront subdivisions. A plat restriction shall specify the required setbacks and all building buffers and setbacks shall be shown on the face of the plat.

~~18~~20. Septic drainfields which are proposed for lots upon feeder bluffs or within 100 feet of any geologically hazardous areas should be designed and located so as to discharge leachate as far as practically possible away from the bluff face.

~~19~~21. Additions to legally established residences shall not be located seaward from the applicable setback and shall conform to applicable shoreline regulations as well as other applicable county and state regulations. For purposes of this section "residence" shall mean the primary residential structure on the property and attached or detached guest cottages.

~~20~~22. Natural vegetation between the OHWM and the top of banks and bluffs ten (10) feet or higher shall be retained, except for removal necessary for view enhancement consistent with ~~section~~ ICC 17.05A.~~090.K100.N~~110.C.8 and 9 of this Shoreline Master Program, removal of hazardous, diseased or damaged trees when they pose a threat to a permitted structure consistent with ICC 17.05A.~~100.N~~110.C.10 and to allow for pedestrian waterfront access. Removal of invasive non-native species is authorized.

~~21~~23. In shorelines designated natural, a 150-foot buffer shall be required wherein only limited tree limbing of no greater than twenty (20) percent of the tree crown for view corridor purposes is allowed consistent with ICC 17.05A.~~100.N~~110.C.8 and 9. The native vegetation buffer shall be designated on the site plan, approved by the Shoreline Administrator and recorded with the County Auditor.

~~22~~24. Beach access structures for residential uses.

a. Joint use beach access structures shall be preferred in areas of existing residential subdivisions located on unstable slopes, marine feeder bluffs or other geologically hazardous areas. Applications for facilities serving more than one parcel, under the same or different ownership shall include documentation of all parcel property owners that would share the facility. Prior to construction or installation, the owners shall record with the County Auditor a joint-use agreement that will appear on the titles of all parcels sharing the facility. The agreement should address apportionment of responsibilities/expenses, easements, liabilities, and use restrictions.

b. Beach access structures located adjacent to fish and wildlife habitat conservation areas that include over water structures, landings that require fill or shore protection structures, shall only be allowed as a shoreline conditional use and shall require a complete BSA.

c. Beach access structures located in the natural designation shall be permitted for public use purposes and allowed as a shoreline conditional use for private access.

d. Normal appurtenances and beach access structures shall conform to the following criteria:

(i). They shall be located and designed in such a manner so as to not require shoreline stabilization over the life of the structure, including the installation of bulkheads solely for the purpose of protecting new appurtenances.

(ii). They are designed and located to avoid unstable slopes, eroding bluffs and other geologically hazardous areas.

(iii). They are designed and located in such a manner to minimize the loss of existing vegetation.

(iv). Beach access structures which require any land disturbing activity within the shoreline setback area must comply with the requirements of the county's land development standards.

(v). They shall be designed in such a manner to minimize their impact on shoreline functions and so as to not interfere with normal littoral drift and movement of sediments to and along the shore and shall be located as far landward of the OHWM as practical.

(vi). Beach access structure landings shall be limited in size to that necessary for minimum safe access to the beach and shall not constitute a deck.

25. Deck structures, uncovered, for residential uses.

a. Decks are considered accessory structures which can allow for stormwater runoff to seep into the soil, however, they are structures which also impact the shoreline environment.

b. Decks with at least 1/8” gap between boards, with pervious surface underneath, are considered pervious.

c. Replacement Decks: A legally established existing deck that is located within the marine or steep slope buffer and/or shoreline setback may be replaced within the same footprint and elevation off grade; such replacement will not require buffer enhancement per ICC 17.05A.090.L and M.

d. Expansions to Existing Decks:

(i) Within the shoreline setback (landward of the marine buffer), any proposed expansion to an existing deck, not exceeding thirty (30) inches in height, shall not be located seaward of the existing deck.

(ii) Expansion of an existing deck exceeding thirty (30) inches in height requires a shoreline variance.

(iii) Any expansion greater than 200 square feet shall require an enhancement area equal to the area of the expansion with native vegetation within the marine buffer per ICC 17.05A.090.L and M.

e. New decks:

(i) Within the marine buffer or steep slope buffer new decks are not allowed unless approved as part of a Shoreline Variance.

(ii) Within the shoreline setback (landward of the marine buffer), new decks shall require the applicant to enhance an area of the marine buffer with native vegetation that is equal to the total square footage of the deck per ICC 17.05A.090.L and M.

(iii) Within the shoreline setback new decks over thirty (30) inches in height are prohibited.

(iv) Within the geologically hazardous area (within 100ft landward of the top of the slope) new or expanded decks shall comply with Chapter 11.02 ICC.

(1) Within the shoreline setback (landward of the steep slope buffer) new decks shall meet the requirements of Chapter 11.02 ICC and shall enhance an area equal to the deck size.

(2) Within the shoreline setback (landward of the steep slope buffer) buffer enhancement for new decks shall be planted within the steep slope buffer, within the area 15-25ft landward from the top of the slope. Buffer enhancement shall comply with the requirements of ICC 17.05A.090.L and M, (excepting ICC 17.05A.090.M.1.c) and may also be placed partly or wholly within the marine buffer if deemed appropriate and feasible.

~~23~~26. Public access for residential development shall be required as follows:

a. New multi-unit residential development, including subdivision of land into five (5) or more parcels, shall provide public access or open space for use by development residents and the public. The county may alter the recommended area threshold per constitutional limits or waive this requirement if public access is infeasible due to incompatible uses, safety, impacts to shoreline ecology or legal limitations. The county may require alternatives to on-site physical access if on-site physical access is infeasible for the reasons noted.

b. When required for multi-lot or multi-unit residential development, the amount of public access, open space area, and improvements required shall be proportional to the scale of the proposed development and of appropriate character to the shoreline environment designation, as determined by the Shoreline Administrator. The Administrator may waive the public access requirement if public access is infeasible due to incompatible uses, risks to health or safety, impacts to shoreline ecology or legal limitations. In such cases, the Administrator may require alternatives to on-site physical access if on-site physical access is infeasible for the reasons noted.

L.~~K.~~ Signs.

1. Recognized or officially delineated vistas or viewpoints shall not be blocked or obstructed by signs, unless required for public safety or to identify public access.

2. Signs identifying shoreline public access are allowed in shoreline jurisdiction and are exempt from obtaining a shoreline substantial development permit.

3. Off-premises outdoor advertising, signs, and billboards shall not be permitted in the shoreline jurisdiction.

4. On-premises advertising signs shall be constructed against, or painted on buildings to minimize visual or access obstruction to or of the shoreline.

5. On-premises signs shall not extend in height above the highest exterior wall of the building to which the sign relates. Signs shall not be erected upon the roofs of structures.

6. Artificial lighting for signs shall be directed or beamed downward where feasible and away from the water, public street, or adjacent premises so as not to cause glare or reflection that may constitute a traffic or boating hazard or nuisance.

7. In addition to the above requirements, the standards of 17.03.180.R shall apply.

M. ~~L.~~ Roads and transportation.

1. Roads other than those providing access to approved shoreline uses shall be located outside of the shoreline jurisdiction, except when no reasonable alternate location exists.

2. New roadways, arterials, and railways, including expansions of these systems, should be designed and located to assure no net loss of shoreline ecological functions.

3. Transportation shall be required to make joint use of rights-of-way and to consolidate crossings of water bodies where adverse impact to the shoreline can be minimized by doing so.

4. New transportation facilities should be designed and located to avoid or minimize the need for structural shoreline protection measures.

5. When roads are permitted within shoreline jurisdiction, they shall include development of scenic view parking areas, pedestrian trails or bicycle trails. The extent of the requirement shall be proportional to the extent of roadway development in the shoreline.

6. In instances where water crossing is required, roads shall cross shoreline areas and water bodies by the shortest, most direct route feasible unless such route would cause more damage to the environment.

7. Roads shall be designed so as to control the dispersal of surface runoff from roads and exposed soils in order to minimize turbid water from draining into waterways.

8. Culverts and similar devices shall be designed consistent with WDFW fish passage guidelines and with regard to the highest annual storm frequencies and shall be designed in conformance with the requirements of ~~c~~Chapter 11.03 ICC (stormwater).

9. Roads, bridges, culverts and similar devices shall afford maximum protection for fisheries resources and shall be designed in conformance with WDFW guidance to protect shoreline ecological functions and processes as well as grading and stormwater runoff control features required under ~~c~~Chapters 11.02 and 11.03 ICC.

10. Transportation facilities shall be constructed of materials that will not adversely affect water quality or aquatic plants and animals over the long term. Elements within or over water shall be constructed of materials approved by applicable state agencies for use in water for both submerged portions and other components to avoid discharge of pollutants from splash, rain or runoff. Wood or pilings treated with creosote, pentachlorophenol or other similarly toxic materials are prohibited. Preferred materials are concrete and steel.

11. Excess material shall be deposited in stable locations and not into shoreline corridors where such materials degrade water quality, impede flood waters, or alter naturally occurring geohydraulic processes.

12. When allowed, road and driveway alignments shall be designed to fit the topography of the shoreline and accommodate riparian buffers so that alterations to the natural site conditions are minimized.

13. Roads shall be set back a safe distance from the top of unstable marine bluffs and other geologically hazardous areas in accordance with the requirements of ~~c~~Chapter 11.02 ICC.

14. Design of proposed roads and driveways within or adjacent to a geologically hazardous area as defined in this SMP shall be subject to the requirements of ~~c~~Chapter 11.02 ICC.

15. Parking as a primary use shall be prohibited within shoreline jurisdiction.

16. Parking (other than parking associated with a public beach access point) shall only be permitted in shoreline jurisdiction when necessary to support an authorized use where it can be demonstrated that there are no feasible alternative locations away from the shoreline. Parking facilities shall be buffered from the water's edge and less intense adjacent land uses by vegetation, undeveloped space, or structures developed for the authorized primary use to the maximum practicable extent.

17. Parking areas shall be developed using low impact development techniques whenever possible including but not limited to the use of permeable surfacing materials.

N.~~M.~~ Utilities

1. The following utilities are prohibited within the shoreline jurisdiction:

    a. Electric power substations.

    b. Recycling centers.

    c. Solid waste transfer stations.

2. Utility lines shall be located outside of the shoreline wherever feasible, unless the utilities are necessary to serve shoreline uses, and should be so located as to avoid the need for shoreline stabilization.

3. When it is infeasible to locate utilities outside of the shoreline, utilities shall be located as far as feasible from the shoreline and shall be installed underground whenever feasible.

4. Utilities are required to be located in existing rights-of-ways whenever possible.

5. Utility corridors within shorelines shall be designed to provide for multiple uses such as shoreline access or recreational trails or pathways, or other utilities, unless the applicant demonstrates that shared use is not feasible or would have greater adverse impacts on the shoreline.

6. Utilities installed on beaches or upon tidal areas shall be installed in such a manner as to ensure that water quality and marine life will not suffer degradation and that no net loss of ecological function will result.

7. Utility discharges and outfalls shall be located, designed, constructed, and operated so that degradation of water quality, marine life and general shoreline ecosystems is kept to an absolute minimum, and mitigation for any unavoidable impacts is provided.

8. Utilities located in flood prone areas shall be provided adequate flood protection and shall be installed so as not to increase flood hazard or other damage to life or property.

9. Utilities shall not be installed in areas subject to geologic hazards unless a geotechnical report demonstrates that the utilities would not pose a threat to the shoreline environment in the event of a slope failure, earthquake, or other natural geologic event.

10. Sewage treatment, water reclamation, desalination, and power plants shall be located where they do not interfere and are compatible with recreational, residential, or other public uses of the water and shorelands unless no feasible alternative exists.

11. Desalination plants, including for residential use, may be allowed only if they do not cause a net loss of ecological function, including cumulative impacts from discharge of effluent.

12. Pipelines carrying hazardous materials and petroleum operations shall conform to the following requirements:

    a. Pipelines carrying hazardous materials or petroleum shall be constructed outside of the shoreline wherever feasible, and may be allowed within the shoreline only as a conditional use;

    b. The design, construction, operation, and maintenance of pipelines carrying hazardous materials and petroleum products in liquid form shall conform to all regulations established by the United States Department of Transportation;

    c. In order to prevent spills and other forms of pollution, owners, and operators of facilities engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, or consuming oil shall conform to established procedures, methods and equipment, set forth by statutory and other requirements of the United States Environmental Protection Agency and the State Department of Ecology;

    d. Offshore drilling, processing or refining of petroleum is prohibited.

13. Desalination or reverse osmosis water production processing equipment, service lines, and utility connections must be approved by the Island County Health Department or the State Department of Health.

14. Sanitary landfills or the location of solid waste disposal sites are prohibited in all shoreline designations.

17.05A.110 - Shoreline modification regulations.

A. Shoreline stabilization.

1. **Regulations for all shoreline stabilization.** Shoreline stabilization may be permitted only when the application demonstrates all of the following~~, based on a geotechnical analysis and biological site assessment~~:

    a. The erosion creating the need for shoreline stabilization is not caused by upland conditions on the project site, such as the loss of vegetation or modification of drainage;

    b. The proposed shoreline stabilization is designed to minimize interruption of fish and wildlife habitats through the use of the least impacting alternative type of shoreline stabilization practicable per Alternatives Analysis in ICC 17.05A.095.D. ~~In order of~~

~~priority from least to greatest impact, subject to site-specific conditions, alternatives include but are not limited to:~~

~~(i) Taking no action (allow the shoreline to retreat naturally);~~

~~(ii) Upland drainage control;~~

~~(iii) Vegetation protection, enhancement, and replacement;~~

~~(iv) Relocation of improvements or structures;~~

~~(v) Beach nourishment;~~

~~(vi) Large woody material placement;~~

~~(vii) Soft shore protection methods—at least eighty (80) percent of the project must be constructed of naturally-occurring materials used in ways that are consistent with current nearshore processes;~~

~~(viii) Upland retaining walls;~~

~~(ix) Bulkheads and rock revetments placed landward of the OHWM;~~

~~(x) Individual rock placement located at the OHWM; and~~

~~(xi) Bulkheads and rock revetments located at the OHWM.~~

c. The proposed shoreline stabilization will minimize interference with hydrological and geomorphological processes normally acting in natural conditions.

d. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas is prohibited.

e. Adequate mitigation measures will be provided to maintain existing shoreline processes and critical fish and wildlife habitat, and ensure no net loss of ecological functions.

f. Shoreline stabilization will not be used for the direct or indirect purpose of creating land waterward of the OHWM. When replacement fill is required behind an existing shoreline stabilization structure, it shall not extend beyond the OHWM unless otherwise permitted in compliance with this Program.

g. On marine feeder bluffs, shoreline stabilization may be permitted only when it is demonstrated by a professional engineer or geologist that construction will not substantially disrupt the beach feeding action or littoral drift.

h. Shoreline stabilization is prohibited for the purposes of leveling or extending property or creating or preserving residential lawns, yards, or landscaping.

i. ~~Construction of shoreline stabilization to protect a platted lot where no primary use or structure presently exists shall be prohibited except as provided in section 17.05A.110.A. 3.c.(vi).~~

j. ~~—~~Public access, consistent with ~~section~~ ICC 17.05A.090.~~M~~O, is required, where feasible, as part of any shoreline stabilization construction or replacement project on public land or using public funds.

TABLE 5: Shoreline Stabilization Report Requirements

	Structural (Hard) Shoreline Stabilization			**Soft Shoreline Stabilization**		
	New[1]	**Replacement[2,8]**	**Repair[3]**	**New[1]**	**Replacement[2,9]**	**Repair[3]**
Biological Site Assessment[4]	Required	Required	Not Required	Required	Required	Not Required
Geocoastal Analysis[5]	Required	Required[8]	Not Required	Required	Required[9]	Not Required
Demonstration of Need[6]	Required	Required	Not Required	Required	Not Required	Not Required
Alternatives Analysis[7]	Required	Required	Not Required	Required	Not Required	Not Required

1. New shoreline stabilization shall be defined as the establishment of shoreline stabilization where legally established stabilization is not present or expansion of existing shoreline stabilization. Additionally, replacement of shoreline stabilization shall be permitted as new when:
   (a) replacement is not the common method of repair for the stabilization; or
   (b) the replacement stabilization is not comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance; or
   (c) the replacement causes substantial adverse effects to shoreline resources or environment.
2. As defined in ICC 17.05A.070.
3. As defined in ICC 17.05A.070.
4. Consistent with the requirements of ICC 17.05A.095.A.
5. Consistent with the requirements of ICC 17.05A.095.C.
6. The demonstration of need shall address the items in ICC 17.05A.095.D.
7. The alternatives analysis shall address the items in ICC 17.05A.095.E.
8. Director may waive requirement for demonstration of need if stabilization is to replaced with soft shoreline stabilization. See ICC 17.05A.110.A.3.g.
9. Geocoastal analysis not required if replacing with other soft measures. See ICC 17.05A.110.A.4.g.

~~2.**Existing shoreline stabilization.**~~

~~a. Existing shoreline stabilization, other than structures located in canal communities, may be replaced in kind or with soft shore stabilization consistent with section 17.05A.110.A(1)(b) if the replacement is to protect public transportation infrastructure, essential public facilities, or principal uses or structures (including wastewater disposal systems) from erosion caused by currents, tidal action, or waves and the structure complies with all of the following:~~

~~(i) The replacement is designed, located, sized, and constructed to ensure no additional net loss of ecological functions;~~

~~(ii) The replacement performs the same stabilization function as the existing structure and does not require additions to or increases in size; and~~

~~(iii) The replacement does not encroach waterward of the ordinary high water mark or existing structure unless the residence was occupied prior to January 1, 1992 and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure, and construction shall extend no further waterward of the existing bulkhead than is necessary for construction of new footings.~~

~~b. Older structures shall be removed as new structures are put in place. Exceptions may be made by the Shoreline Administrator only in cases where removal would cause more ecological disturbance than leaving the remnant structure in place.~~

~~c. When a bulkhead has deteriorated such that an OHWM has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead or soft shore stabilization must be located at or near the actual OHWM.~~

~~d. In a canal community, existing bulkheads (for lots along the canals only) may be replaced with shoreline stabilization provided they meet the following:~~

~~(i) The replacement structure is designed, located, sized, and constructed to ensure no net loss of ecological functions;~~

~~(ii) The replacement structure performs the same stabilization function as the existing structure and does not require additions to or increases in size;~~

~~(iii) The replacement structure is aligned horizontally with the predominant line formed by other bulkheads on the same shoreline; and~~

~~(iv) The replacement structure is aligned vertically with the predominant height of other bulkheads on the same shoreline.~~

~~e. For each canal community, the Shoreline Administrator may approve a standard permit specifying allowable materials, structure height, backfill, and any required mitigation measures.~~

2~~3~~. New or expanded structural shoreline stabilization.

~~a. Shoreline stabilization shall be prohibited in or adjacent to lakes.~~

~~b. Shoreline stabilization shall not be permitted on spits, hooks, bars, barrier beaches, or similar accretion terminals or accretion shoreforms; except when demonstrated that construction of the above shore defense devices are absolutely necessary for the protection of existing primary structures and appurtenances and mitigation consistent with section 17.05A.090.C.7 has been accomplished.~~

a. New structural shoreline stabilization shall not be permitted in or adjacent to lakes, except that softshore stabilization may be permitted for those properties abutting lakes where gasoline-powered motorized boating is allowed, and where a demonstration of need, consistent with the provisions of ICC 17.05A.095.D, can be provided.

b. Structural shoreline stabilization shall not be permitted on spits, hooks, bars, barrier beaches, or similar accretion terminals or accretion shoreforms; except when demonstrated that construction of the above shore defense devices are absolutely necessary for the protection of existing primary structures and appurtenances and mitigation consistent with ICC 17.05A.090.B has been accomplished.

~~c. New shoreline stabilization may be permitted and existing structural shoreline stabilization may be expanded only when at least one (1) of the following apply:~~

~~(i) Where necessary to support a project whose primary purpose is enhancing or restoring ecological functions;~~

~~(ii) Where necessary to remediate hazardous substances pursuant to Chapter 70.105 RCW;~~

~~(iii) Where necessary to protect public transportation infrastructure, existing dikes, or essential public facilities and other options are infeasible;~~

~~(iv) Where necessary to protect a water-dependent use and other options are infeasible;~~

~~(v) Where there is conclusive evidence documented by a geotechnical or coastal engineering analysis that erosion from waves or currents is expected to cause damage to a primary structure or appurtenance within three (3) years based on a trend analysis of prior rates of erosion if the shoreline stabilization is not constructed, or where waiting until the need is that immediate would foreclose the opportunity to use measures that avoid impacts to ecological functions; or~~

~~(vi) On a lot within a designated canal community where the adjacent lots on both sides of the subject lot have a legally established bulkhead, structural shoreline stabilization may be permitted, provided:~~

~~(1) The horizontal distance between existing bulkheads does not exceed 120 feet;~~

~~(2) The proposed stabilization structure would be located landward of the OHWM;~~

~~(3) The proposed shoreline stabilization would link with the adjacent bulkheads; and~~

~~(4) The proposed shoreline stabilization would not adversely affect known forage fish habitat.~~

c~~d~~. In addition to meeting the provisions of ~~section~~ ICC 17.05A.110.A.1, proposals for new or expanded structural shoreline stabilization allowed under this section ~~17.05A.110.A.3.e~~ shall demonstrate all of the following before a permit can be issued:

~~(i) A geotechnical analysis is required by qualified professionals to document the impacts of shoreline modification proposals. The analysis must demonstrate that erosion from waves or currents is expected to cause damage to a primary~~

~~structure or appurtenance within three (3) years based on a trend analysis of prior rates of erosion if the shoreline stabilization is not constructed;~~

(i) The need for the structural shoreline stabilization has been demonstrated in accordance with the criteria in ICC 17.05A.095.D;

(ii) The proposal is the minimum necessary to protect the primary structure or appurtenance consistent with the requirements of ~~section 17.05A.110.A.1.b~~ ICC 17.05A.095.E;

(iii) Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient;

(iv) The structural shoreline stabilization complies with the flood damage prevention regulations in ~~c~~Chapter 14.02A ICC;

(v) The county shall require sufficient analysis by qualified professionals with the expertise to document the impacts of shoreline modification proposals. Such analysis may include, but not be limited to, geo~~technical~~coastal, hydrological, and biological studies, and should include an analysis of drift cells and stormwater drainage; and

(vi) Adverse impacts are fully mitigated according to the prescribed mitigation sequence in ~~section~~ ICC 17.05A.090.B such that there is no net loss of shoreline ecological functions or processes.

d~~e~~. The Shoreline Administrator shall require applicants for new or expanded shoreline stabilization to provide credible evidence, through preparation of a geo~~technical~~coastal analysis by a qualified professional that the primary structure or appurtenance is in danger of damage from shoreline erosion caused by tidal action, currents, or waves. The evidence shall:

(i) Demonstrate that the erosion is not due to landslides, sloughing or other forms of shoreline erosion unrelated to water action at the toe of the slope;

(ii) Demonstrate a significant possibility that the primary structure or appurtenance will be damaged within three (3) years ~~based on a trend analysis of prior rates of erosion~~ as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate would foreclose the opportunity to use measures that avoid impacts on ecological functions;

(iii) Demonstrate that the shoreline stabilization would not adversely affect the property of others by changing rates of sediment, redirection of wave energy, or impoundment of or redirection of floodwater or tidal action; stabilization that would cause significant impacts to adjacent or down-current properties and shoreline areas is prohibited; and

(iv) Include an assessment of on-site drainage and vegetation characteristics and their effects on slope stability.

~~f. Replacement of existing shoreline stabilization shall be regulated as new stabilization~~

~~g. Geotechnical reports pursuant to this section that address the need to prevent potential damage to a primary structure or appurtenance shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation. In order for structural shoreline stabilization to be authorized, the geotechnical report must conclude that that there is a significant possibility that such a structure will be damaged within three (3) years as a result of shoreline erosion in the absence of such hard armoring measures, or that waiting until the need is that immediate would foreclose the opportunity to use measures that avoid impacts on ecological functions. All geotechnical reports shall also identify any potential impacts to downstream or downdrift structures.~~

e. Construction of new shoreline stabilization to protect a platted lot where no primary use or structure presently exists shall be prohibited except as provided in ICC 17.05A.110.A.2.d. Replacement of existing structural shoreline stabilization to protect a lot where no primary use or structure presently exits will be evaluated using the same criteria as other replacement stabilization (see ICC 17.05A.110.A.3).

f. Applications for new shoreline stabilization shall address intertidal and shoreline habitat loss which may arise due to permanent structures limiting the ability of the ordinary high water mark and shoreline to migrate landward in response to sea level rise.

3. **Existing structural shoreline stabilization.**

a. Existing structural shoreline stabilization, other than structures located in canal communities (the requirements for which are detailed in ICC 17.05A.110.A.3.d below), may be replaced consistent with this chapter if there is a demonstrated need to protect public transportation infrastructure, essential public facilities, or principal uses or structures (including wastewater disposal systems) from erosion caused by currents, tidal action, or waves and the structure complies with all of the following:

(i) The replacement is designed, located, sized, and constructed to ensure no additional net loss of ecological functions;

(ii) The replacement performs the same stabilization function as the existing structure and does not require additions to or increases in size; and

(iii) The replacement does not encroach waterward of the ordinary high water mark or existing structure unless the residence was occupied prior to January 1, 1992 and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure, and construction shall extend no further waterward of the existing bulkhead than is necessary for construction of new footings.

b. Older structures shall be removed as new structures are put in place. Exceptions may be made by the Shoreline Administrator only in cases where removal would cause more ecological disturbance than leaving the remnant structure in place.

c. When a bulkhead has deteriorated such that an OHWM has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead or soft shore stabilization must be located at or near the actual OHWM.

d. For each canal community, the Shoreline Administrator may approve a standard permit specifying allowable materials, structure height, backfill, and any required mitigation measures.

e. Except as outlined in 17.05A.110.3.g and h below, replacement of existing structural shoreline stabilization shall be regulated as new stabilization, in any of the following scenarios.

(i) Replacement is not the common method of repair for the type of structure or development; or

(ii) The replacement structure or development is not comparable to the original structure or development including but not limited to its size, shape, configuration, location (other than where relocation of the structure is required due to the movement/reestablishment of the ordinary high water mark), and external appearance; or

(iii) The replacement causes substantial adverse effects to shoreline resources or environment.

f. The director may waive the requirement for a demonstration of the need for stabilization, when structural shoreline stabilization is proposed to be replaced with soft shoreline stabilization and the replacement would result in enhancement of shoreline ecological functions or processes

g. Shoreline stabilization shall be considered existing, when one of the following types of documentation is provided. In the absence of at least one of the below listed documents, then the shoreline stabilization proposal will be reviewed as a new structure.

(i) An approved shoreline and/or building permit documenting the past construction, repair, or replacement of structural stabilization; or

(ii) Dated aerial and/or oblique aerial photos showing the presence of shoreline stabilization on the subject property, prior to the Shoreline Management Act.

4. Non-structural or “Soft” Shoreline Stabilization. In addition to the general design requirements of ICC 17.05A.110.A.6, the following design standards must be incorporated into the design of soft shoreline stabilization measures:

a. The project must be designed to prevent increased erosion of adjacent properties. Soft shoreline stabilization projects may not include hard structural shoreline stabilization elements.

b. The soft shoreline stabilization design must provide stability and dissipate wave and current energy without presenting extended linear faces to oncoming waves or currents.

c. At least eighty (80) percent of the project, by volume, must be constructed of naturally-occurring materials used in ways that are consistent with current nearshore processes. Hard structural stabilization elements shall only be used if demonstrated as necessary to connect to an adjacent hard structure, and shall be the minimum necessary.

d. The sizing and placement of all materials must be selected to:

(i). Protect upland structures from erosion over the long term;

(ii). Allow safe passage and migration of fish and wildlife;

(iii). Minimize the creation of juvenile salmon predator habitat, such as shallow pools and large rocks or over-water snags that can serve as perches; and

(iv). Use sand and gravel that are suitable as spawning substrate when a proposal is on a shoreline reach with forage fish spawning habitat.

e. Soft shoreline stabilization measures may include fill placed waterward of the OHWM to provide enhancement of shoreline ecological functions to improve the substrate condition or gradient.

f. Applicants are encouraged to use the Washington Department of Ecology's March 2014 Shoreline Master Program Planning and Implementation Guidance: Soft Shoreline Stabilization as well as the Washington State Department of Fish and Wildlife's March 2014 Marine Shoreline Design Guidelines and any revisions thereto to plan and design soft shoreline stabilization measures. Reliance on such materials helps ensure best management practices are followed.

g. A geocoastal analysis is not required for the replacement of soft, non-structural shoreline stabilization measures with other soft measures.

5.4. **Applications for shoreline stabilization.**

a. Permit applications must include the appropriate reports indicated in Table 5.

b. Permit applications for shoreline stabilization shall provide competent technical evidence that the proposed shore defense structure will perform as designed.

c~~b~~. Applications for shoreline stabilization shall cover the following items:

(i) Purpose of shoreline stabilization;

(ii) Type of construction;

(iii) Method of construction;

(iv) Elevation of the toe and crest of the bulkhead with respect to water levels;

(v) Direction of net longshore drift (when appropriate);

(vi) Normal, low and high water elevations (when appropriate); and

(vii) Technical evidence indicating the need for the shoreline stabilization consistent with the requirements of this chapter.

dc. Applications for jetties shall also provide the following:

(i) Mitigation proposed for any impacts on longshore drift, such as beach feeding procedures; and

(ii) Provisions for pedestrian access on the top of the jetty, unless safety factors make pedestrian access infeasible, in which case a description of the safety constraints shall be provided.; and

(iii) A demonstration of need and alternatives analysis consistent with ICC 17.05A.095.D and E through the submittal of a complete BSA and geocoastal analysis.

ed. Applications for groins shall also provide the following:

(i) Source and destination of material proposed to be trapped by the groin(s); and

(ii) Mitigation proposed for any impacts on longshore drift, such as beach feeding procedures.; and

(iii) A demonstration of need and alternatives analysis consistent with ICC 17.05A.095.D and E through the submittal of a complete BSA and geocoastal analysis.

fe. In order for a proposed bulkhead to qualify for the RCW 90.58.030(3)(e)(ii) exemption for bulkheads associated with a legally established single-family residence and to ensure that such bulkheads will be consistent with the SMP as required by RCW 90.58.140(1), the Administrator shall review the proposed design as it relates to local physical conditions and the Island County SMP and must find that:

(i) Erosion from waves or currents is expected to cause damage to a legally established primary structure located less than 100 feet from the OHWM within three (3) years based on a trend analysis of prior rates of erosion if the shoreline stabilization is not constructed;

(ii) The proposed bulkhead is either located landward of the OHWM or if more than fifty (50) percent of the functional value of an existing bulkhead is in disrepair and the OHWM has moved (e.g., due to bank erosion), repairs must be relocated to the present OHWM; and

(iii) The maximum height of the proposed bulkhead is no more than one (1) foot above the elevation of extreme high water on tidal waters as determined by the National Ocean Survey published by the National Oceanic and Atmospheric Administration except in areas subject to coastal flooding as defined by FEMA and ~~c~~Chapter 14.02A ICC where the maximum height of bulkheads shall be no greater than necessary to resist tide, wave and floodwater action during a 100-year storm event.

~~5.~~6. Design regulations.

a. Shoreline stabilization shall conform to applicable design requirements of the Washington Department of Fish and Wildlife and U.S. Army Corps of Engineers, however, demonstration of need assessments shall be consistent with this Chapter.

~~b. A professional geotechnical analysis shall be required for all new or expanded shoreline stabilization structures.~~

~~c~~b. Professional ~~geologic~~ geocoastal site studies or professionally engineered designs may be required for any proposed shoreline stabilization if the county determines sufficient uncertainties or potential for damage to other shoreline properties and features exist.

~~d~~c. If a bulkhead is ~~employed~~proposed as a shoreline stabilization structure, ~~in compliance with the policies and regulations of this SMP,~~ the following design criteria shall be met:

(i) The size and quantity of the material shall be limited to only that necessary to withstand the estimated energy intensity of the shoreline hydraulic system;

(ii) Filter cloth or adequate smaller filter rock shall be used to aid drainage and help prevent settling;

(iii) The toe reinforcement or protection must be adequate to prevent a collapse of the shoreline stabilization system from wave action, overtopping, scouring, and upland erosion;

(iv) The material used in construction shall be non-toxic to marine organisms;

(v) When a vertical or near vertical wall is being constructed or reconstructed, not more than one (1) cubic yard of fill per one (1) foot of wall may be used as backfill, to be considered a normal protective bulkhead common to single family residences; and

(vi) Bulkheads shall be designed to permit the passage of surface or groundwater without causing ponding or saturation of retained soil and other materials~~.~~; and

(vii) Bulkheads shall be constructed parallel to the ordinary high water mark. Wing-walls and return-walls, which do not extend waterward of the ordinary high water mark, and which can be justified under the other requirements of this section, ICC 17.05A.110.A, may be permitted.

~~e~~d. Shoreline stabilization structures that dissipate wave energy are preferred over vertical walls or concrete slabs. Where concrete slabs with vertical waterward faces are employed, adequate tiebacks and toe protection shall be provided. Design and material of shoreline stabilization structures shall be decided and based upon an analysis of alternatives; the preferred alternative will be that which balances a minimum impact to the environment and shoreline process with a structural solution that will ensure the long term viability of the shoreline stabilization structure.

~~f~~e. Riprap shall be constructed and maintained in a manner that does not have a negative long-term impact on water quality and fisheries habitat.

~~g~~f. Riprap material shall consist of clean, angular quarried rock and shall be of sufficient size and weight to prevent movement by wave or current action. The use of tires, automobile bodies, scrap metal, paper products and other solid waste materials is prohibited.

~~h~~g. Use of downed logs, snags or rock-work to enhance habitat and to provide a more natural appearance to the shoreline should be incorporated into the design where appropriate.

~~i~~h. Stairs or other permitted structures may be built into a bulkhead but shall not extend waterward of the face of the bulkhead.

~~j~~i. When a bulkhead is required at a public access site, provision for safe access to the water shall be incorporated into bulkhead design.

j. When a new or replaced hard structural shoreline stabilization measure is proposed on a site where legally established hard structural shoreline measures do not exist on adjacent properties, the proposed stabilization measure must demonstrate that impacts to adjacent properties will not occur.

k. When a new or replaced hard structural shoreline stabilization measure is proposed on a site where legally established hard structural shoreline stabilization measures exist on adjacent properties, the proposed stabilization must tie in flush with those stabilization measures as physically feasible. The new stabilization measure shall not extend waterward of the OHWM, except in those locations where the structure connects to the adjoining stabilization measure. The length of the hard structural shoreline stabilization transition area to adjacent properties shall be the shortest distance possible.

B. ~~6.~~ Shoreline restoration or beach enhancement.

1.~~a.~~ Restoration projects on marine and freshwater shoreline shall be allowed provided it is carried out in accordance with an approved project restoration plan and in accordance with the policies and regulations of this Program.

2.~~b.~~ Restoration projects shall be designed such that there are no adverse impacts on ecological resources or functions.

3.~~c.~~ Ecological restoration and enhancement shall be approached on a watershed basis and shall seek to promote an ecosystem or landscape approach, including integrating projects into their surrounding environments.

4.~~d.~~ To the greatest extent feasible, ecological restoration and enhancement projects shall be protected in perpetuity. If future development proposes to impact existing ecological restoration and enhancement sites, it must be demonstrated that there are no practicable alternatives to avoid adverse impacts, and further, that adequate mitigation is provided to address unavoidable losses.

5.~~e.~~ Ecological restoration and enhancement actions shall demonstrate that they are based on sound scientific principles and are compatible with the functions of nearby restoration and enhancement sites.

6.~~f.~~ Beach enhancement in all designations shall be undertaken only for restoration, enhancement or maintenance of natural resources, or as a means to replace an existing shoreline stabilization structure.

7.~~g.~~ Beach enhancement may be permitted when the applicant has demonstrated that no significant change in littoral drift will result which will adversely affect adjacent properties or habitats as demonstrated through a geocoastal analysis.

8.~~h.~~ Natural beach restoration/enhancement design alternatives shall include the best available technology such as, but not limited to: gravel berms, drift sills, beach nourishment, natural revegetation and maintained plantings, deposition of drift logs and/or large woody organic debris to stabilize the backshore or protect the toe of eroding bluffs.

9.~~i.~~ Natural beach restoration/enhancement shall not:

a.~~(i)~~ Detrimentally interrupt littoral drift, or redirect waves, current, or sediments to other shorelines;

b.~~(ii)~~ Result in any exposed groin-like structures; provided that small "drift sill" groins may be used as a means of stabilizing restored sediment where part of a well planned community beach restoration program;

c.~~(iii)~~ Extend waterward more than the minimum amount necessary to achieve the desired stabilization;

d.~~(iv)~~ Result in contours sufficiently steep to impede easy pedestrian passage, or trap drifting sediments;

e.~~(v)~~ Create additional dry land mass except where the additional land mass will restore degraded ecological functions; and

f.~~(vi)~~ Cause irreversible long-term loss of near-shore habitat.

10.~~j.~~ The size and mix of new materials to be added to a beach as part of an approved beach restoration program shall be as similar as possible to the natural beach sediment, but large enough to resist normal current, wake or wave action at the site.

11.~~k.~~ Beach enhancement shall be designed to minimize adverse impacts on spawning, nesting, or breeding habitat and so that littoral drift of the materials enhancement shall not adversely affect adjacent spawning grounds or other areas of biological significance as demonstrated though a biological site assessment provided by a qualified professional.

12. Shoreline restoration projects within urban growth areas will be reviewed consistent with the criteria and procedures in WAC 173-27-215.See Table 6.

Table 6: Shoreline Restoration Projects within Urban Growth Areas

Type of Restoration	**Permits**	**Reports**
Restoration plantings that do not meet the definition of shoreline development per ICC 17.05A.070.	Letter of Compliance issued by Island County Planning & Community Development	Restoration plan prepared by an environmental consultant, or based on standard restoration plan adopted by Island County Planning & Community Development
Restoration or enhancement that meets the definition of shoreline development per ICC 17.05A.070.	Substantial Development Permit (SDP) or Shoreline Exemption (SHE) permit. Exempt status is outlined in WAC 173-27-040(o) and (p). Island County may not require permits or charge fees for fish habitat enhancement projects that meet the requirements of WAC 173-27-040(p)(iii)(A)&(D).	Restoration plan and geocoastal analysis prepared by a qualified professional

~~B. Moorage facilities (docks, piers, and floats).~~

~~1.New docks, piers, and floats shall be limited to the minimum size necessary for water-dependent uses, public access, or ecological restoration.~~

~~2.New docks, piers, and floats shall be located and designed in a manner so as not to interfere with geohydraulic shoreline processes.~~

~~3.The location and design of new or replaced docks, piers, and floats, as well as the subsequent use, shall minimize adverse effects to fish, shellfish, wildlife, and water quality and shall not result in a loss of shoreline ecological function. Unavoidable impacts shall be mitigated consistent with the mitigation sequence of section 17.05A.090.C.7.~~

~~4.New or replaced docks, piers, and floats shall be located, designed, and operated so as not to interfere with rights of adjacent property owners, navigation, or adjacent water uses.~~

~~5.All docks, piers, and floats shall be constructed consistent with state and federal requirements.~~

6.New or replaced docks, piers, and floats associated with single-family residences shall not be approved unless the following information has been provided:

a.Demonstrate that existing shared, public or community facilities are not adequate or available for use; and

b.Indicate that a multiple-owner or multiple-user facility has been thoroughly investigated and is not feasible.

7.Each dock, pier, or float proposal shall be evaluated on the basis of multiple considerations, including but not necessarily limited to the potential and cumulative impacts on littoral drift, sand movement, water circulation and quality, fish and wildlife, navigation, scenic views, and public access to the shoreline and the best available background information on tidal currents, wave height, and prevailing storm wind conditions.

8.New docks, piers, and floats associated with residential uses on marine waters shall be the minimum size required to provide for moorage. Single family piers or docks shall not exceed ninety (90) feet in length measured perpendicularly from the OHWM. Shared moorage may extend up to 110 feet in length if demonstrated to be necessary to provide adequate moorage.

9.New piers, docks, and floats on marine waters shall have a maximum width of four (4) feet and a maximum walkway width of four (4) feet. Overwater surfaces shall be constructed of unobstructed grating to provide at least fifty (50) percent open surface area.

10.For new docks, piers, and floats associated with residential uses on lakes, the maximum waterward intrusion of any portion of any pier or dock shall not extend further waterward than the average intrusion of the piers, docks, and floats on lots abutting the location of the new dock as measured perpendicularly from the OHWM unless an alternative dimension is required to prevent impacts to critical habitat or navigation. In no circumstances shall the maximum waterward intrusion of any portion of the pier, dock, or float extend more than sixty (60) feet from the OHWM, or the point where the water depth is eight (8) feet below the OHWM, whichever is reached first.

11.New piers, docks, or floats on lakes shall have a maximum width of four (4) feet, or five (5) feet for shared docks.

12.Pier skirting is prohibited.

13.Repair of existing docks, piers, and floats shall be allowed. Repair of a dock, pier, or float in which more than fifty (50) percent of the decking is replaced or more than half the existing piles are replaced over a five-year period shall be considered new construction and shall conform to the performance standards of this SMP.

14.Existing docks, piers, or floats that are non-conforming to the current required dimensional standards may be replaced or reconstructed to the existing dimensions, provided they are consistent with all other performance standards of this section and the standards of the U.S. Army Corps of Engineers and the Washington State Department of Fish and Wildlife and shall include measures that increase light transmission through the deck, maximize the height of piers above the water surface, reduce the overall number or size of piles, enhance the shoreline vegetation, and minimize impacts on shallow-water habitat.

15.For commercial and industrial uses, docks, piers, and floats are only allowed for water dependent uses and shall be the minimum size necessary to accommodate the proposed use.

16.Commercial and industrial docks upon which toxic or flammable materials are handled or stored shall make adequate provisions to minimize the probability of spill. Adequate provision shall be made to control accidental spills that do occur.

17.Docks, piers, or floats associated with marinas shall make adequate provisions for parking, fueling, sewage pump-out, and liquid and solid waste disposal.

18.All new or replaced docks, piers, floats, and similar devices shall be designed and located so as not to be a hazard to navigation and so marked as to prevent a hazard to navigation at any time during the day or night.

19.All floats and floating docks shall include stops to keep the floats off the tidelands at low tide.

20.For new waterfront subdivisions, planned residential developments, multi-family residences, and inns, only joint use docks and piers may be permitted.

21.Unsafe docks, piers, and floats shall be removed or repaired promptly by the owner.

22.New and replaced docks, piers and floats, with the exception of those in the Canal Communities of Lagoon Point, Sandy Hook and Mariners' Cove, shall comply with the following design standards:

a.Designed and constructed to avoid or, if that is not possible, to minimize shading and other impacts on nearshore habitats and processes;

b.Pilings must be structurally sound prior to placement in the water;

c.When plastics or other non-biodegradable materials are used in float, pier, or dock construction, containment features in the design of the structures shall be required;

d.Docks, piers, and floats shall be spaced and oriented to shoreline in a manner that minimizes hazards and obstructions to navigation, fishing, swimming, and pleasure boating;

e.Overhead wiring or plumbing is not permitted on piers, docks, or floats;

f.Dock lighting shall be designed to shine downward but not on the surface of the water, be of low wattage, and shall not exceed a height of three (3) feet above the dock surface;

g.All construction-related debris shall be disposed of properly and legally. Any debris that enters the water shall be removed promptly;

h.Where feasible, floats shall be secured with anchored cables in place of pilings; and

i.Piles, floats or other members in direct contact with water shall be approved by applicable federal and state agencies for use in water and shall not be treated or coated with

~~biocides such as paint, or pentachlorophenol. Use of arsenate compounds or creosote treated members is prohibited. Steel is preferred.~~

~~23.A local canal community dock master plan may be permitted as a shoreline conditional use for a duration of six (6) years for the communities of Lagoon Point, Sandy Hook and Mariners' Cove. Once adopted, new and replaced docks, piers and floats in the Canal Communities that comply with the standards of the master plan and are adjacent to the canal would be allowed as permitted uses. An approved master plan would be required to contain, at a minimum, the following:~~

~~a.Dock, pier and float dimensional standards;~~

~~b.Standards for light penetrating materials (e.g., grating);~~

~~c.Standards for materials that touch the water, specifying that they must be approved by applicable federal and state agencies for use in water and not treated or coated with biocides such as paint, creosote or pentachlorophenol; and~~

~~d.Protections for existing shoreline ecological functions, views, and navigation.~~

~~24.Through the conditional use process, dimensional standards may be established as part of an approved canal community dock master plan that differ from those for docks, piers, and floats in other parts of the county as provided in section 17.05A.100.D.~~

~~25.Private docks, piers, and floats in the canal communities that face the open waters of the Puget Sound shall comply with the general requirements for docks, piers, and floats in section 17.05A.100.D.~~

~~26.Prior to adoption of a local canal community dock master plan, private docks and piers shall be permitted as conditional uses in the canal communities of Lagoon Point, Sandy Hook, and Mariners' Cove, provided that:~~

~~a.New or replaced docks and piers use materials that touch the water that are approved by applicable state agencies for use in water and are not treated or coated with biocides such as paint, creosote or pentachlorophenol;~~

~~b.Repaired or replaced docks do not increase the total area of overwater coverage and do not extend beyond the average length of the two (2) closest adjacent docks; and~~

~~c.New docks do not exceed the average overwater area of the two (2) closest docks, and the length of the dock, pier, or float does not extend beyond the average length of the two (2) closest adjacent docks, piers, or floats.~~

C. **Shoreline vegetation maintenance.**

1. Unless otherwise specified, all shoreline use and development, including preferred uses and uses exempt from permit requirements, shall comply with the buffer provisions of ICC 17.05A.090.M to protect and maintain shoreline vegetation and habitat. This section below applies to the removal of vegetation unrelated to normal permitted construction.

2. Removal of native vegetation shall be avoided, where feasible. Where removal of native vegetation cannot be avoided, it shall be minimized to protect ecological functions.

   a. If native vegetation is to be removed, then replanting shall be required consistent with the shoreline buffer enhancement standards of ICC 17.05A.090.M, except that planting shall be within the shoreline jurisdiction and in a location where most appropriate based on ecological and site characteristics.

3. Removal of non-native vegetation within shoreline jurisdiction may be allowed pursuant to the following standards.

   a. If non-native shrubs and herbaceous vegetation are to be removed, then it shall be replaced with an equal square footage of native vegetation at appropriate natural densities within the shoreline jurisdiction where most appropriate based on ecological and site characteristics.

   b. If non-native trees are to be removed, then they shall be replaced with native trees at a ratio of 1:1.

   c. When the removal of non-native vegetation in accordance items a and b above occurs outside of the shoreline buffer, monitoring shall not be required for the replacement native vegetation.

4. Native plant materials that are equivalent to those which would typically occur with respect to size, structure, and diversity at maturation shall be used in mitigation, restoration, rehabilitation, or enhancement projects.

5. Natural features such as snags, stumps, logs, drift logs, or uprooted trees shall be left undisturbed to support fish and other aquatic systems, except where they would adversely affect navigation or represent a human health or safety risk.

6. Proponents of all new shoreline uses or developments shall demonstrate that site designs and layouts are consistent with the policies of this section to ensure shoreline functions, values, and processes are maintained and preserved. A shoreline permit or written statement of exemption shall not mandate, nor guarantee, unobstructed horizontal or lateral visibility of the water, shoreline, or any specific feature near or far.

7. Topping trees is prohibited, except as allowed for hazard trees as described below in item 10 of this section.

8. Selective pruning or thinning of trees for safety or view protection or maintenance may be allowed when the following applies:

   a. Removal of no more than twenty-five (25) percent of the canopy of any single tree (calculated based on the area of the crown, or upper portion(s) comprised of branches and leaves or as determined by a certified arborist) in any given five-year period; or

   b. No more than twenty (20) percent of the limbs on any single tree may be removed and no more than twenty (20) percent of the canopy cover in any single stand of

trees may be removed in a given five-year period. This provision does not include tree removal unless such tree has been determined to be a hazard tree in accordance with section 10 below.

c. Pruning shall comply with the National Arborist Association pruning standards.

d. If the tree has been determined to be a hazard tree as determined by a certified arborist then the standards of section 10 below apply.

9. The Shoreline Administrator may deny a request or condition approval of vegetation management or removal proposals for view maintenance if it is determined the action will result in an adverse effect to any of the following:

a. Slope stability;

b. Habitat value;

c. Health of surrounding vegetation;

d. Risk of wind damage to surrounding vegetation;

e. Nearby surface or ground water; or

f. Water quality of a nearby water body.

10. Removal of a hazard tree or trees may be allowed pursuant to the following conditions:

a. a hazard tree risk assessment is provided by a certified arborist demonstrating that the tree is a hazard tree (that it poses a threat because of its location of damaging permanent physical improvements to property, damaging utilities, or causing personal injury);

b. in determining appropriate measures for addressing a hazard tree, the action shall be limited to the minimum necessary to alleviate the hazard as recommended by the certified arborist;

b. in all cases, the stump of the tree shall be left in place, consisting of the root-ball and a minimum of two feet of the above-ground trunk, unless otherwise recommended by the certified arborist;

c. the portions of the tree removed must be retained on site for the purposes of providing additional wildlife or marine habitat, unless otherwise recommended by the certified arborist;

d. disturbance of other native shoreline vegetation should be minimized during removal of the hazard tree;

e. when the hazard tree is located within a geologically hazardous area, the submittal of a geotechnical analysis will be required; and

f. when a hazard tree within shoreline jurisdiction is removed rather than pruned, replanting shall be required at a ratio of 1:1.

11. Clearing by hand-held equipment of invasive or non-native shoreline vegetation or plants listed on the Island County or Washington state noxious weed list is permitted in shoreline locations if provision is made for re-establishment of native vegetation in the disturbed area consistent with 17.05.090.M. Ground based motorized equipment may be used if accompanied by a plan for the re-establishment of native vegetation, and with prior written approval of the Shoreline Administrator.

12. Aquatic weed control may be allowed for passive recreation purposes including swimming and boating access from a dock or the shoreline, pursuant to the Washington Department of Fish and Wildlife 2015 Aquatic Plants and Fish pamphlet and successor pamphlets. Use of chemical methods of weed control shall only be allowed when done by a qualified professional, in compliance with the rules of the Department of Ecology, Department of Agriculture and Department of Natural Resources, pursuant to Chapters 173-201A, 16-228 WAC, and Title 222 WAC.

13. the within or near steep and/or unstable slopes, may require a geotechnical analysis. The recommendations of such analysis shall be given priority over the recommendations of a certified arborist.

~~C~~**D. Grading and filling.** Grading and filling must be consistent with ~~c~~Chapter 11.01 ICC (land development standards) and ~~c~~Chapter 11.02 ICC (clearing and grading requirements) and may be permitted in shorelines only as follows:

1. Fill may be permitted below the ordinary high water mark only:

   a. When necessary to support a water-dependent use;

   b. To provide for public access;

   c. When necessary to mitigate conditions that endanger public safety;

   d. To allow for cleanup and disposal of contaminated sediments as part of an interagency environmental cleanup plan;

   e. To allow for the disposal of dredged material considered suitable under, and conducted in accordance with, the dredged material management program of the Washington Department of Natural Resources;

   f. For expansion or alteration of transportation or utility facilities currently located on the shoreline and then only upon demonstration that alternatives to fill are not feasible; or

   g. As part of mitigation actions, shoreline restoration, or habitat enhancement projects.

2. Fill in flood hazard areas identified on the Flood Insurance Rate Maps (FIRMs) is not allowed unless the director finds that no feasible alternative exists.

3. Land clearing, grading, filling, and altering of wetlands, natural drainage features, and topography are limited to the minimum area necessary for driveways, buildings, and view and solar access corridors, and must conform with critical area requirements and SMP setbacks.

~~2.~~4. Fill above or below the ordinary high water mark shall comply with the following regulations:

a. The extent of filling and excavation allowed shall only be the minimum necessary to accommodate an approved shoreline use or development and with assurance of no net loss of shoreline ecological functions and processes;

b. Grading and filling shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes and mitigation shall employ the mitigation sequence in ~~section~~ ICC 17.05A.090.B;

c. Excavation and fill shall not be permitted if it would adversely affect normal recharge of groundwater supplies, or degrade quantity or quality of groundwater;

d. Fill material shall be of a quality, and so placed and contained, as to not cause water quality degradation. Solid waste and other hazardous materials shall not be used as fill material;

e. Sanitary landfill sites are prohibited within all shoreline designations;

f. The perimeter of all excavation and filling areas shall be provided with means to control erosion, such as vegetation, retaining walls or other mitigation measures; and

g. Applications that include placement of fill as a project element shall include the following information:

(i). Physical, chemical and biological character of fill material;

(ii). Source of fill material;

(iii). Method of placement and compaction; and

(iv). Method of perimeter erosion control.

5. The following requirements apply to land clearing, grading, filling, or alteration of natural drainage and topography for residential construction:

a. Cleared surfaces not to be covered with gravel or impervious surfaces shall be replanted promptly with native or compatible plants (i.e., groundcovers or other plant materials adapted to site conditions which will protect against soil erosion). This applies to individual construction and shoreline subdivisions. Existing vegetation shall be used to visually buffer structures as viewed from the shoreline, public roads, and adjoining properties. All applications for new construction and subdivisions shall identify trees that are proposed to be removed. If trees are to be removed beyond those required to construct a single-family residence, then a tree removal plan shall also be submitted. The plan shall:

(i). Identify the proposed building areas, driveways, and view corridors; and

(ii). Demonstrate how existing natural screening will be retained while providing for construction, views, and sunlight.

(iii) Include a report by a certified arborist for any hazard tree removal.

6. All building permit applications for new nonresidential construction, uses, structures or activities must show all trees on the site plan and identify any trees proposed to be removed. If trees are to be removed at other times, a tree removal plan must be submitted to the department for review and approval. Site and tree removal plans must:

a. Identify the proposed and existing building areas, driveways, and view and solar access corridors;

b. Demonstrate how natural screening will be retained while providing for construction, views, and sunlight; and

c. Include a report by a certified arborist for any hazard tree removal.

7. It is the property owner's responsibility to obtain required state and federal authorizations for work in wetlands, streams, or shoreline waters and provide those authorizations to the County.

~~D~~E. Dredging and dredged material disposal.

1. New development shall be sited and designed to avoid or, where avoidance is not possible, to minimize the need for new maintenance dredging.

2. Dredging and dredged material disposal shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes and avoid or minimize significant ecological impacts.

3. Any impacts shall be mitigated consistent with the mitigation sequence in ~~section~~ ICC 17.05A.090.B.

4. Dredging and dredged material disposal below the ordinary high water mark shall be permitted only:

a. When necessary for the operation of a water-dependent use; or

b. When necessary to mitigate conditions that endanger public safety or fisheries resources; or

c. For establishing, maintaining, expanding, relocating or reconfiguring navigation channels and basins when necessary to ensure safe and efficient accommodation of existing navigation uses when:

(i) Significant ecological impacts are minimized;

(ii) Mitigation is provided, employing the mitigation sequence in ~~section~~ ICC 17.05A.090.B; and

(iii) Dredging is maintained to the existing authorized location, depth and width;

d. For restoration projects associated with implementation of the Model Toxics Control Act or the Comprehensive Environmental Response, Compensation, and Liability Act, or any enhancement or restoration project; or

e. For flood risk reduction projects conducted in accordance with ~~section~~ ICC 14.02A.050.

5. Dredging is not allowed waterward of the ordinary high water mark for the primary purpose of obtaining fill material.

6. Disposal of dredged material shall be done only in approved upland disposal sites and shall not be allowed within critical areas or their buffers, except as part of an approved ecological restoration or enhancement project.

7. Stockpiling of dredged material in or under water is prohibited.

8. In order to ensure that operations involving dredged material disposal and maintenance dredging are consistent with the Shoreline Master Program as required by RCW 90.58.140(1), no dredging may commence in any shoreline designation without the responsible person having first obtained the appropriate local, state and federal permits.

9. Proposals that cause substrate displacement or that involve substrate modification through dredging, trenching, or digging shall not be allowed in existing kelp or eelgrass beds without an approved mitigation plan.

10. Dredging operations shall minimize interference with navigation and normal public use of the water.

11. Dredged materials deposited on sites within the shoreline jurisdiction shall constitute fill, and shall comply with all applicable requirements of this Program, ~~c~~Chapter 11.01 ICC (land development standards) and ~~c~~Chapter 11.02 ICC (clearing and grading requirements), and any applicable dredge disposal plans.

~~E~~F. Breakwaters, jetties, groins, tide gates and weirs.

Table 7: Report Requirements for New Construction or Replacement of Tide-gates and Breakwaters		
Type of Development	**Reports required for applications for replacement or new structures, not for maintenance[1]**	**Alternative designs, in order of least to most ecological impact**

Tide-gates:	Alternatives Analysis, Demonstration of Need, Geocoastal Analysis, Biological Site Assessment with Mitigation	1. Open channel system. 2. Tide-gate that allows for fish passage and saltwater exchange. 3. Tide-gate that allows for saltwater exchange but not fish passage. 4. Tide-gate that does not allow saltwater exchange.
Breakwaters:	Alternatives Analysis, Demonstration of Need, Geocoastal Analysis, Biological Site Assessment with Mitigation	1. No breakwater. 2. Floating type breakwater. 3. Berm breakwater or conventional rubble-mound breakwater. 4. Permeable vertical or horizontal composite breakwater, including piled design. 5. Permeable vertical breakwater on foundation. 6. Impermeable vertical wall breakwater on foundation.
1: If no permitted tide-gate maintenance has occurred for a period of 5 years, all repair and maintenance requires complete report submittal and alternatives analysis.		

1. Breakwaters, jetties, groins, tide gates, and weirs located waterward of the OHWM shall be allowed only where necessary to support water-dependent uses, public access, or other specific public purpose.

2. Groins and jetties may be permitted only as part of a community or public beach management program, or when necessary to support a water-dependent use.

3. Breakwaters, jetties, groins, tide gates, and weirs shall be designed, located, sized, and constructed to ensure no net loss of ecological functions.

4. Breakwaters, groins, tide gates, and weirs shall be professionally designed based on a ~~geotechnical report~~ geocoastal analysis and biological site assessment that demonstrates the project can be constructed in a manner that:

    a. Protects critical areas including critical saltwater habitat;

    b. Provides for mitigation according to the sequence defined in ~~section~~ ICC 17.05A.090.B;

c. Avoids detrimental impacts on the movement of sediment and circulation of water; and

d. Would not damage the property of others by changing rates of sediment, redirection of wave energy, or impoundment of or redirection of floodwater or tidal action.

5. Breakwaters, jetties, groins, tide gates, or weirs that would cause significant impacts to adjacent or down-current properties and shoreline areas are prohibited.

6. Adjacent to marine feeder bluffs, breakwaters, jetties, groins, tide gates, and weirs may be permitted only when it is demonstrated by a professional engineer or geologist that construction will not substantially disrupt the beach feeding action or littoral drift.

7. Replacement of existing breakwaters, jetties, groins, tide gates, or weirs shall be regulated as new structures.

8. All applications for construction, repair, or replacement of breakwaters or tide-gates shall include the reports indicated in Table 7 above.

17.05A.120 - Shorelines of statewide significance.

A. In addition to compliance with the use requirements which hereafter follow, developments proposed within shorelines of statewide significance shall, insofar as is possible:

1. Recognize and protect the statewide interest over local interest;

2. Preserve the natural character of the shoreline;

3. Result in long term over short term benefit;

4. Protect the resources and ecology of the shorelines;

5. Increase public access to publicly owned areas of the shorelines;

6. Increase recreational opportunities for the public in the shoreline; and

7. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

B. In addition to compliance with the appropriate use requirements of this chapter, forest practices situated within the shoreline jurisdiction of statewide significance shall employ selective timber cutting so that no more than thirty (30) percent of the merchantable trees may be harvested in any ten-year period of time; provided, that other timber harvest methods may be permitted in those limited instances where the topography, soil conditions, or silviculture practices necessary for regeneration render selective timber cutting ecologically detrimental, subject to approval of a conditional use permit for such timber harvest methods.

C. Permit review for restoration projects shall be prioritized over other projects in the shoreline.

D. If the county develops a fee-in-lieu program for the provision of public access, the Shoreline Administrator shall prioritize provision and improvement of public access to publicly owned shorelines of statewide significance.

17.05A.130 - Shoreline Master Program procedures.

A. **Shoreline permit applications**. Any person desiring to undertake substantial development on shorelines of the state located within Island County shall apply to the Island County Planning and Community Development Department for a shoreline permit, in a format established by the county. The application shall contain, at a minimum, such information as is required by state and local rules and regulations adopted pursuant to the SMA. Unless specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to Chapter 90.58 RCW, the Shoreline Management Act, Chapter 173-27 WAC, and this Shoreline Master Program whether or not a permit is required.

B. **Shoreline permit application requirements.** A complete application for a shoreline substantial development, conditional use, or variance permit shall contain, at a minimum, the following information:

1. The name, address and phone number of the applicant. The applicant should be the owner of the property or the primary proponent of the project, and not the representative of the owner or representative of the primary proponent;

2. The name, address and phone number of the applicant's representative if other than the applicant;

3. The name, address and phone number of the property owner, if other than the applicant;

4. Location of the property. This shall, at a minimum, include the property address and identification of the section, township and range to the nearest quarter, quarter section or latitude and longitude to the nearest minute. All applications for projects located in open water areas away from land shall provide a longitude and latitude location;

5. Identification of the name of the shoreline (water body) that the site of the proposal is associated with. This should be the water body from which jurisdiction of the ~~a~~Act over the project is derived;

6. A general description of the proposed project that includes the proposed use or uses and the activities necessary to accomplish the project;

7. A general description of the property as it now exists including its physical characteristics and improvements and structures; and

8. A site development plan consisting of maps and elevation drawings, drawn to an appropriate scale to depict clearly all required information, photographs and text which shall include:

a. The boundary of the parcel(s) of land upon which the development is proposed;

b. The ordinary high water mark of all water bodies located adjacent to or within the boundary of the project. This may be an approximate location, provided that, for any development where a determination of consistency with the applicable regulations requires a precise location of the ordinary high water mark, a description of the field indicators observed and rationale for determination shall be included in the development plan. Where the ordinary high water mark is neither adjacent to or within the boundary of the project, the plan shall indicate the distance and direction to the nearest ordinary high water mark of a shoreline;

(i) Where a conflict or dispute arises between an applicant's determination of ordinary high water mark and the county's determination, the applicant and the county shall each provide a written justification for their individual ordinary high water mark determinations to the Department of Ecology.

(ii) The Department of Ecology shall make the final ordinary high water mark determination based on their own investigation and the information provided by the applicant and the county.

c. Existing and proposed land contours. The contours shall be at intervals sufficient to accurately determine the existing character of the property and the extent of proposed change to the land that is necessary for the development. Areas within the boundary that will not be altered by the development may be indicated as such and contours approximated for that area;

d. A delineation of all wetland areas that will be altered or used as a part of the development;

e. A general indication of the character of vegetation found on the site;

f. The dimensions and locations of all existing and proposed structures and improvements including but not limited to; buildings, paved or graveled areas, roads, utilities, septic tanks and drainfields, material stockpiles or surcharge, and stormwater management facilities;

g. Where applicable, a landscaping plan for the project consistent with the requirements of this SMP;

h. Where applicable, plans for development of areas on or off the site as mitigation for impacts associated with the proposed project shall be included and contain information consistent with the requirements of this section;

i. Quantity, source and composition of any fill material that is placed on the site whether temporary or permanent;

j. Quantity, composition and destination of any excavated or dredged material;

k. A vicinity map showing the relationship of the property and proposed development or use to roads, utilities, existing developments and uses on adjacent properties;

l. Where applicable, a depiction of the impacts to views from existing residential uses and public areas; and

m. On all variance applications the plans shall clearly indicate where development could occur without approval of a variance, the physical features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and uses.

C. **Permit review process and approving authority.**

1. Applicants shall apply for shoreline substantial development, variance, and conditional use permits on forms provided by Island County.

2. Shoreline exemptions are subject to a Type I or Type II application and shall be subject to the land use review process described in ~~c~~Chapter 16.19 ICC.

3. Unless the underlying approval is classified as a Type III decision, shoreline substantial development permits, shoreline conditional use permits, and shoreline variances, are Type II applications and shall be processed and subject to the land use review process outlined in ~~c~~Chapter 16.19 ICC. Although pre-application conferences are optional for shoreline substantial development permits, shoreline conditional use permits, and shoreline variances, applicants for these permit types are encouraged to have a pre-application conference prior to application submittal. The Shoreline Administrator may refer a shoreline substantial development permit application, shoreline conditional use application, or shoreline variance application to the Hearing Examiner for a public hearing and decision when requested by the Applicant or when the Shoreline Administrator determines that such action is prudent based on the significance of public comments received, or based on the scale and scope of the proposal.

4. In cases where this Chapter requires applicants to take certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

5~~4~~. Determinations of the Shoreline Administrator regarding applicability of the SMP, exemptions and application requirements shall be processed as Type I decisions pursuant to ~~c~~Chapter 16.19 ICC.

6~~5~~. The Hearing Examiner shall conduct reviews and appeals of decisions on shoreline applications consistent with provisions of ~~section~~ICC16.19.170, ~~section~~ICC 16.19.180 and ~~section~~ICC 16.19.190.

~~6. The Shoreline Administrator shall make decisions on applications for substantial development permits, and recommendations on applications for conditional use and variance permits based upon: The policies and procedures of the Shoreline Management Act and related sections of the Washington Administrative Code; and the Island County Shoreline Master Program.~~

7. A notice of application shall be issued for all shoreline permit applications as provided for in ~~c~~Chapter 16.19 ICC, which is consistent with WAC 173-27-110. The public comment

period for the notice of application for a shoreline permit shall be not less than thirty (30) days, per WAC 173-27-110(2)(e).

8. Special procedures for Washington State Department of Transportation projects.

a. Permit review time for projects on a state highway. Pursuant to RCW 47.01.485, the Legislature established a target of 90 days review time for local governments.

b. Optional process allowing construction to commence twenty-one days after date of filing. Pursuant to RCW 90.58.140, Washington State Department of Transportation projects that address significant public safety risks may begin twenty-one days after the date of filing if all components of the project will achieve no net loss of shoreline ecological functions.

9~~8~~. All applications for a permit or permit revision shall be submitted to the Department of Ecology, as required by WAC 173-27-130 or as subsequently amended.

10~~9~~. A permit revision is required whenever the applicant proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. A permit revision shall be consistent with provisions of WAC 173-27-100. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the Master Program and the policies and provisions of Chapter 90.58 RCW. Changes which are not substantive in effect do not require approval of a revision.

11~~10~~. After county approval of a conditional use or shoreline variance permit, the county shall submit the permit to the Department of Ecology for the Department's approval, approval with conditions, or denial, as provided in WAC 173-27-200. The Department shall transmit its final decision to the county and the applicant within thirty (30) calendar days of the date of submittal by the county.

12. After all local permit administrative appeals or reconsideration periods are complete and the permit documents are amended to incorporate any resulting changes, the county will, concurrently with the transmittal of the ruling to the applicant, mail the final decision on the permit application, using return receipt requested mail to the Department of Ecology regional office and the Office of the Attorney General. Projects that require conditional use permits and/or variances shall be mailed simultaneously with any substantial development permits for the project.

a. The permit and documentation of the final local decision will be mailed together with the complete permit application; a findings and conclusions letter; a permit data form (cover sheet); and applicable SEPA documents.

b. Consistent with RCW 90.58.140(6), the state's Shorelines Hearings Board twenty-one day appeal period starts with the date of filing, which is defined below:

(i) For projects that only require a substantial development permit (SDP): the date that Ecology receives the county's decision.

(ii) For a shoreline conditional use permit (SCUP) or shoreline variance (SVAR): the date that Ecology's decision on the SCUP or SVAR is transmitted to the applicant and the county.

(iii) For SDPs simultaneously mailed with an SCUP or SVAR to Ecology: the date that Ecology's decision on the SCUP or SVAR is transmitted to the applicant and the county.

13~~11~~. Each permit issued by the county shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one (21) days from the date of filing with the Department of Ecology, per WAC 173-27-190 or as subsequently amended. ~~"Date of filing" of the county's final decision on substantial development permits differs from date of filing for a conditional use permit or variance. In the case of a substantial development permit, the date of filing is the date the county transmits its decision on the permit to the Department of Ecology. In the case of a variance or conditional use permit, the "date of filing" means the date the Department of Ecology's final order on the permit is transmitted to the county.~~ Construction, or the use or activity, shall commence within two (2) years after approval of the permits. Authorization to conduct development activities shall terminate within five (5) years after the effective date of a shoreline permit. The Administrator may authorize a single extension before the end of either of these time periods, with prior notice to parties of record and the Department of Ecology, for up to one (1) year based on reasonable factors.

14~~12~~. Compliance with permit conditions. When permit approval includes conditions, such conditions shall be satisfied prior to occupancy or use of a structure or prior to commencement of a nonstructural activity.

15. Responsibilities of the Shoreline Administrator.

a. Provides technical and administrative assistance to the hearing examiner as required, and provides such technical assistance to the Board of Island County Commissioners as may be needed; and

b. The Shoreline Administrator shall make decisions on applications for substantial development permits, and recommendations on applications for conditional use permits and variances based upon:

(i) The policies and procedures of the Shoreline Management Act and related sections of the Washington Administrative Code; and

(ii) The Island County Shoreline Master Program.

c. Determinations of the Shoreline Administrator regarding applicability of the SMP, exemptions and application requirements shall be processed as Type I decisions pursuant to Chapter 16.19 ICC.

d. Establishing the procedures and preparing the forms deemed essential for the administration of the SMP;

e. Advising applicants for permits and other interested persons of the policies, regulations, and procedures established by the SMP and the SMA;

f. Making administrative interpretations of the SMP, as necessary;

g. Collecting required fees;

h. Determining that applications are proper and complete prior to review;

i. Making field inspections; and

j. Enforcing the provisions of the SMP and the SMA, and permits issued under them, and with conditions attached to a shoreline permit issued by the county.

~~D. **Shoreline Master Program review and amendments.**~~

~~1. Any of the provisions of this Shoreline Master Program may be amended as provided for in RCW 90.58.120, .200 and Chapter 173-26 WAC. Amendments shall be processed as a Type IV decision pursuant to chapter 16.19.~~

~~2. This Shoreline Master Program (SMP) shall be periodically reviewed and amendments shall be made as are necessary to reflect changing local circumstances, new information or improved data, and changes in state statutes and regulations.~~

~~3. The county's established permit tracking system, aerial photographs, review of other available data, and field observations as feasible shall be used to periodically evaluate the effectiveness of the Shoreline Master Program in achieving no net loss of shoreline ecological functions with respect to both permitting and exemptions.~~

~~4. As part of the required SMP update, an evaluation shall be conducted every eight (8) years assessing the effectiveness of the SMP in achieving no net loss and a report shall be prepared and considered in determining whether policies and regulations are adequate in achieving this requirement.~~

~~5. The SMP review and update process shall be consistent with the requirements of WAC 173-26 or its successor and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.~~

~~6. Amendments or revisions to the Island County Shoreline Master Program, as provided by law, do not become effective until approved by the Department of Ecology.~~

~~E~~D. **Shoreline substantial development permits and exemptions.**

1. **Permits required.**

a. Any development, use, or activity shall not be undertaken within the jurisdiction of the SMA, ~~and this shoreline Master Program~~ unless it is consistent with the policy and procedures of the Act, Chapter 90.58 RCW, ~~WAC~~ Chapter 173-27 WAC, and other applicable federal and state regulations, and the adopted Island County Shoreline Master Program.

b. A substantial development shall not be undertaken within the jurisdiction of the SMA, Chapter 90.58 RCW, and this Shoreline Master Program unless a shoreline substantial development permit has been obtained and the appeal period has been completed and any appeals have been resolved and the applicant has been given permission to proceed by the proper authority.

c. Any person wishing to undertake substantial development or exempt development on shorelines shall apply to the Shoreline Administrator for an appropriate shoreline permit or statement of exemption.

d. If a development, use or activity is listed as a conditional use by the Shoreline Master Program, it shall not be undertaken within shoreline jurisdiction unless a shoreline conditional use permit has been obtained, the appeal period has been completed, any appeals have been resolved, or the applicant has been given permission to proceed by the proper authority.

2. Exemptions from substantial development permit requirements.

a. Shoreline exemptions are processed as a Type I or Type II application and shall be subject to the land use review process described in Chapter 16.19 ICC.

~~a~~b. Exemptions shall be narrowly construed in accordance with WAC 173-27-040(1). A use classified as a shoreline conditional use or a use not named or contemplated is allowed only as a shoreline conditional use and is ineligible for shoreline permit exemption.

~~b~~c. Permit exemption letters shall be prepared for projects requiring Federal Rivers and Harbors Act ~~s~~Section 10 permits and/or Federal Clean Water Act ~~s~~Section 404 permits.

~~c~~d. Key terms used in this section are defined in the definitions sections, including: normal appurtenance, consumer price index, normal maintenance~~, normal~~ and repair, normal protective bulkhead, shoreline stabilization, and emergency.

~~d~~e. The following, as defined in WAC 173-27-040, are not considered to be substantial developments:

(i) Any development of which the total cost or fair market value, whichever is higher, does not exceed ~~six thousand four hundred and sixteen dollars ($6,416.00)~~ the Substantial Development Dollar Threshold as set by the Office of Financial Management, if such development does not materially interfere with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection must be adjusted for inflation by the office of financial management every five (5) years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials;

(ii) Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. ~~"Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment.~~ Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment;

(iii) Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the OHWM for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one (1) cubic yard of fill per one (1) foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an OHWM has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual OHWM. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the Washington Department of Fish and Wildlife;

(iv) Emergency construction necessary to protect property from damage by the elements. An emergency is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this SMP. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Shoreline Administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to Chapter 90.58 RCW, these regulations, or this Program, shall be obtained. All emergency construction shall be consistent with the policies of Chapter 90.58 RCW and this Shoreline Master Program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;

(v) Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures, including but not limited to head gates, pumping facilities, and irrigation channels: Provided, That a feedlot (an animal feeding operation) of any size, all processing plants, other activities of a commercial nature, and alteration of the contour of the shorelands by leveling or filling other than that which result from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;

(vi) Construction or modification, by or under the authority of the Coast Guard or a designated port management authority, of navigational aids, such as channel markers and anchor buoys. WAC 173-27-040(2)(f);

(vii) Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of thirty-five (35) feet above average grade level and which meets all requirements of the county and state agency having jurisdiction thereof, other than requirements imposed pursuant to Chapter 90.58 RCW. "Single-family residence" means a detached dwelling designed for and occupied by one (1) family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. Normal appurtenances include a garage, deck, driveway, utilities, fences, installation of a septic tank and drainfield, and grading which does not exceed 250 cubic yards and which does not involve placement of fill waterward of the Ordinary High Water Mark or in any wetland. Construction authorized under this exemption shall be located landward of the ordinary high water mark and shall be subject to required setbacks. Construction authorized under this exemption shall be located landward of the ordinary high water mark;

(viii) Construction of a dock, including a community dock, designed for pleasure craft only, for the private, non-commercial use of the owners, lessee, or contract purchaser of single- and multiple-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exemption applies if ~~the fair market value of the dock does not exceed~~:

(1) In salt waters, the fair market value of the dock does not exceed two thousand five hundred dollars ($2,500.00).

(2) In fresh waters, the fair market value of the dock does not exceed:

(a) twenty-two thousand five hundred dollars ($22,500) ~~ten thousand dollars ($10,000.00)~~ for docks that are constructed to replace

existing docks, and are of equal or lesser square footage than the existing dock being replaced; or

(b) Eleven thousand two hundred ($11,200) dollars for all other docks constructed in fresh waters.

(3) However,~~but~~ if subsequent construction ~~having a fair market value exceeding two thousand five hundred dollars ($2,500.00)~~ occurs within five (5) years of completion of the prior construction, and the combined fair market value of the subsequent and prior construction exceeds the amount specified above, the subsequent construction shall be considered a substantial development for the purpose of this chapter;

(ix) Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as part of an irrigation system for the primary purpose of making use of the system waters, including return flow and artificially stored groundwater from the irrigation of lands. WAC 173-27-040(2)(i);

(x) The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water. WAC 173-27-040(2)(j);

(xi) Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed, or utilized primarily as part of an agricultural drainage or diking system. WAC 173-27-040(2)(k);

(xii) Any project with a certification from the governor pursuant to Chapter 80.50 RCW (certification from Energy Facility Site Evaluation Council (EFSEC));

(xiii) Site exploration and investigation activities that are prerequisite to preparation of an application for development authority under this chapter if:

(1) The activity does not interfere with the normal public use of the surface waters;

(2) The activity will have no significant adverse impact on the environment, including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

(3) The activity does not involve the installation of any structure, and upon completion of the activity, the vegetation and land configuration of the site are restored to conditions existing before the activity;

(4) A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the county to ensure that the site is restored to pre-existing condition; and

(5) The activity is not subject to the permit requirements of RCW 90.58.550, WAC 173-27-040(2)(m);

(xiv) The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the Department of Agriculture or the Department of Ecology jointly with other state agencies under Chapter 43.21C RCW;

(xv) Watershed restoration projects as defined in RCW 90.58, in accordance with WAC 173-27-040(2)(o);

(xvi) A public or private project that is designed to improve fish or wildlife habitat or fish passage, as provided in WAC 173-27-040(2)(p), when all of the following apply:

(1) The project has been approved by the Washington Department of Fish and Wildlife (WDFW);

(2) The project has received hydraulic project approval by the WDFW pursuant to 75.20 RCW; and

(3) The county has determined that the project is substantially consistent with this shoreline master program;

(4) Fish habitat enhancement project meets the criteria of RCW 77.55.181.

(xvii) Hazardous substance remedial actions, as specified in WAC 173-27-04~~40(3)~~; and

(xviii) Normal appurtenances to a single-family residence are included in the permit exemption provided in ~~section~~ ICC 17.05A.130.~~E~~D.2.~~d~~e.vii. "Normal appurtenances" include a garage, ~~deck,~~ driveway, utilities, ~~fence,~~ septic tank and drainfield, and grading which does not exceed 250 cubic yards and which does not involve placement of fill in any wetland, or waterward of the ordinary high water mark. Normal appurtenances to a single-family residence also include:

(1) Beach access structures (i.e., stairways and tramways) and footpaths when in compliance all other provisions of this chapter;

(2) Gazebos and sheds located outside of the buffers required by this ~~c~~Chapter, not exceeding 200 square feet in total impervious footprint, and not exceeding two (2) such structures per single-family lot;

(3) Fill that does not exceed 250 cubic yards in total, necessary during the original construction of a single-family residence for the following purposes as described below:

(a) Normal landscaping, to include topsoil, rock or similar landscaping materials but not including mulch;

(b) Structural fill, only as necessary to comply with building code requirements related to the structural integrity of a foundation and not to include fill required for parcel flood-proofing, wetland fill or other fill activities; and

(c) Fill required for driveway construction, not including asphalt or concrete; and

(d) Fill placed entirely within a foundation wall or associated with a drainfield shall not count toward the 250 cubic yards;

(4) Antennas and satellite dishes that are less than one (1) meter in diameter; and

(5) Solar arrays serving only the single-family residence.

(xix) The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.

f. Those shoreline uses which are exempt from a substantial development permit, shall still require department review through either a shoreline exemption or a limited review shoreline exemption.

(i). Shoreline exemptions which may be processed as limited review shoreline exemptions are those uses which require minimal interagency coordination and regulatory review and meet all of the following criteria listed below:

(1) the project is exempt from substantial development permit requirements per WAC-173-27-040;

(2) the project qualifies for a Type I permit review per Chapter 16.19 ICC;

(3) the project does not require a threshold determination under SEPA; and

(4) the project is not within a wetland, stream, critical drainage area, flood hazard area, steep slope, geologically hazardous area, habitat of local importance, FWHCA, or an associated buffer. Unless, that FWHCA is a marine buffer and neither a threshold determination under SEPA nor a biological site assessment is required; in such a case the project may still be processed as a limited review provided it meets the other criteria of this section.

(ii). The following process requirements apply to limited review shoreline exemptions.

(1) Multiple projects on a single parcel may be processed as a singular limited review, provided that the individual projects meet the criteria for a limited review as outlined in this section.

(2) Prior to issuing a decision on a limited review application, the department may request verification that the original use or structure was legally established.

(3) If the project is in the vicinity of cultural resources, review from DAHP is necessary.

(iii). Uses that qualify for limited review shoreline exemption include, but are not limited to, the following.

(1) Like-for-like replacement of an existing, legally established and permitted structure which is 400 square feet or less in size such as decks, porches, carports, garages or tool sheds. The replacement shall not include any changes to the size, location, or configuration of the structure or include habitable space.

(2) Like-for-like replacements of septic components which do not increase septic capacity by more than ten (10) percent.

(3) Small additions, that do not exceed 400 square feet or 25% of the existing footprint, whichever is less, where the addition is made to the landward side of an existing residence, such as decks, porches, carports, or garages. Such additions shall not include habitable space.

(4) Minor accessory structures such as tool sheds, garden sheds, or greenhouses located to the landward side of the shoreline setback.

(5) Normal maintenance and repair of accessory structures that do not include habitable space.

(6) Raising a single family home to meet the flood development standards of Chapter 14.02A ICC.

(7) Retrofits to existing structures to comply with the Americans with Disabilities Act.

(8) Other uses may qualify for limited review subject to department review prior to application submittal.

g. Installation of minor heating, ventilation, and air conditioning (HVAC) appurtenances are exempt from all shoreline permits, including the limited review shoreline exemption process outlined in item f above, provided that all applicable codes, setbacks, and the following requirements are met:

(i) the unit is installed at or above grade;

(ii) the impervious footprint (which includes any precast concrete or other stabilization installed with the HVAC appurtenance) is less than twelve (12) square feet;

(iii) the impervious footprint does not extend further than three (3) feet from the exterior wall of the building;

(iv) the impervious footprint does not encroach into the shoreline setback or buffer;

(v) the HVAC unit does not impact views per this Chapter;

(vi) for existing structures within the shoreline setback or buffer the unit shall not be placed closer to the shoreline than the existing residence or an existing structure (such as a deck or patio); and

(vii) installing the HVAC system does not include excavation or the pouring of concrete.

h. Vegetation maintenance activities pursuant to ICC 17.05A.110.C are exempt from all shoreline permits, including the limited review shoreline exemption process outlined in item f above.

~~F~~E. **Shoreline conditional use permit.**

1. The purpose of a shoreline conditional use permit is to provide a system within the Shoreline Master Program which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a shoreline conditional use, special conditions may be attached to the permit to prevent undesirable effects of the proposed use and to ensure consistency of the project with the Act and the Island County Shoreline Master Program.

2. Uses which are classified or set forth as shoreline conditional uses in the Master Program may be authorized, provided the applicant demonstrates all of the following conditional use criteria as listed in WAC 173-27-160:

a. That the proposed use is consistent with the policies of RCW 90.58.020 and the Master Program;

b. That the proposed use will not interfere with the normal public use of public shorelines;

c. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and this Shoreline Master Program;

d. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and

e. That the public interest suffers no substantial detrimental effect.

3. In the granting of shoreline conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

   a. The county shall have the authority to require the applicant/proponent to prepare special studies, assessments and analyses as necessary to identify and address cumulative impacts including, but not limited to, impacts on fish and wildlife habitat, public access/use, aesthetics, and other shoreline attributes.

   b. Proponents of the shoreline use and development shall take the following factors into account when assessing cumulative impacts:

      (i) Current ecological functions and human factors influencing shoreline natural processes; and

      (ii) Reasonably foreseeable future use and development of the shoreline; and

      (iii) Beneficial effects of any established regulatory programs under other local, state, and federal laws; and

      (iv) Mitigation measures implemented in conjunction with the proposed project to avoid, reduce and/or compensate for adverse impacts.

4. Other uses which are not classified or set forth in this Master Program may be authorized as shoreline conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the Master Program.

5. Uses which are specifically prohibited by the Master Program may not be authorized.

~~G~~F. **Shoreline Variance.**

1. The purpose of a variance is strictly limited to granting relief to specific bulk dimensional, or performance standards set forth in the Shoreline Master Program, and where there are extraordinary or unique circumstances relating to the property such that the strict implementation of the Island County SMP would impose unnecessary hardships on the applicant or thwart the SMA policies as stated in RCW 90.58.020.

2. Construction pursuant to a variance permit shall not begin nor can construction be authorized except as provided in RCW 90.58.020. In all instances, extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

3. An application for a shoreline variance shall be submitted on a form provided by the county accompanied by maps, completed environmental checklist, applicable fees, and any other information specified in this Master Program or requested by the Shoreline Administrator.

4. An applicant for a substantial development permit who wishes to request a variance shall submit the variance application and the substantial development permit application simultaneously.

5. Variances for development that will be located landward of the ordinary high water mark and landward of any wetland may be authorized provided the applicant can demonstrate consistency with the following variance criteria as listed in WAC 173-27-170:

    a. That the strict application of the bulk, dimensional, or performance standards set forth in the Master Program precludes, or significantly interferes with, reasonable use of the property;

    b. That the hardship described above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the Master Program and not, for example, from deed restrictions or the applicant's own actions;

    c. That the design of the project is compatible with other permitted activities within the area and with uses planned for the area under the Comprehensive Plan and Master Program and will not cause adverse impacts to the shoreline environment;

    d. That the variance requested is the minimum necessary to afford relief and will not constitute a grant of special privilege not enjoyed by other properties in the area; and

    e. That the public interest will suffer no substantial detrimental effect.

6. Variances for a development or uses that will be located waterward of the ordinary high water mark or within any wetland may be authorized provided the applicant can demonstrate all of the following:

    a. That the strict application of the bulk, dimensional, or performance standards set forth in the Master Program precludes all reasonable use of the property;

    b. That the proposal is consistent with the criteria established in this SMP; and

    c. That the public rights of navigation and use of the shorelines will not be adversely affected.

7. Decision Criteria – Wetland or Fish and Wildlife Habitat Buffer. Where the Shoreline Variance request includes a reduction to a wetland or fish and wildlife habitat area buffer, the applicant shall demonstrate the following:

    a. Approval of the variance will not adversely impact water quality or quantity.

b. Approval of the variance will not adversely impact any functional attribute of the habitat area.

c. Approval of the variance will not jeopardize the continued existence of species listed by the Federal government or the State as endangered, threatened, sensitive, or documented priority species or priority habitats.

d. The proposal avoids adverse impacts, where feasible, and provides mitigation, pursuant to ICC 17.05A.090.B.

~~7.~~8. In the granting of all variances, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments or uses in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.

~~8~~9. Variances from the use regulations of the Island County Shoreline Master Program are prohibited.

~~H~~G. **Notice of approval or denial**. The Island County Planning and Community Development Department shall notify the following persons in writing of the final approval or denial of a shoreline permit as required by law:

1. The applicant;

2. The Washington State Department of Ecology;

3. All "parties of record" for each decision as defined in ~~c~~Chapter 16.19 ICC, and any person who has written the planning department requesting such notice; and

4. Any affected Indian tribe.

~~I~~H. **When substantial development may commence**. Construction pursuant to a shoreline permit shall not begin or be authorized until thirty (30) days from the date the final order granting the permit was filed with the Washington State Department of Ecology pursuant to RCW 90.58.140(6), or until all review proceedings are terminated if such proceedings were initiated within thirty (30) days from the date of such filing, except as provided in RCW 90.58.140(5)~~, (b) and~~ (c). Issuance of a shoreline permit shall in no way be construed as excusing the applicant from compliance with any other local, state, or federal statutes, ordinances, or regulations applicable to the proposed substantial development.

~~J~~I. **Appeals to Shorelines Hearings Board**. After completing any administrative appeal regarding a shoreline substantial development permit pursuant to ~~c~~Chapter 16.19 ICC, further review may be sought by appeal to the Washington State Shorelines Hearings Board pursuant to Chapter 90.58 RCW.

No Shoreline conditional use permit or variance approval by the county is final until reviewed and approved by the Department of Ecology according to WAC 173-16-~~070~~130 or as hereafter amended. Further review may then be sought by appeal to the Washington State Shorelines Hearings Board pursuant to Chapter 90.58 RCW.

J. **Moratoria authority and requirements**

1. Island County has authority to adopt a moratorium control or other interim control on development under RCW 90.58.590.

2. Before adopting the moratorium, Island County must:

   a. Hold a public hearing on the moratorium or control;

   b. Adopt detailed findings of fact that include, but are not limited to justifications for the proposed or adopted actions and explanations of the desired and likely outcomes;

   c. Notify the department of Ecology of the moratorium or control immediately after its adoption. The notification must specify the time, place, and date of any public hearing; and

   d. Provide that all lawfully existing uses, structures, or other development shall continue to be deemed lawful conforming uses and may continue to be maintained, repaired, and redeveloped, so long as the use is not expanded, under the terms of the land use and shoreline rules and regulations in place at the time of the moratorium.

4. The public hearing must be held within sixty days of the adoption of the moratorium or control.

5. A moratorium or control adopted under this section may be effective for up to six months if a detailed work plan for remedying the issues and circumstances necessitating the moratorium or control is developed and made available for public review.

6. A moratorium or control may be renewed for one or more six-month periods if Island County complies with the requirements in subsection (2) above before each renewal.

K. **Fees.** A fee as set by the Board shall be paid to the Island County Planning and Community Development Department at the time a shoreline permit application is accepted to cover the cost of administration.

~~D~~L. **Shoreline Master Program review and amendments.**

1. Any of the provisions of this Shoreline Master Program (SMP) may be amended as provided for in RCW 90.58.120 and 90.58.200 and Chapter 173-26 WAC. Amendments shall be processed as a Type IV decision pursuant to Chapter 16.19 ICC.

2. This SMP shall be periodically reviewed and amendments shall be made as are necessary to reflect changing local circumstances, new information or improved data, and changes in state statutes and regulations.

3. The county's established permit tracking system, aerial photographs, review of other available data, and field observations as feasible shall be used to periodically evaluate the effectiveness of the SMP in achieving no net loss of shoreline ecological functions with respect to both permitting and exemptions.

4. As part of the required SMP update, an evaluation shall be conducted every eight (8) years assessing the effectiveness of the SMP in achieving no net loss and a report shall be prepared and considered in determining whether policies and regulations are adequate in achieving this requirement.

5. The SMP review and update process shall be consistent with the requirements of WAC 173-26 or its successor and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

6. The Island County Planning and Community Development and Planning Commission have authority to review and recommend revisions to the SMP.

7. Amendments or revisions to the Island County SMP, as provided by law, are effective 14 days from Ecology's written notice of final action.

(Ord. No. C-107-15 [PLG-007-15] , Exh. B, 10-15-2015)

17.05A.140 – Nonconforming development.

Nonconforming use or development means a shoreline use or development which was lawfully constructed or established prior to the effective date of the Act or this Master Program, or amendments thereto, but which does not conform to present regulations or standards of this Master Program. In such cases, the following standards shall apply:

A. In all cases, the burden shall be on the property owner and/or applicant to prove that a use or structure was lawfully constructed or established. For establishing the existence of shoreline stabilization structures. see ICC 17.05A.110.A.3.h.

B. Nonconforming Structures.

~~A.~~1. Residential and appurtenant structures (excluding bulkheads, overwater structures or other shoreline modifications) that were legally established and are used for a conforming use, but that do not meet current standards for density, lot size, setbacks and buffers shall be considered a conforming structure. Redevelopment, expansion, or replacement of these residential structures shall be consistent with this Shoreline Master Program, including requirements for no net loss of shoreline ecological functions. Nothing in this section: (a) Restricts the ability of this Master Program to limit redevelopment, expansion, or replacement of overwater structures located in hazardous areas, such as floodplains and geologically hazardous areas; or (b) affects the application of other federal, state, or local government requirements to residential structures.

~~B.~~2. Structures that were legally established and are used for a conforming use, but which are nonconforming with regard to setbacks, buffers, area, bulk, height or density may be maintained and repaired and may be enlarged or expanded provided that said enlargement does not increase the extent of nonconformity by further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses. Also see the provisions of ICC 17.05A.090.I for shoreline setback, shoreline buffer, and impervious surface modifications permitted without a shoreline variance.

a. Lateral expansion of structures into areas prohibited by current bulk, dimensional or performance standards shall require a variance, with the following exception.

(i) For the replacement of legally non-conforming factory-built homes, a greater building footprint than existed prior to replacement may be allowed in order to accommodate the replacement of a factory built home with another factory built home that does not have the same size and shape. A proposed increase less than twenty-five percent of the existing home's footprint shall not require a variance.

(ii) Applications for such replacements shall include a habitat management plan that identifies measures to protect habitat and mitigates for unavoidable impacts. The replacement home may be no closer to the shoreline than the existing residence.

~~C. Uses that were legally established and are nonconforming with regard to the use regulations of the Master Program may continue as legal nonconforming uses. Such uses shall not be enlarged or expanded, except that nonconforming single-family residences that are located landward of the ordinary high water mark may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined in this SMP upon approval of a conditional use permit;~~

~~D. A use which is listed as a conditional use, but which existed prior to adoption of the Master Program or any relevant amendment and for which a conditional use permit has not been obtained shall be considered a nonconforming use. A use which is listed as a conditional use, but which existed prior to the applicability of the Master Program to the site and for which a conditional use permit has not been obtained shall be considered a nonconforming use;~~

~~E~~3. A structure for which a variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities;

~~F. A structure which is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a conditional use permit. A conditional use permit may be approved only upon a finding that:~~

~~1. No reasonable alternative conforming use is practical; and~~

~~2. The proposed use will be at least as consistent with the policies and provisions of the Act and the Master Program and as compatible with the uses in the area as the preexisting use.~~

~~In addition such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of the Master Program and the Shoreline Management Act and to assure that the use will not become a nuisance or a hazard;~~

4. Rebuilding After Damage. If a nonconforming development sustains major structural damage due to fire, flood or other natural disaster, it may be reconstructed upon its original site and to the configuration existing immediately prior to the damage, provided:

a. The rebuilt structure will not cause adverse effects to adjacent properties or to the shoreline environment; and

b. The site is geologically stable; and

c. No horizontal or vertical expansion or enlargement of the footprint or height, or any degree of relocation, will occur; and

d. No degree of relocation will occur, except to increase conformity, in which case the structure shall be located as far landward as possible or in the least environmentally damaging location relative to the shoreline or any critical area; and

e. The submittal of applications for permits necessary to restore the development is begun within one year of the damage. The administrator may waive this requirement in situations with extenuating circumstances such as resolution of an estate, or widespread economic or natural disaster; and

f. The reconstruction is commenced within two years of the issuance of permits. Administrator may allow a one-year extension.

~~G.~~5. A nonconforming structure which is moved any distance must be brought into conformance with the Master Program and the Act to the maximum extent feasible;

~~H. If a nonconforming development is unintentionally damaged to an extent not exceeding seventy-five (75) percent of its real valuation exclusive of foundations, it may be reconstructed to those configurations existing immediately prior to the time the structure was damaged, provided that application is made for the permits necessary to restore the structure within one (1) year of the date the damage occurred, all permits are obtained, and the restoration is completed within two (2) years of permit issuance;~~

~~I.~~6. If a nonconforming structure is intentionally modified and the cost of the proposed development exceeds sixty (60) percent of the fair market value of the replacement cost of the original structure, it shall be required to meet all applicable standards in the SMP;

7. Applications for the movement, replacement, redevelopment, expansion or modification of nonconforming structures must demonstrate that the proposed action will not:

a. Result in a net loss of shoreline ecological functions;

b. Increase adverse impacts on shoreline critical areas;

c. Create a new nonconformance or increase the degree of inconsistency with the provisions of this SMP; or

d. Result in a hazard to people or property.

8. To demonstrate no net loss of shoreline ecological functions, an analysis must be provided by the applicant that addresses any:

a. Increase in the quantity of pollutants from the site;

b. Increase in the quantity of surface runoff from the site;

c. Decrease in trees and other vegetation within buffers and tree protection zones;

d. Decrease in the stability of the site and other properties; and

e. Changes to the transport of sediment to and within nearshore areas.

C. Nonconforming Uses.

1. Uses that were legally established and are nonconforming with regard to the use regulations of the Master Program may continue as legal nonconforming uses. Such uses shall not be enlarged or expanded, except that:

a. Nonconforming single-family residential uses that are located landward of the ordinary high water mark may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined in this SMP upon approval of a shoreline variance, consistent with ICC 17.05A.090.J;

b. Nonconforming, legally established water-related and water-enjoyment commercial uses may be enlarged or expanded upon approval of a conditional use permit. Such uses shall conform to applicable buffer and setback standards and cause not net loss of ecological functions over time.

2. A use which is listed as a conditional use, but which existed prior to adoption of the Master Program or any relevant amendment and for which a conditional use permit has not been obtained shall be considered a nonconforming use. A use which is listed as a conditional use, but which existed prior to the applicability of the Master Program to the site and for which a conditional use permit has not been obtained shall be considered a nonconforming use;

3. A structure which is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a conditional use permit. A conditional use permit may be approved only upon a finding that:

a. No reasonable alternative conforming use is practical; and

b. The proposed use will be at least as consistent with the policies and provisions of the Act and the Master Program and as compatible with the uses in the area as the preexisting use.

In addition such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of the Master Program and the Shoreline Management Act and to assure that the use will not become a nuisance or a hazard;

~~J.~~4. A nonconforming use that is discontinued for a period of twenty-four (24) continuous months shall not be allowed to be re-established as a nonconforming use.~~; and~~

D. Nonconforming lots.

~~K.~~1. An undeveloped lot, tract, parcel, site, or division of land located landward of the Ordinary High Water Mark which was established prior to the effective date of the Act or the Master Program, but which does not conform to the present lot size standards, may be developed if permitted by other land use regulations of the local government and so long as such development conforms to all other requirements of the Master Program and the Act.

17.05A.150 - Penalties and enforcement.

Any person who shall fail to conform to the terms of a permit issued under this chapter or who shall undertake development on the shorelines of the state without first obtaining any permit required under this chapter shall be subject to the penalties and enforcement provisions of ~~section~~ICC 17.03.260 except the civil penalty for violation shall be as set forth in RCW 90.58.210. In addition, Island County and the Department of Ecology shall have the authority to take enforcement action pursuant to RCW 90.58.210, ~~-~~ 220, and .230, and WAC 173-27-240 through ~~WAC 173-27-300~~310.

17.05A.160 - Severability.

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter or the application of the provisions to other persons or circumstances shall not be affected.

17.05A.170 – Conflict of Provisions.

Should a conflict occur between the provisions of this SMP or between this SMP and the laws, regulations, codes or rules promulgated by any other authority having jurisdiction within the county, the requirement that most supports the purposes and provisions of the Shoreline Management Act, as detailed in RCW 90.58.020, shall apply, as determined by the county, except when constrained by federal or state law.

In case of any ambiguity, difference of meaning, or inconsistencies between the text and any illustrations or other graphics and maps, the text throughout this Title, including text within tables, shall control. In addition, in case of any ambiguity, difference of meaning, or inconsistencies between the text throughout this Title, and the text within tables, the text throughout this Title shall control.

17.05A.180 - Effective date.

This chapter shall take effect ~~on January 19, 2016~~ upon approval by the Department of Ecology, and shall apply to new applications submitted on, or after that date and to incomplete applications filed prior to that date.