

# Appendix I

GUEMES ISLAND

# Shoreline Master Program Element

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# Introduction

## A. Purpose and Background

The purpose of this document is twofold:

1. To provide guidance to Skagit County in preparing Critical Area Ordinance regulations for Guemes Island.
2. To serve as the Guemes Island portion of a Skagit County Master Program amendment.

This document includes detailed standards that should be incorporated into the Skagit County Critical Areas Ordinance (CAO). Specifically, the CAO should address:

- a. The goals in the Environmental Conservation Element (Chapter 2B-4).
- b. The designations, policies, use restrictions, and development standards in Chapter 3.
- c. The policies and regulations in Chapter 4, Sections B- 2, 4, 7, 10, and 11.
- d. The policies and regulations in Chapter 5, all sections.
- e. The policies and regulations in Chapter 6, all regulations.

## B. Geographic Applications of this Master Program Component

These provisions apply to all lands within shoreline jurisdiction on or surrounding Guemes Island only. All recommended policies apply to new development or modifications of existing structures within the jurisdiction of the Skagit County Shoreline Management Program. This jurisdiction includes the marine waters together with the lands underlying them and the "shorelands" which are upland areas extending 200 feet landward from the ordinary high water mark and the wetlands associated with these shorelands. The policies do not apply to structures that may be nonconforming, but are legal because they have been permitted.

*Legal nonconforming structures*

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c. Result in long-term over short-term benefit.

d. Increase public access to publicly owned areas of the shorelines.

7. Encourage restoration of shoreline areas that have been degraded or diminished in ecological value and function as a result of past activities or catastrophic events.
8. Ensure that planning, zoning, and other regulatory and non-regulatory programs governing lands adjacent to shoreline jurisdiction are mutually consistent with SMA policies and regulations and the provisions of this SMP.
9. Ensure that residential development is planned with appropriate densities, setbacks, and other standards so that the shoreline ecology is not degraded.
10. Retain all existing parks, public rights-of-way, public beaches, and the ferry terminal area for public use.

## 2. Economic Development Element

1. Protect current economic activity (e.g., forestry, agriculture, etc.) that is consistent with the objectives of the SMP and provide for environmentally sensitive new development.
2. Ensure that any economic activity taking place along the shoreline operates without harming the quality of the site's environment or adjacent shorelands.
3. Limit new shoreline commercial development to land currently zoned commercial.

## 3. Circulation Element

1. Provide safe, reasonable, and adequate access to shorelines for vehicles, bicycles, and pedestrians where routes will have the least possible adverse effect on unique or fragile shoreline features and existing ecological systems.
2. Locate new roads, trails, and parking lots as far from the land-water interface as feasible to reduce interference with either natural shoreline resources or other appropriate shoreline uses.
3. Reroute existing roadways that are threatened by erosion and provide for easements for such new roadways.
4. Protect, manage, and enhance those characteristics of shoreline roadway corridors that are unique or have historic significance or aesthetic quality for the benefit and enjoyment of the public.

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2. Encourage educational projects and programs that foster a greater appreciation of the importance of shoreline management, environmental conservation, and local history.

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5. The shoreland has scenic value a high value for wilderness experience or low-intensity recreational use.

### c. Management Policies

Any use that would substantially degrade the ecological functions or natural character of the shoreline area should be prohibited.

The following new uses should not be allowed in the Natural Environment:

- Residences.
- Commercial uses.
- Industrial uses.
- Agriculture that involves tilling the earth or clearing of native plant communities.
- Commercial forestry.
- Nonwater-oriented recreation.
- Roads, utility corridors, and parking areas that can be located outside of natural-designated shorelines.

1. Access may be permitted for scientific, historical, cultural, educational, and low-intensity water-oriented recreational purposes, provided that there is no significant ecological impact on the area and the landowner permits the access.
2. New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions shall not be allowed. The subdivision of property in a configuration that, to achieve its intended purpose, will require significant vegetation removal or shoreline modification that adversely impacts ecological functions should not be allowed. That is, each new property parcel must be able to support its intended development without significant ecological impacts to the shoreline or to the vegetation necessary to maintain ecological functions.
3. Uses that are consumptive of physical, visual, and biological resources should be prohibited.
4. Physical alterations should only be considered when they serve to protect a significant, unique, or highly valued feature that might otherwise be degraded or destroyed or for public access where no significant ecological impacts would occur.
5. Uses and activities permitted in locations adjacent to shorelines designated natural should be compatible and should ensure that the integrity of the Natural Environment will not be compromised.
6. Shoreline restoration shall be encouraged.

## 2. Rural Conservancy Environment

### a. Purpose

The purpose of the Rural Conservancy Environment is to protect, conserve, and restore ecological functions, natural resources, and valuable historic and cultural areas. Examples of uses that are appropriate in a Rural Conservancy Environment include low-impact outdoor recreation uses, timber harvesting on a sustained-yield basis, agricultural uses, non-commercial aquaculture, and low-intensity residential development consistent with the local comprehensive plan's rural element and chapter 36.70A RCW, and other related low-intensity uses.

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~~functions should be encouraged. Residential development should be severely restricted to protect such activities.~~

9. Commercial and industrial uses should not be allowed.

10. Preservation of ecological functions should have priority over public access, recreation, and development objectives whenever a conflict exists.

### 3. Aquatic Environment

#### a. Purpose

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

#### b. Designation Criteria

An Aquatic Environment designation will be assigned to all marine waters with their underlying lands that are waterward of the ordinary high-water mark.

#### c. Management Policies

1. ~~New over-water structures shall not be permitted.~~
2. ~~Docks and piers shall not be allowed, except in the High-Intensity Environment.~~
3. ~~Provisions for the Aquatic Environment should be directed towards maintaining and restoring habitat for priority aquatic species.~~
4. ~~All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.~~
5. ~~Uses that cause significant ecological impacts to critical saltwater and freshwater habitats should not be allowed. Where those uses are necessary to achieve the objectives of RCW 90.58.020, their impacts shall be mitigated according to the sequence defined in Section 4.B.4.~~
6. ~~Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.~~
7. ~~Commercial aquaculture practices shall not be allowed.~~
8. ~~In appropriate areas, recreational fishing and other recreational uses of the water should be protected against competing uses that would interfere with these activities, except where there is unavoidable conflict with commercial navigation.~~
9. ~~Jet boats and other unlicensed marine craft (are they unlicensed?), are not permitted to utilize boat launch facilities or to operate within 1,000 (?) feet of the OHWM.~~
10. ~~Deep-draft uses, if allowed, should not occur in areas requiring extensive initial or maintenance dredging.~~
11. ~~With exceptions for boat launching areas and other permitted water-dependent uses, motorized vehicular travel (cars on the beach) is prohibited on public tideland areas.~~
12. ~~Development of underwater pipelines and cables on first- and second-class tidelands should not be allowed except where adverse environmental impacts can be shown to be less than the impact of upland alternatives; when permitted, such facilities should include~~

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## 5. Shoreline Residential Environment

### a. Purpose

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

### b. Designation Criteria

A Shoreline Residential Environment designation will be assigned to shorelands on Guemes Island if they are predominantly single-family or multifamily residential development or are planned and platted for residential development as provided in the "Rural Intermediate" zone of the Skagit County Land Use Code.

### c. Management Policies

1. Development should be permitted only in those shoreline areas where adequate setbacks or buffers are possible to protect ecological functions, there are adequate access, water, sewage disposal, and utilities systems, and public services available and where the environment can support the proposed use in a manner which protects or restores the ecological functions.
2. Densities or minimum frontage width standards in the Shoreline Residential Environment shall be set to protect the shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.
3. Development standards for setbacks or buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality shall be established to protect and, where significant ecological degradation has occurred, restore ecological functions over time.
4. Multifamily and multilot residential and recreational developments should provide public access and joint use for community recreational facilities.
5. Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.
6. Commercial development should be limited to water-oriented uses.
7. Water-oriented recreational uses should be allowed.

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## C. Shoreline Use and Modification Matrices

The following matrices indicate the allowable uses and shoreline modifications and some of the standards applicable to those uses and modifications. Where there is a conflict between the chart and the written provisions in Chapters 4, 5, or 6 of this master program, the written provisions shall apply.

Figure 2

### Shoreline Environment Designation (Shoreline Use) Matrix

The charts are coded according to the following legend. Where a hyphen is used (e.g., "P-X"), see "Notes to Matrices" following the charts for an explanation.

- P = May be permitted
- C = May be permitted as a conditional use only
- X = Prohibited; the use is not eligible for a variance or conditional use permit
- N/A = Not applicable

SHORELINE USE	ENVIRONMENT DESIGNATION				
	Natural	Rural Con-servancy	Aquatic <sup>1</sup>	High-Intensity	Shoreline Resi-dential
Agriculture	X	P	N/A	X	P
Aquaculture (floating)	X	X	X	X	X
Aquaculture (other)	X	X	X	X	X
Boating facilities <sup>2</sup> -only bays,	X	P	P	P	P
Commercial:					
Water-dependent	X	X	X	P	X
Water-related, water-enjoyment <sup>2</sup>	X	X	X	C	X
Nonwater-oriented <sup>2</sup>	X	X	X	X	X
Flood hazard management	X	P	P	P	P
Forest practices <i>could this be an issue in the future?</i>	X	P	X	X	X
Industrial:					
Water-dependent	X	X	X	X	X
Water-related, water-enjoyment	X	X	X	X	X
Nonwater-oriented	X	X	X	X	X
Mining	X	X	X	X	X
Parking (accessory)	X	X	X	P	X
Parking (primary, including paid)	X	X	X	P	X
Recreation:					
Water-dependent	C	P	P	P	P
Water-enjoyment or water-related	C	P	P	P	P
Nonwater-oriented	X	X?	X	P	C
Single-family residential	X	C	X	X	P
Multifamily residential <sup>2</sup>	X	C	X	X	P

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groins or pilings to prevent damage to dock or pier structures. Such associated facilities are not permitted, except in the High-Intensity Environment. These structures permanently impact natural shoreline processes and create the need for ongoing maintenance dredging or beach replenishment programs, and adversely affect shorelines located down drift of the project site. Rock weirs and groins are prohibited, except as needed to support shoreline restoration.

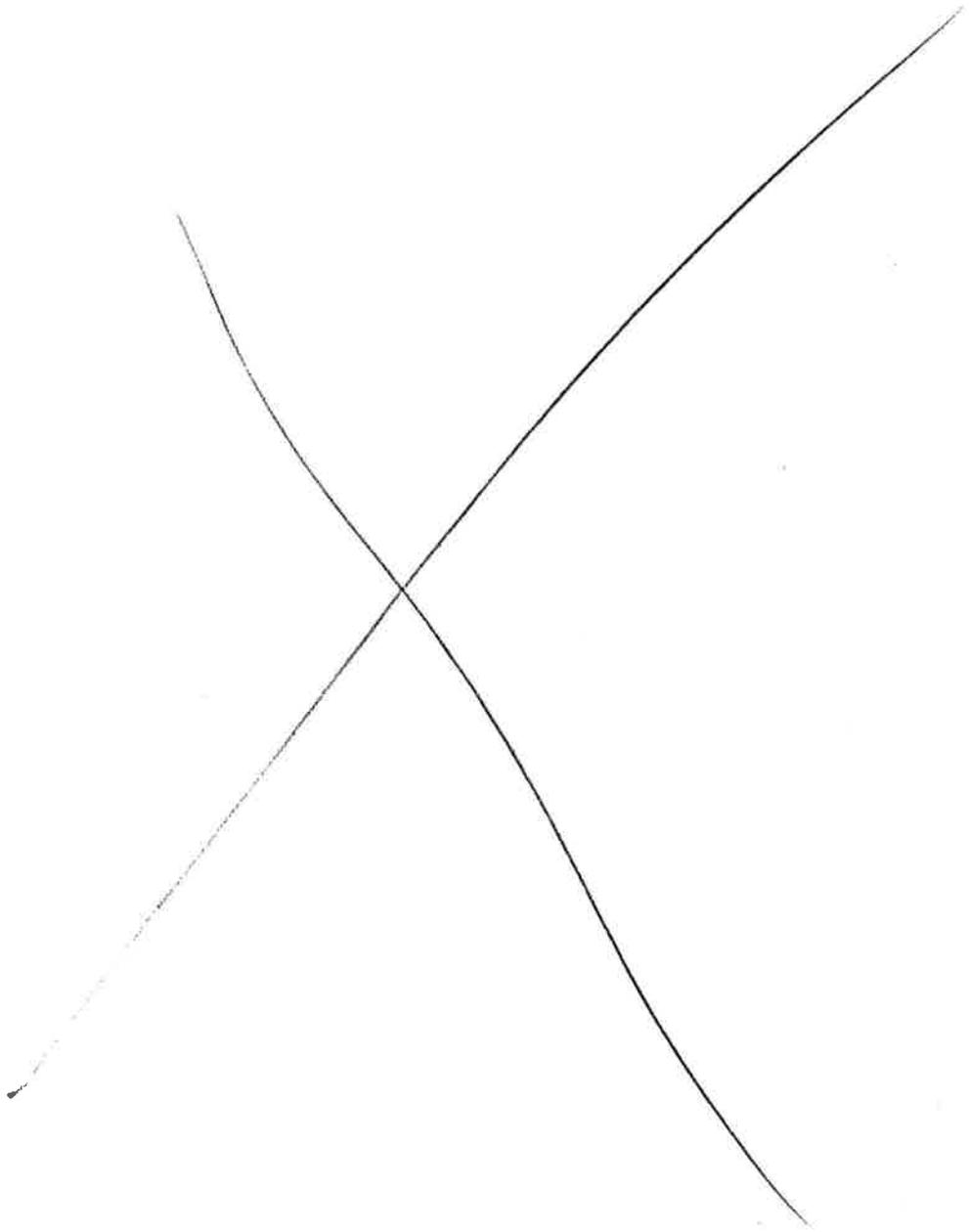
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having historic, cultural, scientific or educational value as identified by the appropriate authorities.

**c. Regulations**

1. All shoreline permits shall contain provisions which require developers to immediately stop work and notify the County if any phenomena of possible archaeological interest are uncovered during excavations. In such cases, the developer shall be required to provide for a site inspection and evaluation by a professional archaeologist to ensure that all possible valuable archaeological data are properly salvaged.
2. Permits issued in areas known to contain archaeological artifacts and data shall include a requirement that the developer provide for a site inspection and evaluation by an archaeologist. The permit shall require approval by the County before work can begin on a project following inspection. Significant archaeological data or artifacts shall be recovered before work begins or resumes on a project.
3. Significant archaeological and historic resources shall be permanently preserved for scientific study, education and public observation. When the County determines that a site has significant archaeological, natural, scientific or historical value, a Substantial Development Permit shall not be issued which would pose a threat to the site. The County may require that development be postponed in such areas to allow investigation of public acquisition potential and/or retrieval and preservation of significant artifacts.
4. In the event that unforeseen factors constituting an emergency as defined in RCW 90.58.030 necessitate rapid action to retrieve or preserve artifacts or data identified above, the project may be exempted from the permit requirement of these regulations. The County shall notify the State Department of Ecology, the State Attorney General's Office and the State Historic Preservation Office of such a waiver in a timely manner.
5. Archaeological sites located both in and outside the shoreline jurisdiction are subject to RCW 2744 (Indian Graves and Records) and RCW 2753 (Archaeological Sites and Records) and shall comply with WAC 25-48 as well as the provisions of this master program.
6. Archaeological excavations may be permitted subject to the provisions of this program.
7. Identified historical or archaeological resources shall be considered in park, open space, public access and site planning, with access to such areas designed and managed so as to give maximum protection to the resource and surrounding environment.
8. Clear interpretation of historical and archaeological features and natural areas shall be provided when appropriate.

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### 3. Critical Areas

The Skagit County critical area regulations, as codified in Chapter 14.24 SCC, are herein incorporated into this master program. If the critical areas regulations and other parts of this master program conflict, the provisions most protective of the ecological resource shall apply, as determined by the County.

### 4. Environmental Impacts

#### a. Applicability

The following policies and regulations apply to all uses and development in shoreline jurisdiction.

#### b. Policies

1. In implementing this master program, the County will take necessary steps to ensure compliance with Chapter 43.21 RCW, the Washington State Environmental Policy Act of 1971, and its implementing guidelines.
2. All significant adverse impacts to the shoreline should be avoided or, if that is not possible, minimized to the extent feasible.

#### c. Regulations

1. All project proposals, including those for which a shoreline permit is not required, shall comply with Chapter 43.21c RCW, the Washington State Environmental Policy Act.
2. Projects that cause significant ecological impacts, as defined in **Definitions**, are not allowed unless mitigated according to the sequence in Item 4 below to avoid reduction or damage to ecosystem-wide processes and ecological functions.
3. Projects that cause significant adverse impacts, other than significant ecological impacts, shall be mitigated according to the sequence in Item 4 below.
4. When applying mitigation to avoid or minimize significant adverse effects and significant ecological impacts, the County will apply the following sequence of steps in order of priority, with (a) being top 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;

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2. Parking in shoreline jurisdiction shall directly serve a permitted shoreline use.
3. Parking facilities shall be designed and landscaped to minimize adverse impacts upon adjacent shoreline and abutting properties. Landscaping shall consist of native vegetation and plant materials approved by the County and be planted before completion of the parking area in such a manner that plantings provide effective screening within three years of project completion.
4. Parking facilities serving individual buildings on the shoreline 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.
5. Parking facilities shall provide adequate facilities to prevent surface water runoff from contaminating water bodies, using best available technologies and include a maintenance program that will assure proper functioning of such facilities over time.

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## 6. Public Access

### a. Applicability

Shoreline public access is the physical ability of the general public to reach and touch the water's edge and/or the ability to have a view of the water and the shoreline from upland locations. Public access facilities may include picnic areas, pathways and trails, promenades, boat launches, and improved street ends. Public access points on Guemes Island are identified on the Public Access Map, Figure 4. *(can Hal edit this map?)*

### b. Policies

1. Public access should be considered in the review of all private and public developments (including land division) with the exception of the following:

- a. One- and two-family dwelling units; or
- b. Where deemed inappropriate due to health, safety and environmental concerns.

Public access should be required when land is divided into more than four residential lots and the up beach/tidelands are owned in common with the divided land.

2. Developments, uses, and activities on or near the shoreline should not impair or detract from the public's access to the water or the rights of navigation.

3. Public access should be provided as close as possible to the water's edge without causing significant ecological impacts. *Where possible, disabled citizens should be afforded public access opportunities consistent with the Americans with Disabilities Act.*

4. Opportunities for public access should be pursued on publicly owned shorelines. Public access afforded by shoreline street ends, public utilities and rights-of-way should be preserved, maintained and enhanced. *(Should we encourage more public access acquisitions?)*

5. Public access should be designed to provide for public safety and comfort and to minimize potential impacts to private property and individual privacy. There should be a physical separation or other means of clearly delineating public and private space in order to avoid unnecessary user conflict.

6. Public views *(see definition)* from the shoreline upland areas should be enhanced and preserved. Enhancement of views should not be construed to mean excessive removal of vegetation that partially impairs views.

7. The public's opportunities to enjoy the physical and aesthetic qualities of the state's shorelines should be enhanced.

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- a. Regulating access by such means as maintaining a gate and/or limiting hours of use;
  - b. Designing separation of uses and activities (e.g., fences, terracing, use of one-way glazings, hedges, landscaping, etc.); and
  - c. Developing provisions for access at a site geographically separated from the proposal such as a street end, vista or trail system.
4. Development uses and activities shall be designed and operated to avoid blocking, reducing or adversely interfering with the public's physical access to the water and shorelines.
  5. Public access provided by shoreline street ends, public utilities and rights-of-way shall not be diminished (RCW 35.79.035 and RCW 36.87.130).
  6. Public access sites shall be connected directly to the nearest public street or public right-of-way and shall include provisions for physically impaired persons, where feasible.
  7. Required public access sites shall be fully developed and available for public use at the time of occupancy of the use or activity.
  8. Public access easements and permit conditions shall be recorded on the deed of title and/or on the face of a plat or short plat as a condition running contemporaneous with the authorized land use, at a minimum. Said recording with the County Auditor's Office shall occur at the time of permit approval (RCW 58.17.110).
  9. Minimum width of public access easements shall be 10 (car width) feet, unless the County determines that undue hardship would result. In such cases, easement width may be reduced only to the minimum extent necessary to relieve the hardship.
  10. The standard state approved logo or other approved signs that indicate the public's right of access and hours of access shall be constructed, installed and maintained by the applicant in conspicuous locations at public access sites. In accordance with regulation 3-a, signs may control or restrict public access as a condition of permit approval.
  11. Future actions by the applicant successors in interest or other parties shall not diminish the usefulness or value of the public access provided.

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## 7. Shorelines of State-Wide Significance

### a. Applicability

The Shoreline Management Act of 1971 designated certain shoreline areas as shorelines of state-wide significance. Within this County's jurisdiction, areas of Puget Sound seaward of extreme low tide of all shorelines of Guemes Island are shorelines of state-wide significance. These shorelines are important to the entire state because they are major resources for fish and wildlife, recreation, and other benefits enjoyed by

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4. Protect the resources and ecology of the shoreline.

- a. Prevent development activity that will interfere with the natural shoreline ecological functions.
- b. All shoreline development should be located, designed, constructed and managed to avoid disturbance of and minimize adverse impacts to wildlife resources, including spawning, nesting, rearing and habitat areas and migratory routes.
- c. Shoreline materials including, but not limited to, bank substrate, soils, beach sands and gravel bars should be left undisturbed by shoreline development. Gravel mining should be prohibited in shoreline areas.
- d. Actively promote esthetic considerations when contemplating new development, redevelopment of existing facilities or general enhancement of shoreline areas.

5. Increase public access to publicly owned areas of the shoreline.

- a. Give priority to developing paths and trails to shoreline areas, linear access along the shorelines and to developed upland parking.
- b. Locate development landward of the ordinary high water mark so that access is enhanced.
- c. Prevent development that would impede navigation on waters of the state.

8. Signage

a. Applicability

A sign is defined as a device of any material or medium, including structural component parts, which is used or intended to be used to attract attention to the subject matter for advertising, identification or informative purposes. The following provisions apply to any commercial or advertising sign directing attention to a business, professional service, community, site, facility, or entertainment, conducted or sold either on or off premises.

b. Policies

- 1. Signs should not block or otherwise interfere with visual access to the water or shorelands.
- 2. Signs should be of a permanent nature that are linked to the operation of existing uses and attached to said uses.
- 3. All signs, other than those for transportation, public information/education, navigation, and public facilities, are prohibited in shoreline areas.

c. Regulations

- 1. Sign plans and designs shall be submitted for review and approval at the time of shoreline permit approval.

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Deleted: 6. Increase recreational opportunities for the public on the shoreline.¶  
 a. Plan for and encourage development of facilities for recreational use of the shoreline.¶  
 b. Reserve areas for lodging and related facilities on uplands well away from the shorelines with provisions for nonmotorized access to the shoreline.¶  
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providing such uses will not unduly interfere with utility operations or endanger public health and safety.

- 4. Sites disturbed for utility installation shall be stabilized during construction, and following construction, affected areas should be revegetated with dense stands of native vegetation to avoid adverse impacts from erosion. Where critical areas are concerns, provisions of the CAO shall apply.

## 10. Vegetation Conservation

### a. Applicability

The following provisions apply to any activity that results in the removal of or impact to shoreline vegetation, whether or not that activity requires a shoreline permit. Such activities include clearing, grading, grubbing, and trimming of vegetation. These provisions also apply to vegetation protection and enhancement activities. They do not apply to forest practices managed under the Washington State Forest Practices Act.

- 1. *Vegetation conservation area:* Vegetation conservation areas (VCAs) are designated portions of land within Shoreline Management Act jurisdiction in which specific vegetation conservation policies and regulations apply. On Guemes Island, Skagit County, the following areas are designated as vegetation conservation areas:

- Shorelands in the Rural Conservancy Environment and within a minimum of 100? feet of the OHWM. (See Chapter 3, Section 10.C.5. for setbacks for residential structures.)
- Shorelands within the shoreline Residential Environment and within a minimum 50 (?) feet of the OHWM.
- Shorelands in the Natural Environment.

*(Note: there are no specific vegetation standards for HCA's, so having these should be seen as the minimum. We don't want the bio report recommending 10-20' which has been know to happen.)*

### b. Policies

- 1. It is the policy of this master program that vegetation important to the shoreline ecology within shoreline areas be enhanced over time to provide a greater level of ecological functions, human safety and property protection. To this end, shoreline management activities, including the provisions and implementation of this master program should be based on a comprehensive approach that considers the ecological functions currently and potentially provided by vegetation on different sections of the shoreline.
- 2. This master program in conjunction with other County development regulations should establish a coordinated and effective set of provisions and programs to protect and restore those functions provided by shoreline vegetation.
- 3. The restoration of vegetation should be a condition of all development that causes significant vegetation removal and nonwater dependent development on VCAs within

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4. Restoration of any shoreline that has been disturbed or degraded shall use native plant materials with a diversity and type similar to that which originally occurred on-site.
5. In addressing impacts from significant vegetation removal the County will apply the mitigation sequence described in Section 4.C.4.

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For Shorelines in the Natural Environment:

1. Do not allow clearing, grading or significant vegetation removal except for public access where ecological functions are not diminished habitat and natural systems enhancement projects, research and scientific activities and low impact activities where ecological functions are not diminished.

For Shorelines in the Rural Conservancy Environment:

1. Clearing, grading, or significant vegetation removal in the VCA is not allowed except:
  - Where existing lot configuration does not allow development without intrusion into the VCA.
  - For public access, habitat and natural system enhancement projects, research and scientific activities and low impact activities where ecological functions are not diminished.
  - For water dependent uses. Clearing and grading in the VCA shall be minimized.
  - Where the County approves a vegetation restoration program as a condition of the development permit
2. For development, such as building additions, on existing single family residential parcels, see residential development standards below.

For Shorelines in the High-Intensity Environment:

1. The impacts due to significant vegetation removal shall be mitigated according to the sequence described in Section 4.C.4.
2. A condition of all development shall be that those shorelands on the site not occupied by structures, shoreline uses or human activities shall be revegetated.

For Shorelines in the Shoreline Residential Environment and for Residential Development in Other Environments:

1. New development shall be located outside VCAs where feasible.
2. For properties within areas planned for residential development within the Rural Conservancy or Shoreline Residential Environments, new development that will cause significant vegetation removal shall not be allowed except where the dimensions of existing lots or parcels are not sufficient to accommodate permitted primary residential structures outside of the vegetation conservation area. In these instances the County

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will apply the mitigation sequence in Section 4.C.4 to minimize ecological impacts. Generally, this will mean placing the development away from the shoreline as far as possible, locating the development to avoid tree cutting, and modifying building dimensions to reduce vegetation removal.

3. The removal of native vegetation for replacement with lawn or nonnative plant materials in vegetation conservation areas is not allowed.
4. For shoreline properties with existing residential uses located within a vegetation conservation area, new development, building additions, or significant vegetation removal is not allowed unless the impacts are mitigated through the minimization of vegetation removal and the loss of functions compensated. Reconstruction of, or additions to, buildings within an existing building footprint or paved area may be allowed. New development associated with existing residences may be allowed landward of an existing structure or if native vegetation is enhanced where vegetation has been degraded.

## 11. Water Quality

### a. Applicability

The following section applies to all development and uses in shoreline jurisdiction that affect water quality, as defined in **Definitions**.

Because the policies of this master program are part of the County's comprehensive plan, they also apply to activities outside shoreline jurisdiction that affect water quality within shoreline jurisdiction.

### b. Policies

1. All shoreline uses and activities should be located, designed, constructed, and maintained to avoid significant ecological impacts by altering water quality, quantity, or low characteristics.
2. The County should require reasonable setbacks, buffers, impervious surface limitations, and storm water storage basins to achieve the objective of lessening negative impacts on water quality.
3. All measures for controlling erosion, stream flow rates, or flood waters through the use of stream control works should be located, designed, constructed, and maintained so that net off-site impacts related to water do not degrade the existing water quality.
4. As a general policy, the County will seek to improve water quality, quantity, and flow characteristics in order to protect and restore ecological functions and ecosystem-wide processes of shorelines within Shoreline Management Act jurisdiction. The County will implement this policy through the regulation of development and activities, through the design of new public works, such as roads, drainage, and water treatment facilities, and

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# Shoreline Modification Provisions

## A. Introduction and Applicability

Shoreline modifications are structures or actions which permanently change the physical configuration or quality of the shoreline, particularly at the point where land and water meet. Shoreline modification activities include, but are not limited to, structures such as revetments, bulkheads, breakwaters, docks, and floats. Actions such as clearing, grading, landfilling, and dredging are also considered shoreline modifications.

Generally, shoreline modification activities are undertaken for the following reasons:

1. To prepare a site for a shoreline use
2. To provide shoreline stabilization or shoreline protection
3. To support an upland use

The policies and regulations in this chapter are intended to prevent or mitigate the adverse environmental impacts of proposed shoreline modifications. General provisions, which apply to all shoreline modification activities, are followed by provisions tailored to specific shoreline modification activities. This chapter provides policies and regulations for shoreline modification features including shoreline stabilization measures and docks and floats.

## B. Policies and Regulations

### i. General Policies and Regulations

#### a. Applicability

The following provisions apply to all shoreline modification activities whether such proposals address a single property or multiple properties.

#### b. Policies

1. Structural shoreline modifications should be allowed only where they are demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage or are necessary for reconfiguration of the shoreline for mitigation or enhancement purposes.
2. The adverse effects of shoreline modifications should be reduced and, as much as possible, shoreline modifications be limited in number and extent.

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In addition to the permit information required by WAC 173-14-110, the County shall require and consider the following information when reviewing shoreline modification proposals:

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- a. Construction materials and methods.
- b. Project location relative to the ordinary high water mark (OHWM).
- c. General direction and speed of prevailing winds.
- d. Profile rendition of beach and uplands.
- e. Beach and upland soil type, slope and material.
- f. Physical or geologic stability of uplands.
- g. Potential impact to natural shoreline processes, adjacent properties, and upland stability.
6. Shoreline modification materials shall be only those approved by applicable state agencies. No toxic or quickly degradable materials (e.g., plastic or fiberglass that deteriorates under ultraviolet exposure) shall be used.

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## 2. Shoreline Stabilization (Including Bulkheads)

### a. Applicability

Shoreline stabilization includes actions taken to address erosion impacts to property, dwellings, or essential structures caused by natural processes, such as current, flood, tides, wind, or wave action. These include structural and nonstructural methods.

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Nonstructural methods include building setbacks, relocation of the structure to be protected, ground water management, planning and regulatory measures to avoid the need for structural stabilization.

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"Hard" structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads, while "soft" structural measures rely on softer materials, such as biotechnical vegetation measures or beach enhancement.

Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions.

As applied to shoreline stabilization measures, "normal repair" and "normal maintenance" include the patching, sealing, or refinishing of the existing structure, the replenishment of sand or other materials that has been washed away, and the replacement of less than one-third of the structure. Normal maintenance and normal repair are limited to those actions that are typically done on a periodic basis. Construction that causes significant ecological impacts is not considered normal maintenance and repair.

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4. New or enlarged structural shoreline stabilization measures for an existing development or residences shall not be allowed unless there is conclusive evidence, documented by a geotechnical analysis, that the structure is in danger from shoreline erosion caused by tidal action, currents, or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis must evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization. The project design and analysis must also evaluate vegetation enhancement as a means of reducing undesirable erosion. The shoreline stabilization structure is not allowed if it results in a net loss of shoreline ecological functions.
5. An existing shoreline stabilization structure shall not be replaced with a similar structure unless there is need to protect primary residential structures from erosion caused by currents, tidal action, or waves. The demonstration of need does not necessarily require a geotechnical report. The replacement structure shall be designed, located, sized, and constructed to minimize harm to ecological functions. Replacement walls or bulkheads shall not encroach waterward of the OHWM or existing structures 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. Where significant ecological impacts to critical saltwater habitats would occur by leaving the existing structure, remove it as part of the replacement measure. Soft shoreline stabilization that restores ecological functions may be permitted waterward of the OHWM, where they will not impact shoreline functions.
6. Where structural shoreline stabilization measures are demonstrated to be necessary, as in the above provisions, the size of stabilization measures shall be limited to the minimum necessary. The County may require that the proposed structure be altered in size or design.
7. The County will require mitigation of adverse impacts to shoreline functions in accordance with the mitigation sequence defined in Section 4.C.4 of **General Provisions**. The County may require the inclusion of vegetation conservation, as described in Section 4.B.10, as part of shoreline stabilization, where feasible.
8. Shoreline modification activities, with the exception of shoreline restoration or enhancement efforts, are prohibited in marshes, bogs, and swamps and in salmon and trout spawning waters. Shoreline stabilization and shoreline protection shall be located landward of the floodway and all associated marshes, bogs, and swamps.
9. Shoreline stabilization measures that incorporate ecological restoration through the placement of rocks, gravel or sand, and native shoreline vegetation may be allowed.
10. Repair of existing shoreline stabilization measures is allowed. Replacement of existing shoreline stabilization measures, as defined in the Applicability statement above, is allowed if it conforms to Regulations 4 and 5 above or if the residence on the site was occupied prior to January 1, 1992 and the County determines that replacement is necessary to prevent damage to residences, appurtenant structures, or the shoreline ecology from shoreline erosion; and impacts to the natural environment are minimized.

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c. The following materials are not acceptable for shoreline stabilization structures:

- Degradable plastics and other non-permanent synthetic materials.
- Sheet materials, including metal, plywood, fiberglass, or plastic.
- Broken concrete, asphalt, or rubble.
- Car bodies or discarded equipment.

17. Following completion of shoreline modification activities, disturbed shoreline areas shall be restored to the native preproject conditions to the greatest extent possible. Plantings shall consist of native grasses, shrubs, and/or trees in keeping with preexisting bank vegetation. If native species are not available and vegetation is needed for shoreline stabilization purposes, the County will determine acceptable plant substitutes.

18. Fill behind bulkheads shall be limited to an average of 1 cubic yard per running foot of bulkhead. Any filling in excess of this amount shall be considered landfill and shall be subject to the provisions for landfill and the requirement for obtaining a shoreline substantial development permit.

19. The County may require and utilize the following information, in addition to the standard permit information required by WAC 173-14-110, in its review of all bioengineering projects:

- a. Proposed construction timing.
- b. Hydrologic analysis, including predicted flood flows.
- c. Site vegetation, soil types, and slope stability analysis.
- d. Proposed project materials, including rock size, shape, and quantity; plant types; and soil preparations.
- e. Existing and proposed slope profiles, including location of OHWM.
- f. Proposed designs for transition areas between the project site and adjacent properties.
- g. Documentation (including photos) of existing (preconstruction) shoreline characteristics.

20. Bioengineering projects shall use native trees, shrubs, and/or grasses, unless such an approach is unfeasible.

21. Cleared areas shall be replanted following construction. Vegetation shall be fully reestablished within three years. Areas which fail to adequately reestablish vegetation shall be replanted with approved plants until the plantings are viable.

22. All bioengineering projects shall include a program for monitoring and maintenance.

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- a. Proposed use of the fill area;
  - b. Physical, chemical and biological characteristics of the fill material;
  - c. Source of fill material;
  - d. Method of placement and compaction;
  - e. Location of fill relative to natural and/or existing drainage patterns and wetlands;
  - f. Location of the fill perimeter relative to the OHWM;
  - g. Perimeter erosion control or stabilization means; and
  - h. Type of surfacing and runoff control devices.
2. Fill waterward of the OHWM may be permitted only as a conditional use and only when:
- a. In conjunction with a water-dependent or public use permitted by this master program;
  - b. In conjunction with a bridge or navigational structure for which there is a demonstrated public need and where no feasible upland sites, design solutions, or routes exist; or
  - c. As part of an approved shoreline restoration project.
3. Waterward of OHWM, pile or pier supports shall be utilized whenever feasible in preference to fills. Fills for approved road development in floodways or wetlands shall be permitted only if pile or pier supports are proven unfeasible.
4. Fill shall be permitted only where it is demonstrated that the proposed action will not:
- a. Result in significant ecological damage to water quality, fish, shellfish, and/or wildlife habitat; or
- Adversely alter natural drainage and circulation patterns, currents, river and tidal flows or significantly reduce flood water capacities.
5. Environmental cleanup action involving excavation/fill, as authorized by the County, may be permitted.

## 5. Breakwaters, Jetties, and Groins

### a. Applicability

Breakwaters are protective structures built off shore to protect harbor areas, moorage, navigation, beaches and bluffs from wave action. Breakwaters may be fixed (for example, rubble mound or rigid wall), open-pile, or floating.

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5. Restoration of shoreline areas identified in the Action Plan (Chapter X) will be accomplished with willing landowners.

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6. Island organizations will support restoration efforts by making plant materials readily available.

7. Shoreline restoration projects authorized by this plan should be encouraged by waiving fees, expediting permit review, and providing technical assistance to landowners.

c. **Regulations**

1. Shoreline enhancement may be permitted if the project proponent demonstrates that no significant change to littoral drift or river current will result which will adversely affect adjacent properties or habitat.

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2. Shoreline restoration and/or enhancement projects shall use best available technology.

3. Shoreline restoration and/or enhancement shall not significantly interfere with the normal public use of the navigable waters of the state without appropriate mitigation.

4. Where necessary, rock weirs and/or groins may be used to support shoreline restoration projects.

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hay, straw, turf, seed, or Christmas trees; the operation and maintenance of farm and stock ponds, drainage ditches, or irrigation systems; normal crop rotation and crop change; and the normal maintenance and repair of existing structures, facilities, and lands currently under production or cultivation. Excluded are agricultural processing industries.

**b. Policies**

1. Agricultural lands should be protected from incompatible and preemptive patterns of development by including them the County agricultural protection programs, so their development rights can be purchased and they can remain in productive agricultural use (What does Al think?).
2. Farm management techniques, operations, and control methods should protect the productivity of the land base by maintaining or improving soil quality and minimizing soil losses through erosion in accordance with applicable Soil Conservation Service conservation practice guidelines.
3. A vegetative buffer should be maintained between agricultural lands and water bodies or wetlands in order to reduce harmful bank erosion and resulting sedimentation, enhance water quality, reduce flood hazard, and maintain habitat for fish and wildlife.
4. Animal feeding operations, retention and storage ponds, and feedlot waste and manure storage are not permitted in the shoreline jurisdiction. If constructed, they should be built to prevent contamination of water bodies and degradation of the adjacent shoreline environment.
5. The scenic beauty and ecological resources of natural shorelines, as well as the historic value of many rural agricultural shorelines, should be protected.

**c. Regulations**

1. Agricultural development shall conform to applicable state and federal policies and regulations, provided they are consistent with the Shoreline Management Act and this master program. These include, but are not limited to, the following:
  - a. Erosion control guidelines and standards of the Soil Conservation Service and U.S. Department of Agriculture.
  - b. Feedlot control guidelines of the U.S. Environmental Protection Agency. (See "Guidelines for Handling Livestock Wastes for Western Washington," distributed by the Washington State Department of Ecology in conjunction with the United States Environmental Protection Agency for the Cooperative Extension Service.)
  - c. Washington Pesticide Application Act (Chapter 176.21 RCW).
  - d. Washington Pesticide Act (Chapter 15.57 RCW)
  - e. Intrastate Water Quality Standards (Chapter 372.64 WAC)

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b. Regulations

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Commercial aquaculture is not permitted in any environment of Guemes Island. This is due to its potential significantly degrade ecological functions over the long term, adversely impacting existing eel grass and microalgae.

3. Boating Facilities

a. Applicability

Boating facilities include boat launch ramps, moorage buoys; boat houses, and marine travel lifts. Marinas, both backshore and foreshore; dry storage; and wet moorage are not permitted in any shoreline environment. Undeveloped areas in this environment and zone are not available on Guemes Island. In addition, marinas and wet moorage facilities require piers and docks and are deemed inappropriate elsewhere on Guemes Island due to extreme tides and tidal currents affecting the island. These conditions require extensive breakwater facilities that can include jetties, rock weirs, groins, or pilings to prevent damage to dock or pier structures. Such associated facilities are not permitted, except in the High-Intensity Environment. These structures permanently impact natural shoreline processes and create the need for ongoing maintenance dredging or beach replenishment programs, and adversely affect shorelines located downdrift of the project site. See also Chapter 5, Shoreline Modification Provisions, "Piers and Docks" and "Breakwaters, Jetties, and Groins."

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b. Policies

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1. Except for mooring buoys, boating facilities, including boat houses and launch ramps, should be confined to areas directly serving the High-Intensity Environment or in public parks.
2. Boating facilities should be located, designed, and operated to provide maximum feasible protection and restoration of ecological processes and functions and all forms of aquatic, littoral, or terrestrial life—including animals, fish, shellfish, birds, and plants—and their habitats and migratory routes.
3. Boating facilities should be located and designed to minimize adverse effects upon—and to enhance, if possible—beneficial shoreline features (e.g., accretion shoreforms), ecological processes (e.g., erosion and littoral transport), and scarce and valuable shore features (e.g., riparian habitat and wetlands).

c. Regulations

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1. Marinas, both backshore and foreshore, are not allowed in the Guemes Island shoreline jurisdiction.
2. The County shall require and utilize the following information in its review of boating facility and marina proposals:

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## 4. Commercial Development

### a. Applicability

Commercial development means those uses that are involved in wholesale, retail, service, and business trade. Examples include hotels, motels, grocery markets, restaurants, shops, offices, and private or public indoor recreation facilities. Excluded from this category are boating, transportation, and industrial facilities.

### b. Regulations

Commercial development is only allowed in the High-Intensity Environment as part of the ferry terminal.

## 5. Industry

Industry is not permitted within SMA jurisdiction on Guemes Island.

## 6. Forest Practices

### a. Applicability

Forest Practices are uses and activities relating to the growing, harvesting, and limited processing of timber. Although some forest practices may not be "substantial development" as defined in the SMA, all forest practices are uses which must comply with the policies and regulations of the master program, including applicable conditional use and variance permit requirements.

### b. Policies

1. Timber harvesting should be done in accordance with the Forest Practices Act, Chapter 76.09 RCW, and its implementing rules.

2. Timber harvesting practices should be conducted so as not to cause significant ecological impacts.

### c. Regulations

#### General

1. All timber harvesting shall be done in compliance with the current rules and regulations adopted under the Forest Practices Act, Chapter 76.09 RCW, and the Timber/Fish/Wildlife Agreement or their successors.

2. All shoreline development must conform to **General Provisions** (see Chapter 4) and **Environment Designation Provisions** (see Chapter 3) stated in this master program.

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2. Recreational developments and plans should promote the primacy of preserving the natural character, resources and ecological functions and processes
3. Recreational developments should be located, designed, and operated to be compatible with—and to prevent, or if that is not possible, minimize, adverse impacts on— environmental quality and valuable natural features as well as adjacent and surrounding land and water uses. Favorable consideration should be given to proposals that complement their environment and surrounding land and water uses and leave natural areas undisturbed and protected.
4. Shoreline areas with a potential for providing recreation or public access opportunities should be identified for this use, acquired by lease or purchase, and incorporated into the public park and open space system.
5. Water-dependent recreational uses, such as angling, boating, and swimming, should have priority over water-enjoyment uses, such as picnicking and golf. Water-enjoyment uses should have priority over nonwater-oriented recreational uses, such as baseball or soccer.
6. The linkage of shoreline parks, recreation areas, and public access points with linear systems, such as hiking paths, bicycle paths, easements, and/or scenic drives, should be encouraged. Recreational facilities should be integrated with public access systems.
7. Recreational developments should be located and designed to preserve, enhance, or create scenic views and vistas. Such scenic views should be identified in the shoreline inventory.
8. The use of shoreline street ends and publicly owned lands for public access and development of recreational opportunities should be encouraged.
9. Driving on the beach and the use of off-road vehicles are not preferred uses and should be prohibited in all shoreline areas.

All recreational developments should make adequate provisions for:

- a. Protection of ecological functions.
- b. Vehicular and pedestrian access, both on-site and off-site
- c. Proper water supply and solid and sewage waste disposal methods.
- d. Security and fire protection.
- e. The prevention of overflow and trespass onto adjacent properties, including, but not limited to, landscaping, fencing, and posting of property.
- f. Buffering of such development from adjacent private properties or natural areas.

6. Recreational development that causes significant ecological impact is not allowed, except as provided for below. Public water-oriented recreational development that would cause unavoidable significant ecological impacts may be permitted if the project includes ecological restoration that will improve ecological functions within the same stream reach, lake, or drift cell (for marine shorelines). Compensating ecological mitigation or restoration must be in place and functioning prior to construction of the recreational facility.
7. Valuable shoreline resources and fragile or unique areas such, as marshes, bogs, swamps, estuaries, and accretion beaches, shall be used only for nonintensive uses and nonstructural recreation developments.
8. Substantial structures, such as restrooms, recreation halls and gymnasiums, recreational buildings and fields, access roads, and parking areas, shall be set back 150 feet from the OHWM unless it can be shown that such facilities are essentially water-dependent or there is no feasible alternative.
9. Recreation developments that require the use of fertilizers, pesticides, or other toxic chemicals, such as golf courses and play fields, shall be prohibited. The applicant shall submit plans demonstrating the methods to be used to prevent these applications and resultant leachate from entering adjacent water bodies or the aquifer. Buffer strips and, if practical, shade trees shall be included in the development. The County shall determine the maximum width necessary for buffer strips, but in no case shall the buffer strip be less than 25 feet. The use of time-release fertilizers and herbicides is required in place of liquid or concentrate application for lawns grown within shoreline jurisdiction.
10. Golf courses are not permitted in shoreline jurisdiction
11. All shoreline development must conform to **General Provisions** (see Chapter 4) and **Environment Designation Provisions** (see Chapter 3) stated in this master program.

**Deleted:** Compensating ecological mitigation or restoration must be in place and functioning prior to construction of the recreational facility. Such mitigation must relate directly to the damaged resource; e.g., damage to the aquifer quality or quantity would require replenishment or cleansing of the affected resource, or damage to shoreline vegetation would require restoration of vegetation in kind

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Design

12. In approving shoreline recreational developments, the County shall ensure that the development will maintain, enhance, or restore desirable shoreline features, including unique and fragile areas, scenic views, and esthetic values. To this end, the County may adjust and/or prescribe project dimensions, location of project components on the site, intensity of use, screening, parking requirements, and setbacks, as deemed appropriate to achieve this intent.
13. Recreational developments shall provide facilities for nonmotorized access to the shoreline, such as pedestrian and bicycle paths. Motorized vehicular access is prohibited on beaches, bars, spits, and stream beds, EXCEPT for boat launching and maintenance activities.
14. To protect natural resources and adjacent properties, recreational facility design and operation shall prohibit the use of all-terrain and off-road vehicles in the shoreline area.

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of this section and of the master program. Subdivisions and short subdivisions must also comply with all of the provisions of this section and the master program. All development is subject to the variance and conditional use requirements and permit process, when indicated.

Uses and facilities associated with residential development which are identified as separate use activities in this program, such as boating facilities, piers and docks, bulkheads, shoreline stabilization and flood protection, utilities, landfill, vegetation conservation, and grading, are subject to the regulations established for those uses in addition to any special conditions relating to residential areas established in this section. **General Provisions and Environment Designation Provisions** also apply.

**b. Policies**

1 Residential development should be permitted only where there are adequate provisions for utilities, circulation, and access.

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2 Residential development in shoreline areas shall be limited to single family residential uses (check zoning?)

2 Residential development should be prohibited in environmentally sensitive areas, including, but not limited to, wetlands; steep bluffs; geohazardous areas; floodways; and critical habitats.

Deleted: marshes, bogs, and swamps

3 The overall density of development, lot coverage, and height of structures should be appropriate to the physical capabilities of the site and consistent with the comprehensive plan.

4 Recognizing the single-purpose, irreversible, and space-consumptive nature of shoreline residential development, new development should provide adequate setbacks and natural buffers from the water and ample open space between structures to provide space for outdoor recreation, to protect and restore ecological functions and ecosystem-wide processes, to preserve views, and to minimize use conflicts.

5 Adequate provisions should be made for protection of groundwater supplies with certification of all wells for adequate volume and quality by a licensed geohydrologist, in accordance with the Skagit County Health Department.

6 Adequate provisions shall be made in accordance with the CAO for erosion control, drainage systems, protection and enhancement of aquatic and wildlife habitat, geohydraulic processes, and open space.

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7 New residential development should be designed so as to not cause significant ecological impacts or significant adverse impacts to shoreline esthetic characteristics, views, and public use of the shoreline and the water.

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The creation of new lots is prohibited unless it is demonstrated that:

- The residence can be built in conformance with all applicable setbacks and development standards in the master program.
- Adequate water, sewer, road access, and utilities can be provided.
- The intensity of development is consistent with the County's comprehensive plan.
- The development will not cause flood or geological hazard to itself or other properties.
- The residence will not be exposed to irritants from water-oriented activities, such as noise and bright lights from maritime industries.

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3. The following categories of development on single-family residential properties do not require a shoreline substantial development permit. (Reference: RCW 90.58.030(3)(e).)

Construction in shoreline jurisdiction by an owner, lessee, or contract purchaser of a single-family residence for his own use or for the use of his family that does not exceed a height of 30 feet above average grade level and meets all of the requirements of this master program and other applicable local, state, and federal laws.

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"Appurtenances" to single-family residences located landward of the OHWM and the perimeter of a wetland, including such structures as garages, decks, driveways, utilities, fences, installation of a septic tank and drainfield, and grading that does not exceed 250 cubic yards and that does not involve placement of fill in any wetland or waterward of the OHWM.

Vegetation enhancement, beach enhancement, and upland drainage control,

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HOWEVER, all of the development described above that includes significant vegetation removal (see Definitions) shall meet the provisions of this master program. In order to implement the objectives of the Shoreline Management Act, RCW 90.58.020, the County shall review development proposals for such actions. Persons intending to carry out the types of single-family development described above shall apply for a "letter of exemption," as described in Skagit County's administrative provisions. The application for the letter of exemption shall describe the information required in Regulation 1 of this section.

Deleted: <#> Construction of docks, piers, breakwaters, groins, and jetties is prohibited in all shoreline environments except the High-Intensity Environment. ¶

4. Residential development shall be prohibited within wetlands, critical wildlife habitats, and other hazardous areas, such as steep slopes and areas with unstable soils or geologic conditions.

Development Standards

5. New residential development shall adhere to the following standards with respect to the environment designation in which it is located.

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Residential Development Standards

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Fig 5

## Illustration of Residential Development Standards for "Rural Conservancy" Environment

Lawn is acceptable but discouraged in cleared area

Permiabile deck may extend 20' into setback. (See Reg 5)

Up to 66' wide strip of land may be cleared, although retention of native plants is desirable. (See Reg 7)

Native vegetation retained on remainder of lot. (See Reg 9)

Minimum width for new lot, as measured along the shoreline, is 200'. Existing lots under 200' are "conforming".

No new bulkheads or other shoreline stablization measures. No new decks or piers. (I.e., leave lands within 50' of shoreline in natural or restored condition.) (See Reg 7)

Native vegetation must be retained or restored within 50' of OHWM. (See Reg 6 & 7)

150' minimum setback from OHWM unless existing lot configuration makes it impossible to build.

\* OHWM = Ordinary High Water Mark

MHHW = Mean Higher High Water

- a. Native vegetation must be retained. No significant vegetation removal is allowed in the VCAs, except within 50 feet (?) of structures to avoid fire danger. Lawns and other non-native plants are allowed in the VCA.
- No new bulkheads or shoreline stabilization may be constructed.
- c. Pathways less than 8 feet wide may be constructed.
- d. Trees may be limbed, not including tree topping, and view-obscuring vegetation 3 to 15 feet in height may be trimmed to allow views for a 33-foot strip of land (measured parallel to the shoreline).
8. Where vegetation has previously been removed, new residential development shall be conditioned with the requirement to plant native vegetation, including trees, shrubs, and ground covers, to revegate the VCA with native plant materials.
9. In the Rural Conservancy Environment, native vegetation must be retained on the portions of the lot in shoreline jurisdiction not otherwise occupied by structures or pavements necessary for access. However, a 66-foot-wide strip of land (measured parallel to the shoreline) may be cleared between the residence and the VCA. See Figures 5 and .
10. Prior to issuance of a building permit, plat or short plat, letter of exemption, or other shoreline development approval, the developer shall submit adequate plans for preservation of shore vegetation and for control of erosion during and after construction, resulting in permanent shoreline stabilization. Such plans shall be a part of the shoreline permit or letter of exemption.
11. Residential piers, docks are not allowed.

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*Figure 5. Illustration of residential development standards for the Rural Conservancy Environment.*

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*Illustration of residential development standards for the*

*Shoreline Residential Environment*

12. Appurtenances, as defined in this master program consistent with Chapter 173-27 WAC (or in **Definitions**; see also Regulation 2 above), shall be subject to the same conditions as primary residences, except that for the protection of human health and safety and ecological functions further restrictions may apply.
13. A state certified hydrogeologist shall verify that all new wells will not be subject to saltwater intrusion.
14. New landowners seeking permits for all new shoreline wells shall be given information on conserving water supplies, and the effects of over pumping of wells on saltwater intrusion into drinking water supplies and saltwater build-up in septic systems.
15. The County should periodically conduct informational sessions on [or send all shoreline landowner information on] conserving water supplies and avoiding over pumping of wells.
16. The creation of new lots is permitted providing all of the following can be demonstrated.
  - a. A primary residence can be build on each new lot without any of the following being necessary:
    - New structural shoreline stabilization
    - New development or clearing and grading in the vegetation conservation area
    - New structures in the required shoreline setback, geohazardous areas, wetland, required wetland buffer, critical habitat, or critical habitat buffer.
    - Causing **significant** erosion or reduction in slope stability.
    - Causing increased flood hazard or erosion in the new development or to other properties.
  - b. Adequate sewer, water, access, and utilities can be provided.
  - c. The intensity and type of development is consistent with the County comprehensive plan and development regulations.
  - d. Potential significant adverse environmental impacts (including significant ecological impacts) can be avoided or mitigated to achieve no net loss of ecological functions, taking into consideration temporal loss due to development.
  - e. The minimum width of new lots, as measured along the shoreline at OHWM, is 200 feet in the Rural Conservancy Environment and 100 feet in the Shoreline Residential Environment.

The County will determine whether or not a proposed development meets the above conditions.

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Deleted: *Figure 6. Illustration of residential development standards for the Shoreline Residential Environment ¶*  
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# 11. Transportation and Parking

## a. Applicability

Transportation facilities are those structures and developments that aid in land and water surface movement of people, goods, and services. They include roads, bikeways, trails, ferry, and other related facilities.

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The various transport facilities that can impact the shoreline cut across all environmental designations and all specific use categories. The policies and regulations identified in this section pertain to any project, within any environment, that is effecting some change in present transportation facilities.

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## b. Policies

1. Nonwater-dependent transportation facilities should be located outside shoreline jurisdiction, if feasible. (See definition of "feasible.")

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2. Transportation facilities should provide safe, reasonable, and adequate circulation systems to shorelines.

3. Transportation and parking plans and projects should be consistent with the master program public access policies, public access plan, and environmental protection provisions.

Circulation system planning to and on shorelands should include systems for pedestrian, bicycle, and public transportation where appropriate. Circulation planning and projects should support existing and proposed shoreline uses that are consistent with the master program.

4. Proposed transportation and parking facilities should be located, planned, and designed where routes will have the least possible adverse affect on unique or fragile shoreline features and existing ecological functions or on existing or future water-dependent uses. Where other options are available and feasible, new roads or road expansions should not be built within shoreline jurisdiction.

5. Parking facilities in shorelines are not a preferred use and shall be allowed only as necessary to support a preferred use.

6. Restoration of shoreline ecological functions should be a condition of new and expanded nonwater-dependent transportation and parking facilities.

7. New roads and bridges in shoreline jurisdiction should be minimized and allowed only when related to and necessary for the support of permitted shoreline activities. Major new roads should be located out of shoreline jurisdiction, if possible.

8. Abandoned or unused road rights-of-way that offer opportunities for public access to the water should be acquired and/or retained for such use.

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6. All roads, if permitted parallel to shoreline areas, shall be adequately set back from water bodies to avoid ecological impacts and shall provide buffer areas of compatible, self-sustaining vegetation. Shoreline scenic drives and viewpoints may provide breaks periodically in the vegetative buffer to allow open views of the water.
7. New transportation facilities shall be located and designed to prevent or to minimize the need for shoreline protective measures such as riprap or other bank stabilization, fill, bulkheads, groins, jetties, or substantial site grading. Transportation facilities allowed to cross over water bodies, marshes, bogs, and swamps shall utilize elevated, open pile, or pier structures whenever feasible.
8. Shoreline transportation facilities shall be sited and designed to avoid steep or unstable areas and fit the existing topography in order to minimize cuts and fills.
9. All new and expanded transportation facilities development in shoreline jurisdiction shall be consistent with the County's comprehensive plan and applicable capital improvement plans.
10. New and expanded transportation facilities development shall include provisions for pedestrian, bicycle, and public transportation where appropriate. Circulation planning and projects shall support existing and proposed shoreline uses that are consistent with the master program.
11. Transportation and primary utility facilities 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.
12. Fills for transportation facilities development are prohibited in water bodies, marshes, bogs and swamps, and on accretion beaches; EXCEPT, when all structural and upland alternatives have been proven infeasible and the transportation facilities are necessary to support uses consistent with this program, such fill may be permitted as a Conditional Use Permit (CUP).
13. New and expanded transportation facilities development shall not diminish public access to the shoreline, as described in Chapter 4.B.6.
14. The following regulation applies to shoreline road ends:
  - a. RCW 37.79.035 and RCW 35.87.130 prohibit the County from vacating any County road which abuts a body of salt or fresh water unless the street or road is not currently used for, or suitable for, boat moorage or launching site or for a park, viewpoint, recreation, education, or other public purposes (see RCW legal procedure to vacate streets).
15. All transportation facilities shall be designed, constructed, and maintained to contain and control all debris, overburden, runoff, erosion, and sediment generated from the affected areas. Relief culverts and diversion ditches shall not discharge onto erodible soils, fills, pollutants, or sidecast materials.

## 12. Utilities

### a. Applicability

Utilities are services and facilities that produce, transmit, carry, store, process, or dispose of electric power and the like. The provisions in this section apply to primary uses and activities, such as public high-tension utility lines, on public property or easements or power generating or transfer facilities. See Chapter 4, Section B.9, "Utilities," for on-site accessory use utilities.

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### b. Policies

1. Utilities should utilize existing transportation and utility sites, rights-of-way and corridors whenever possible rather than creating new corridors. Joint use of rights-of-way and corridors should be encouraged.
2. All utility facilities should be designed and located to avoid or, if that is not possible, minimize harm to shoreline functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth.
3. New utility facilities should be located so as not to require extensive shoreline protection works.
4. Utility facilities and corridors should be located so as to protect scenic views and the natural landscape. Whenever possible, such facilities should be placed underground or alongside or under bridges.

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### c. Regulations

1. Applications for new or expanded utility facilities development in shoreline jurisdiction shall include the following:
  - a. Demonstration of the need for the facility.
  - b. An analysis of alternative alignments or routes, including alignments or routes outside shoreline jurisdiction.
  - c. An analysis of potential impacts complying with the State Environmental Policy Act, including an analysis of comparative impacts of feasible alternative routes. (See the definition of "feasible" in Chapter 7.)
  - d. Description of construction, including location, construction type, and materials.
  - e. Location of other utility facilities in the vicinity of the proposed project and any plans to include the facilities of other types of utilities in the project.
  - f. Plans for reclamation of areas disturbed both during construction and following decommissioning and/or completion of the primary utility's useful life.

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11. Filling in shoreline jurisdiction for utility facility or line development purposes is prohibited, except where no other feasible option exists and the proposal would avoid or minimize impacts more completely than other methods. Permitted crossings shall utilize pier or open pile techniques.

12. Clearing of vegetation for the installation or maintenance of utilities shall be kept to a minimum and upon project completion any disturbed areas shall be restored to their preproject condition.

13. All shoreline development must conform to **General Provisions** (see Chapter 4) and **Environment Designation Provisions** (see Chapter 3) stated in this master program.

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*Bioengineering.* The use of biological elements, such as the planting of vegetation, often in conjunction with engineered systems, to provide a structural shoreline stabilization measure with minimal negative impact to the shoreline ecology.

*Biofiltration system.* A storm water or other drainage treatment system that utilizes as a primary feature the ability of plant life to screen out and metabolize sediment and pollutants. Typically, biofiltration systems are designed to include grassy swales, retention ponds and other vegetative features.

*Bog.* A wet, spongy, poorly drained area which is usually rich in very specialized plants, contains a high percentage of organic remnants and residues and frequently is associated with a spring, seepage area, or other subsurface water source. A bog sometimes represents the final stage of the natural process of eutrophication by which lakes and other bodies of water are very slowly transformed into land areas.

*Buffer area.* 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 and to afford limited public access.

*Building height.* In accordance with the Skagit County code.

*Bulkhead.* A solid wall, constructed from rock or concrete, erected generally parallel to and near the ordinary high water mark for the purpose of protecting adjacent uplands from waves or current action. See also "Normal Protective Bulkhead" and "Revetment"

*Clearing.* The destruction or removal of vegetation ground cover, shrubs and trees including, but not limited to, root material removal and/or topsoil removal.

*Conditional use.* A use, development, or substantial development which is classified as a conditional use or is not classified within the applicable master program.

*County.* Skagit County, Washington.

*Covered moorage.* Boat moorage, with or without walls, that has a roof to protect the vessel.

*Department of Ecology.* The Washington State Department of Ecology.

*Development.* 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 of the state subject to Chapter 90.58 RCW at any stage of water level. (RCW 90.58.030(3)(d).)

*Development regulations.* The controls placed on development or land uses by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a shoreline master program other than goals and policies approved or

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*Exemption.* Certain specific developments as listed in WAC 173-27-040 are exempt from the definition of substantial developments and are therefore exempt from the substantial development permit process of the SMA. 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 local master program. Conditional use and/or variance permits may also still be required even though the activity does not need a substantial development permit. (RCW 90.58.030(3e); WAC 173-27-040.) (See also "development" and "substantial development.")

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

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

- (a) The action can be accomplished with technologies and methods that have been used in the past, or studies or tests have demonstrated that such approaches are currently available and likely to achieve the intended results.
- (b) The action provides a reasonable likelihood of achieving its intended purpose.
- (c) The action does not physically preclude achieving the project's primary intended use.

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In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant.

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

*Fill.* The addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the ordinary high water mark, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

*Gabions.* Structures 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.

*Geotechnical report (or geotechnical analysis).* 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

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- (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.
- (f) Monitoring the impact and the compensation projects and taking appropriate corrective measures.

*Multi-family dwelling (or residence).* A building containing two or more dwelling units, including but not limited to duplexes, apartments and condominiums.

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*Must.* A mandate; the action is required.

*Nonconforming development.* A shoreline use or structure which was lawfully constructed or established prior to the effective date of the applicable master program provision, and which no longer conforms to the applicable shoreline provisions.

*Nonpoint pollution.* Pollution that enters any waters of the state from any dispersed land-based or water-based activities, including, but not limited to, atmospheric deposition, surface water runoff from agricultural lands, urban areas, or forest lands, subsurface or underground sources, or discharges from boats or marine vessels not otherwise regulated under the National Pollutant Discharge Elimination System program.

*Nonwater-oriented uses.* Those uses that are not water-dependent, water-related, or water-enjoyment.

*Normal maintenance.* Those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. See also "normal repair."

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

*Normal repair.* 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. (WAC 173-27-040.) See also "normal maintenance" and "development."

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*Runoff.* Water that is not absorbed into the soil but rather flows along the ground surface following the topography.

*Sediment.* The fine grained material deposited by water or wind.

*SEPA (State Environmental Policy Act).* SEPA requires state agencies, local governments and other lead agencies to consider environmental factors when making most types of permit decisions, especially for development proposals of a significant scale. As part of the SEPA process, EISs may be required to be prepared and public comments solicited.

*Setback.* A required open space, specified in shoreline master programs, measured horizontally upland from and perpendicular to the ordinary high water mark.

*Shall.* A mandate; the action must be done.

*Shorelands or shoreland areas.* Those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this master program; the same to be designated as to location by the Department of Ecology.

*Shoreline areas (and shoreline jurisdiction).* The same as "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

*Shoreline environment designations.* 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. The basic recommended system classifies shorelines into four distinct environments (natural, conservancy, rural and urban).

*Shoreline functions.* See "ecological functions."

*Shoreline jurisdiction.* The term describing all of the geographic areas covered by the SMA, related rules and the applicable master program. Also, such areas within a specified local government's authority under the SMA. See definitions of "shorelines", "shorelines of the state", "shorelines of state-wide significance" and "wetlands." See also the "Shoreline Management Act Scope" section in the "Introduction" of this master program.

*Shoreline master program, master program, or SMP.* This Shoreline Master Program, as adopted by Skagit County and approved by the Washington Department of Ecology.

*Shoreline modifications.* Those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, dock, weir, dredged basin, fill, bulkhead, or other shoreline structures. They can include other actions, such as clearing, grading, or application of chemicals.

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Significant ecological impact can include direct impacts to the environment, such as damage to vegetation or shoreline processes and functions, or less visible indirect impacts to aquifer quality and quantity

*Significant vegetation removal.* The removal or alteration of native trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation as determined by a qualified biologist. The removal of invasive, non-native, or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

*Single-family residence (SFR).* A detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance.

*SMA.* The Shoreline Management Act of 1971, Chapter 90.58 RCW, as amended.

*Storm water.* That portion of precipitation that does not normally percolate into the ground or evaporate but flows via overland flow, interflow, channels, or pipes into a defined surface water channel or constructed infiltration facility.

*Structure.* 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.

*Subdivision.* The division or redivision of land, including short subdivision for the purpose of sale, lease or conveyance.

*Substantial development.* Any development of which the total cost or fair market value exceeds five thousand dollars, or any development that materially interferes with the normal public use of the water or shorelines of the state; except as specifically exempted pursuant to RCW 90.58.030(3)(e). See also definition of "development" and "exemption".

*Substantially degrade.* To cause damage or harm to an area's ecological functions. An action is considered to substantially degrade the environment if:

- (a) The damaged ecological function or functions significantly affect other related functions or the viability of the larger ecosystem; or
- (b) The degrading action may cause damage or harm to shoreline ecological functions under foreseeable conditions; or
- (c) Scientific evidence indicates the action may contribute to damage or harm to ecological functions as part of cumulative impacts.

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*Terrestrial.* Of or relating to land as distinct from air or water.

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

- (a) The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
- (b) The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

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

In addition, the definitions and concepts set forth in RCW 90.58.030, as amended, and implementing rules shall also apply as used herein.

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