Mason County's

DRAFT SHORELINE MASTER PROGRAM - 17.50 MCC

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17.50.010 Adoption Authority, Purpose, and Intent

A. Adoption Authority

This Program is adopted under the authority granted by the Shoreline Management Act (Act) of 1971, Revised Code of Washington (RCW) Chapter 90.58, and Washington Administrative Code (WAC) Chapter 173-26 as amended.

B. Purpose and Intent

The shorelines of Mason County are among the most valuable and fragile of its natural resources and there is great concern relating to their utilization, protection, restoration and preservation. In addition, ever-increasing pressures of additional uses are being placed on the shorelines, necessitating increased coordination in the management and development of the shorelines of the state. Unrestricted construction on privately owned or publicly owned shorelines is not in the best public interest; therefore regulation is necessary in order to protect the public interest associated with the shorelines, while, at the same time, recognizing and protecting private property rights, public rights of navigation and corollary rights incidental thereto consistent with the public interest.

This Title is intended to carry out the responsibilities given Mason County by the Shoreline Management Act of 1971 (RCW 90.58). The actual purpose of the Policies and Use Regulations is the same as the purpose of the Act itself. The Master Program provides for the management of the shorelines by fostering all reasonable and appropriate uses. These regulations are intended to protect against adverse effects on the public health, on the land and its vegetation and wildlife, and the waters and their aquatic life.

17.50.020 Definitions

For the purpose of this title, certain terms and words are defined in this chapter. All defined uses are subject to existing local, state and health regulations.

Accessory Facilities. A use that is demonstrably subordinate and incidental to the principal use and which functionally supports its activities, including parking. The standards of performance for a development shall apply to an accessory facility unless otherwise indicated.

Accessory Dwelling Units (ADUs). Separate living quarters attached or detached from the primary residence which contain less habitable area than the primary residence. An ADU is not an appurtenance.

Act (Shoreline Management). The Act adopted by state legislature in 1971 which defines shoreline jurisdiction and authorizes the development of Shoreline Master Programs. See RCW 90.58.

Administrator. The Director, Mason County Community Services Department, or his/her designee.

Agricultural Activity. Uses and practices including but not limited to producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural

activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation. Excluded from this definition is transportation of products, related commercial or industrial uses such as wholesale and retail sales or final processing.

Agricultural Products. Includes, but is not limited to, horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and livestock including both the animals themselves and animal products including, but not limited to, meat, upland finfish, poultry and poultry products, and dairy products.

Agricultural Equipment and **Agricultural Facilities**. Includes, but is not limited to:

(1) The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains;

(2) Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;

(3) Farm residences and associated equipment, lands, and facilities; and

(4) Roadside stands and on-farm markets for marketing fruit or vegetables.

Agricultural Land. Those specific land areas on which agricultural activities are conducted as of the date of adoption of this local master program as evidenced by aerial photography or other documentation. After the effective date of this master program, land converted to agricultural use is subject to compliance with the requirements of this master program.

Application. An application for a Substantial Development Permit, Variance Permit, Conditional Use Permit, or Statement of Exemption.

Appurtenance. Development that is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. Normal appurtenances include a garage; deck; driveway; utilities; septic tank and drainfield; fence; storage shed that is (one story and has less than a 600 square foot footprint); woodshed; pump house; landscape wall and grading which does not exceed 250 cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. It does not include bulkheads and other shoreline modifications or over-water structures.

Aquaculture. Aquaculture is the culture and farming of fish, shellfish or other aquatic animals and plants. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery. Methods of aquaculture include but are not limited to fish pens, shellfish rafts, racks and longlines, seaweed floats and the culture of clams and oysters on tidelands and subtidal areas. Excluded from this definition are related commercial or industrial uses such as wholesale and retail sales, or final processing and freezing. Upland finfish facilities are regulated under agriculture.

Aquaculture Practices. Any activity directly pertaining to growing, handling, or harvesting of aquaculture produce including but not limited to propagation, stocking, feeding, disease and pest treatment, waste

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disposal, water use, development of habitat, maintenance and construction of necessary equipment building and growing areas.

Archaeological Area. A geographic locality that contains physical evidence of an indigenous and subsequent culture including material remains of past human life, monuments, symbols, tools, facilities, graves, skeletal remains and technological byproducts

Archaeologist. A person with qualifications meeting the federal secretary of the interior's standards for a professional archaeologist; or a person who meets the requirements of RCW 27.53.030(8).

Associated Wetlands. Those wetlands which are in proximity to and either influence or are influenced by tidal waters or a lake or stream subject to the Act.

Average Grade Level. The average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed structure and shall be determined by averaging the ground elevations at the midpoint of all exterior walls of the proposed structure: PROVIDED, that in the case of structures to be built over the water, average grade level shall be the elevation of the ordinary high water mark.

Beach Access Structure. A structural pathway/walkway for purposes of providing pedestrian access to a beach or shoreline area, not for motorized vehicle access. It often includes a stairway, tram, stair tower, platform and/or elevated walkway anchored to the ground surface by structural means.

Beach Nourishment. A process by which sediment lost through erosive forces is replaced from sources outside of the eroding shoreline. Nourishment is typically a repetitive process, since it does not remove the physical forces that cause erosion, but simply mitigates their effects.

Bioengineering. Techniques used alone or in combination such as beach nourishment, coarse beach fill, gravel berms, or vegetation rather than hard surfaces such as concrete armoring. Bioengineering approaches may include use of large woody debris.

Bluff-Backed Beach. Coastal bluffs fronted by narrow mixed sand and gravel beaches.

Board. The Board of County Commissioners of Mason County.

Boat House. Any walled and roofed structure built overwater or upland and used exclusively for storage of watercraft or float planes with associated equipment and not used as a dwelling unit.

Boat Launch. Boat ramps (an inclined concrete slab, pads, planks, or graded slope) or marine rails used for transferring marine and freshwater vessels or equipment to or from land or water.

Boat Lift. An in-water structure used to berth and launch a single vessel, suspended over the water's surface. A boat lift is generally a manufactured unit without a canopy cover and may be placed in the water or attached to a dock. A boat lift may be designed either for boats, personal watercraft, or float planes. A boat lift is to be differentiated from a hoist or crane used for the launching or haul-out of vessels. Boat lifts with canopies are considered covered moorage.

Bog. A depression or other undrained or poorly drained area containing or covered with usually more than one layer of peat. Characteristic vegetation of bogs are sedges, reeds, rushes, or mosses. In early stages of development, vegetation is herbaceous and the peat is very wet. In middle stages, dominant vegetation is shrubs. In mature stages, trees are dominant and peat near the surface may be comparatively dry. (Bogs represent the final stage of the natural process (eutrophication) by which lakes are very slowly

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transformed into land; bogs are sometimes mined for peat on a commercial basis; bogs are often an intake for ground water (aquifer recharge area).

Breakwaters. Offshore structures which may or may not be connected to land. Their primary purpose is to protect harbors, moorages and navigation activity from wave and wind action by creating still water areas. A secondary purpose would be to protect shorelines from wave-caused erosion.

Buffer. An area of land used or designated for the purpose of insulating or separating a structure or land use from a critical area or resource land in such a manner as to reduce or mitigate any adverse impacts of the developed area. Permitted development and activities within buffers depend on the type of critical area or resource land the buffer is protecting. See MCC 8.52 for buffer requirements.

Bulkhead. Retaining wall-like structures whose primary purpose is to hold or prevent sliding of soil caused by erosion and wave action, and to protect uplands and fills from erosion by wave action.

Campground or Camping Facilities. An area or site that is offered for overnight accommodations for persons using tents, personal portable overnight shelters, boats, recreational vehicles, cabins, yurts or platform tents, specifically designated and operated for temporary overnight camping.

Channel Migration Zone (CMZ). Areas along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

Channelization. The straightening, deepening or lining of natural stream channels, including construction of continuous revetments or levees for the purpose of preventing gradual, natural meander progression.

Commercial Development. Uses and facilities that are involved in the retail or wholesale trade or other business activities.

Community Dock. A dock providing moorage for watercraft and recreational activities for use in common by residents of a certain subdivision, community, or for use by patrons of a public park or quasi-public recreation area, including rental of watercraft. Marinas are not considered community docks.

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

Confinement Areas. Corrals or other concentrated animal keeping areas. Confinement areas do not include the entire fenced perimeter of a parcel.

Cottage Industry. Small scale commercial or industrial activities on residential properties performed in the residence or building accessory thereto. The principle practitioner must reside on the property. Cottage Industries are considered as residential uses, provided they do not significantly alter the character of the site as a residential property and wholesale and retail trade is minimal. Cottage Industries require a Conditional Use Permit except in Commercial and Residential SED's. (See also 'home occupations.')

County. Mason County. If no department is specified, the 'Community Services' shall be the responsible County department.

Covered Moorage. A roofed, floating or fixed offshore structure for moorage of watercraft or float planes.

Critical Areas. Critical Areas shall include Designated Wetlands, Aquifer Recharge Areas, Frequently Flooded Areas, Landslide Hazard Areas, Seismic Hazard Areas, Erosion Hazard Areas, and Fish & Wildlife Habitat Management Areas, as defined by this Chapter.

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

Davit. A small crane on or landward of the bulkhead or ordinary high water mark (upland davit) or located on a dock (overwater davit) that is used for suspending or lowering a vessel.

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 overlying lands subject to the Act at any stage of water level. Development does not include dismantling or removing structures if there is no other associated development or re-development. Siting a piece of equipment on the ground, such as a portable bar-b-que, is not "development" if the action meets all the following criteria:

- It involves no ~~construction~~ construction and/or assembly on site.
- It is not permanently affixed to the ground or other surface or platform.
- It does not exceed four (4) feet in height.
- It does not require a building permit, mechanical permit, or plumbing permit.
- It is not located at or waterward of the ordinary high water mark.
- It does not include any of the actions listed in the definition for "development".
- It ~~is subject to the SMP vegetation requirements.~~does not require removal of native vegetation.
- ~~It is not a containerized storage unit.~~

Dike. An artificial embankment or revetment normally set back from the bank or channel in the floodplain for the purpose of keeping floodwaters from inundating adjacent land.

Dock. A structure built over or floating upon the water that abuts the shore, used to provide water access or a landing and moorage facility for watercraft or float planes. Docks do not include recreational decks, storage facilities or other appurtenances. Docks include any combination of pier, ramp and float attached to the shore.

Dredging. The removal, displacement, and disposal of unconsolidated earth material such as silt, sand, gravel, or other submerged material from the bottom of water bodies or wetlands; maintenance dredging and other support activities are included in this definition. The de minimis movement of sediment during shellfish harvest is not considered dredging. "Maintenance dredging" means dredging for the purpose of maintaining a prescribed minimum depth previously authorized by a federal, state, and/or local permit as part of any specific waterway project. Maintenance dredging also includes dredging that maintains the previously authorized width of a channel, boat basin or berthing area. "Non-maintenance dredging" means any dredging that is not maintenance dredging.

Dredge Spoil. The material removed by dredging.

Drift Sector. A segment of the shoreline along which littoral shore movements of sediments occur at noticeable rates. Each drift sector includes a feed source that supplies the sediment, a driftway along which the sediment moves, and an accretion terminal where the drift material is deposited.

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Duplex. A two-family house whether divided vertically or horizontally. A duplex is not exempt from a Substantial Development Permit as is a single-family residence.

Ecological Functions or Shoreline Functions. The work performed or role played by the physical, chemical and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem.

Eelgrass. Eelgrass refers to Zostera marina. NOTE: Japanese Eelgrass is invasive and is not protected under this program.

Emergency Repair. Emergency construction necessary to protect property from damage by the elements as per WAC 173-27-040, as amended.

Environmental Designations. *See 17.50.080.*

Environment Designations Map. The official map associated with this Master Program and adopted by ordinance that shows the jurisdiction of the Act and this Program and the boundaries of the environments.

Essential Public Facilities. Essential Public facilities include facilities such as prisons, correctional facilities, juvenile detention centers, courthouses, wastewater/sanitary treatment facilities and systems, solid waste facilities, transportation facilities (including public works operations and vehicle maintenance facilities), airports, and hospitals.

Excavation. The mechanical removal of earth, including soil, rocks, bedrock, and/or root material.

Exemption. Exempt developments are those set forth in WAC 173-27-040 and RCW 90.58.030 (3)(e), 90.58.140(9), 90.58.147, 90.58.355, and 90.58.515 which are not required to obtain a Substantial Development Permit but which must otherwise comply with applicable provisions of the Act and this master program.

Existing Lots. Lots, tracts, parcels, sites or other fractional part of divided land that were legally established in accordance with local and state subdivision requirements prior to the effective date of this Program.

Existing Uses. Uses that were legally established prior to the effective date of this Program in accordance with the applicable regulations at the time established.

Extreme Low Tide. The lowest line on the land reached by a receding tide.

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

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

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

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

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(3) The action does not physically preclude achieving the project's primary intended legal use.

In cases where this program requires certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

Fee In-Lieu (In-Lieu Fee). A fee paid to a sponsor to satisfy compensatory mitigation requirements when mitigation is precluded from being completed on-site due to site development of physical constraints.

Feeder Bluff. A bluff experiencing periodic erosion from waves, sliding or slumping and/or whose eroding material is naturally transported by longshore drift and provides the building blocks and nourishment for spits, bars, hooks, and other accretion shore forms.

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

Fetch. The perpendicular distance between ordinary high water marks across a body of water.

Fill. The addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land. Depositing topsoil in a dry upland area for normal landscaping purposes is not considered a fill. Aquaculture gravel enhancement projects, beach nourishment protection projects, and restoration projects are not considered fill.

Finfish. Finfish means a vertebrate organism of the classes Osteichthyes, Agnatha, or Chondrichthyes (RCW 77.08.22). Examples include salmon, trout, ling cod, rock fish, halibut, sole, sablefish, perch, pollock, whiting, tilapia, carp, lamprey, sturgeon, sharks, skates, and rays.

Finfish Net Pens. Aquaculture systems for raising finfish in net pens that are typically anchored to the waterbody floor and suspended from the surface with a flotation structure.

Float. A float is a platform structure that provides landing for water dependent recreation or moorage for vessels, watercraft, or float planes, and that does not include above water storage. Floats may be either attached or unattached. Unattached floats are anchored in the substrate and floating upon a water body and not connected to the shore. Attached floats are supported by pilings or anchored to a pier, ramp or other structure connected to the shore.

Floating Aquaculture. Aquaculture systems that suspend the cultured species in the water column using buoys, rafts, docks, or other structure. Floating aquaculture is synonymous with hanging aquaculture. Finfish net pens are defined and regulated separately from other floating aquaculture systems.

Floating Home. A single family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in waters~~Any floating structure that is designed, or has been substantially and structurally remodeled or redesigned, to serve primarily as a residence. Floating houses include house boats, house barges, or any floating structures that serve primarily as a residence~~ and does not qualify as a vessel per WAC 332-30-106(74), though it may be capable of being towed.

Floating On Water Residence. Any floating structure other than a floating home, as defined by this chapter: (a) that is designed or used primarily as a residence on the water and has detachable utilities; and

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(b) whose owner or primary occupant has held an ownership interest in space in a marina, or has held a lease or sublease to use space in a marina, since a date prior to July 1, 2014.

Floodplain. The areas established in effective Federal Emergency Management Agency (FEMA) flood insurance rate maps that are susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. Floodplain is synonymous with one hundred-year floodplain as defined by the Federal Emergency Management Agency. The limit of this area shall be based upon flood ordinance regulation maps.

Floodway. The areas established in effective Federal Emergency Management Agency (FEMA) flood insurance rate maps or floodway maps. The floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the Federal Government, the state, or a political subdivision of the state. See RCW 90.58.030.

Flood Control. All development designed to retard bank erosion, to reduce flooding of adjacent lands, to control or divert stream flow, or to create a reservoir, including but not limited to revetments, dikes, levee, channelization, dams, weirs, flood and tidal gates. Excluded are water pump apparatus.

Footprint. The total area within the perimeter of a structure (including roof eves, if applicable), or the perimeter of a development other than a structure. However, for the vertical expansions of 'legal non-conforminggrandfathered' structures and the horizontal expansion allowance for manufactured homes, footprint does not include uncovered decks or patios, nor does it include illegally established structures or additions."

Forage Fish. Small, schooling fishes that are key prey items for larger predatory fish and wildlife in a marine food web. Puget Sound species include, but are not limited to, Pacific herring, surf smelt, Pacific sand lance and northern anchovy. Each species has specific habitat requirements for spawning, such as sediment grain size, tidal heights, or vegetation types. Known spawning and holding areas have been mapped by the Department of Fish and Wildlife.

Forest Practices. Any activity conducted on or directly pertaining to forest land (as defined in WAC 222-16-010) and related growing, harvesting, or processing of timber including but not limited to: (1) road and trail construction, (2) harvesting, (3) pre-commercial thinning, (4) reforestation, (5) fertilization, (6) prevention and suppression of diseases and insects, (7) salvage of timber, (8) brush control, (9) slash and debris disposal, and (10) borrow pits, as regulated by Title 222-WAC.

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

Functionally Isolated Buffer Areas. Areas that are functionally separated from a critical area and do not protect the critical area from adverse impacts due to preexisting roads, railroads, levees, structures, or vertical separation.

Gabions. Mass of rock, rubble, or masonry tightly enclosed in wire mesh, forming massive blocks that are used to form walls on beaches to prevent wave erosion or as foundations for breakwaters or jetties.

Geotechnical Assessment. *See "Shoreline Geotechnical Assessment."*

Grading. Stripping, cutting, filling, or stockpiling earth to create new grade. Grading includes excavation of material and addition of fill. Cut and fills incidental to a permitted use and less than 200 cubic yards are

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not subject to the Grading policies or regulations but are still subject to the provisions in the Resource Ordinance.

~~**Grandfathered Structures**. Existing, lawfully constructed structures (and floating homes) that do not meet the development standards of this Program, including those approved through a Variance. Residential development built overwater or in floodways is not grandfathered.~~

~~**Grandfathered Uses**. Existing, lawfully established uses (and floating homes) that do not meet the use standards of this Program. Residential uses built overwater or in floodways and existing non-water-oriented commercial uses with waterfront or any non-water oriented industrial uses are not grandfathered.~~

Commented [MW1]: Redundant and same definition as "legal, non-conforming development". Policies and regulations regarding the expansion or repair of "legal non-conforming" are further defined in 17.50.120.

Groins. A barrier type of structure extending from the beach or bank into a water body for the purpose of the protection of a shoreline and adjacent uplands by influencing the movement of water or deposition of materials. Generally narrow and of varying lengths, groins may be built in a series along the shore.

Habitat Management Plan (HMP). A report prepared by a qualified professional pursuant to Mason County's Resource Ordinance that identifies how impacts upon habitat from a proposed use or activity will be avoided or mitigated in accordance with the 'mitigation sequencing' described in Section 17.50.110 (B) of this program. See MCC 8.52.170(j) for the minimum details required in HMP's.

Hearings Board. The State Shorelines Hearings Board established by the Act in RCW 90.58.170.

Height. Height is measured from average grade level to the highest point of a structure: provided, that television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or this master programs specifically requires that such appurtenances be included: provided further, that temporary construction equipment is excluded in this calculation.

Historic Preservation Professional. A person who holds a graduate degree in architectural history, art history, historic preservation, or closely related field, with coursework in American architectural history, or a bachelor's degree in architectural history, art history, historic preservation or closely related field plus at least two years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution; or substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.

Historic Site. Those sites that are eligible or listed on the Washington Heritage Register, National Register of Historic Places, or locally developed historic register.

Home Occupation. A business conducted within a dwelling which is the residence of the principal practitioner. A Home Occupation may be reviewed as a residential use provided it complies with all applicable County Ordinances and no alteration is made to the exterior of the residence or site which would alter the character of the site as residential property including parking and signs. Activities that meet this definition do not require shoreline permitting or exemptions. (See also 'cottage industries.')

Impervious Surface. A non-vegetated surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A non-vegetated surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving,

gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater.

Impervious Coverage. The percentage calculated by dividing the total area of impervious surfaces by the total lot area (landward of the OHWM) and then multiplied by one-hundred (100) to convert to percentage points.

Industrial Development. Facilities for processing, manufacturing, and storage of finished or semi-finished products, together with necessary accessory uses such as parking, loading, and waste storage and treatment.

In-Stream Structure. A human-made structure placed within a stream or river waterward of the ordinary high water mark that either causes or has the potential to cause water impoundment, or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose.

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

Joint-Use Private Dock. A dock for exclusive use by two or more adjacent waterfront lot owners, excluding marinas.

Landscape Wall. A non-living fence or wall. A hedge of shrubs or trees is not considered a landscape wall or fence.

Legal, Non-Conforming Development. A shoreline use, structure or lot which was lawfully constructed or established prior to the effective date of the Act, or the Master Program, or amendments thereto, but which does not conform to present regulations or standards of the Program or policies of the Act.

~~**Legal, Nonconforming Lot.** An undeveloped lot, tract, parcel, site or division of land which was established in accordance with local and state subdivision requirements prior to the effective date of this Program and does not conform to the present County lot size standards.~~

Commented [MW2]: Already included as part of "Legal, Non-Conforming Development"

Legally Established or Constructed Structure, Use, and/or Lot. Having obtained the necessary permits or having been established prior to the need for such permits.

Littoral Drift (or transport). The natural movement of sediment, particularly sand and gravel, along shorelines by wave action in response to prevailing winds or by stream currents. (See Drift Sector.)

Lot. A fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts, or parcels. Where the context so indicates, lots, tracts or parcels may refer to subdivided lands not conforming to, or in violation of, zoning or subdivision regulations.

Low Impact Development (LID). A stormwater management strategy that emphasizes conservation and use of existing natural site features integrated with distributed, small-scale stormwater controls to more closely mimic natural hydrologic patterns in residential, commercial, and industrial settings. The term may

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also be used to describe any type of development which incorporates new or experimental best management practices to reduce environmental impacts.

Macro-algae. Refers to kelp and other algae species visible to the naked eye that provide food and habitat structure for marine organisms.

Marina. A commercial moorage with or without dry storage facility for over ten pleasure or commercial craft excluding canoes, kayaks and rowboats. Boat lifts, boat launches and covered moorage may also be included. Marinas may be open to the general public or restricted on the basis of property ownership or membership. Commercial services include but are not limited to overnight or live-aboard boating accommodations. Goods or services related to boating may be sold commercially. Uses associated with marinas shall conform to the regulations for these uses.

Marine Terminal. Public or private facilities for transfer of cargo or passengers from water-born craft to land and vice versa; including but not limited to piers, wharves, sea islands, commercial float plane moorages, off- shore loading or unloading buoys, ferry terminals, and required dredged waterways, moorage basins and equipment for transferring cargo or passengers between land and water modes. Excluded from this definition and dealt with elsewhere are marinas, boat ramps or docks used primarily for recreation. Cargo storage and parking areas not essential for marine terminal operations, boat building or repair are considered as industrial or accessory to other uses.

Marine Waters. All bodies of water having a connection with the open sea and which are tidally influenced, together with adjoining transitional and estuarine areas where average ocean derived salts exceed five parts per thousand.

Master Program. Mason County program for regulation and management of the shorelines of the state including goals and policies, use regulations, maps, diagrams, charts and any other text included in the Program.

Mean Higher High Tide. The elevation determined by averaging each day's highest tide in a particular saltwater shoreline area over a period of 18.6 years.

Mean High Water (MHW). The average elevation of all high waters recorded at a particular point or station over a considerable period of time, usually 19 years. For shorter periods of observation, corrections are applied to eliminate known variations and reduce the result to the equivalent of a mean 19-year value. All high water heights are included in the average where the type of tide is either semidiurnal or mixed. Only the higher high water heights are included in the average where the type of tide is diurnal. So determined, mean high water in the latter case is the same as mean higher high water.

Mining. The removal of sand, gravel, minerals or other naturally occurring materials from the earth.

Mitigation Sequencing. The following sequence of steps listed in order of priority, with (1) being top priority:

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

(2) 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;

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

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

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

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

Multi-Family Dwelling. A building designed or used for a residence by three or more household units, including but not limited to apartments, condominium complexes, and townhouses.

Must. A mandatory term that means an action is required.

Native Vegetation. Plant species that are indigenous to Mason County.

No Net Loss. The maintenance of the aggregate total of the County's shoreline ecological functions. The no net loss standard requires that the impacts of shoreline development and/or use, whether permitted or exempt, be identified and prevented or mitigated such that there are no resulting adverse impacts on ecological functions or processes. Each project shall be evaluated based on its ability to meet the no net loss requirement.

~~**Non-Conforming Development**: A shoreline use, structure or lot which was lawfully constructed or established prior to the effective date of the Act, or the Master Program, or amendments thereto, but which does not conform to present regulations or standards of the Program or policies of the Act.~~

Commented [MW3]: This definition should be titled "Legal, Non-Conforming Development"

Non-Floating Aquaculture. Bottom aquaculture systems on tidelands or bedlands.

Normal Protective Bulkhead. A retaining wall-like structure constructed at or near ordinary high water mark to protect a single family residence or lot upon which a single family residence is being constructed and is for protecting land from erosion, not for the purpose of creating land.

Ordinary High Water Mark (OHWM). On all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, or as it may naturally change thereafter or as it may change thereafter in accordance with permits issued by local government or the Department PROVIDED THAT in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water (RCW 90.58.030 as amended).

Overwater Structures. Structures located waterward if the ordinary high water mark, whether fixed above, floating on the surface, or fixed in the substrate.

Permit. A Shoreline Substantial Development Permit, Conditional Use Permit, or Variance Permit, any combination thereof, or their revisions, issued by Mason County Pursuant to RCW 90.58.

Person. An individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated.

Pier. An open pile structure generally built from the shore extending out over the water to provide water access or moorage for recreation, commercial or industrial watercraft and/or float planes.

Port District. Port Districts are governmental entities established under Title 53 RCW, which are formed by a vote of the residents in an area to promote and support economic development within that area. Any geographical area could be designated as a port district whether it is on a waterfront or not. Ports can

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engage in almost any activity that provides jobs, supports local business, or facilitates economic stability in their districts. Most port districts in Mason County operate public marinas in addition to other economic development activities both on and off of the shoreline. Port district developments are regulated according to the proposed use of the shoreline. For example, if a port district proposed a marina, the marina regulations would apply. If a port district proposed a marine terminal, the industrial and marine terminal regulations would apply.

Primary Structure. See the Shoreline Stabilization Chapter.

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

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

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

Priority Habitat and Species List. The Washington Department of Fish and Wildlife publishes a Priority Habitats and Species (PHS) list. The PHS List is a catalog of habitats and species considered to be priorities for conservation and management.

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

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

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

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

(4) Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered.

Public Access. The ability of the general public or, in some cases, a specific community, to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

Ramp. An access structure from a fixed pier or the land to a float. For this program, a 'boat ramp' is considered a 'boat launch.'

Recreational Development. Facilities such as campgrounds, recreational vehicle parks, day use parks, as well as those used for scientific or environmental education, etc. This applies to both publicly and privately-owned shoreline facilities intended for use by the public or a private club, group, or association.

Residential Development. The development of single family dwellings, accessory dwelling units, duplex and multi-family dwellings and their appurtenances for residential occupancy.

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

Revetment. A sloped wall constructed of rip rap or other suitable material placed on stream banks or other shorelines to retard bank erosion from high velocity currents or waves respectively.

Rip Rap. Dense, hard, angular rock used to armor revetments or other flood control works.

Scientific and Environmental Education Facilities. Those sites, structures, or facilities related to recreational development that provide unique insight into our shoreline's natural and cultural heritage.

Setback. The distance from a lot, parcel, tract, critical area or resource land boundary, beyond which the footprint or foundation of a structure shall not extend.

Shorelands. 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 the Act and this master program.

Shorelines. All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except

(1) Shorelines of statewide significance;

(2) Shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and

(3) Shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

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Shorelines of Statewide Significance. Those shoreline areas as defined in RCW 90.58.030(2)(f), specifically the following bodies and associated shorelands in Mason County: Hood Canal, Lake Cushman, the Skokomish River from the confluence of the North Fork of the Skokomish River and the South Fork of the Skokomish River, downstream to the Great Bend of Hood Canal (excluding that portion within the Skokomish Indian Reservation), and all saltwater bodies below the line of extreme low tide.

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

Shoreline Permit. One or more of the following permits: Substantial Development Permit, Conditional Use Permit, or Variance.

Shoreline Stabilization (or "bank stabilization"). Actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by processes such as current, flood, tides, wind, or wave action. These actions include a range of methods from "hard" structural methods such as bulkheads, and "softer" nonstructural methods such as bioengineering.

Shorelines of the State. The total of all "shorelines" and "shorelines of state-wide significance".

Should. The particular action is preferred unless there is a demonstrated, compelling reason, based on policy of the Act and this Program, against taking the action.

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

Single Family Residence. A detached dwelling designed for and occupied by one family, including those structures and developments within a contiguous ownership that are normal appurtenances.

Streams. Those areas where surface waters flow sufficiently to produce a defined channel or bed. A defined channel or bed is an area which demonstrates clear evidence of the passage of water and includes, but is not limited to, bedrock channels, gravel beds, sand and silt beds and defined channel swales. The channel or bed need not contain water year round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff devices or other entirely artificial watercourses, unless they are used by salmon or used to convey streams naturally occurring prior to construction.

For regulatory purposes under this chapter once streams are identified, the streams are typed following the Washington State Department of Natural Resources Stream Typing System (WAC 222-16-030):

(1) "Type S Streams" are streams, within their bankfull width, as inventoried as "shorelines of the state" under chapter 90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW including periodically inundated areas of their associated wetlands.

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

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

(b) Waters, which are diverted for use by federal, state, tribal or private fish hatcheries. Such waters shall be considered Type F Water upstream from the point of diversion for 1,500 feet, including tributaries if highly significant for protection of downstream water quality. The department may allow additional harvest beyond the requirements of Type F Water designation provided the department determines after a landowner-requested on-site assessment by the department of fish and wildlife, department of ecology, the affected tribes and interested parties that:

(i) The management practices proposed by the landowner will adequately protect water quality for the fish hatchery; and

(ii) Such additional harvest meets the requirements of the water type designation that would apply in the absence of the hatchery;

(c) Waters, which are within a federal, state, local, or private campground having more than 10 camping units: Provided, That the water shall not be considered to enter a campground until it reaches the boundary of the park lands available for public use and comes within 100 feet of a camping unit, trail or other park improvement;

(d) Riverine ponds, wall-based channels, and other channel features that are used by fish for off-channel habitat. These areas are critical to the maintenance of optimum survival of fish. This habitat shall be identified based on the following criteria:

(i) The site must be connected to a fish habitat stream and accessible during some period of the year; and

(ii) The off-channel water must be accessible to fish.

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

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

*(5) For purposes of this section:

(a) "Residential unit" means a home, apartment, residential condominium unit or mobile home, serving as the principal place of residence.

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(b) "Camping unit" means an area intended and used for:

(i) Overnight camping or picnicking by the public containing at least a fireplace, picnic table and access to water and sanitary facilities; or

(ii) A permanent home or condominium unit or mobile home not qualifying as a "residential unit" because of part time occupancy.

(c) "Public accommodation facility" means a business establishment open to and licensed to serve the public, such as a restaurant, tavern, motel or hotel.

(d) "Natural waters" only excludes water conveyance systems which are artificially constructed and actively maintained for irrigation.

(e) "Seasonal low flow" and "seasonal low water" mean the conditions of the 7-day, 2-year low water situation, as measured or estimated by accepted hydrologic techniques recognized by the department.

(f) "Channel width and gradient" means a measurement over a representative section of at least 500 linear feet with at least 10 evenly spaced measurement points along the normal stream channel but excluding unusually wide areas of negligible gradient such as marshy or swampy areas, beaver ponds and impoundments. Channel gradient may be determined utilizing stream profiles plotted from United States geological survey topographic maps (see board manual section 23).

(g) "Intermittent streams" means those segments of streams that normally go dry.

(h) "Fish habitat" means habitat which is used by any fish at any life stage at any time of the year, including potential habitat likely to be used by fish which could be recovered by restoration or management and includes off-channel habitat.

Structure. A permanent or temporary building or edifice of any kind, or any piece of work artificially built up 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. Retaining walls, decks, bulkheads, fences and similar improvements to real property are examples of structures.

Subdivision. The division or redivision of land for purposes of sale, lease or transfer of ownership into two or more lots.

Substantial Development. Any development of which the total cost or fair market value exceeds seven thousand forty-seven ($7,047) dollars, or as adjusted per RCW 90.58, or any development which materially interferes with normal public use of the water or shorelines of the state; except that those developments defined above as an "exemption" do not require a Substantial Development Permit but may require a Variance or Conditional Use Permit.

Tideland. The land on the shore of marine water bodies between OHWM or MHHW and the line of extreme low tide which is submerged daily by tides.

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

Toe. The lowest part of a slope or cliff; the downslope end of an alluvial fan, landslide, etc.

Transportation Facilities. Facilities consisting of the means and equipment necessary for the movement of passengers or goods including roads and railways and related bridges and culverts; pedestrian, bicycle, and public transportation systems and related fills and embankments; causeways; parking areas; truck

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terminals and rail switchyards; sidings; and spurs. Transportation Facilities do not include parking and driveways for single-family residential use.

Upland Finfish Rearing Facilities. Those facilities not located within waters of the state where finfish are hatched, fed, nurtured, held, maintained, or reared to reach the size of release or for market sale. This includes fish hatcheries, rearing ponds, spawning channels, and other similarly constructed or fabricated public or private facility.

Urban Growth Area (UGA). Those areas designated by Mason County pursuant to RCW 36.70A.110 for urban development.

Use. The end to which a land or water area is ultimately employed.

Utilities. Services and facilities that produce, convey, store, or process power, gas, sewage, communications, oil, waste, stormwater, and the like.

Variance. An adjustment in the application of this program's regulations to a particular site, to grant relief from a specific bulk, dimensional or performance standards set forth in this Master Program and not a means to vary the use of a shoreline.

Vector. An organism that carries and transports disease (e.g. rat, fly).

Vegetation. All live plant material, including native and non-native, woody and herbaceous, deciduous and evergreen, trees and understory groundcover, aquatic and terrestrial.

Vegetation Removal. Physical extraction, including the whole plant plus its root structure, or trimming in excess of that which a plant can survive even though the root structure is left in place, or chemical expiration of plant material.

Water Dependent Use. A use or portion of a use that cannot exist in a location that is not adjacent to the water and is dependent on the water by reason of the intrinsic nature of its operation. Examples include but are not limited to marine terminals; ship building and repair, servicing and dry docking; aquaculture; and log booming.

Water Enjoyment Use. A recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment. Primary water-enjoyment uses may include, but are not limited to, parks, piers and other improvements facilitating public access to the shorelines of the state; and general water-enjoyment uses may include, but are not limited to restaurants, museums, aquariums, scientific/ecological reserves, and resorts/hotels (as part of mixed-use development or with significant public access or restoration components).

Water Oriented Use. A use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

Water Related Use. A use that is not intrinsically dependent on a waterfront location but whose operation cannot occur economically and functionally without a shoreline location because (1) The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or

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the need for large quantities of water; or (2) 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. Examples include but are not limited to warehousing of goods transported by water, seafood processing, oil refineries, paper and wood mills (if materials or products are water transported) and ships' parts and equipment fabrication.

Weir. A small dam-like structure, usually engineered logs placed in streams, which changes the stream gradient.

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 saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, waste water 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. However, wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate conversion of wetlands.

17.50.030 Liberal Construction and Severability

A. Liberal Construction

In accordance with RCW 90.58.900, this ordinance is exempted from the rule of strict construction, and it shall be liberally construed to give full effect to the objectives and purposes for which it was enacted.

B. Severability

If any provision of this ordinance, or its application to any person or legal entity or circumstances is held invalid, the remainder of the ordinance, or the application of the provision to other persons or legal entities or circumstances, shall not be affected.

17.50.040 Comprehensive Review and Amendments

A. Comprehensive Review

This Title serves the function of a framework for decision-making, regarding future developments on the waters and shorelands of Mason County whether public or private. As such, it must be adaptable to changing conditions, and shall thus remain subject to periodic review and revision when, in the judgment of the Administrator, the Planning Advisory Commission, or the Board such review and revision are necessary to the Title's continued

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effectiveness. Reviews shall be conducted no less frequently than that required by RCW 90.58.080 (4)(a).

B. AMENDMENTS

Any part of this ordinance may be amended subject to the approval of the Department of Ecology. An amendment shall not be acted on by the Board until a public hearing in relation thereto has been held by the Planning Advisory Commission (PAC) at which parties in interest and citizens shall have an opportunity to be heard. At least ten (10) days notice of the time and place of such hearing shall be published in a newspaper of general circulation in Mason County. Amendments may be initiated by: the adoption of a motion by the Board requesting the PAC to set a hearing date on a proposed amendment; or a recommendation by the Administrator to the PAC of such action.

Following completion of the hearing, the PAC shall take action to recommend adoption or rejection of an amendment on the basis of information of the same nature as described under 15.09.060. The action of the PAC shall be forwarded to the Board together with a report containing the findings and conclusions upon which such action was based, within 14 days of said action.

Upon receipt of the recommendation on any proposed amendment the Board shall, at its next public meeting, set the date for the public meeting where it shall consider the recommendation of the PAC. The public meeting at which the Board considers the recommendations of the PAC shall not take place prior to 30 days following the meeting at which the PAC took action on the amendment. The Board may, at said public meeting, adopt or reject the recommendation of the PAC regarding the proposed amendment. In adopting the amendment as proposed by the PAC, the Board may make any changes it deems necessary. The Board may also summarily reject the recommendation of the PAC and adopt its own version of the proposed amendment in question.

An action of the PAC on an amendment may be appealed by any aggrieved person, PROVIDED such appeal is filed within 30 days from the date of the PAC action. Such appeal shall be addressed to the Board and filed with the Administrator.

Action taken by the Board on a motion adopting or rejecting a proposed amendment shall constitute final action. Written notice of the action shall be forwarded to the Administrator and to other persons involved in the initiation of the proposed amendment following the Board's final action.

No amendment approved by the Board shall become effective until approved by the Department of Ecology, as required under RCW 90.58.~~190~~090.

17.50.050 Restrictions Affecting Value

The restrictions imposed by this chapter shall be considered by the County Assessor in establishing fair market value of the property.

17.50.060 Jurisdiction and Application of Regulations

The Shoreline Master Program, composed of this Chapter, provides for the management of the shorelines by fostering all reasonable and appropriate uses. Its regulations implement the policies as outlined in this Chapter and are intended to protect against adverse effects on the public health, on the land and its vegetation and wildlife, and the waters and their aquatic life.

A. These regulations shall apply to all the lands and waters that are designated to be under the jurisdiction of the Shoreline Management Act of 1971 (RCW 90.58.030) that are within Mason County. The waterbodies listed in the tables below along with the associated 'shorelands,' constitute 'shorelines of the state' within Mason County jurisdiction. These 'shorelines of the state' are also illustrated on the Official Shoreline Environment Designations Map.

B. These regulations shall apply to every person, firm, corporation, local and state governmental agencies and other non-federal entities that would develop, use, or own lands, wetlands, or waters under the control of the Master Program.

C. These regulations shall apply to all non-federal uses and developments undertaken on federal lands and on lands subject to non-federal ownership, lease, or easement, even though such lands may fall within the external boundaries of federally owned lands.

D. Federal agencies are subject to this Program and RCW 90.58, as provided by the Coastal Zone Management Act (Title 16 United States Code §1451 et seq.; and WAC 173-27-060).

E. The provisions of this Program shall not apply to the following:

1. Lands held in trust by the United States for Indian Nations, tribes or individuals.

2. Existing agricultural activities.

3. Developments pursuant to RCW 90.58.045 regarding environmental excellence program agreements, notwithstanding any other provision of law, any legal requirement under the Shoreline Management Act, including any standard, limitation, rule, or order is superseded and replaced in accordance with the terms and provisions of an environmental excellence program agreement, entered into under chapter 43.21(K) RCW.

F. Pursuant to RCW 90.58.355, requirements to obtain a Substantial Development Permit, Conditional Use Permit, or Variance shall not apply to any person:

1. Conducting a hazardous remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the Department of Ecology when it conducts a remedial action under chapter 70.105D RCW; or

2. Installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.

3. The holder of a certification from the governor pursuant to chapter 80.50 RCW shall not be required to obtain a permit under chapter 90.58 RCW.

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G. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review.

Table 17.50.060-A: Mason County Shorelines of the State – Marine waters

#	Marine Area	Length (Miles)
1	Hood Canal *	85.0
2	South Puget Sound, including Case Inlet, Pickering Passage, Oakland Bay, Totten Inlet and Skookum Inlet	132.4
	Total	***217.4***

** Shoreline of Statewide Significance*

Table 17.50.060-B: Mason County Shorelines of the State - Streams

#	River or Stream Name	Legal Description
(1)	Aristine Creek	Beginning in the SW ¼ Sec.5; T21N, R5W then downstream to the mouth at Vance Creek (NW ¼ Sec.4; T21N, R5W)
(2)	Baker Creek	Beginning in the NW ¼ Sec.11, T21N, R6W then downstream to mouth at Satsop River Middle Fork (NW ¼ Sec.16, same township).
(3)	Big Creek	Beginning in the NE ¼ Sec.8, T23N, R4W then downstream to mouth at Skokomish River North Fork (Lake Cushman, NE ¼ Sec.20, same township).
(4)	Bingham Creek	Beginning in the SW¼ of SW¼ Sec.21, T21N, R5W then downstream to mouth at Satsop River East Fork (SW¼ Sec.11, T19N, R6W).
(5)	Boulder Creek[1]	Beginning in the NW ¼ Sec.5, T24N, R4W then downstream to mouth at Hamma Hamma River (SE ¼ Sec.7, same township).
(6)	Brown Creek	Beginning in the SE ¼ Sec.25, T23N, R5W then downstream to mouth at Skokomish River South Fork (NE ¼ Sec.9, T22N, R5W).
(7)	Cabin Creek[1]	Beginning at the Mason-Jefferson County boundary in the NE ¼ Sec.1, T24N, R4W then downstream to mouth at Hamma Hamma River (SE ¼ Sec.1, same township).
(8)	Cedar Creek[1]	Beginning in the SW ¼ Sec.3, T22N, R6W then downstream to mouth at Skokomish River South Fork (NE ¼ Sec.35, T23N, R6W).
(9)	Church Creek[1]	Beginning in the SW ¼ Sec.29, T23N, R6W then downstream to mouth at Skokomish River South Fork (NE ¼ Sec.28, same township).
(10)	Canyon River	Beginning in the NW¼ Sec.17, T22N, R6W then downstream to Mason-Grays Harbor County line (SW ¼ Sec.18, T21N, R6W).
(11)	Cloquallum Creek	Beginning in the SW¼ Sec.12, T19N, R5W then downstream to Mason-Grays Harbor County boundary (SE¼ Sec.36, T19N, R6W).

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(12)	Cloquallum Creek, Unnamed Trib	Beginning in the NE¼ Sec.17, T19N, R5W then downstream to Cloquallum Creek (NE¼ Sec.20, same township).
(13)	Coulter Creek	Beginning at the Mason-Kitsap County boundary (NE¼ Sec.4, T22N, R1W) then downstream to mouth at North Bay (SW¼ Sec.9, same township).
(14)	Cranberry Creek	Beginning at the outlet of Lake Limerick in the center of Sec.27, T21N, R3W then downstream to mouth at Oakland Bay (SE¼ Sec.35, same township).
(15)	Decker Creek	Beginning in the NE¼ Sec.8, T20N, R6W then downstream to the Mason-Grays Harbor County boundary (NW¼ Sec.19, T20N, R6W) then returning to Mason County at the Mason-Grays Harbor County boundary in NW¼ Sec.30, T20N, R6W, then downstream to mouth at Satsop River East Fork (NW¼ Sec.31, T19N, R6W).
(16)	Decker Creek, Unnamed Trib	Beginning in the SW¼ Sec.18, T20N, R6W then downstream to the Mason-Grays Harbor County boundary (NW¼ Sec.19, T20N, R6W) then returning to Mason County at the Mason-Grays Harbor County boundary in NW¼ Sec.19, same township, then downstream to mouth at Decker Creek (NW¼ Sec.19, T20N, R6W).
(17)	Deer Creek	Beginning in the SW¼ Sec.20, T21N, R2W then downstream to mouth at Oakland Bay (SW¼ Sec.36, T21N, R3W).
(18)	Dewatto River	Beginning in the NW¼ of Sec.5, T23N, R2W then downstream to mouth at Dewatto Bay on Hood Canal (SW¼ Sec.27, T23N, R3W).
(19)	Dry Bed Creek	Beginning in the NE¼ Sec.23, T21N, R6W then downstream to mouth at Decker Creek (NW¼ Sec.5, T19N, R6W).
(20)	Dry Creek	Beginning in the NE ¼ Sec.25, T21N, R6W then downstream to mouth at Dry Bed Creek (NW¼ Sec.3, T20N, R6W).
(21)	Dry Creek 02 (Lake Cushman)	Beginning in the NW ¼ Sec.20, T23N, R5W then downstream to mouth at Lake Cushman (NW ¼ Sec.15, same township).
(22)	Dry Run Creek	Beginning in the SW¼ Sec.23, T19N, R6W then downstream to mouth at Satsop River East Fork (SW¼ Sec.28, same township).
(23)	Four Stream[1]	Beginning in the SE¼ of NW¼ Sec.12, T23N, R6W then downstream to mouth at Skokomish River North Fork (NE¼ Sec.31, T24N, R5W)
(24)	Frigid Creek	Beginning in the SW¼ Sec.19, T22N, R4W then downstream to mouth at McTaggert Creek (NE¼ Sec.30, same township)
(25)	Goldsborough Creek	Beginning at the confluence of Goldsborough Creek North Fork and Goldsborough Creek South Fork (SE¼ Sec.19, T20N, R4W) then downstream to mouth at Oakland Bay (NW¼ Sec.20, T20N, R3W).
(26)	Goldsborough Creek (N. Fork)	Beginning at the confluence of Winter Creek and Goldsborough Creek North Fork (SE¼ Sec.8, T20N, R4W) then downstream to mouth at confluence with Goldsborough Creek South Fork (SE¼ Sec.19, same township).

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(27)	Goldsborough Creek (S. Fork)	Beginning in the SW¼ of NE¼ Sec.25, T20N, R5W then downstream to mouth at confluence with Goldsborough Creek North Fork (SE¼ Sec.19, T20N, R4W).
(28)	Gosnell Creek (upstream of Mill Creek and Lake Isabella)	Beginning in the NE ¼ Sec.16, T19N, R4W then downstream to mouth at Isabella Lake (NW¼ Sec.1, same township).
(29)	Hamma Hamma River	Beginning in the NW¼ Sec.14, T24N, R5W then downstream to mouth at Hood Canal of Puget Sound (NE¼ Sec.27 T24N, R3W).
(30)	Jefferson Creek	Beginning in the NE¼ Sec.29, T24N, R4W then downstream to mouth at Hamma Hamma River (SW¼ Sec.8, T24N, R3W)
(31)	Johns Creek	Beginning in the NW¼ of NW¼ Sec.5, T20N, R3W then downstream to mouth at Oakland Bay (SE¼ Sec.3, T20N, R3W).
(32)	Kennedy Creek	Beginning at the Mason-Thurston County boundary (SW¼ Sec.31, T19N, R3W) then downstream to mouth at Oyster Bay (NW¼ Sec.32, T19N, R3W).
(33)	Lebar Creek[1]	Beginning in the NE¼ Sec.25, T23N, R6W then downstream to mouth at Skokomish River South Fork (NW¼ Sec.9, T22N, R5W).
(34)	Lena Creek[1]	Beginning at the Mason-Jefferson County Boundary (NW¼ Sec.2, T24N, R4W then downstream to mouth at Hamma Hamma River (SW¼ same section).
(35)	Lilliwaup Creek	Beginning in the Lilliwaup Swamp (SW¼ Sec.11, T23N, R4W) then downstream to mouth at Lilliwaup Bay in Hood Canal at (NE ¼ Sec.30, T23N, R3W).
(36)	McTaggert Creek	Beginning in the NW¼ Sec.20, T22N, R4W then downstream to mouth at Skokomish River North Fork (SE¼ Sec.30, same township).
(37)	Mill Creek (downstream of Gosnell Creek & Lake Isabella)	Beginning at the outlet of Isabella Lake (SE¼ Sec.31 T20N R3W) then downstream to mouth at Hammersley Inlet (NE¼ Sec.25, T20N, R3W).
(38)	Mission Creek	Beginning in the NW¼ Sec.24, T23N, R2W then downstream to mouth at Hood Canal (NE¼ Sec.1, T22N, R2W).
(39)	Outlet Creek	Beginning at the outlet from Nahwatzel Lake (NW¼ Sec.8, T20N, R5W then downstream to mouth at Bingham Creek (NE¼ Sec.2, T19N, R6W).
(40)	Phillips Creek	Beginning near the center of Sec.15, T20N, R5W then downstream to mouth at Satsop River East Fork (SE¼ Sec.22, T20N, R5W).
(41)	Pine Creek[1]	Beginning in the SE¼ Sec.32, T23N, R6W then downstream to mouth at Skokomish River South Fork (NW¼ Sec.35, T23N, R6W).
(42)	Price Lake Outlet	Beginning at the outlet of Price Lake (NW¼ Sec.23, T23N, R4W) then downstream to mouth at Lilliwaup Creek (SW¼ Sec.13, same township).

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(43)	Rabbit Creek	Beginning in the NW¼ Sec.33, T21N, R6W then downstream to mouth at Satsop River Middle Fork (NW¼ Sec.6, T20N, R6W).
(44)	Rendsland Creek	Beginning in the NE¼ Sec.17, T22N, R3W then downstream to mouth at Hood Canal (NW¼ Sec.19, same township).
(45)	Rock Creek[1]	Beginning in the SW¼ Sec.17, T22N, R5W then downstream to mouth at Skokomish River South Fork (SW¼ Sec.22, T22N, R5W).
(46)	Rule Creek[1]	Beginning in the NW¼ Sec.17, T23N, R6W then downstream to mouth at Skokomish River South Fork (SE¼ Sec.8, same township).
(47)	Satsop River (E. Fork)	Beginning at the confluence of Satsop River East Fork, Phillips Creek and Stillwater Creek (SE¼ Sec.22, T20N, R5W) then downstream to Mason-Grays Harbor County boundary (SW¼ Sec.31, T19N, R6W).
(48)	Satsop River (N. Fork)	Beginning in the SE¼ Sec.16, T22N, R6W then downstream to Mason-Grays Harbor County boundary (NW¼ Sec.6, T20N, R6W) then reentering Mason County at SW¼ Sec.31, T19N, R6W then to mouth at Satsop River East Fork (SW¼ Sec.31, T19N, R6W).
(49)	Schneider Creek	Beginning in the NE¼ of SE¼ Sec.32, T19N, R3W then downstream to mouth at Oyster Bay (NE¼ same section).
(50)	Schumacher Creek	Beginning in the NE¼ of NE¼ Sec.15, T21N, R3W then downstream to mouth at Mason Lake (SW¼ Sec.7, T21N, R2W).
(51)	Sherwood Creek	Beginning at the outlet of Mason Lake (NW¼ Sec.34, T22N, R2W) then downstream to mouth at North Bay on Case Inlet (SW¼ Sec.20, T22N, R1W).
(52)	Skokomish River*	From confluence of North Fork of Skokomish River and South Fork Skokomish River (NW¼ of NE¼ Sec.18, T21N, R4W) then downstream to mouth in Great Bend on Hood Canal (NW¼ Sec.6, T21N, R3W) excluding portion on left bank within Skokomish Indian Reservation.
(53)	Skokomish River (N. Fork)	Beginning in the NW¼ Sec.3, T24N, R5W then downstream to the Mason-Jefferson County boundary (in the same section) then returning to Mason County in the NW¼ Sec.5, T24N, R5W then downstream to the confluence with the Skokomish River South Fork (NW¼ of NE¼ Sec.18, T21N, R4W).
(54)	Skokomish River (S. Fork)	Beginning in the NE¼ of NW¼ Sec.6, T23N, R6W then downstream to confluence with Skokomish River North Fork (NW¼ of NE¼ Sec.18, T21N, R4W).
(55)	Skokomish River (S. Fork), Unnamed Trib[1]	Beginning in the NE¼ of SW¼ Sec.6, T23N, R6W then downstream to confluence with Skokomish River South Fork (SW¼ of NE¼ same section).
(56)	Skookum Creek	Beginning in the SE¼ Sec.28, T19N, R4W then downstream to mouth at Little Skookum Inlet in Puget Sound (NW¼ Sec.20, T19N, R3W).

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(57)	Tahuya River	Beginning at the Mason-Kitsap County boundary in NE¼ Sec.1, T23N, R2W then downstream to mouth at Hood Canal near Tahuya (NE¼ Sec.27, T22N, R3W).
(58)	Union River	Beginning at the Mason-Kitsap County boundary in SE¼ of NE¼ Sec.9, T23N, R1W) then downstream to mouth of Lynch Cove near Belfair (NE¼ Sec.31, T23N, R1W).
(59)	Unnamed Creek	Beginning in the SW¼ of NE¼ Sec.33, T21N, R5W then downstream to mouth at Nahwatzel Lake (SW¼ Sec. 4, T20N, R5W).
(60)	Vance Creek	Beginning in the NE¼ of NE¼ Sec.26, T22N, R6W then downstream to mouth on Skokomish River South Fork (SE¼ Sec.12, T21N, R5W).
(61)	Waketickeh Creek	Beginning in the SW¼ Sec.10, T24N, R3W then downstream to mouth at Hood Canal (SW¼ Sec.23, same township).
(62)	Walter Creek[1]	Beginning in the NE¼ Sec.15, T22N, R6W then downstream to mouth at Satsop River Middle Fork (SE¼ Sec.16, same township).
(63)	Washington Creek[1]	Beginning in the SW¼ Sec.23, T24N, R4W then downstream to mouth at Jefferson Creek (SW¼ Sec.13, same township).
~~(64)~~	~~Winter Creek~~	~~Beginning in the SE¼ Sec.36, T21N, R5W then downstream to mouth at Goldsborough Creek North Fork (SE¼ Sec.8, T20N, R4W).~~

Note: Legal descriptions go from the 20 cfs starting point downstream to the river or stream mouth.
[1] In National Forest lands only.
* Shoreline of Statewide Significance (downstream from the confluence of the North and South Forks)

Commented [MW4]: Winter Creek was taken off this list last comprehensive update due to not meeting the requirements of a shoreline of the state, GIS mapping was updated in the last comprehensive update, but missed in the table.

Table 17.50.060-C: Mason County Shorelines of the State - Lakes

#	Lake Name	Location	Section(s)	Acres	Miles
1	Anderson, Lake	T22N-R1W	19-E1/4	45	0
2	Arrowhead, Lake (Simpson)	T19N-R5W	17	33	3
3	Bennettsen, Lake	T23N-R2W	20-NE1/4	27	1
4	Benson Lake	T21N-R2W	3-W1/2	80	2
5	Blacksmith Lake	T23N-R2W	3-S1/4	27	1
6	Catfish Lake	T20N-R5W	1-SE1/4	25	1
7	Coon Lake	T22N-R2W	24-E1/4	20	1
8	Cranberry Lake	T21N-R3W	28 & 29	397	9
9	Cushman, Lake*	T22N-R4W T23N-R4W T23N-R5W	5 & 6 7,18,19,20,29,30,31,32 10-15,24	4,010	19
10	Devereaux Lake	T22N-R1W	7 & 18	98	3

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11	Erdman Lake	T23N-R2W	31-NW1/4	27	1
12	Fawn Lake	T19N-R3W	4 & 5	57	2
13	Forbes Lake	T20N-R2W	29 & 30	38	1
14	Goat Ranch Lake	T23N-R2W	23	32	1
15	Goose Lake	T20-R4W	12 & 13 (W1/2)	20	1
16	Hanks Lake	T20N-R5W	1 & 2	22	1
17	Haven Lake	T23N-R2W	30	69	2
18	Isabella Lake	T20N-R3W T19N-R3W T19N-R4W	31 6 1	338	5
19	Island Lake	T20N-R3W T19N-R3W T19N-R4W	31 6 1	105	2
20	Johns Lake	T20N-R4W	1 & 2	16	1
21	Kokanee, Lake (Cushman Res. No. 2; Lower Lake Cushman)	T22N-R4W	9 &16	105	6
23	Limerick, Lake	T21N-R3W	22 & 27	132	4
22	Lilliwaup Swamp (w/ Tenas Lake)	T23N-R4W	2,10, 11,15,16	475	9
24	Lost Lake	T19N-R5W	1-E1/2	123	3
25	Maggie Lake	T22N-R3W	14-NW1/4	23	1
26	Mason Lake	T21N-R2W T22N-R2W	4,5,7,8 32-34	977	11
27	Melbourne Lake	T23N-R4W	7 & 12	39	2
28	Nahwatzel Lake	T20N-R5W	4,5,8 & 9	280	3
29	Panhandle Lake	T20N-R5W	36-W1/4	22	1
30	Panther Lake	T23N-R1W	6	27	1
31	Phillips Lake	T20N-R2W	5	107	3
32	Price Lake	T23N-R4W	22-NE1/4	192	4
33	Rex Lake	T21N-R3W	33-SW1/4	30	1
34	Section One Pond	T23N-R1W T23N-R2W	6 & 7 1	39	2
35	Spencer Lake	T21N-R2W	32	213	5
36	Star Lake (Lystair)	T19-R5W	8-NE1/4	41	2
37	Stump Lake	T19N-R5W	28 & 33 (W1/2)	75	3
38	Tee Lake	T23N-R3W T22N-R3W	35 2	48	2
39	Tiger Lake	T23N-R1W	5	98	2
40	Timber Lake	T20N-R2W	7 & 18	123	4

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41	Trails End Lake	T22N-R2W	23 & 24	73	2
42	Twin Lakes	T23N-R2W	17-E1/2	41	2
43	Unnamed Lake - Elfendahl Pass	T23N-R2W	22-E1/2	33	2
44	West Lake	T22N-R5W	33-NW1/4	34	2
45	Wooten, Lake	T23N-R2W	19-S1/2	68	2
Totals				***8,903***	***136***

** Shoreline of Statewide Significance*

17.50.070 Use Preferences and Shorelines of Statewide Significance

A. USE PREFERENCES

1. The public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. To this end, uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shorelines.

2. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses, including but not limited to, parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial development which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of people to enjoy the shorelines of the state.

3. Permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water (RCW 90.58.020).

B. SHORELINE OF STATEWIDE SIGNIFICANCE

1. The Shoreline Management Act of 1971 has designated the following shoreline areas of Mason County as Shorelines of Statewide Significance:
    a. Marine waters and shorelands (200 feet landward of the OHWM) of Hood Canal;
    b. Marine waters of South Puget Sound seaward from extreme low tide;
    c. Freshwater of Lake Cushman including shorelands; and
    d. Skokomish River (downstream from the confluence of its North and South Forks) including shorelands.

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2. The Act states, concerning Shorelines of Statewide Significance: "The Legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance." In managing shorelines of statewide significance, Mason County shall give preference to uses in the following order of preference which:

   a. Recognize and protect the statewide interest over local interest;

   b. Preserve the natural character of the shoreline;

   c. Result in long term over short term benefit;

   d. Protect the resources and ecology of the shoreline;

   e. Increase public access to publicly owned areas of the shoreline;

   f. Increase recreational opportunities for the public in the shoreline;

   g. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

17.50.080 Environment Designations

A. PURPOSE AND CRITERIA

Shoreline environment designations are classifications of shoreline areas that reflect local shoreline conditions, including ecological functions and shoreline development.

1. "Natural" Shoreline Environmental Designation

a. Purpose

The purpose of the Natural designation is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded ecological functions that would become irreversibly impaired as a result of human development and activity. These systems require that only very low intensity uses be allowed in order to maintain ecological functions and ecosystem-wide processes.

b. Designation Criteria

Shorelines that are relatively unaltered and provide high shoreline ecological functions and have one or more of the following qualities:

   i. Areas that are ecologically intact and perform irreplaceable ecological functions or ecosystem-wide processes;

   ii. High value wetland complexes with important ecological functions that have generally intact buffers;

   iii. High quality estuaries;

   iv. High quality accretional spits;

   v. High quality bluff-backed beaches, barrier beach, barrier estuary, deltas;

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vi. Feeder bluffs that have minimal or no existing development above or below the slope;

vii. Cold water inputs and springs that have been identified to be critical for salmonid habitats;

viii. Areas that are critical for the support of priority wildlife species (waterfowl concentrations, bald eagle habitat);

ix. Areas with which Federal or State endangered and threatened of wildlife have a primary association;

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

xi. Areas of particular scientific and educational interest; or

xii. Puget Sound Nearshore Estuary Restoration Program score of "least degraded."

2. "Conservancy" Shoreline Environmental Designation

a. Purpose

The purpose of the Conservancy designation is to protect and restore ecological functions and conserve existing natural resources and valuable historic and cultural areas in order to provide for sustained resource and agricultural use and recreational opportunities.

b. Designation Criteria

Shorelines with one or more of the following qualities:

i. Partially developed or relatively intact areas that include landslide or erosion hazard areas, feeder bluffs, wetlands, high quality riparian areas, or other critical areas;

ii. Areas that are currently supporting resource-based uses, such as forestry, agriculture, or aquaculture;

iii. Partially developed or relatively intact areas that include channel migration zones or extensive floodplains;

iv. Areas designated as forestry lands per Comprehensive Plan designations that do not qualify as Natural shoreline environments.

v. Currently supporting or can support low-intensity recreational activities (e.g., small campgrounds, unpaved trails);

vi. Currently supporting or can support low-intensity water-dependent uses;

vii. High recreational value or with unique historic or cultural resources; or

viii. Puget Sound Nearshore Estuary Restoration Program score of "less degraded."

3. "Rural" Shoreline Environmental Designation

a. Purpose

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The Rural designation is intended to protect agricultural land from urban expansion, restrict intensive development along undeveloped shorelines, function as a buffer between urban areas, maintain open spaces and floodplains, and allow for opportunities for recreational uses compatible with agricultural activities.

b. Designation Criteria

Shorelines located outside UGA's, RAC's, and Hamlets that are developed or partially developed; characterized by large lot sizes; designated Rural Residential 10, Rural Residential 20, In-holding Lands, or Agricultural Resource Lands; and have one or more of the following qualities:

i. A mix of uses including agriculture, large lot residential, tree farms, and/or moderately intensive recreation (RV or tent campgrounds, paved trails, day-use parks);

ii. Developed or partially developed areas that include channel migration zones or floodplains; or

iii. Areas designated as agricultural lands per Comprehensive Plan designations.

4. "Residential" Shoreline Environmental Designation

a. Purpose

The purpose of the Residential designation is to accommodate residential development in areas already developed with or planned primarily for residential uses. Intensive recreational uses and public access are appropriate, provided impacts to ecological functions are mitigated or avoided.

b. Designation Criteria

Shorelines that are developed; characterized by small lot sizes; designated as Rural Residential 2.5, Rural Residential 5, Allyn UGA residential zones, or Belfair UGA residential zones; and have one or more of the following:

i. Areas that are predominantly developed with single-family or multifamily residential development;

ii. Areas planned and platted for residential development, but are not predominantly characterized by critical areas, floodplains and/or channel migration zones;

iii. Areas with a proliferation of docks/piers and structural armoring;

iv. Areas developed with or planned for highly intensive recreational uses (e.g., marinas, boat launches); or

v. Puget Sound Nearshore Estuary Restoration Program nearshore degradation score of moderate to most degraded.

5. "Commercial" Shoreline Environmental Designation

a. Purpose

The purpose of the Commercial designation is to ensure optimum utilization of shorelines within commercial areas.

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b. Designation Criteria

Shorelines that do not qualify for a Natural or a Conservancy designation and that have one of the following qualities:

i. Areas zoned commercial within an Urban Growth Area; or

ii. Areas zoned Rural Commercial or Rural Tourist; or

iii. Areas with commercial development.

6. "Aquatic" Shoreline Environmental Designation

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. Criteria

The Aquatic environment designation applies to all shoreline areas waterward of the ordinary high water mark on both freshwater and saltwater.

B. ENVIRONMENT DESIGNATIONS MAP

The Mason County Official Shoreline Environmental Designations Map (herein referred to as "map") is hereby made a part of this Title. The map illustrates shoreline environment designations that apply to each segment of the Shoreline jurisdiction, clearly indicating, by color code, the particular environment designation for all shoreline planning areas.

1. Mapping Boundaries

Where the exact location of a jurisdiction or environment designation boundary line is uncertain, the official environment designation map will be used to determine the location of such line. When resorting to the environment designation map does not resolve the conflict, the following rules will apply:

a. Boundaries indicated as approximately following the center lines of streets, highways, alleys or other roadways shall be construed to follow such center lines;

b. Boundaries indicated as approximately following lot, fractional section or other subdivision lines shall be construed as following such subdivision lines;

c. Boundaries indicated as approximately following any lines of corporate limits or other local government jurisdictional lines shall be construed as following such lines;

d. Boundaries indicated as following railroad lines shall be construed as following the center line of the railroad right-of-way;

e. Boundaries indicated as parallel to or extensions of features identified in subsections a through d above shall be so construed;

f. Boundaries between parallel environment designations shall be construed as the top of the bluff or vegetation line that distinguishes existing development from the critical area abutting the shoreline;

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g. When not specifically indicated on the environment designation map, distances shall be determined by the scale of the map;

h. Where existing physical or cultural features are at variance with those shown on the environment designation map and cannot be determined with certainty by applying subsections a through f above, the County shall determine the location or existence of such feature utilizing the provisions of WAC 173-26-211, the policies of RCW 90.58.020, and the corresponding Master Program provisions herein; and

i. Where a developed road intersects the shoreline jurisdiction such that the intersect is between two distinct parcels, or where a parcel is separated from the water by an additional parcel, the parcel on the landward side may not be required to meet certain Mason County Shoreline Master Program development regulations for that designation (such as public access, water-oriented use, or vegetation conservation standards), provided all other applicable provisions of this Program are met, including no net loss of shoreline ecological functions.

2. Mapping Errors

Some mapping errors may be adjusted prior to a Master Program amendment to assign the appropriate designation to that area by the following methods:

a. The common boundary descriptions and the criteria in RCW 90.58.030(2) and Chapter 173-22 WAC supersede the map when there are mapping error conflicts, other than those with a solution provided in this section.

b. In the event that a jurisdictional area, including associated wetlands, is not mapped, it will automatically be assigned a "Conservancy" designation. Such designation will apply until a Master Program amendment is approved that assigns the appropriate designation to the subject area.

c. In the event that a parcel was inadvertently assigned more than one designation (perpendicular to the shore), the more restrictive designation shall apply.

d. In the event that a parcel on the boundary between two designations appears to be a mapping error based on the criteria in this section, the County shall apply the mostappropriate of the two designations, until such time as the map can be formally corrected consistent with WAC 173-26-100.

e. In the event of an environment designation mapping error where the Master Program update or amendment record, including the public hearing process, is clear in term of the correct environment designation to apply to a property, the County shall apply the environment designation approved through the Master Program Update or Amendment process and correct the map.

f. If the environment designation criteria were misapplied, but the map does not show an unintentional error, a Master Program amendment may be obtained consistent with WAC 173-26-100. This process is intended to allow for reasonable flexibility in the Shoreline Environment Designation process. Such process shall include early consultation with the Department of Ecology and appropriate public process prior to local approval.

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17.50.090 Project Classifications

A. Development proposals that propose to locate along the shoreline are categorized within each shoreline designation as "permitted," "conditional uses," or "prohibited." This priority system determines the proposal's administrative requirements and encourages activities that are compatible with each shoreline designation.

B. Definitions:

1. **Permitted**. Those allowed uses that are preferable and meet the policies of the particular shoreline designation. See definition of Substantial Development Permit and 17.50.400 of the Shoreline Master Program.

2. **Conditional Use**. A Conditional Use Permit is intended to allow for flexibility and the exercise of judgment in the application of regulations in a manner consistent with the policies of the Shoreline Management Act and the Master Program. While not prohibited, these uses are an exception to the general rule. Criteria used for judging conditional uses are outlined in 17.50.400 of the Shoreline Management Program.

3. **Prohibited.** Some developments and uses are viewed as inconsistent with the definition, policies or intent of the shoreline environmental designation. For the purposes of this program, these uses are not considered appropriate and are not allowed, including by Conditional Use or Variance.

Table Key:

P = Permitted (with a Shoreline Substantial Development Permit or Shoreline Exemption and subject to siting and design requirements).

C = Conditional Use Permit (and a Shoreline Substantial Development or Shoreline Exemption).

C/P = Requires a Conditional Use Permit in some circumstances (see regulations).

X = Prohibited.

n/a = Not applicable.

* = See upland designation.

Table 17.50.090-A: Project Classification Table

SHORELINE USES AND MODIFICATIONS	SHORELINE ENVIRONMENT DESIGNATIONS					
	Commercial	Residential	Rural	Con-servancy	Natural	Aquatic
Agriculture						
Agriculture	P	P	P	P	C	X
Commercial feedlots	X	X	C	X	X	X
Upland finfish rearing facilities	X	X	C	C	X	n/a

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Table 17.50.090-A: Project Classification Table

SHORELINE USES AND MODIFICATIONS	SHORELINE ENVIRONMENT DESIGNATIONS					
	Commercial	Residential	Rural	Con-servancy	Natural	Aquatic
Aquaculture						
Non-floating	P	P	P	P	C	P
Floating	P	P	P	P	C	P
Finfish net pens	n/a	n/a	n/a	n/a	n/a	C/X[1]
Gravel enhancement >1,000 cy	n/a	n/a	n/a	n/a	n/a	C
Commercial geoduck[2]	C	C	C	C	C	C
[1] Prohibited in Hood Canal, exceptions apply. [2] Except that a Conditional Use Permit is not required for conversions.						
Commercial						
Water-dependent uses	P	C	C	C	X	*
Water related & water enjoyment	P	C	C	C	X	See regs.
Non-water oriented						
Without waterfront[1]	P	X	X	X	X	n/a
With waterfront	C[2]/X	X	X	X	X	X
Part of a mixed use project[3]	C	C	C	X	X	X
[1] If the site is physically separated from the shoreline by another property or public right-of-way. [2] If navigability is severely limited at the proposed site and the commercial use provides a significant public benefit such as providing public access or ecological restoration. [3] If part of a mixed use project that provides a significant public benefit such as public access or ecological restoration. See regulations.						
Forest Practices						
Forestry	X	P	P	P	C	X
In-Stream Structures						
Utility-related	C	C	C	C	X	*
Habitat enhancement	P	P	P	P	P	*
Temporary research devices	P	P	P	P	P	*
Other	C	C	C	C	X	*
Marinas						
Marinas	C	C	C	X	X	*

Table 17.50.090-A: Project Classification Table

SHORELINE USES AND MODIFICATIONS	SHORELINE ENVIRONMENT DESIGNATIONS					
	Commercial	Residential	Rural	Con-servancy	Natural	Aquatic
Mining						
Mining	C[1]/X[2]	C[1]/X[2]	C[1]/X[2]	C[1]/X[2]	X	C[1]/X[3]
1. Mining is only allowed if it is 'water dependent.'						
2. Mining is prohibited on shorelands of Hood Canal.						
3. The mining of sand, gravel, cobbles, rock, or other native substrate from any marine beaches or lake shores below the ordinary high water mark is not permitted.						
Outdoor Advertising, Signs and Billboards						
Water dependent, navigational, public safety, or temporary	P	P	P	P	P	P
Other	P	P	P	P	P	X
Industrial and Marine Terminal Development						
Water-dependent and water related	P	C	C	C	X	C
Non-water oriented						
Without waterfront[1]	C	X	X	X	X	n/a
With waterfront	C[2]/X	X	X	X	X	X
Part of a mixed use project[3]	C	C	C	C	X	X
[1] If the site is physically separated from the shoreline by another property or public right-of-way.						
[2] If navigability is severely limited at the proposed site and the use provides a significant public benefit such as providing public access or ecological restoration.						
[3] If part of a mixed use project that provides a significant public benefit such as public access or ecological restoration. See regulations.						
Recreational						
Water oriented (including parks and scientific/ environmental education facilities)	P	P	P	P	C	C[1]/X
Non-water oriented	P	C	C	C	C[2]/X	X
[1] Water dependent.						
[2] Non-water oriented campsites may be approved in the Natural environment with a Conditional Use Permit, provided they are primitive in nature and not accessible by vehicles.						

Table 17.50.090-A: Project Classification Table

SHORELINE USES AND MODIFICATIONS	SHORELINE ENVIRONMENT DESIGNATIONS					
	Commercial	Residential	Rural	Con-servancy	Natural	Aquatic
Residential						
Single-family	P	P	P	P	C	X
Duplex	P	P	X	X	X	X
Multi-family	P	C	X	X	X	X
Accessory dwelling units	P	P	P	C	X	X
Floating homes	n/a	n/a	n/a	n/a	n/a	X
Cottage industries	P	P	C	C	C	C
Restoration and Enhancement Projects						
Restoration and enhancement projects	P	P	P	P	P	P
Transportation Facilities						
Transportation (roads and railways)	P	P	P	C	C	C
Parking - accessory to permitted use	P	P	P	C	X	X
Parking – primary use	X	X	X	X	X	X
Utilities						
Production and processing	C	C	C	C	X	C
Transmission facilities	P	P	P	P	C	C
Shoreline Modifications						
Beach Access Structures						
Beach access structures	P	P	P	P	C	*
Boat Launches						
Trailer launched	P	P	C	C	X	*
Hand launched	P	P	P	P	C	*
Upland davits	P	P	P	P	X	n/a
Breakwaters, Jetties, Groins						
Breakwaters, jetties, and groins	C	C	C	C	X	C

Table 17.50.090-A: Project Classification Table

SHORELINE USES AND MODIFICATIONS	SHORELINE ENVIRONMENT DESIGNATIONS					
	Commercial	Residential	Rural	Con-servancy	Natural	Aquatic
Docks, Floats, Mooring Buoys, Boat Lifts, and Covered Moorage						
Docks (piers, ramps, and/or attached floats)						
Hood Canal	P	P[1]/C	n/a	P[1]/C[3]/X[2]	X	*
South Puget Sound	P	C[4]/P	n/a	C	X	*
Lakes	P	P	P	P[1]/C	X	*
Rivers	X	X	X	X	X	X
Unattached floats	n/a	n/a	n/a	n/a	n/a	P
Mooring buoys	n/a	n/a	n/a	n/a	n/a	P
Boat lifts & overwater davits	P	P	P	C	X	*
Covered moorage/overwater boathouses	n/a	n/a	n/a	n/a	n/a	X[5]
[1] Public recreational use. [2] A new, private dock serving an individual residential lot is prohibited. [3] Joint-use or community docks are permitted with a Conditional Use Permit (and Shoreline Substantial Development permit). [4] A new, private dock serving an individual residential lot may be permitted with a Conditional Use Permit (and Shoreline Substantial Development Permit). Joint-use, community, or public recreational docks are permitted without a Conditional Use Permit. [5] Permitted only in marinas.						
Dredging						
Maintenance dredging	n/a	n/a	n/a	n/a	n/a	P
Non-maintenance dredging						
Restoration dredging	n/a	n/a	n/a	n/a	n/a	P
Other non-maint. dredging	n/a	n/a	n/a	n/a	n/a	C/X
Dredge material disposal						
Restoration disposal	P	P	P	P	C/P	P
Other dredge material disposal	C	C	C	C	C	C
Flood Control						
Dams for the sole purpose of flood control	X	X	X	X	X	X
All other, including dikes and levees	C	C	C	C	X	X

Table 17.50.090-A: Project Classification Table

SHORELINE USES AND MODIFICATIONS	SHORELINE ENVIRONMENT DESIGNATIONS					
	Commercial	Residential	Rural	Con-servancy	Natural	Aquatic
Grading						
Water dependent	P	P	P	C	C	P[1]/C[2]/X
Non-water dependent	C	C	C	C	C	C[2]/X
Sanitary landfill	X	X	X	X	X	X
[1] May be authorized for restoration projects without a Conditional Use Permit. [2] Grading in Aquatic is allowed in certain circumstances with a Conditional use Permit. See regulations.						
Shoreline Stabilization						
Shoreline stabilization	P	P	P	P	C	*

17.50.100 GENERAL Policies and Regulations

17.50.105 ARCHAEOLOGICAL, CULTURAL AND HISTORIC RESOURCES

A. POLICIES

1. The County should consult with professional archaeologists to maintain an inventory of areas containing potentially valuable archaeological data, while adhering to applicable state and federal laws protecting such information from public disclosure.

2. Where possible, sites should be permanently preserved for scientific study and public observation. In areas known to contain archaeological data, the County shall require a site inspection and evaluation by an archaeologist to ensure that possible archaeological data is properly managed.

3. Shoreline permits, in general, should contain provisions which require developers to stop work and notify appropriate state and tribal authorities if archaeological data is uncovered during excavation.

4. The National Historic Preservation Act provides for the protection, rehabilitation, restoration and reconstruction of districts, sites, building, structures and objects significant to American and Washington history, architecture, archaeology or culture. Development or uses that may impact archaeological sites are subject to the Indian graves and records act (RCW 27.44), the archaeological sites and records act (RCW 27.53), and archaeological excavation and removal rules found in WAC 25-48.

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B. REGULATIONS

1. Mapped/Documented Archaeological Areas and Historic Structures

    a. Prior to issuing a development permit or exemption with a ground breaking or ground covering component for a project within 500 feet of a known, documented archaeological area or within 100 feet of a known, documented historic structure, the applicant shall provide a cultural resource site assessment to determine the presence of archaeological or historic resources in the area of the proposal.

    b. The requirement for a site assessment may be waived in the following circumstances:

        i. With the Department of Archaeology and Historic Preservation and Tribal consent, if the applicant can demonstrate the proposed development clearly will not disturb the ground or impact a known site or resource; or

        ii. If the applicant can demonstrate to the County's satisfaction that his or her proposal has already undergone a cultural resources review process of equal intent.

    c. If the cultural resource site assessment identifies the presence of archaeological, historic, or cultural resources, appropriate recommendations shall be included as part of the assessment.

    d. Site assessments prepared for archaeological areas shall be prepared by a professional archaeologist, as defined under RCW 27.53.030(11). Site assessments prepared for historic structures shall be prepared by a historic preservation professional. Site assessments shall meet the survey and inventory standards in the "Washington State Standards for Cultural Resources Reporting" dated January 2013, or as amended thereafter. The landowner or project proponent shall be responsible for any professional service fees.

    e. The County shall forward the site assessment to DAHP and the applicable Tribe, who will have 14 days to provide comment. If either has found that the site assessment submitted by the applicant is not complete (per (d) above), the permit will be placed on hold by the County until 14 days after the County forwards the revised assessment to DAHP and the applicable Tribe.

    f. The County may condition the permit so that the applicant obtains any necessary DAHP permits under RCW 27.53; implements any avoidance, minimizing, or mitigating factors recommended by the author of the report, DAHP, and/or the applicable Tribe; or notifies the applicable Tribes prior to proceeding with development.

    g. In order to provide the Tribes and DAHP the opportunity to determine if a proposed project is near a known cultural resource, whether or not it is depicted on the map that the County utilizes, Mason County will provide on their website a link that will generate a table of permit and exemption application case numbers, dates received or entered into the database, project locations, and project descriptions. The Tribes and DAHP will have 14 days from the date the application information is available on the website to recommend that the County require the applicant to submit a cultural resource site assessment. However, if the project requires SEPA review, and if the County is the lead agency, the comment period is extended to include the SEPA comment period.

2. Inadvertent Discovery.

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a. If items of possible historic, archaeological or cultural interest are inadvertently discovered during any new shoreline use or development, the proponent shall immediately stop work and notify the County Community Services Department, Washington State Department of Archaeology and Historic Preservation, and the affected tribe. The stop work order shall remain in effect until DAHP has authorized that the proposed development may proceed.

b. If ground disturbing activities encounter human skeletal remains during the course of construction, then all activity shall cease that may cause further disturbance to those remains. The area of the find shall be secured and protected from further disturbance. The finding of human skeletal remains shall be first reported to local law enforcement and the County medical examiner/coroner in the most expeditious manner possible. The remains shall not be touched, moved, or further disturbed. The County medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the County medical examiner/coroner determines the remains are non-forensic, then they shall report that finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take jurisdiction over the remains.

3. Emergency Process for Protecting Cultural Resources.

In the event that unforeseen factors constituting an emergency as defined in RCW 90.58.030 necessitate rapid action to retrieve or preserve archaeological or historical resources, the construction necessary to protect the project property may be exempted from the requirement to obtain a Shoreline Substantial Development Permit. The County shall notify the State Department of Ecology, the State Attorney General's Office, potentially affected tribes, and the State Department of Archaeology and Historic Preservation of such a waiver within 30 days of such action.

17.50.110 ECOLOGICAL PROTECTION, CRITICAL AREAS, NO NET LOSS

A. POLICIES

1. Ecological Protection, Critical Areas, No Net Loss

a. This program aims to protect against adverse effects on the public health, on the land and its vegetation and wildlife, and the waters and their aquatic life by:

i. Requiring that current ecological functions be identified and understood when evaluating new uses and developments;

ii. Requiring adverse impacts be mitigated in a manner that ensures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources. "No net loss" means that existing shoreline ecological functions are not degraded as a result of new development. This can be achieved through mitigation which involves first avoiding the impact altogether, then minimizing impacts where possible, and then replacing or compensating for unavoidable loss of functions and resources.

iii. Ensuring that all uses and developments regulated under the Act, including preferred uses and uses that are exempt from a Shoreline Substantial Development Permit, will not cause a net loss of shoreline ecological functions.

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iv. Preventing, to the greatest extent practicable, cumulative impacts from individual developments.

v. Fairly allocating the burden of preventing cumulative impacts among development opportunities.

vi. Including incentives to restore shoreline ecological functions where such functions have been degraded by past actions.

b. This program should incorporate relevant critical area, excavation and grading, vegetation conservation, stormwater management and on-site septic system regulations that implement these policies.

c. This program should include a mechanism for documenting all project review actions in shoreline jurisdiction. The County should evaluate the cumulative effects of authorized development on shoreline conditions as part of legislatively-mandated comprehensive program reviews. The County should seek involvement of state resource agencies, affected Indian tribes, and other parties.

2. Vegetation Conservation

a. This program is intended to maintain shoreline vegetation that protects human safety and property, increases the stability of river banks and coastal bluffs, reduces the need for structural shoreline stabilization measures, improves the visual and aesthetic qualities of the shoreline, protects plant and animal species and their habitats, and enhances shoreline uses.

b. New uses and developments should be located and designed to preserve native shoreline vegetation to maintain shoreline ecological functions and prevent direct, indirect and cumulative impacts of shoreline development.

c. The County should implement vegetation conservation policies through a variety of means, including fish and wildlife habitat conservation area and wetland setback and buffer standards, conditional use requirements for specific uses or areas, mitigation requirements, incentives and non-regulatory programs.

3. Water Quality and Quantity

a. This program seeks to maintain and improve water quality for human health, environmental protection, and protection of water-dependent businesses.

b. The location, construction, operation, and maintenance of shoreline uses and developments should maintain or enhance the quantity and quality of surface and ground water over the long term.

c. The County should ensure mutual consistency between shoreline management provisions and other regulations that address water quality and storm water quantity, including public health, storm water, and water discharge standards.

B. REGULATIONS

1. No Net Loss and Mitigation

a. Except when specifically exempted by statute, all new shoreline use and development, including preferred uses and uses that are exempt from permit requirements, shall be

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located, designed, constructed, conducted, and maintained in a manner that maintains shoreline ecological functions.

b. Proponents of new shoreline use and development shall employ measures to mitigate unavoidable adverse environmental impacts to ensure no net loss of ecological functions necessary to sustain shoreline resources.

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

    i. Avoiding the adverse impact altogether by not taking a certain action or parts of an action;

    ii. 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;

    iii. Rectifying the impact by repairing, rehabilitating or restoring the affected environment;

    iv. Reducing or eliminating the impact over time by preservation and maintenance operations;

    v. Compensating for the adverse impact by replacing, enhancing, or providing substitute resources or environments;

    vi. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

d. In determining appropriate mitigation measures applicable to shoreline development, lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.

e. Required mitigation shall not exceed a level necessary to assure that proposed uses or development will result in no net loss of shoreline ecological functions.

f. Mitigation actions shall not have a significant adverse impact on other shoreline uses fostered by the policies of the Shoreline Management Act.

g. Compensatory mitigation measures shall occur in the vicinity of the impact or at an alternative location within the same watershed or marine shoreline reach that provides greater and more sustainable ecological benefits.

    i. When determining whether offsite mitigation provides greater and more sustainable benefits, the County shall consider limiting factors, critical habitat needs, and other factors identified by a locally adopted shoreline restoration plan, or an approved watershed or comprehensive resource management plan.

    ii. Considerations for determining whether off-site mitigation is preferable include, but are not limited to:

        (a) On-site conditions do not favor successful establishment of functions, such as lack of proper soil conditions or hydrology;

        (b) On-site compensation would result in a habitat that is isolated from other natural habitats or severely impaired by the effects of the adjacent development;

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(c) Off-site location is crucial to one or more species that is threatened, endangered, or otherwise of concern, and the on-site location is not;

(d) Off-site location is crucial to larger ecosystem functions, such as providing corridors between habitats, and the on-site location is not; and

(e) Off-site compensation has a greater likelihood of success or will provide greater functional benefits.

iii. The County may also approve use of alternative mitigation practices such as in-lieu fee programs, mitigation banks, and other similar approaches provided they have been approved and sanctioned by the Department of Ecology and other applicable state and federal agencies.

h. Authorization of compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions. See the Fish & Wildlife Habitat Conservation Areas chapter of the Resource Ordinance (MCC 8.52.170.J) for detailed requirements for Habitat Management Plans, mitigation, monitoring, maintenance, and bonding.

i. Land that is constrained by critical areas and buffers shall not be subdivided to create parcels that are only buildable through a Shoreline Variance.

2. Critical Areas

a. Applicability

i. Subject to exceptions listed below, the critical area provisions of the Mason County Resource Ordinance (MCC 8.52) adopted on August 3rd 1993 as Ordinance Number 77-93 and ~~last~~ as amended thereafter ~~on September 19, 2017 as Ordinance Number 51-17~~ are adopted by reference and shall apply within shoreline jurisdiction.

ii. Critical area provisions do not extend shoreline jurisdiction beyond the limits specified in this SMP. For regulations addressing critical area buffers that are outside Shoreline Jurisdiction, see Resource Ordinance, Chapter 8.52 MCC.

iii. In the event provisions of MCC 8.52 are found inconsistent with standards and requirements in this Program, this Program shall govern, except as provided below.

iv. Shoreline uses and developments shall be consistent with MCC Chapter 14.22 Flood Damage Prevention, as amended. Where provisions of the FDPO and the SMP conflict, the more restrictive provisions shall apply.

v. The following procedural provisions differ from MCC 8.52 within shoreline jurisdiction:

(a) Applications that are processed as a Mason Environmental Permit per MCC 8.52.190(C), and do not require a Shoreline Variance, Shoreline Substantial Development Permit, or Shoreline Conditional Use shall instead be processed as a Shoreline Exemption.

(b) The general exemptions in section 8.52.200 do not apply. For exemptions to the SMP, see section 17.50.060(E) and WAC 173-27-045. For exemptions from the Substantial Development Permit process, see section 17.50.400 and WAC 173-27-040.

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(c) "New residential construction" does not include any replacements or repairs of legally established structures.

(d) Development applications that are processed according to the Reasonable Use Exception provisions of MCC 8.52.190(K) or Variance provisions of MCC 8.52.220 shall instead be processed as a Shoreline Variance.

(e) MCC 8.52.210 regarding 'nonconforming use and development' shall instead be subject to MCC 17.50.120 within shoreline jurisdiction.

(f) MCC 8.52.250 regarding 'appeals' does not apply within shoreline jurisdiction.

(g) MCC 8.52.260 regarding 'judicial review' does not apply within shoreline jurisdiction.

b. Buffers and Setbacks

i. Buffers and setbacks in shoreline jurisdiction are consistent with requirements of MCC 8.52 and Table 17.50.110-A.

ii. Unless otherwise specified, buffers shall be maintained in predominantly natural, undisturbed, undeveloped and vegetated condition. Regulated buffers shall not extend across lawfully established ~~paved~~ public roads ~~or hardened surfaces~~ to include areas which are functionally isolated from the critical area.

iii. New shoreline development shall be located landward of the minimum shoreline buffer plus building setback, except as specified in this Program or with the approval of a Shoreline Variance.

iv. As authorized by MCC 8.52.170(E)(3)(b), special setbacks may be authorized for single-family residences on existing lots in certain circumstances without a Shoreline Variance.

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

vi. In accordance with RCW 90.58.065, this Program shall not restrict existing or ongoing agricultural activities occurring on agricultural lands.

3. Dimensional Standards for Shoreline Development

a. Table 17.50.110-A establishes buffer and dimensional standards for shoreline development.

b. A standard height limit of thirty-five feet (35') shall apply within shoreline jurisdiction, unless Mason County zoning code requires a lesser height. Height is measured according to MCC 17.50.020, Definitions. Power poles and transmission towers associated with allowed uses and developments are not subject to height limits but shall not be higher than needed to achieve the intended purpose. Consistent with MCC 8.52.061.D, agricultural buildings, cell towers, antennas and water tanks are also not subject to height limits. Pursuant to RCW 90.58.320, exceptions are allowed when overriding considerations of the public interest will be served. Bridge structures are examples of structures that serve the public interest.

c. In Conservancy and Natural shoreline environments maximum impervious coverage for residential development shall be limited to ten percent (10%) or 2,550 square feet, whichever is greater. The impervious coverage is calculated by dividing the total area of

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impervious surface (e.g., driveways, buildings, patios, parking lots) located in shoreline jurisdiction by the total lot area that is within shoreline jurisdiction (landward of the OHWM) and then multiplied by one-hundred (100) to convert to percentage points.

d. Minimum lot width shall comply with the dimensions in Table 17.50.110-A.

Table 17.50.110-A: Buffer and dimensional standards for shoreline development.

	Commer-cial	Residential	Rural	Conser-vancy	Natural	Aquatic
1. Minimum Fish & Wildlife Habitat Conservation Area buffer (in feet)						
Streams	150'	150'	150'	150'	150'	NA
Saltwater [1]	50'	100'	100'	150'	150'	NA
Lakes	100'	100'	100'	100'	100'	NA
2. Minimum structural setback from FWHCA (equals buffer plus 15 feet)						
Streams [2]	165'	165'	165'	165'	165'	NA
Saltwater [1, 3]	65'	115'	115'	165'	165'	NA
Lakes [3]	115'	115'	115'	115'	115'	NA
3. Maximum height limit [4]	35'	35'	35'	35'	35'	NA
4. Maximum impervious surface coverage (percent of lot)[5]	See current adopted Stormwater Manual for standards.			10%	10%	NA
5. Minimum lot width	50'	50'	100' [6]	200' [6]	200'	NA

[1] Buffer widths for marine bluffs shall be no less than a distance equal to or greater than a distance from the ordinary high water mark landward at a slope of 2:1 (horizontal to vertical) that intersects with the existing topography of the site.

[2] Or the channel migration zone, whichever is larger.

[3] Common line provisions may apply to residential development per MCC 8.52.170.

[4] Unless a lesser height is required by Zoning.

[5] Total lot area excludes area encompassed by streams, wetlands, landslide hazards, floodways, lakes, and saltwater.

[6] For lots created by performance subdivisions in Rural and Conservancy SED's, the minimum lot width is determined by the zoning (Development Regulations).

4. Vegetation Conservation

a. Unless otherwise specified, all new shoreline uses and development shall comply with the buffer provisions of this program to protect and maintain native shoreline vegetation.

b. Vegetation clearing in shoreline jurisdiction shall be limited to the minimum necessary to accommodate approved shoreline development. Outside shoreline buffers, vegetation removal shall comply with applicable requirements for clearing and grading, forest

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practices, and protection standards for fish and wildlife habitat. Vegetation conservation standards shall not be applied retroactively in a manner that requires lawfully established uses and developments including residential landscaping and gardens to be removed, except when required as mitigation for new or expanded development.

c. Removal of dangerous trees, establishment of view corridors, trimming, pruning, maintenance of existing landscaped areas, and noxious weed removal in buffers shall be conducted in accordance with the regulations in the Mason County Resource Ordinance: MCC 8.52.110.D.2.i, MCC 8.52.140.D.2.c, MCC 8.52.170.D, and Appendix C.

5. Water Quality and Quantity

a. Shoreline use and activity shall incorporate measures to protect and maintain surface and ground water quantity and quality in accordance with all applicable laws.

b. All shoreline uses and activities shall use stormwater and erosion control and treatment methods during both project construction and operation. At a minimum, erosion control methods shall require compliance with the provisions of MCC Chapter 14.48 (Stormwater Management) and 17.80 (Low Impact Development).

c. Where permitted, on-site sewage systems shall be located and designed to meet all applicable water quality, utility, and health standards. The owner must be in compliance with the current edition of Mason County Public Health On-site Standards and Mason County Board of Health On-site Sewage Regulations.

d. Materials used for components that may come in contact with water shall be made of materials approved by applicable state agencies for use in water. Wood treated with creosote, chromated copper arsenate, pentachlorophenol, or other similarly toxic materials is prohibited for use in the Aquatic environment. Tires and tire by-products shall not be used for construction where they would contact the water. Where chemically-treated materials are the only feasible option, materials shall use the least toxic alternative approved by applicable state agencies for use in water. Treated wood elements shall incorporate design features to minimize abrasion by vessels, pilings, floats or other objects.

e. Shoreline developments adjacent to areas suitable for aquaculture shall practice strict pollution control procedures. As required by MCC 8.52.170.D.2, design and siting of all new construction and major new development shall not adversely impact water quality.

17.50.115 ECONOMIC DEVELOPMENT

POLICIES

The County should:

1. Encourage economic growth through economic activities that benefit the local economy and are environmentally sensitive. Such activities should not disrupt or degrade the shoreline or surrounding environment.

2. Accommodate and promote, in priority order, water-dependent, water-related and water-enjoyment economic development, and non-water-oriented economic development that is

part of a mixed use project that includes water-dependent uses and provides a significant public benefit such as providing public access or ecological restoration. Such development should occur in those areas already partially developed with similar uses consistent with this Program, areas already zoned for such uses consistent with the Mason County Comprehensive Plan, or areas appropriate for water-oriented uses and development.

3. Encourage water-oriented recreational use as an economic asset that will enhance public enjoyment of the shoreline.

4. Ensure that water-oriented economic development is carried out in such a way that it has minimal adverse effects and that unavoidable adverse impacts are mitigated to achieve no net loss of shoreline ecological functions.

17.50.120 EXISTING STRUCTURES, USES AND LOTS

REGULATIONS

This section addresses existing structures, uses, and lots that were lawfully constructed or established prior to the effective date of this Master Program, but that do not meet this Program's standards.

1. Existing Structures

   a. Existing ~~lawfully~~ legally constructed structures [and floating homes and floating on water residences] that do not conform to the Program's requirements, including those approved through a Variance, shall be considered 'legal non-conforming~~grandfathered,' with the exception of residential development built overwater or in floodways, which shall be considered 'legal nonconforming.''~~.

   b. ~~Lawfully~~ Legal~~constructed structures, including legal~~ non-conforming structures, may continue and may be maintained, repaired, and replaced within their footprints in accordance with the Act, this Program and other applicable regulations. Applications for replacements ~~for grandfathered or~~ for legal non-conforming structures shall be submitted within five (5) years of the date of damage.

   c. Renovating existing public structures for compliance with applicable accessibility regulations shall not trigger a CUP or Variance, provided that impacts to ecological functions are mitigated.

   d. Except for overwater structures, ~~grandfathered~~ legal non-conforming residences may be expanded by addition of space above the existing building footprint up to authorized heights without a Variance. Upward expansions shall minimize impacts to existing views of the water to the greatest extent practical. For the purposes of this subsection, footprint does not include covered decks on waterward side of residence, ~~or~~ uncovered decks, boat houses, sheds or other appurtenances.

   e. Lateral expansion of structures into areas prohibited by current bulk, dimensional or performance standards shall require a Variance, with the following exception:

      For the replacement of ~~grandfathered~~ legal, non-conforming factory built homes, a greater building footprint than existed prior to replacement may be allowed in order to accommodate the replacement of a factory built home that is less than 1,000 square feet with another factory built home that does not have the same size and shape. A proposed

Commented [MW5]: Covered porches on the landward side of the house could be allowed, environmental impact is no greater and is not likely to increase view blocking.

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increase less than 25% of the existing home's footprint shall not require a Variance. Applications for such replacements shall include a Habitat Management Plan that identifies measures to protect habitat and mitigates for unavoidable impacts. The replacement home may be no closer to the shoreline than the existing residence.

f. A ~~grandfathered~~ legal, non-conforming structure or structural footprint that is moved any distance on the subject parcel or changed in shape shall increase its conformity with the Program and with property line setback requirements (per the Development Regulations) to the maximum extent practicable provided:

i. It does not increase any intrusion to any critical area buffer or setback and provided its conformity with property line setback requirements (per the Development Regulations) is increased to the maximum extent practicable;

ii. Unless recommended otherwise by a fish and wildlife habitat professional or a by the author of a Geotechnical Report, any remaining structural components (such as a foundation) shall be removed from the abandoned footprint. A Habitat Management Plan or Common Line Mitigation Plan when allowed per MCC 17.50.120.1.f.iv. shall be submitted that includes enhancement of the abandoned footprint with riparian vegetation (upland of the OHWM only) as well as mitigation for the new footprint;

iii. For overwater construction such as docks, a footprint may not be moved to a location where there is documented submerged aquatic vegetation and forage fish spawning areas.

iv. Movement of the existing footprint landward will require a Common Line Mitigation Plan (CLMP) to be prepared and submitted to the County, as outlined in Appendix B of the Mason County Resource Ordinance Title 8.52.

2. Existing Uses

a. Existing, ~~lawfully~~ legally established uses ~~[and floating homes]~~ that do not conform to the Program's requirements, including existing non-water-oriented commercial uses with waterfront or any non-water oriented industrial uses, shall be considered 'legal non-conforming'. ~~shall be considered 'grandfathered,' with the exception of residential development built overwater or in floodways and existing non-water-oriented commercial with waterfront or any non-water oriented industrial uses, which shall be considered 'legal nonconforming.'~~

b. ~~Grandfathered and legal~~Legal, non-conforming uses may continue and may be maintained or replaced per the provisions of this Program.

c. Replacing one non-conforming use with another non-conforming use does not require a Conditional Use Permit, unless there is an increase in the total area occupied by the non-conforming use (including parking and storage), and provided that:

i. The proposed use will be as consistent with the policies and provisions of this Program and as compatible with uses in the area as the preexisting use; and

ii. Conditions may be attached to permits required by other chapters of this Program or required by Mason County Code (such as Change in Use or Tenant) that the County deems necessary to assure compliance with the requirements of this Program and to assure that the use will not become a nuisance or hazard, and to assure the use will not result in a net loss of shoreline ecological functions.

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d. If a ~~grandfathered~~ legal, non-conforming use is discontinued (ceases to operate, use, or produce) for more than thirty-six 36 months, any subsequent use, if allowed, shall comply with the Act and this Program.

3. Development on Legal Lots of Record

Any legal lot of record, regardless of size, has the potential to be developed provided that it can meet all requirements of the Program, Mason County, State and Federal Regulations or obtain a Variance.

17.50.125 FLOOD HAZARD REDUCTION

POLICIES

1. This program seeks to limit new development in flood-prone areas while recognizing private property rights.
2. Development in floodplains should not significantly or cumulatively increase flood hazard or be inconsistent with an adopted Comprehensive Flood Hazard Management Plan.
3. Development should be designed and located to preclude the need for flood control structures. New or expanded development or uses in the shoreline, including subdivision of land, that would likely require flood control structures within a stream, channel migration zone, or floodway should be prohibited.
4. Development should be discouraged in the channel migration zone areas and existing hazards or problem areas that would result in interference with the process of channel migration which may cause significant adverse impacts to property or public improvements and/or result in a net loss of ecological functions associated with the rivers and streams.
5. The County should ensure mutual consistency between shoreline management provisions and the flood damage prevention ordinance.

17.50.130 PORT DISTRICTS

POLICIES

1. Mason County recognizes the importance of Port Districts in providing jobs, supporting local business, and facilitating economic stability.
2. Mason County should collaborate with Port Districts in development and implementation of their comprehensive port district plans to support common goals and objectives.
3. Port District developments should be regulated according to the proposed use of the shoreline. For example, if a port district proposed a marina development, the marina regulations would apply. If a port district proposed a marine terminal, industrial and marine terminal regulations would apply.

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4. In the implementation of shoreline regulations, the County should recognize and seek to further the goals of approved Port Districts' comprehensive plans.

17.50.135 PROPERTY RIGHTS

POLICIES

1. This program should regulate use and development of private property consistent with all relevant legal limitations.
2. This Program should not unconstitutionally infringe on private property rights or result in an unconstitutional taking of private property.

17.50.140 PUBLIC ACCESS

A. POLICIES

1. This program is intended to preserve and enhance the public's opportunity to enjoy the physical and aesthetic qualities of County shorelines.
2. Increasing all types of public access is a priority for the County. Strategic efforts to find and fund new shoreline public access are encouraged to meet increasing demands. The County should cooperate with appropriate local, state, tribal and non-governmental organizations to preserve and enhance lands that provide physical access to public waters for public use.
3. Public entities are encouraged to provide public access as part of each development project, unless access would be incompatible with this Program because of safety, security, or adverse impacts to shoreline functions.
4. Private entities should provide public access when the development would either generate a demand for public access, or would impair existing legal access opportunities or rights.
5. Public access requirements on privately owned lands should be commensurate with the scale and character of the development and should be reasonable, effective and fair to all affected parties including the landowner and the public.

B. REGULATIONS

1. Public access shall be required to the extent allowed by law in the review of Shoreline Substantial Development or Conditional Use Permits in the following circumstances:
    a. The use or development is a public project; or
    b. The project is a non-residential, water-enjoyment or non-water-oriented use or development; or
    c. The project is a private water-dependent or water-related use or development and one of the following conditions exists:

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i. The project increases or creates demand for public access;

ii. The project impacts or interferes with existing access by blocking access or discouraging use of existing access;

iii. The project impacts or interferes with public use of waters subject to the Public Trust Doctrine.

d. The County bears the burden of demonstrating that a proposed use or development meets any of the preceding conditions.

2. Public access to the shoreline shall not be required of the following:

a. Activities qualifying for a shoreline permit exemption; or

b. New single family residential development.

3. The County may approve alternatives to on-site, physical access to the shoreline if the applicant can demonstrate with substantial and credible evidence that one or more of the following conditions exist:

a. Unavoidable health or safety hazards to the public exist which cannot be prevented by any reasonable means;

b. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;

c. The cost of providing the access, easement, or an alternative amenity, is unreasonably disproportionate to the total long term cost of the proposed development;

d. Environmental impacts that cannot be mitigated, such as damage to spawning areas or nesting areas, would result from the public access; or

e. Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated.

4. To be exempt from the public access requirements above, the project proponent must demonstrate that all feasible alternatives have been considered, including, but not necessarily limited to:

a. Regulating access through means such as maintaining a gate and/or limiting hours of use; and

b. Separating uses and activities (e.g., fences, terracing, use of one-way glazing, hedges, landscaping, etc.).

5. When physical public access is deemed to be infeasible, the proponent shall provide visual access to the shore where site conditions make visual access possible.

6. Where commercial, industrial, multifamily and/or multi-lot developments are proposed in locations that would interrupt existing shoreline views, primary structures shall provide for reasonable view corridors.

7. Visual access shall not be provided by removing vegetation from required vegetative buffers.

8. Public access shall be located and designed to be compatible with the natural shoreline character, to avoid adverse impacts to shoreline ecological functions, and to ensure public safety.

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9. When otherwise consistent with this Program, public access structures shall be allowed to encroach into the shoreline buffer when necessary to provide physical and or visual access to the water's edge.

10. Public shoreline access provided by public road ends, public road rights-of-way, public utilities and rights-of-way shall not be diminished by the County, neighboring property owners, or other citizens in accordance with RCW Chapter 36.87.130.

11. Public access sites shall be connected to the nearest public street and shall include improvements that conform to the requirements of the Americans with Disabilities Act (ADA) when feasible or required by law.

12. Opportunities for boat-in public access and access to remote shorelines not accessible by automobile shall be provided where feasible and appropriate.

13. When required for public land, commercial, port or industrial use/development, public access sites shall be available for public use prior to final occupancy of such use or development. Maintenance of the public access facility over the life of the use or development shall be the responsibility of the owner unless otherwise accepted by a public or non-profit agency through a formal agreement recorded with the County Auditor's Office.

14. Public access easements and permit conditions shall be recorded on the deed of title and/or the face of a short or long plat. Recordation shall occur at the time of final plat approval or prior to final occupancy.

15. The location of new public access sites shall be clearly identified. Signs shall be installed and maintained by the project proponent in conspicuous locations. The signs shall indicate the public's right of access, hours of access, and other information as needed to control or limit access according to conditions of approval.

16. Existing, formal public access shall not be eliminated unless the applicant shows there is no feasible alternative and replaces the public access with access of comparable functions and value at another location.

17. Requirements or conditions for public access shall be consistent with all relevant constitutional and other legal limitations on regulation of private property.

17.50.145 VIEWS AND AESTHETICS

POLICIES

1. This program seeks to minimize obstructions of the public's visual access to the water and shoreline from new shoreline developments while recognizing private property rights.

2. Shoreline use and development should not significantly detract from shoreline scenic and aesthetic qualities (as seen from land or from water) that are derived from natural or cultural features, such as estuaries, bluffs, beaches, vegetative cover and historic sites/structures.

3. Clearing, thinning, and/or limbing for limited view corridors should only be allowed where it does not adversely impact ecological, aesthetic values or slope stability.

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4. Vegetation conservation should be preferred over the creation or maintenance of views from property on the shoreline to protect shoreline ecological functions and aesthetics.

5. The County should achieve aesthetic objectives by implementing regulations and criteria for site planning, maximum height, setbacks, siting of buildings and accessories, screening, vegetation conservation, architectural standards, sign control regulations, appropriate development siting and maintenance of natural vegetative buffers.

6. Where there is an irreconcilable conflict between water-dependent shoreline uses or physical public access and maintenance of views from adjacent properties, the water-dependent uses and physical public access shall have priority, unless there is a compelling reason to the contrary.

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17.50.200 USE Policies and Regulations

17.50.205 AGRICULTURE

A. AGRICULTURE POLICIES

1. Soils that are well suited for agriculture, resource protection and open space should be protected from non-agricultural uses.
2. This master program shall not require modification of or limit existing and ongoing agricultural practices located on agricultural lands. The policies and regulations in this master program only apply to new and expanded agricultural activities on land not meeting the definition of agricultural land, conversion of agricultural lands to other uses, and other development on agricultural land that does not meet the definition of agricultural activities.
3. New and expanded agricultural uses and development should be located and designed to assure no net loss of ecological functions and should avoid adverse impacts to shoreline resources.
4. Agricultural uses and developments should follow best management practices to prevent erosion, runoff, and associated water quality impacts.
5. Animal keeping areas should, when possible, be located outside the shoreline management area jurisdiction. When located in shoreline jurisdiction, they should be separated from water bodies by vegetated buffer strips.
6. Proper pasture maintenance and manure management practices should be employed to preclude contamination of surface water with livestock waste, to prevent the transmission of waterborne diseases to both human and livestock populations, and to preserve pasture vegetative cover and soil absorptive capacity.
7. Pasture siting practices that prevent contamination of watercourses and the destruction and erosion of vegetation and soil should be encouraged.
8. Buffer zones of permanent vegetation should be encouraged between pastures and tilled areas and associated water bodies to retard surface runoff, reduce siltation, and promote quality habitats for fish and wildlife.
9. Livestock waste should be disposed of in a manner that will prevent surface or ground water contamination.
10. Feedlots should be restricted from locating in shoreline jurisdiction unless the applicant can satisfactorily demonstrate that they will cause no significant adverse environmental impacts.
11. Maintaining vegetative cover in areas subject to flooding should be encouraged.

B. AGRICULTURE REGULATIONS

1. In accordance with RCW 90.58.065, this Program shall not require modification of or limit existing or ongoing agricultural activities occurring on agricultural lands. The regulations in this master program apply only to:

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a. New agricultural activities on land not meeting the definition of agricultural land;

b. Conversion of agricultural lands to other uses; and

c. Other development on agricultural land that does not meet the definition of agricultural activities.

2. New agricultural uses and developments shall conform to the requirements of this Program, consistent with the General Regulations.

3. The use of tanks and troughs for animal watering is encouraged; allowing animals direct, unrestricted access to surface water is not permitted. If stream crossings are necessary, bridges, culverts, or ramps shall be used to enable animal crossing without damaging the streambed or banks.

4. Surface water drainage and runoff shall be diverted away from animal confinement and waste storage sites.

5. Animal confinement areas shall be graded to slope away from surface water.

6. Gutters and downspouts shall be installed on roofs to prevent excess water from entering animal confinement areas. The roof water shall be managed consistent with Mason County's current stormwater standards.

7. Confinement areas shall be located away from streams, wetlands, and other waterbodies in shoreline jurisdiction. A fenced buffer of permanent native vegetation consistent with MCC 17.50.110 shall be maintained between confinement areas and water bodies.

8. Waste storage sites with the exception of manure lagoons shall be covered and contained with impermeable material. Waste storage sites shall be located outside of the floodway and should be located outside the 100-year floodplain, where feasible. Manure lagoons shall be set back 200 feet from all surface water and diked to withstand the 100-year base flood with three feet of overboard.

9. Tillage patterns which allow runoff directly into adjacent waters shall not be allowed. A buffer of permanent vegetation consistent with MCC 17.50.110 shall be maintained between tilled areas and water bodies to retard surface runoff.

10. Feedlots are prohibited in Commercial, Residential, Conservancy, Natural and Aquatic environments. They may be considered as a Conditional Use in Rural shoreline environments, provided they are be set back a minimum of 200 feet from the ordinary high water mark and are not located within a channel migration zone.

11. Upland finfish rearing facilities are prohibited in Commercial, Residential, Natural and Aquatic environments. They may be considered as a Conditional Use in Rural and Conservancy shoreline environments provided that non-water dependent components of the facility are set back from the ordinary high water mark consistent with General regulations.

12. Erosion control measures should conform to guidelines and standards established by the Natural Resource Conservation Service or other approved best management practices.

13. Pesticides shall be used, handled, and disposed of in accordance with provisions of the Washington State Pesticides Application Act (RCW 17.21) and the Washington State Pesticide Act (RCW 15.578) to prevent contamination and sanitation problems.

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14. New agricultural uses and development in support of agricultural uses should be located and designed to avoid, minimize, and mitigate impacts to existing public access to or enjoyment of adjacent shoreline areas.

15. Soil amendments derived from biosolids are discouraged in shoreline jurisdiction.

17.50.210 AQUACULTURE

A. AQUACULTURE POLICIES

1. Aquaculture is of statewide interest. Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area. Properly managed, it can result in long-term over short-term benefit and can protect the resources and ecology of the shoreline.

2. Potential locations for aquaculture practices are relatively restricted due to specific biophysical requirements such as water quality, temperature, substrate, dissolved oxygen, and salinity. Priority should be given to aquaculture uses in areas having a high potential for such uses.

3. The County should strengthen and diversify the local economy by encouraging aquaculture uses. Aquaculture operations should be protected against encroachment from incompatible, competing uses.

4. Flexibility to experiment with new aquaculture techniques should be allowed.

5. The County should minimize redundancy of aquaculture permit application requirements required by this Program and other County, State and Federal standards.

6. The County should support community restoration projects associated with aquaculture when they are consistent with this Program.

7. Shoreline and upland development in productive aquaculture areas or those areas with a high potential for aquaculture uses should be reviewed for detrimental impacts on aquaculture.

8. Maximum effort to protect water quality should be made in areas with high potential for aquaculture and current aquaculture areas that have been identified as sensitive areas.

9. The County should consider local ecological conditions and provide limits and conditions to assure appropriate compatible types of aquaculture for the local conditions as necessary to assure no net loss of ecological functions. Aquaculture should not be permitted in areas where it would result in a net loss of ecological functions or adversely impact eelgrass and macro-algae. Aquacultural facilities should be designed and located so as not to spread disease to native aquatic life, or establish new nonnative species which cause significant ecological impacts. Unavoidable impacts to ecological functions shall be mitigated.

10. Recognition should be given to the possible impacts that aquacultural activities might have on the aesthetic quality of the shoreline area.

11. Structures or activities associated with aquaculture should be located landward of shoreline buffers unless clearly shoreline dependent.

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12. Aquacultural activities should be operated in a manner that allows navigational access to shoreline owners and commercial traffic.

13. Floating aquaculture should be reviewed for conflicts with other water dependent uses in areas that are utilized for moorage, recreational boating, sport fishing, commercial fishing or commercial navigation. Such surface installation shall incorporate features to reduce use conflicts.

B. AQUACULTURE REGULATIONS

1. General Aquaculture Regulations.

   a. Shoreline developments adjacent to areas suitable for aquaculture shall practice strict pollution control procedures. As required by MCC 8.52.170(G), design and siting of all new construction and major new development shall not adversely impact water quality.

   b. Proposed residential subdivisions and other land uses and developments which may impact aquaculture operations shall provide facilities to prevent any adverse water quality impacts to such operations. As required by MCC 8.52.170(G), all projects shall meet or exceed any storm water design requirements to avoid any risk of decertification of shellfish beds.

   c. Site preparation and construction in the vicinity of aquaculture operations shall not result in off-site erosion, siltation, or other reductions in water quality. Land uses on erosion hazard areas shall meet the requirements of MCC 8.52.160.

   d. Existing aquaculture activities include areas that are actively cultivated and/or dormant. It is presumed that the following areas are dormant and hence existing: areas acquired under the Bush act of 1895; areas undergoing crop rotation; and areas dormant due to market conditions, seed or juvenile availability, past and current pest infestations or control issues, water quality issues, and other cultivation factors beyond the control of the operator. A presumptively dormant area may, on a case-by-case basis as determined by the Administrator, be deemed abandoned provided clear and affirmative information evidencing intent to abandon the area for shellfish farming is provided. Existing or permitted aquaculture operations are not subject to Section 17.50.120, Existing Structures and Uses, and shall not be considered nonconforming or abandoned. Ongoing maintenance, harvest, replanting, restocking or changing the culture technique or species cultivated for any existing or permitted aquaculture activity shall not require shoreline review or a new permit, unless or until:

      i. the operation changes the scope and intent of the original permit as defined in 17.50.400; or

      ii. The facility proposes to cultivate non-native species not previously cultivated in the state of Washington.

   e. Consistent with mitigation sequencing, aquacultural uses and developments may be required to provide mitigation where necessary to offset significant adverse impacts to normal public use of surface waters.

   f. Aquaculture development shall not cause extensive erosion or accretion along adjacent shorelines.

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g. Aquaculture structures and activities that are not shoreline dependent or do not have a functional relationship to the water shall be located landward of shoreline buffers required by this Program to minimize the detrimental impact to the shoreline.

h. Proposed aquaculture processing plants shall provide adequate buffers to screen potential impacts of operations (e.g., visual, odor, and noise impacts) from adjacent residential uses.

i. Aquaculture activities shall, to the greatest extent feasible with regard to the economic viability of the operation and protection of the environment be located, designed and operated so that native plant and animal populations, their respective habitats and the local ecological balance are maintained.

    i. New or expanded aquaculture shall be located, designed and maintained to assure no net loss of ecological functions, as demonstrated in a Habitat Management Plan or equivalent report (e.g. Biological Assessment or Biological Evaluation).

    ii. Aquaculture use and development shall minimize shading and other adverse impacts to macro-algae and eelgrass beds. If eelgrass or macro-algae is known or suspected, an aquatic vegetation survey is required. Unavoidable impacts shall be addressed in a Habitat Management Plan or equivalent report (e.g. Biological Assessment or Biological Evaluation) that presents an acceptable mitigation plan. NOTE: regulatory protections do not apply to eelgrass or macro-algae that colonize a shellfish farm.

    iii. Floating aquaculture uses and developments that require attaching structures to the bed or bottomlands shall use anchors, such as helical anchors, or other methods that minimize disturbance to substrate. Potential adverse impacts shall be mitigated.

    iv. Disease and pest control may be authorized, provided methods are allowed by federal and state regulations and follow best management practices. To the maximum extent practicable, aquaculture use and development shall employ the least harmful best management practices to control birds and mammals.

j. To the maximum extent practicable, floating aquaculture structures shall not substantially detract from the aesthetic qualities of the surrounding area, provided methods are allowed by federal and state regulations and follow best management practices.

k. Aquacultural structures shall be placed in such a manner, and be suitably sized and marked, so as to minimize interference with navigation.

l. Aquaculture development shall be designed and constructed with best management practices to minimize visual impacts and shall be maintained in a neat and orderly manner. Aquaculture facilities, except navigation aids, shall use colors and materials that blend into the surrounding environment where practicable.

m. Proposed aquacultural developments shall make adequate provisions to control nuisance factors such as excessive noise and odor and excessive lighting. Permits shall include allowance for work at night or on weekends but may require limits and conditions to reduce impacts, such as noise and lighting, to adjacent existing uses.

n. Aquacultural discards shall be disposed of in a manner that will not degrade associated uplands, wetlands, shorelines, or aquatic environments. Discards shall not be disposed of in a manner which results in offensive odors or increases the vector population. All

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waste-materials and discards shall be disposed of in strict compliance with all applicable governmental waste disposal standards, including but not limited to the Federal Clean Water Act, Section 401, and the Washington State Water Pollution Control Act (RCW 90.48).

o. Equipment, structures and materials shall not be abandoned in the shoreline or wetland area.

p. Precautionary measures shall be taken to minimize the risk of oil or other toxic materials from entering the water or shoreline area.

q. Gravel enhancement projects necessary to maintain existing shellfish beds are allowed. New projects that are not maintenance of existing beds and involve greater than one-thousand (1,000) cubic yards of material may be considered as a Conditional Use.

r. To minimize redundancy between federal, state and local aquaculture requirements, the County should use permit applications that mirror federal or state permit applications, and accept documentation that has been submitted to other permitting agencies wherever possible.

s. A written statement of exemption is required for new aquaculture activities that do not constitute substantial development or otherwise require a Shoreline Permit. A written statement of exemption constitutes a valid authorization to conduct new or expanding aquaculture activities. A written statement of exemption shall provide a summary of the consistency of the aquaculture activities with this SMP and the Shoreline Management Act.

2. Finfish Net Pen Regulations.

a. Because of persistent low dissolved oxygen conditions, finfish net pen facilities shall not be located in the waters of Hood Canal, except for limited conservation needs targeting the cultivation of wild stocks during a limited portion of their lifecycle to enhance restoration of native stocks. Such activities may be considered as a conditional use, must meet the criteria in Regulation 2(b)(i-iv), and must involve minimal supplemental feeding and no use of chemicals or antibiotics.

b. Finfish net pens may be considered as a Conditional Use in waters outside Hood Canal, and shall meet the following criteria in addition to other applicable regulations:

i. All in-water finfish aquaculture proposals shall include a site characterization survey, baseline surveys, and monitoring as described in the Department of Ecology Recommended Interim Guidelines for the Management of Salmon Net-pen Culture in Puget Sound (1986), or subsequent documents approved by the State.

ii. Finfish net pens shall meet, at a minimum, State approved administrative guidelines for the management of finfish net pen cultures. In the event there is a conflict in requirements, the more restrictive requirement shall prevail.

iii. Finfish net pens shall not occupy more than 2 surface acres of water area, excluding booming and anchoring requirements. Anchors that minimize disturbance to substrate, such as helical anchors, shall be employed. Such operations shall not use chemicals or antibiotics.

iv. Finfish aquaculture proposals that include net pens or rafts shall not be located closer than 1 nautical mile to any other aquaculture facility that includes net pens or rafts; provided that, a lesser distance may be authorized if the applicant can

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demonstrate that the proposal will be consistent with the environmental and aesthetic policies and objectives of this Program. If a lesser distance is requested, the burden of proof shall be on the applicant to demonstrate that the cumulative impacts of existing and proposed operations would not be contrary to the policies and regulations of this Program.

3. Commercial Geoduck Aquaculture.

   a. In addition to the siting considerations in the General Aquaculture Regulations, commercial geoduck aquaculture shall only be allowed where sediments, topography, land and water access support geoduck aquaculture operations without significant clearing or grading.

   b. As determined by Attorney General Opinion 2007 No. 1, the planting, growing, and harvesting of farm-raised geoduck clams requires a Substantial Development Permit if a specific project or practice causes substantial interference with normal public use of the surface waters, but not otherwise.

   c. Conditional Use Permits are required for new commercial geoduck aquaculture. Conversions from existing non-geoduck aquaculture to geoduck aquaculture within existing farm boundaries do not require a Conditional Use Permit.

   d. All subsequent cycles of planting and harvest shall not require a new Conditional Use Permit.

   e. Conditional Use Permits must take into account that commercial geoduck operators have a right to harvest geoduck once planted.

   f. A single Conditional Use Permit may be submitted for multiple sites within an inlet, bay or other defined feature, provided the sites are all under control of the same applicant and within County shoreline jurisdiction.

   g. Unless already addressed in other applications, such as shoreline permit applications or Habitat Management Plans or equivalent reports (e.g. Biological Assessment or Biological Evaluation), applications for new commercial geoduck aquaculture shall contain:

      i. A narrative description and timeline for all anticipated geoduck planting and harvesting activities if not already contained in the federal or state permit application or comparable information mentioned above.

      ii. A baseline ecological survey of the proposed site to allow consideration of the ecological effects if not already contained in the federal or state permit application or comparable information mentioned above.

      iii. Measures to achieve no net loss of ecological functions consistent with the mitigation sequence described in 17.50.110.

      iv. Management practices that address impacts from mooring, parking, noise, lights, litter, and other activities associated with geoduck planting and harvesting operations.

   h. As required by Title 15 procedural regulations, Mason County will provide public notice to all property owners within three hundred feet of the proposed project boundary. The County will also provide notice to tribes with Usual and Accustomed fishing rights to the area. The rights of treaty tribes to aquatic resources within their Usual and Accustomed

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areas shall be addressed through direct coordination between the applicant and the affected tribe(s).

j. Conditional Use Permits shall include monitoring and reporting requirements necessary to verify that geoduck aquaculture operations are in compliance with permit limits and conditions set forth in Conditional Use Permits and to support cumulative impacts analysis. The County shall consider the reporting and monitoring conditions of other permitting agencies, if available, before adding additional conditions to a permit.

k. Conditional Use Permits shall be reviewed using the best scientific and technical information available. This requirement may be met through review and approval of Habitat Management Plans equivalent reports (e.g. Biological Assessment or Biological Evaluation) prepared by a qualified fish and wildlife professional, or through use of information provided under federal agency biological reviews conducted through the US Army Corps of Engineers permitting process.

l. Applicants shall apply best management practices to accomplish the intent of permit limits and conditions.

m. To avoid or limit impacts from geoduck aquaculture siting and operations and achieve no net loss of ecological functions, permits shall consider the following and place conditions where applicable and not redundant with other permit agency conditions:

    i. The practice of placing nursery tanks or holding pools or other impervious materials directly on the intertidal sediments.

    ii. Use of motorized vehicles, such as trucks, tractors and forklifts below the ordinary high water mark.

    iii. Specific periods when limits on activities are necessary to protect priority habitats and associated species. The need for such measures should be identified in the baseline ecological survey conducted for the site.

    iv. Alterations to the natural condition of the site, including significant removal of vegetation or rocks and regrading of the natural slope and sediments.

    v. Installation of property corner markers that are visible at low tide during planting and harvesting.

    vi. Mitigation measures such as buffers between commercial geoduck aquaculture and other fish and wildlife habitat conservation areas as necessary to ensure no net loss of ecological functions.

    vii. Use of predator exclusion devices with minimal adverse ecological effects and requiring that they be removed as soon as they are no longer needed for predator exclusion.

    viii. Use of the best available methods to minimize turbid runoff from the water jets used to harvest geoducks.

    ix. (i) Number of barges or vessels that can be moored or beached at the site as well as duration limits.

    x. Public rights to navigation over the surface of the water.

    xi. Good housekeeping practices at geoduck aquaculture sites, including worker training and regular removal of equipment, tools, extra materials, and all wastes.

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xii. Where the site contains existing public access to publicly owned lands, consider recommendations from the Washington Department of Natural Resources or other landowning agencies regarding protection of the existing public access.

17.50.215 COMMERCIAL

A. COMMERCIAL POLICIES

1. Commercial development on shorelines should be encouraged to provide physical and/or visual access to the shoreline, and other opportunities for the public to enjoy the shoreline. Commercial uses located in the shoreline should provide public access in accordance with constitutional or other legal limitations unless such improvements are demonstrated to be infeasible or present hazards to life and property
2. Multiple use concepts, which include open space and recreation, should be encouraged in commercial developments.
3. Commercial development should be aesthetically compatible with the surrounding area. Structures should not significantly impact views from upland properties, public roadways or from the water.
4. The location of commercial developments along shorelines should ensure the protection of natural areas or systems identified as having geological, ecological, biological, or cultural significance. Commercial Developments should be located, designed and operated to avoid and minimize adverse impacts on shoreline ecological functions and processes.
5. Commercial developments should be encouraged to be located landward of shoreline buffers unless they are dependent on a shoreline location. Commercial developments should be discouraged over-water or in wetlands and floodplains.
6. New commercial development in shorelines should be encouraged to locate in those areas with existing commercial development that will minimize sprawl and the inefficient use of shoreline areas.
7. Preference should be given to water-dependent commercial uses over non-water-dependent commercial uses; and second, preference shall be given to water-related and water-enjoyment commercial uses over non-water-oriented commercial uses.
8. In areas designated for commercial use, new non-water oriented commercial development should be prohibited on shorelines except when:
    a. It is physically separated from the shoreline by another property or public right-of-way; or
    b. Navigability is severely limited at the proposed site and the commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or
    c. The use is part of a mixed use project that includes, and is subordinate to, water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.

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9. Restoration of impaired shoreline ecological functions and processes should be encouraged as part of commercial development.

10. Parking facilities should be placed inland, outside of the shoreline jurisdiction, if possible.

11. Commercial development should be designed and located to minimize impacts of noise and/or light generated by the development upon adjacent properties. Commercial developments that generate significant noise impacts should be discouraged.

B. COMMERCIAL REGULATIONS

1. The County shall utilize the following information in its review of commercial development proposals:
    a. Nature of the activity;
    b. Need for shore frontage;
    c. Special considerations for enhancing the relationship of the activity to the shoreline;
    d. Provisions for public visual or physical access to the shoreline;
    e. Provisions to ensure that the development will not cause severe adverse environmental impacts;
    f. Provisions to mitigate any significant noise impacts;
    g. Provisions to mitigate light or glare impacts;
    h. A description of mitigation measures proposed to ensure that the development will protect existing shoreline ecological functions and mitigate unavoidable impacts.

2. Commercial development may be permitted on the shoreline in the following descending order of priority: water dependent, water related, and water enjoyment.

    Low-intensity, water-oriented commercial and industrial uses may be permitted in the limited instances where those uses have located in the past or at unique sites in rural communities that possess shoreline conditions and services to support the use.

3. In areas designated for commercial use, new non-water oriented commercial uses and development may only be allowed when:
    a. The site is physically separated from the shoreline by another property or public right-of-way; or
    b. Navigability is severely limited at the proposed site and the commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access or ecological restoration; or
    c. The use is part of a mixed use project that includes, and is subordinate to, water-dependent uses, and it provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access or ecological restoration.

        A use is subordinate if:

        i. It is located landward of a principal water dependent use; and
        ii. It occupies a surface area of a lot, or of multiple lots developed as a unit, smaller than the water dependent component. The area of the water dependent

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component includes structures occupied by water dependent uses (including overwater structures).

4. Replacing one non-water oriented use with another non-water oriented use does not require a Conditional Use Permit, unless there is an increase in the total area occupied by the non-water oriented use (including parking and storage).

5. Parking and Loading Areas.

   a. Parking and loading areas shall be located outside the shoreline jurisdiction, if practicable.

   b. Perimeters of parking areas shall be landscaped to minimize visual impacts to the shorelines, roadways and adjacent properties subject to approval by Public Works and/or Department of Transportation.

   c. Permit application shall identify the size, general type and location of landscaping.

   d. Design of parking and loading areas shall ensure that surface runoff does not pollute adjacent waters or cause soil or beach erosion. Design shall provide for storm water retention.

   e. Parking plans shall be reviewed by Mason County Department of Public Works for compliance with all applicable County Ordinances.

6. Those portions of a commercial development which are not water dependent are prohibited over the water, except in existing structures or in the limited instances where they are auxiliary to and necessary in support of water-dependent uses.

7. Water supply and waste facilities shall comply with the strictest established guidelines, standards and regulations.

8. New commercial developments shall be located adjacent to existing commercial developments whenever possible.

9. New or expanded structures shall not extend more than 35 feet in height above average grade level.

10. Commercial developments adjacent to aquaculture operations or shellfish beds shall practice strict pollution control procedures.

11. Commercial developments shall be located and designed to minimize noise impacts on adjacent properties.

17.50.220 FOREST PRACTICES

A. FOREST PRACTICES POLICIES

1. The County should rely on the Forest Practices Act and its implementing rules as adequate management of commercial forest uses within shoreline jurisdiction, except for forest conversion activities.

2. Conversion of forest lands should comply with requirements for the subsequent non-forestry use as required in the Master Program.

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3. Forest practices should comply with the Act's provisions on shorelines of statewide significance.

4. When practical, forest management road systems will be designed outside the shoreline area.

B. FOREST PRACTICE REGULATIONS

1. Cutting practices on shorelines of statewide significance shall be governed by the Act (RCW 90.58.150). Only selective commercial timber cutting may be allowed, so that no more than thirty percent of the merchantable trees may be harvested in any ten year period of time: provided that other timber harvesting methods may be permitted in those limited instances where the topography, soil conditions or silviculture practices necessary for regeneration render selective logging ecologically detrimental provided further, that clear cutting of timber which is solely incidental to the preparation of land for other uses authorized by this chapter may be permitted. Exceptions to this standard shall be by Conditional Use Permit.

2. Herbicides, insecticides, or other forest chemical applications are to be used in accordance with the Washington Pesticide Application Act (RCW 17.21) and the Washington Pesticide Act (RCW 15.47) and are not regulated by this program.

3. Forest practices are prohibited in Commercial and Aquatic Environments.

4. Timber harvesting and forest practices shall be conducted in accordance with the Washington State Forest Practices Act (RCW 76.09 as amended), and any implementing regulations (WAC 222 as amended) and are not regulated by this Program except as expressly provided herein.

5. Conversion of forest land to non-forestry uses (Class IV General Forest Practices Permit) shall be reviewed in accordance with the provisions for the proposed non-forestry use and general regulations and shall be subject to any permit requirements associated with the non-forestry use.

17.50.225 INDUSTRIAL AND MARINE TERMINALS

A. INDUSTRIAL AND MARINE TERMINAL POLICIES

1. Water-dependent industrial uses and marine terminals which require frontage on navigable water should be given priority over non-water-dependent industrial uses; second preference should be given to water-related industrial uses over non-water-oriented industrial uses.

2. New non-water-oriented industrial and marine terminal uses and development should be prohibited on shorelines except when:

   a. It is physically separated from the shoreline by another property or public right of way; or:

   b. Navigability is severely limited at the proposed site and the industrial use provides a significant public benefit with respect to the Shoreline Management Act's objectives; or

   c. The use is part of a mixed-use project that includes, and is subordinate to, water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives.

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3. Industrial and marine terminal development should be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions and such that it does not have significant adverse impacts to other shoreline resources and values.

4. Industrial and marine terminal development should be visually compatible with adjacent properties.

B. INDUSTRIAL AND MARINE TERMINAL REGULATIONS

1. New water-dependent and water related industrial and marine terminal developments are prohibited in Natural environments. New low-intensity water-dependent and water related industrial and marine terminal development are permitted in Commercial environments and may be considered as a Conditional Use in Residential, Rural, Conservancy, and Aquatic environments, provided they are allowed in the underlying zone.

2. New non-water-oriented industrial uses and developments are generally prohibited in all environments but may be considered as a Conditional Use, provided the use and development is authorized in the underlying zone and:

    a. The site is physically separated from the shoreline by another property or public right of way; or

    b. Navigability is severely limited at the proposed site, and the industrial use or development provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access or ecological restoration; or

    c. The use is part of a mixed-use project that includes, and is subordinate to, an associated water-dependent use, and it provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access or ecological restoration.

    A use is subordinate if:

        i. It is located landward of a principal water dependent use; and

        ii. It occupies a surface area of a lot (or multiple lots developed as a unit) smaller than the water dependent component. The area of the water dependent component includes structures occupied by water dependent uses (including overwater structures).

3. Replacing one non-water oriented use with another non-water oriented use does not require a Conditional Use Permit, unless the total area occupied by the non-water oriented use (including parking and storage) increases.

4. Industrial and marine terminal development shall be located, designed, constructed and operated to avoid and minimize impacts to ecological functions and mitigate for unavoidable impacts consistent with the General Regulations. Water-dependent structures may be allowed within required buffers to the minimum extent necessary to support the water dependent use, provided adequate mitigation is provided.

5. Industrial facilities and marine terminals shall be located, designed, constructed, and operated so as to avoid interference with the rights of adjacent property owners (e.g. noise, glare, etc.), and to minimize interference with normal public use of the adjacent shoreline.

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6. Industrial facilities and marine terminals shall provide public access to shoreline areas where feasible, consistent with the General Regulations.

17.50.230 IN-STREAM STRUCTURES

A. IN-STREAM STRUCTURE POLICIES

1. Large-scale in-stream structures such as hydroelectric dams and related facilities are discouraged in Mason County. Such facilities should not be permitted except in the rare instance where there is clear evidence that the benefits to County residents outweigh any potential adverse ecological impacts.
2. In-stream structures should be approved only when associated with and necessary for an ecological restoration project, a fish passage project, temporary research, or an allowed shoreline use/development such as a utility or industrial facility.
3. When necessary, in-stream structures should be located, designed, operated and maintained in a manner that minimizes adverse effects on the stream functions and processes.
4. Proposals for new in-stream structures should be evaluated for their potential adverse effects on the physical, hydrological, and biological characteristics as well as effects on species that inhabit the stream or riparian area.
5. When necessary, in-stream structures should be planned and designed to be compatible with navigation and recreation, especially in shorelines of statewide significance, provided that public safety and ecological protection are fully addressed.
6. The County shall take appropriate measures and precautions to prevent the proliferation of small- scale power generating apparatus as necessary to prevent cumulative adverse impacts.

B. IN-STREAM STRUCTURE REGULATIONS

1. Dams and associated power generating facilities shall not be permitted except in the rare instance where there is clear evidence that the benefits to County residents outweigh any potential adverse ecological impacts. The criteria for approving such facilities will depend on the specific location including its particular physical, cultural, and ecological conditions. Prior to approving or denying such facilities, the County shall consult citizens and appropriate agencies to evaluate in-stream structure proposals.
2. In-stream structures whose primary purpose is flood control shall also be subject to Flood Control regulations.
3. When permitted, in-stream structures and their support facilities shall be:
    a. Constructed and maintained in a manner that does not degrade the quality of affected waters or the habitat value associated with the in stream and riparian area; and
    b. Located and designed based on reach analysis to avoid the need for structural shoreline armoring.
4. All in-water diversion structures shall be designed to permit the natural transport of bedload materials.

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5. All debris, overburden and other waste materials from construction shall be disposed of in such a manner that prevents their entry into a water body.

6. When installing in-stream structures, natural in-stream and in-water features such as snags, uprooted trees, or stumps should be left in place unless it can be demonstrated that they are a threat to public safety.

7. In-stream structures shall not prevent upstream or downstream migration of anadromous fish.

8. Small-scale power generating micro-turbines may be placed in streams provided they do not create impoundments and there are no adverse effects on shoreline functions and processes, including but not limited to fish passage, stream flow, habitat structure, temperature, and/or water quality.

9. The County shall require any proposed in-stream structure to be professionally engineered and designed prior to final approval.

10. No in-stream structure shall be installed without the developer having obtained all applicable federal, state, and local permits and approvals, including but not limited to a Hydraulic Project Approval (HPA) from the State Department of Fish and Wildlife.

11. The County shall require the proponent of an in-stream structure proposal to provide the following information prior to final approval unless the County determines that the issues are adequately addressed via another regulatory review process:

    a. A site suitability analysis that provides the rationale and justification for the proposed structure. The analysis shall include a description and analysis of alternative sites, and a thorough discussion of the environmental impacts of each.

    b. A hydraulic analysis prepared by a licensed professional engineer that describes anticipated effects of the project on stream hydraulics, including potential increases in base flood elevation, changes in stream velocity, and the potential for redirection of the normal flow of the affected stream.

    c. A Habitat Management Plan prepared by a qualified professional biologist that describes the anticipated effects of the project on fish and wildlife resources, provisions for protecting in-stream resources during construction and operation, and measures to compensate for impacts that cannot be avoided.

    d. A description of sites proposed for the depositing of debris, overburden, and other waste materials generated during construction.

    e. For hydropower facilities, the proposed location and design of powerhouses, penstocks, accessory structures and access and service roads.

    f. Proposed provisions for accommodating public access to and along the affected shoreline, as well as any proposed on-site recreational features.

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17.50.235 MARINAS

A. MARINA POLICIES

1. Marinas should be located only at sites with suitable environmental conditions, shoreline configuration, access, and neighboring uses.
2. Where allowed, marinas should be located, designed, constructed and operated with appropriate mitigation to avoid adverse effects on shoreline ecological functions.
3. Marinas should be designed and located to minimize obstruction of views and conflicts with boaters and fishermen.
4. The type and design of marinas should be compatible with the shoreline area where they are located. Consideration should be given to shoreline characteristics, tidal action, aesthetics, and adjacent land and water uses.
5. Marinas should be constructed of materials that will not adversely affect water quality or aquatic plants and animals.
6. Use of marinas and public launches are preferred rather than the development of individual docks, piers, and boat launches for private, non-commercial pleasure craft.
7. Boathouses and covered moorages should be prohibited where incompatible with environmental conditions.
8. Water-related and water enjoyment uses may be allowed as part of a mixed use development on over-water structures where they are clearly auxiliary to and in support of water-dependent uses.
9. New or expanded marinas should be permitted only when the applicant has demonstrated that a specific need exists to support the intended water-dependent use.
10. Marinas and boat launching facilities should be located in areas where parking and access to the facility can be accommodated without causing adverse impacts upon adjacent properties or endanger public safety.
11. Proposals should be planned and developed where regional and local evidence of substantial need exists.
12. Shallow water embankments should not be considered for overnight or long-term moorage facilities.
13. New construction should be aesthetically compatible with the existing surroundings and not degrade existing views.
14. In locating marinas, special plans should be made to protect the fish, shellfish, and other biological resources that may be harmed by construction and operation of the facility.
15. Special attention should be given to the design and development of operational procedures for fuel handling and storage in order to minimize accidental spillage and provide satisfactory means for handling those spills that do occur.
16. Shoreline resources and water quality should be protected from overuse by boaters living on vessels (live-a-boards).

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17. Vessels should be restricted from extended mooring on waters of the state unless authorization is obtained from the DNR and impacts to navigation and public access are mitigated.

B. MARINA REGULATIONS

1. Marinas that provide overnight or long-term moorage shall not be located or expanded in areas that would result in a closure of commercial, recreational, or subsistence shellfish harvest, per the National Shellfish Sanitation Program.

2. Marinas shall be compatible with the general aesthetic quality of the shoreline area where they are located.

3. Marinas and their accessory facilities shall be located, designed, constructed and operated to avoid, minimize, and mitigate for unavoidable adverse effects on fish, shellfish, wildlife and other biological resources, water quality, and existing geo-hydraulic shoreline processes. Proposals for marinas shall include a Habitat Management Plan that identifies measures to protect habitats and mitigate for unavoidable impacts. Pier, ramp, and float construction and design shall meet the non-residential dock regulations including avoiding impediments to longshore sediment transport, work windows, etc.

4. Marinas shall be located, designed, constructed and operated so as to not substantially or unnecessarily interfere with the rights of adjacent property owners, nor interfere with adjacent water uses.

5. Parking and Loading Areas.

   a. Parking and loading areas shall be located well away from the immediate waters' edge and beaches, unless there is no other practical location for parking.

   b. Perimeters of parking areas shall be landscaped to minimize visual impacts to the shorelines, roadways and adjacent properties subject to approval by Public Works and/or Department of Transportation. Permit application shall identify the size, general type and location of landscaping.

   c. Design of parking and loading areas shall ensure that surface runoff does not pollute adjacent waters or cause soil or beach erosion. Design shall provide for storm water retention, shall comply with the Mason County Parking Ordinance, and shall be reviewed by Mason County Department of Public Works for compliance with all applicable County Ordinances.

   d. Creation of parking areas by filling beyond ordinary high water mark (OHWM) or in wetlands is prohibited.

   e. Provisions shall be made to facilitate the orderly circulation of vehicles and pedestrians in the vicinity of the marina.

   f. Provisions shall be made to facilitate the orderly launching, retrieval and storage of boats.

6. New marinas, or expansion of existing marinas which provide moorage for more than ten boats, shall be required to be equipped with easily accessible vessel pump-out and shall provide on-shore sewage and waste disposal facilities. Each marina shall permanently display signs stating that sanitary discharge of wastes is prohibited. Deviation from pump-out requirements on shall require a Variance.

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7. In sensitive areas, such as near certified shellfish growing areas and forage fish spawning areas, the applicant shall be required to demonstrate that the maximum protection of shore features, water quality and existing uses will be provided.

8. Adequate illumination shall be required. Illumination shall be designed and constructed to minimize off-site light and glare.

9. Physical and/or visual public access opportunities shall be provided pursuant to the Program's public access standards.

10. Rest room facilities shall be provided for public use.

11. Associated uses shall be limited to those found necessary to marina operation or which provide visual or physical access to the shoreline to substantial numbers of the public. Associated uses shall conform to the regulations for those uses.

12. Marinas shall project waterward the minimum distance necessary to provide service to vessels, without creating a hazard to navigation.

13. Marina and launching facilities shall be located to minimize the need for initial and maintenance dredging, filling, beach feeding and other channel maintenance activities.

14. Expansion of existing marinas shall be required to meet the standards set forth for new development.

15. Covered moorage shall be designed and located in order to minimize adverse impacts caused by lighting and view blockage. Boathouses and covered moorages should be prohibited where incompatible with environmental conditions. Proposals for covered moorage and overwater boat houses on marine shorelines and on lakes with species listed under the federal Endangered Species Act as either proposed, threatened, or endangered shall include a Habitat Management Plan that identifies measures to protect habitats and mitigate for unavoidable impacts.

16. Boaters living on vessels are restricted to established marinas with facilities to address waste handling and other sanitary services. Live-aboard vessels may occupy up to ten (10) percent of the slips at a marina.

17. Proposals for new or expanded marina facilities shall include appropriate technical studies and plans that are not already required via another regulatory review process and shall document potential impacts and mitigating measures. Examples of studies and plans that may be required include, but are not limited to:

    a. A Maintenance Plan for maintaining pump-out and waste/sewage disposal facilities and services.

    b. A Spill Response Plan for oil and other spilled products. Compliance with federal or state law may fulfill this requirement.

    c. An Operational Plan that, at a minimum, describes procedures for fuel handling and storage; measures, including signage, for informing marina users of applicable regulations; measures for collecting garbage and recyclables; measures and equipment for ensuring public safety.

    d. A visual assessment of views from surrounding residential properties, public viewpoints, and the view of the shoreline from the water surface.

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e. An assessment of existing water-dependent uses in the vicinity including but not limited to navigation, fishing, and aquaculture operations.

17.50.240 MINING

A. MINING POLICIES

1. Recognizing that minerals, especially sand, gravel, and quarry rock are valuable resources yet are relatively limited in quality and quantity, and that shorelines are also a valuable and limited resource where mining has severe impacts if occurring within the shoreline area, mining and accessory activities shall be conducted to the extent feasible in a manner consistent with the shoreline resource. Therefore, mining activities shall not result in permanent, significant damage to the shoreline environment. Provisions should also be made to maintain areas of historic, tribal cultural, or educational significance on or adjacent to mining sites, and mining in unique, natural, or fragile shoreline areas shall not be allowed. Mining shall only be allowed where applicants can demonstrate proposed mining depends on a shoreline location.
2. To the extent feasible, accessory equipment, and materials essential to mining operations in shoreline areas shall be stored, sited, and operated as far landward from the ordinary high water mark as possible.
3. Screening and buffering shall use topography and natural vegetation to the extent feasible and shall be maintained in effective condition.
4. Mining shall not be allowed on marine beaches and lake shores.
5. All practical measures should be taken to protect water bodies from all sources of pollution, including sedimentation and siltation, chemical and petrochemical use and spillage, and storage or disposal of mining wastes and spoils. Maximum protection shall be provided for anadromous fisheries' resources.
6. Mining activities should allow the natural shoreline systems to function with a minimum of disruption during their operations and shall return the site to a naturally functioning, self-sustaining state upon completion.
7. Mining operations should minimize adverse visual and noise impacts on surrounding shoreline areas.
8. The on-site handling of materials (including screening, washing, crushing, sorting, loading, stockpiling and storage operations) should be conducted as far landward as feasible from the shoreline.

B. MINING REGULATIONS

1. Accessory Facilities. Accessory facilities essential to water-dependent mining operations may be permitted provided that they adhere to all applicable Master Program policies and use activity regulations. Docks, floats, and dolphins may be permitted accessories to mining uses according to the following conditions.

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a. Length. Pier, float, or dock accessories to mining uses should not exceed 200 feet in total length as measured from the ordinary high water mark to the furthest waterward extension of the structure. Loading or accessory facilities or structures, including but not limited to walkways, gangways, slips, troughs, anchor buoys and conveyors may extend beyond this length.

b. Width. The width of the pier, float, or dock should not exceed a maximum of 30 feet.

c. Height.

i. The surface of the pier, float or dock should not exceed a maximum of 30 feet.

ii. Loading or accessory facilities or structures located on the dock should be no higher than 50 feet above mean higher high tide.

d. Grating Requirements. See Boating Facilities general requirements.

2. Mining shall not be allowed except where demonstrated to be water-dependent. Mining activities shall not be allowed when they will permanently impede, or retard the flow or the direction of flow of any stream or river. Surface runoff from the site carrying excessive sedimentation and siltation shall not be allowed to enter any shoreline waters.

3. Preference shall be given to mining proposals that result in the creation, restoration, or enhancement of habitat for priority species.

4. Restoration of the site after completion of the mining activity shall be provided. Plans shall detail reclamation of all disturbed areas to a biologically productive and sustainable condition, and shall ensure compatibility between the project site and adjacent existing land, shoreline and water uses.

   The proposed subsequent use of mined property must be consistent with the provisions of the shoreline designation in which the property is located. Reclamation of disturbed shoreline areas shall provide appropriate ecological functions consistent with the surrounding ecological processes.

5. Setbacks and Buffers. Mining operations (including accessory facilities) in shoreline areas shall utilize screening and buffering to minimize visual and auditory impacts to the shoreline environment. The screening and buffering shall be at sufficient height and width to be effective and shall be in place before the mining activity begins. Operations shall incorporate critical area buffers as documented in a Habitat Management Plan and shall follow mineral resource lands standards contained in MCC 8.52.090.

6. Erosion Control. Mining operations shall employ measures to minimize surface runoff, erosion, and sediment generation from entering shoreline waters. All preventive techniques shall be maintained in good effective condition.

7. Rivers and Streams. Mining river bars may be considered as a Conditional Use provided that no operations shall be allowed which permanently impede or retard the flow of any river or stream or adversely affect the natural processes of gravel transportation for the river system as a whole. Proposals for mining river bars shall demonstrate that operations avoid adverse impacts to fish habitat and other ecological functions and provide adequate mitigation for any unavoidable impacts.

8. Marine Beaches and Lake Shores. The mining of sand, gravel, cobbles, rock, or other native substrate from any marine beaches or lake shores below the ordinary high water mark shall

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not be permitted. Routine aquacultural uses and maintenance are not considered mining activities. Mining is prohibited on shorelands of Hood Canal.

9. Related Activities. The reduction, treatment, batching, or processing of the mined materials for on-site manufacturing purposes shall adhere to the policies and regulations applicable to ports and water-related industry.

10. Water Quality. Mining operations shall comply with all local, state, and federal water quality standards and pollution control laws.

11. Standing Water. Mining operations shall be conducted so as not to result in open pits or excavations being left which collect and hold stagnant, toxic, or noxious standing waters.

12. Interim Reclamation Measures. The amount of excavated area at any time shall be set by permit condition: PROVIDED that no more than ten acres shall lie disturbed, unused, or unreclaimed at any one time.

13. Reclamation. Mining in Washington is controlled by the Surface Mining Act of 1970 (RCW 78.44) and is administered by the State Department of Natural Resources. The provisions of this legislation shall be followed in all cases. To ensure the future use and visibility of shoreline areas after the completion of mining activities, the following provisions for land reclamations and utilization shall be adhered to:

    a. All reclamation shall be completed within two years after discontinuance of mining operation. A reclamation plan shall be submitted as part of any shoreline permit application.

    b. All equipment, machinery, building, and structures shall be removed from the site upon discontinuance or abandonment of mining operations.

    c. Backfill material used in site reclamation shall be natural materials. Combustible, flammable, noxious, toxic, or solid waste materials are not permitted as backfill or for on-site disposal, and shall be removed and disposed of away from the shoreline area.

    d. The site shall be rehabilitated so as to prevent future erosion and sedimentation. Suitable drainage systems shall be installed and maintained if natural gradual drainage is not possible. Topography of the site shall be restored to contour compatible with the surrounding land and shoreline area.

    e. All slopes and exposed areas shall be seeded or surfaced with soil from an approved source to at least the depth necessary to support revegetation. Revegetation shall utilize compatible native, self-sustaining trees, shrubs, legumes, or grass and shall be planted so as to blend with the surrounding land and shoreline area.

    f. No stagnant or standing water shall be allowed to collect and remain on the site except as a transient part of a sedimentation collection and removal system specified in the reclamation plan.

14. Permit Application. Applications for mining projects shall provide the following information for permit review:

    a. Description of the materials to be mined, quantity and quality by type, the total deposit, lateral extent and depth, depth of overburden and amount of materials to be mined.

    b. Description of mining technique and list of equipment to be utilized.

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c. Cross section plans which indicate present and proposed elevation and/or extraction levels and show the maximum mining depth.

d. Site plans which show existing drainage patterns and all proposed alterations of topography, proposed means of handling surface runoff, and preventive controls for erosion and sedimentation.

e. A mining plan showing scheduling (seasonal, phasing and daily operations); storage, usage and deposition of overburden, excavation material and tailings; location and dimensions of stockpiling areas; screening, buffers and fencing; locations of building, equipment, machinery, and structures. The plan shall include monitoring that ensures extraction amounts and rates do not adversely affect ecological functions.

f. A reclamation plan.

g. A determination that the proposed operation depends on a waterfront location, and that demand cannot reasonably be accommodated in operations outside shoreline jurisdiction. Information required to meet this criteria shall evaluate geologic factors such as the distribution and availability of mineral resources, as well as the need for such mineral resources, economic, transportation, and land use factors. This showing may rely on analysis or studies prepared for purposes of GMA designations, or be integrated with relevant environmental review conducted under SEPA (RCW 43.21C).

h. Documentation through a Habitat Management Plan that the project will ensure that ecological functions are protected and unavoidable impacts are mitigated during the course of mining and after reclamation. Creation, restoration, or enhancement of habitat for priority species and the future productivity of the site may be considered in determining whether ecological functions are protected.

i. River bar mining proposals must demonstrate how removal of specified quantities of sand and gravel or other materials at specific locations do not adversely affect the natural processes of gravel transportation for the river system as a whole, upstream and downstream of extraction sites. Mining extraction amounts, rates, timing, and locations shall be based on a scientifically determined sediment budget adjusted periodically according to data provided by a regular monitoring plan.

15. Mining Operations. All phases and activities of mining operations shall be carried out in a manner so that the operator shall not significantly adversely affect adjacent shoreline areas.

16. Public Access. Some form of public access to the shoreline for private non-commercial recreational purposes shall be afforded in a manner compatible with mining and accessory facilities and uses. Such public access may be restricted and shall be consistent with the protection of the health, safety, and welfare of the public.

17. Subject to the performance standards, mining is a Conditional Use in Urban Commercial, Residential, Rural, Conservancy and riverine Aquatic environments.

18. Mining is a prohibited use in a Natural environment.

19. In considering renewal, extension or reauthorization of gravel bar and other in channel mining operations in locations where they have previously been conducted, the County shall require compliance with this Program.

20. These mining provisions do not apply to dredging of authorized navigation channels.

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17.50.245 OUTDOOR ADVERTISING, SIGNS, & BILLBOARDS

A. OUTDOOR ADVERTISING, SIGN, AND BILLBOARD POLICIES

1. Wherever feasible, outdoor advertising, signs and billboards should not be placed in such a manner as to degrade or impair visual access to the shoreline and water. Location or placement should be on the upland side of transportation routes parallel or adjacent to shoreline and water areas unless it can be shown that views will not be obstructed.
2. All outdoor advertising, signs and billboards shall comply with State and County regulations including Mason County Sign Code (MCC 17.03.200-203 and MCC 17.05.025).
3. Wherever feasible, outdoor advertising signs and advertising should be placed on or against existing buildings to allow maximum visibility of shoreline and water areas.
4. Other off-premises signs should not be located on shorelines except for approved community entrance or directional signs.

B. OUTDOOR ADVERTISING, SIGNS, AND BILLBOARD REGULATIONS

1. Signs shall comply with the County Sign code that applies county-wide (MCC 17.03.200-203 and MCC 17.05.025), specific to Belfair (MCC 17.34), and specific to Allyn (MCC 17.15).
2. All signs shall be located and designed to minimize interference with vistas, viewpoints, and visual access to the shoreline.
3. Illuminated signs shall be hooded, shaded, or directed so as to eliminate glare when viewed from surrounding properties or watercourses.
4. Other than temporary signs, per Mason County Development Regulations MCC 17.03, overwater signs or signs on floats or pilings shall be prohibited, except when related to navigation, informational, or a water-dependent use. Signs in the Aquatic environment are not subject to buffer or setback standards.
5. Shoreline setbacks do not apply to signs attached to buildings.
6. Informational signage denoting property boundaries, trail markings, or fee/use regulations as well as interpretive or educational signs shall be allowed in all environment designations and are exempted from setback requirements.

17.50.250 RECREATIONAL

A. RECREATIONAL POLICIES

1. Shoreline developments that serve a variety of recreational needs should be encouraged. Priority shall be given to developments that provide recreational uses and that facilitate public access to shorelines. Recreational developments are encouraged to provide facilities for non-motorized access, such as pedestrian or bicycle paths to link the recreation area to the shoreline.

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2. All proposed recreational developments should be designed, located and operated to protect the quality of scenic views and to avoid and minimize adverse impacts on the environment in order to achieve no net loss of ecological processes and functions. Favorable consideration should be given to those projects which complement their environment.

3. Publicly owned property which provides public access to a body of salt or fresh water should be retained for public use.

4. Public agencies, private individuals, groups and developers should be encouraged to coordinate development projects to mutually satisfy recreational needs.

5. Recreational facilities should make adequate provisions for:

    a. traffic, both inside and outside the facility

    b. proper water, solid waste and sewage disposal methods;

    c. pet waste disposal bags, waste cans and signage for parks that allow dogs;

    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 development from adjacent private property.

6. Facilities for intensive recreational activities should be permitted only where sewage disposal and garbage disposal can be accomplished without altering the environment adversely.

7. Where appropriate, non-intensive recreational use should be allowed on floodplains that are subject to recurring flooding.

8. Off-shore recreational structures should be allowed and should be designed to not unduly interfere with navigation of waterways.

9. Trails and pathways on steep shoreline bluffs should be designed to protect bank stability and mitigate for impacts to shoreline ecological functions as to achieve no net loss.

10. Public recreational developments should be consistent with adopted park, recreation and open space plans for the County.

11. The development of small, dispersed recreation areas should be encouraged.

12. The linkage of shoreline parks, recreation areas and public access points by linear systems, such as hiking paths, bicycle paths, easements and scenic drives should be encouraged.

13. The use of off-road vehicles should be discouraged in all shoreline areas except where special areas have been set aside for this purpose.

B. RECREATIONAL REGULATIONS

1. All proposed recreational developments shall be analyzed for their potential effect on environmental quality and natural resources. Proposed development within critical areas or their buffers shall protect habitats and mitigate for unavoidable impacts, consistent with General Regulations.

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2. Recreational facilities shall make adequate provisions for water supply, sewage disposal and garbage collection and shall comply at all times with the updated local and State Health regulations. Such compliance shall be made a condition of the permit.

3. Parking and Vehicles.

   a. Parking areas shall be consistent with the Transportation Chapter MCC 17.50.265.

   b. Vehicular traffic, including all-terrain vehicles, is prohibited on beaches, bars, spits and streambeds, except for boat launching and maintenance activities.

   c. New trailer spaces, camping sites and similar facilities shall not be located on beaches and tidelands.

   d. Public access points on shorelines must provide parking space appropriate for the intended use.

4. Water oriented events and temporary uses in the public interest may be allowed by the County in any environment, provided that such uses will not damage the shoreline environment. Non-water oriented temporary uses may be permitted in Commercial and Residential shoreline environments.

5. Non-water oriented campsites may be approved in the Natural environment, provided they are primitive in nature and not accessible by vehicles.

6. The following regulations shall apply to artificial aquatic life habitats:

   a. Habitats shall not interfere with surface navigation;

   b. Habitats shall be constructed and moored so as to remain in their original location, even under adverse current or wave action;

   c. Conditions of the State Departments of Fish and Wildlife Hydraulic Project Approval may be incorporated into any permit issued.

7. Recreational facilities shall make adequate provisions, such as screening, buffer strips, fences and signs, to prevent overflow and to protect the value and enjoyment of adjacent or nearby private properties.

8. All permanent recreational structures and facilities shall be located outside officially mapped floodways EXCEPT the County may grant exceptions for non-intensive accessory uses (e.g., picnic tables, etc.).

9. Accessory facilities, such as restrooms, recreation halls, commercial services, access roads and parking areas shall be located inland from shoreline jurisdiction unless it can be shown that there is no inland alternative.

10. For recreation developments that will require the use of fertilizers, pesticides or other toxic chemicals, such as golf courses and playfields, the applicant shall submit plans demonstrating Best Management Practices and other methods to be used to prevent leachate from entering adjacent water bodies. Buffer strips providing the maximum width feasible from adjacent waterbodies shall be included in the plan. The County shall determine the width necessary for buffer strips, consistent with the General regulations.

11. 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 aesthetic values. To this end, the County may condition

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project dimensions, location of project components on the site, intensity of use, screening, parking requirements and setbacks, as deemed appropriate to achieve this end.

12. No recreation building or structure, except for docks, bridges, or water dependent scientific or environmental educational facilities, may be built waterward of the ordinary high water mark. Allowed overwater structures shall minimize habitat impacts and visual impacts.

17.50.255 RESIDENTIAL

A. RESIDENTIAL POLICIES

1. Single family residences are a priority use of the shoreline when developed in a manner that assures no net loss of shoreline ecological functions.
2. Over-water or floating residential development should not be permitted waterward of the ordinary high water mark.
3. Sewage disposal facilities, as well as water supply facilities, should be provided in accordance with appropriate state and local health regulations.
4. Residential development channel migration zones or in the floodway should not be permitted.
5. Residential development in shoreline areas should be designed to preserve natural drainage courses. Storm drainage facilities should be designed and installed to protect water quality, prevent erosion, and protect structures. Low impact development practices consistent with the most current adopted Stormwater Management Manual for Western Washington are encouraged for all projects, where feasible.
6. Residential development on shorelines should be planned, designed and located to avoid, minimize, and mitigate for unavoidable adverse impacts to shoreline ecological functions.
7. Subdivisions of more than 4 lots created after the effective date of this program should provide adequate common access to the shoreline and open space along the shoreline for all residents of the development. The access and open space should be of adequate size to provide for recreation land to ensure against interference with adjacent properties.
8. Residential structures should be located to minimize obstruction of views of the water from upland areas. The intent of this policy is to encourage the retention of views in and through new residential developments. This policy is not intended to prohibit residential development of a shoreline lot simply because it may impact or eliminate views from upland property.
9. Residential development along shorelines should be designed and sited to make shoreline stabilization measures unnecessary within the foreseeable future.
10. New residential development should be encouraged to cluster dwelling units in order to preserve natural features, minimize physical and visual impacts and reduce utility and road costs. Performance subdivisions provide significant environmental and public benefits to the County and should be encouraged within shoreline jurisdiction through incentives that allow reduced lot widths.

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11. The overall density of development, lot coverage and height of structures should be appropriate to the physical capabilities of the site. Particular attention should be given to the preservation of water quality and shoreline aesthetic characteristics. Density should be consistent with density provisions of the County land use / zoning code and this Program.

12. Accessory dwelling units should be allowed when no net loss of shoreline ecological functions would occur.

B. RESIDENTIAL REGULATIONS

1. New residential development is prohibited waterward of the ordinary high water mark and within floodways. Existing communities of floating homes, floating on water residences, and/or over-water homes shall be allowed to make improvements associated with life safety matters and property rights provided that any expansion of existing floating homes, floating on water residences, and/or over-water ~~residences~~ homes or communities is the minimum necessary to assure consistency with constitutional and other legal limitations that protect private property. Floating homes licensed as a vessel are not considered development.

2. New residential lots created through land division or lots modified by boundary line adjustments shall only be permitted when the following standards are met:

    a. The applicant must demonstrate that a primary residence can be built on each new lot without any of the following being necessary:

        i. Significant vegetation removal within required buffer areas;

        ii. New structural shoreline stabilization or flood hazard protection during the life of the structure;

        iii. Shoreline modifications that cause erosion or reduce slope stability;

        iv. Shoreline modifications that increase flood hazard or erosion in the new development or to other properties.

    b. Adequate sewer or septic, water, access and utilities shall be provided consistent with County development regulations.

    c. Adverse environmental impacts shall be avoided or mitigated to achieve no net loss of ecological functions through compliance with MCC 17.50.110.

    d. Subdivisions and planned unit developments with potential single–family residential development of greater than four (4) parcels shall provide community access to the shoreline or to a common waterfront lot/tract for non-commercial recreational use within the proposed subdivision for all residents and guests of the development except where the shoreline topography does not permit the same. These subdivisions of more than four (4) units or lots shall include a restriction on the face of the plat prohibiting individual beach access structures. The proponent shall provide visual access to the shoreline via view corridors within the subdivision as illustrated on the final plan and as determined by the Administrator. Existing lawfully established public access shall be maintained.

    e. Prior to final project approval of a residential subdivision or short plat, a usable area shall be set aside for one (1) community dock, when feasible. A proposed community dock shall include no more than one mooring slip per dwelling unit, up to a maximum of ten (10) slips. Individual docks shall not be allowed. All conditions of approval related to

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required access easements and dedications shall be identified on the face of the plat, along with a statement of prohibition of individual docks. The community dock easement shall be recorded with the County Auditor.

f. Substandard shoreline lots unsuitable for development of a primary permitted use under the Mason County Zoning Ordinance and this Program shall not be subdivided.

g. "Submerged lands" (wetlands and those lands waterward of the ordinary high water mark) within the boundaries of any waterfront parcel shall not be used to compute required lot area, lot dimensions and required yards. Portions of land lying within wetlands may be included as open space.

h. Subdivision proposals shall identify areas of minimum required vegetated buffers and setbacks consistent with the General Regulations in MCC 17.50.110 (General Regulations) as well as the storm water retention and erosion control measures required per MCC 17.80 and 14.48.

i. Performance subdivisions authorized under MCC 16.21 in Rural and Conservancy environment designations may include lot widths consistent with the underlying zoning, with a minimum of fifty feet.

3. Design and siting of residential development and activities such as clearing and grading shall not adversely impact water quality or ecological functions:

a. Proposed residential subdivisions and other land uses and developments which may impact aquaculture operations shall provide facilities to prevent any adverse water quality impacts to such operations.

All projects shall meet or exceed any stormwater design requirements in MCC 14.48 and 17.80 to avoid any risk of decertification of shellfish beds. Site preparation and construction in the vicinity of aquaculture operations shall not result in off-site erosion, siltation, or other reductions in water quality. Land uses on erosion hazard areas shall meet the requirements of MCC 8.52.160.

b. Residential development shall comply with current Mason County on-site sewer system standards.

c. Expansion of existing dwellings shall require strict compliance with current sewage system setback and design standards as per WAC 248-96.

d. Residential development and activities such as clearing and grading shall comply with buffers and setbacks consistent with MCC 17.50.110 (General Regulations), and requirements of MCC 17.50.340, Shoreline Stabilization. Deviation from buffer and setback requirements not specifically authorized shall require a Shoreline Variance.

e. Residential developers and individuals shall be required to control erosion during construction. Removal of vegetation shall be minimized and any areas disturbed shall be restored to prevent erosion and other impacts to shoreline ecological functions.

f. Waste materials from construction shall not be left on or adjacent to shorelines.

4. Accessory dwelling units may be allowed subject to meeting the following criteria:

a. Only one accessory dwelling unit per lot.

b. Strict compliance with current sewage setback and design standards as per County health regulations.

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c. Minimal impact on surrounding properties from view blockage, traffic, parking and drainage.

d. Compliance with buffer and setback criteria set forth in MCC 17.50.110 (General Regulations).

e. Accessory dwelling units shall require a Substantial Development Permit and shall not exceed eighty percent (80%) of the square footage of the habitable area of the primary residence or one thousand (1,000) square feet; whichever is smaller.

f. Compliance with requirements of MCC 17.03.029.

5. In Natural shoreline environmental designations, one single family residential development per existing lot of record may be permitted where there is no feasible location outside of shoreline jurisdiction and where a Conditional Use Permit is granted. Duplex and multi-family residential development is prohibited.

17.50.260 RESTORATION AND ENHANCEMENT PROJECTS

A. RESTORATION AND ENHANCEMENT PROJECT - POLICIES

1. Improve shoreline ecological functions, watershed processes, and habitat values over time through regulatory, voluntary and incentive-based public and private programs and actions that are consistent with the Shoreline Master Program Restoration Plan and other Mason County adopted restoration plans.

2. Provide support to restoration work in the shorelines of Mason County by various organizations by identifying priorities and organizing information on available funding sources for restoration implementation.

3. Implement actions that restore shoreline ecological functions, values and processes as well as shoreline features, improve habitat for sensitive and/or locally important species, and are consistent with biological recovery goals for threatened salmon populations and other species and/or populations for which a recovery plan is available.

4. Integrate restoration efforts with other parallel natural resource management efforts including, but not limited to, water quality cleanup plans, TMDLs, integrated aquatic vegetation management plans for lakes, shellfish closure response plans, and other similar efforts.

5. Protection of existing shoreline resources is the best way to ensure the long-term health and well-being of Mason County shorelines. Restoration should be used to complement the protection strategies required by this Program to achieve the greatest overall ecological benefit.

6. This Program recognizes the importance of restoring shoreline ecological functions and processes. Mason County supports cooperative restoration efforts by local, state, and federal public agencies, tribes, non-profit organizations, and landowners to improve shorelines with impaired ecological functions and/or processes.

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7. Restoration actions should restore shoreline ecological functions and processes as well as shoreline features and should be targeted toward meeting the needs of sensitive and/or regionally important plant, fish and wildlife species.

8. When prioritizing restoration actions, the County should give highest priority to measures that have the greatest chance of reestablishing ecosystem processes and creating self-sustaining habitats. Priority should be given to restoration actions that:

   a. Create healthy and sustainable ecosystems.

   b. Restore connectivity between stream/river channels and floodplains.

   c. Restore natural watershed processes that support river and stream channel formation.

   d. Mitigate peak flows and associated impacts caused by high stormwater runoff volume.

   e. Reduce sediment input to streams and rivers and associated impacts.

   f. Improve water quality in areas where it is degraded.

   g. Restore native vegetation and natural hydrologic functions of degraded and former wetlands.

   h. Replant native vegetation in riparian areas to provide shade and food sources for nearshore habitats.

   i. Restore nearshore ecosystem processes, such as sediment transport and delivery and tidal currents that create and sustain habitat.

   j. Restore pocket estuaries and other priority habitats that support salmon life histories, including feeding and growth, refuge, and migration.

   k. Restore beaches that support priority forage fish spawning.

   l. Restore nearshore habitats where native eelgrass was historically present.

   m. Address contamination along industrial shoreline regions.

B. RESTORATION AND ENHANCEMENT PROJECT - REGULATIONS

Restoration shall be carried out in accordance with an approved restoration plan prepared by a qualified professional. The plan shall contain, where applicable, an analysis of existing conditions, identification of the area to be restored, proposed corrective actions, including installation of native species, performance standards, monitoring schedule, planting plans, erosion and sedimentation control plans, and grading plans as necessary and in accordance with the policies and regulations of this Program.

17.50.265 TRANSPORTATION

A. TRANSPORTATION FACILITY - POLICIES

1. New transportation facilities should be located on stable soils, back from a water channel using routes that avoid slumps, wetlands, and natural drainage areas. When this is not possible, corrective stabilization measures should be permitted.

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2. Major highways, freeways and railways should be located away from shorelands.

3. Transportation facility locations should be planned to fit the topography so that minimum alterations of natural conditions will be necessary.

4. Scenic highways should have provisions for safe pedestrian and other non-motorized travel. Also, provisions should be made for sufficient viewpoints, rest areas and picnic areas on public shorelines.

5. Existing public roadways which provide significant visual and physical public access to shoreline areas, including high quality aesthetic values, should be maintained and kept in service.

6. Roads located in shorelands and wetlands should be designed and maintained to prevent erosion and to permit the natural movement of ground water.

7. Location of transportation facilities should not require the rerouting of stream and river channels.

8. Transportation facilities should be designed, constructed and maintained to minimize erosion, prevent pollution and to permit natural movement of ground water and flood waters to the extent practical.

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

10. Waterway crossings should be designed and constructed to maintain normal geohydraulic processes, as well as to minimize interruption of flood water flow.

11. The number of stream crossings should be minimized.

12. New transportation facilities should be located and designed to minimize the need for shoreline protection measures.

13. Trail and bicycle systems should be encouraged along shorelines to the maximum extent feasible.

14. All transportation facilities in shoreline areas should be located, designed, constructed and maintained to cause the least possible adverse impacts on the land and water environments, should respect the natural character of the shoreline and should make every effort to preserve wildlife, aquatic life and their habitats.

15. The County shall not vacate a County road or part thereof which abuts on a body of salt or freshwater unless the purpose of the vacation is to enable any public authority to acquire the vacated property for port purposes, boat moorage or launching sites, or for park, viewpoint, recreational, educational or other public purposes, or unless the property is zoned for industrial uses.

16. Public transportation facilities should incorporate environmental education features, where practicable, and should employ pervious materials and other appropriate low impact development techniques where soils and geologic conditions are suitable and where such measures could measurably reduce stormwater runoff.

17. Additional Parking Standards:

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a. Parking in shoreline areas should be limited to that which directly serves a permitted shoreline use.

b. Parking facilities should be located and designed to minimize adverse environmental impacts to the following, including, but not limited to:

   i. Stormwater runoff;

   ii. Water quality;

   iii. Visual qualities;

   iv. Public access; and

   v. Vegetation and habitat.

c. Parking areas should be planned to achieve optimum use. Where feasible, parking areas should serve more than one use (e.g., recreational use on weekends, commercial use on weekdays).

B. TRANSPORTATION FACILITY REGULATIONS

1. Application for transportation facilities, including roads and railroads must adequately address the following:

   a. Need must be shown for a shoreline location and that no reasonable upland alternative exists.

   b. The construction is designed to protect the adjacent shoreline against erosion, uncontrolled or polluting drainage and other factors detrimental to the environment both during and after construction.

   c. That the project will be planned to fit the existing topography as much as possible, thus minimizing alterations to the natural environment.

   d. That the project will avoid adverse impacts to shoreline ecological functions and the process of channel migration, and will mitigate for any unavoidable impacts consistent with General Regulations.

   e. That all debris, overburden and other waste materials from construction will be disposed of in such a way as to prevent their entry by erosion from drainage into any water body.

2. Bridge construction shall conform to the following:

   a. Excavation for and placement of the sills or abutments and outside placement of stringers or girders shall be accomplished from above the ordinary high water mark, as a Conditional Use.

   b. Abutments, piers, piling, sills, approach fills, etc., shall not constrict the flow so as to cause any appreciable increase (not to exceed .2 feet) in backwater elevation (calculated at the 100-year flood) or channel wide scour and shall be aligned to cause the least effect on the hydraulics of the watercourse.

   c. The bridge shall be constructed, according to the approved design, to pass the 100-year peak flow with consideration of debris likely to be encountered. Exception shall be granted if applicant provides hydrologic or other information that supports alternative design criteria.

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3. Foot or vehicular bridges crossing rivers or streams for the private use of individual land owners shall be evaluated for need and design. They shall meet the same standards for siting, water quality protection and erosion control as all other bridges.

4. In addition to the applicable standards in this chapter, private road construction and maintenance shall conform to the following standards:

    a. Road subgrade widths shall be the minimum commensurate with the intended use, generally not more than 20 feet for single lane roads.

    b. Roads shall follow natural contours where possible. Natural benches, ridge tops and flat slopes are preferred locations.

    c. Erodible cuts and filled slopes shall be protected by planting or seeding with appropriate ground cover or by matting immediately following construction.

5. Excess construction materials shall be removed from the shoreline area.

6. Filling waterward of OHWM and in wetlands for road or railroad rights-of-way shall be prohibited unless for public access or for an expansion or alteration of transportation facilities of statewide significance (as defined in RCW 47.06.140) currently located on the shoreline, provided alternative road alignments are infeasible and impacts are mitigated consistent with fill regulations.

7. All excavation materials and soils exposed to erosion by all phases of road, bridge and culvert work shall be stabilized and protected by seeding, mulching or other effective means, both during and after construction.

8. Where permitted to parallel shorelines, roads or railroads shall be set back a sufficient distance from the ordinary high water mark to leave a usable shoreline area for shoreline recreation or access consistent with General Regulations.

9. Stormwater runoff shall be controlled to reduce suspended solids and other pollutants before entering any surface water body consistent with Mason County stormwater standards.

10. Pervious materials and low impact development techniques shall be used to manage stormwater runoff where feasible and where conditions are appropriate.

11. Additional Parking Standards:

    a. Parking and loading areas shall only be permitted in shoreline jurisdiction to support an authorized use where it can be demonstrated that there are no feasible alternative locations.

    b. Perimeters of parking areas shall be landscaped to minimize visual impacts to the shorelines, roadways, and adjacent properties.

    c. Parking facilities serving individual buildings shall be located landward of the principal building being served, except when the parking facility is located within or beneath the structure and is adequately screened, or in cases when an alternate location would have less environmental impact on the shoreline.

    d. Parking facilities for shoreline uses shall be designed to provide safe and convenient pedestrian circulation within the parking area and to the shorelines.

    e. Parking as a primary use shall be prohibited within shoreline jurisdiction. Parking is prohibited on structures located in- or over-water.

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f. Parking areas shall be located outside critical areas and their buffers, unless there is no area available. Unavoidable impacts shall be mitigated, consistent with General Regulations.

g. Design of parking areas shall be consistent with Mason County Stormwater Standards.

17.50.270 UTILITIES

A. UTILITY - POLICIES

1. New utilities should be located outside shoreline jurisdiction unless the utility requires a location adjacent to the water; alternative locations are infeasible; utilities are required for permitted shoreline uses; or the development is expected to improve environmental conditions.

2. Pipelines, cables and transmission lines should not be placed in waters, wetlands or in required buffer areas unless there is no feasible and reasonable alternative.

3. New utilities should use existing transportation and utility sites, rights-of-way and corridors, rather than creating new corridors.

4. Utility facilities should be designed and located to assure no net loss of shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations.

5. Utility facilities and corridors should be planned, designed and located to protect scenic views.

6. If possible, power distribution and telephone lines should be placed under ground in any new residential, commercial, public, or view area near the shores of a water body.

7. The possibility of making use of public utility rights-of-way to provide additional public access to lakes, streams, or saltwater should not be overlooked when granting such rights-of-way.

8. Planning for location of towers, substations, valve clusters, etc., so as not to obstruct such access should be pursued.

B. UTILITY - REGULATIONS

1. Utility production and processing facilities, such as power plants and sewage treatment plants, or parts of those facilities that are non-water-oriented, shall be prohibited in shoreline jurisdiction unless it can be demonstrated that no other feasible option is available or that it will improve environmental conditions. All underwater pipelines transporting liquids intrinsically harmful to aquatic life or potentially injurious to water quality are prohibited, except in situations where no other feasible alternative exists or where it is expected to improve environmental conditions. In those limited instances when permitted, automatic shut-off valves shall be provided on both sides of the water body.

2. Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located outside of shoreline jurisdiction where feasible unless it can be demonstrated that it will likely improve environmental conditions.

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3. Utilities shall avoid public recreation areas and significant natural, historic or archaeological or cultural sites unless no alternative is feasible and all feasible measures to reduce harm have been incorporated into the proposal.

4. Utilities should be located in existing rights of way, corridors and bridge crossings whenever possible.

5. Utility facilities shall be designed and located to assure no net loss of shoreline ecological functions, consistent with General Use regulations.

6. Where feasible, power distribution and telephone lines should be placed under ground in any new residential, commercial, public, or view area near the shores of a water body.

7. Discharges from new sewage treatment plants shall not be allowed into surface waters regardless of the environmental designation, unless no feasible alternative is available.

8. Any excavation for a utility line must be restored to pre-project configuration, replanted with native species and provided with maintenance care until the newly planted area is established.

17.50.300 Shoreline MODIFICATION Policies and Regulations

17.50.305 BEACH ACCESS STRUCTURES

A. BEACH ACCESS STRUCTURE - POLICIES

1. Mason County should enable pedestrian access to beach areas while protecting fragile shoreline ecosystems and aesthetic concerns.

2. Beach access structures should be located, designed and maintained in a manner that minimizes adverse effects on shoreline ecology.

3. Neighboring property owners are encouraged to combine resources to collectively propose beach access structures in appropriate locations for shared use. Joint use stairways are preferred over individual stairways.

4. Beach access structures should not be permitted unless their adverse effects on stream, lake or marine shoreline functions and processes, including any significant adverse effects on adjoining lands and properties, are fully evaluated and mitigated.

5. Beach access structures may not be appropriate in some areas because of safety hazards. The County should not permit these structures in areas where there are expected risks to human health and safety or adverse effects on shoreline functions and processes. Some properties will have view-only access to the neighboring waters.

6. Beach access structures should conform to the existing topography, minimize adverse impacts on shoreline aesthetics, minimize clearing, or other land modification grading to the maximum extent feasible.

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7. Beach access structures should not be allowed if there is a reasonable likelihood that they will require erosion control structures or armoring in the future.

8. Recognition should be given to potential detrimental impacts of beach access structures on water-dependent uses.

B. BEACH ACCESS STRUCTURE - REGULATIONS

1. Beach access structures shall be located, designed, and operated consistent with mitigation sequencing and shall avoid a net loss of shoreline ecological functions. A Habitat Management Plan, as detailed in the Resource Ordinance MCC 8.52.170, is required to assess, minimize, and mitigate for unavoidable impacts.

2. If a beach access proposal requires a Geotechnical Report per the Landslide Hazard or Erosions Hazard Areas Chapters of the Resource Ordinance, in addition to the standard report requirements, the following shall be addressed in the report: the structure's potential effect on shoreline processes such as net shoreline drift and sediment transport.

3. Beach access structures are prohibited if the bank slope where the structure is placed is likely to require shoreline stabilization in the future. This shall be demonstrated in a Shoreline Geotechnical Assessment (or in a Geotechnical Report, if required by the Landslide Hazard Areas Chapter of the Resource Ordinance).

4. Beach access structures may be located within the shoreline buffer and setback without Variances, provided that:

    a. The clear width of any beach access structure shall be the minimum necessary for the structure to be determined by site limitations, including requirements for engineering and habitat management plans. The width of residential stairs and walkways shall not exceed 5 feet and the total area of residential landings shall not exceed 50 square feet (each);

    b. A tram shall not extend more than twelve (12) vertical feet above the top of the bank; and

    c. No portion of a beach access structure shall be constructed waterward of the Ordinary High Water Mark and/or the waterward face of the bulkhead unless there is no other feasible alternative. If it is infeasible to locate a pedestrian landing platform landward of the ordinary high water mark, one may be constructed waterward of the ordinary high water mark if it is supported by pier blocks or piles and twenty-five (25) square feet or less.

5. New residential subdivisions of more than four (4) units or lots shall include a restriction on the face of the plat prohibiting individual beach access structures. Shared access structures may be permitted in these subdivisions when consistent with the provisions of this Program.

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17.50.310 BOAT LAUNCHES

A. BOAT LAUNCH - POLICIES

1. Boat launches should be located only at sites with suitable environmental conditions, shoreline configuration, access, and neighboring uses.
2. Where allowed, boat launches should be located, designed, constructed and operated with appropriate mitigation to avoid adverse effects on shoreline ecological functions.
3. Boat launches should be designed and located to minimize obstruction of views and conflicts with boaters and fishermen.
4. Boat launches should be constructed of materials that will not adversely affect water quality or aquatic plants and animals.
5. Use and development of public launches are preferred rather than the development of individual boat launches for private, non-commercial pleasure craft.
6. Multi-user boat launching facilities should be located in areas where parking and access to the facility can be accommodated without causing adverse impacts upon adjacent properties or endanger public safety.
7. Proposals for public boat launches should be planned and developed where regional and local evidence of substantial need exists.

B. BOAT LAUNCH- REGULATIONS

1. All Boat Launches.
    a. Overwater structures shall be allowed only for water dependent uses or for public access.
    b. Overwater structures shall be limited to the minimum size necessary to meet the needs of the proposed water-dependent use.
    c. Overlapping Jurisdictions. New construction, replacement, and repair shall comply with all applicable state and federal policies and regulations, including but not limited to the Washington Department of Fish and Wildlife (Hydraulic Project Approval WAC 220-110), the Washington Department of Natural Resources, and the United States' Army Corps of Engineers. These include functional grating, size restrictions, and other standards.
    d. Boat launches shall be designed and constructed to avoid or if that is not possible, to minimize and mitigate unavoidable impacts to ecological functions, critical area resources such as commercial and recreational shellfish areas; submerged aquatic vegetation such as eelgrass beds, macro-algae; forage fish spawning areas; salmon and other priority species and habitats; riparian vegetation; large woody debris; associated wetlands; and processes such as littoral drift.
        i. Habitat Management Plan. Proposals for new or expanded boat launches on marine shorelines and on lakes with species listed under the federal Endangered Species Act as either proposed, threatened, or endangered shall include a Habitat Management Plan that identifies measures to protect habitats and mitigate for unavoidable impacts.

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ii. Work Windows. In-water construction activities shall be limited to all relevant fish work windows (WAC 220-110-271) to avoid impacts to spawning, migration and rearing of salmonids and other critical species.

iii. Distance to Forage Fish Habitat. Wherever feasible, overwater structures shall be located a minimum of twenty-five feet (measured horizontally from the edge of the structure) in all directions from eelgrass and kelp beds and herring spawning areas. Projects with unavoidable impacts shall provide compensatory mitigation.

iv. Alongshore Sediment Transport. Boat launches shall be designed to avoid impediments to alongshore sediment transport. Where they unavoidably adversely affect net sediment transport or other coastal processes to the detriment of nearby beaches or habitats, the County may require periodic replenishment of substrate to offset adverse impacts.

e. No more than one (1) boat launch shall be permitted on a single lot.

f. There is no maximum length or width for commercial, industrial, or recreational (public or community) use boat launches, however, the proponent must demonstrate that the size proposed is the minimum necessary to allow the use proposed.

2. Residential Boat Launches.

In addition to '1' above, single family residential boat launches shall meet the following:

a. Residential launches for hand launching boats shall use gravel or other permeable material. Removal of existing vegetation for launch access should be limited to eight (8) feet in width.

b. On marine shorelines, railways are preferred over concrete boat ramps for private, residential use.

c. Design standards for residential boat ramps and marine railways are as follows, unless otherwise required by WDFW Hydraulic Project Approval or DNR use authorization:

i. Ramps shall be placed at beach grade, and not elevated on fill.

ii. Ramps and railways shall not exceed 12 feet in width.

iii. Ramps and railways shall not exceed 50 feet in length, as measured from the line of ordinary high water. Marine railways shall not extend beyond MLLW (0.0).

iv. Ramps and railways shall not exceed 18 inches in height at the line of ordinary high water, or the toe of the bulkhead.

3. Public Boat Launches.

In addition to '1' above, public boat launches shall meet the following:

a. Public boat launches shall include adequate restroom and sewage and solid waste disposal facilities in compliance with applicable health regulations.

b. When overwater development is proposed in association with a public boat launch facility, it may be permitted only where such use requires direct water access, and/or where such facilities will substantially increase public opportunities for water access.

c. Public boat launches shall be located and designed to prevent traffic hazards and minimize traffic impacts on nearby access streets.

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d. Public boat launch sites shall include parking spaces for boat trailers commensurate with projected demand.

17.50.315 BREAKWATERS, JETTIES, AND GROINS

A. BREAKWATER, JETTY, AND GROIN - POLICIES

1. Because the purpose of these structures is to modify complex water movement and littoral drift systems and may thus impact the shoreline outside the project boundaries, design by a registered professional engineer is required.
2. Floating breakwaters are preferred to solid landfill types to maintain sand movement and fish habitats.
3. When planning for breakwaters and jetties or groins, the County should consider entire systems or sizable stretches of rivers or marine shorelines. This planning should consider off-site erosion or accretion that might occur as a result of these shoreline structures or activities. These structures should be developed in a coordinated manner among affected property owners and public agencies.
4. Jetties should generally be discouraged because they partially or totally block shore processes, are irreversible in nature and require an on-going and costly dredging or beach feeding program to alleviate erosion or accretion problems.
5. Marine groins should generally be discouraged because they purposefully trap and accrete beach forming material, yet erode down drift beaches which may have adverse effects on other shore resources and habitats.
6. Breakwaters, jetties and groins should be located and designed so as to avoid, minimize, and mitigate for any unavoidable adverse impacts on fish and wildlife resources and habitats.
7. Artificial beach feeding and enhancement proposals that do not use jetties or groins should be encouraged over developments requiring the use of such structures.
8. Breakwaters, jetties and groins should be allowed only where necessary to support water-dependent uses including public access, navigation, industrial activities and marinas as an integral component of a harbor, marina or port, shoreline stabilization or other specific public purpose.

B. BREAKWATER, JETTY AND GROIN - REGULATIONS

1. The County shall require and utilize a habitat management plan and engineering report which shall include the following information during its review of proposals for breakwaters, jetties and groins (all drawings shall be drawn to scale):
   a. Purpose of the structure;
   b. Construction of project relative to toe and crest of uplands;
   c. Adjacent land contours and high water elevations including but not limited to the following: Extreme High Tide, OHWM, MLLW and tidal elevation at the end point.

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d. Seasonal direction and speed of prevailing winds; with wind rose and duration graphs.

e. Net direction of littoral drift, tidal currents.

f. The following additional information is required for groins:

i. Profile of uplands;

ii. Beach type, slope and materials;

iii. Uplands type, slope and materials;

iv. Soil type;

v. Physical or geological stability of uplands and;

vi. Predicted impact on area shore processes, adjacent properties and upland stability.

2. Breakwaters may be considered as a Conditional Use for navigational purposes, aquacultural activities, industrial activities and marinas as an integral component of a harbor, marina or port, where water dependent uses are located waterward of the existing shoreline and where protection from strong wave action is essential. Open-pile, floating, portable, or submerged breakwaters, or several smaller discontinuous structures that are anchored in place, shall be the only type allowed unless it can be shown that solid fixed breakwaters would have no significant adverse effect on the aquatic biology and shore processes, or that such adverse effects can be adequately mitigated.

3. Jetties and marine groins may be considered a Conditional Use for navigational purposes, water dependent activity, marinas and public beach management as integral components of an overall development plan.

4. Breakwaters, jetties and groins shall be located and designed so as to avoid, minimize and mitigate for any unavoidable adverse impacts on fish and wildlife resources and habitat and physical processes such as channel migration, water circulation and sediment transport.

a. The design of breakwaters, jetties and groins shall conform to all applicable requirements established by the Washington Department of Fish and Wildlife and the US Army Corps of Engineers.

b. The design shall minimize impediments to navigation and to visual access from the shoreline.

c. Materials used for the construction of breakwaters, jetties and groins shall exhibit the qualities of long-term durability, ease of maintenance, and compatibility with local shore features, processes, and aesthetics.

d. The use of solid waste, junk, or abandoned automobiles, asphalt, or any building demolition debris is prohibited.

5. Groins on rivers, streams and lakes are discouraged, but may be considered as a Conditional Use provided the applicant can demonstrate the appropriateness of the designed structure for the site and that alternative shore protection measures would prove more detrimental to the geohydraulics and natural resources within the water body.

6. Groins on rivers, streams and lakes shall only be allowed as part of a restoration project or a County-approved comprehensive flood hazard management plan.

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17.50.320 DOCKS, FLOATS, BUOYS, LIFTS, ETC.

A. DOCK, FLOAT, MOORING BUOY, BOAT LIFT, BOAT HOUSE, AND COVERED MOORAGE - POLICIES

1. While these structures are important for commerce and recreation, they also can have negative impacts on the shoreline ecology, aesthetics, and navigation. Therefore, portions of the shoreline may not be appropriate for these overwater structures.
2. Docks should be located only at sites with suitable environmental conditions, shoreline configuration, access, and neighboring uses.
3. The County should consider the cumulative effects that become possible with the granting of permission for individual docks, recognizing that approval of one project can set a precedent for other similar projects.
4. Where allowed, docks, unattached floats, and boat lifts should be located, designed, constructed and operated with appropriate mitigation to avoid adverse effects on shoreline ecological functions.
5. Docks, unattached floats, and boat lifts should be designed and located to minimize obstruction of views and conflicts with boaters and fishermen.
6. The type and design of docks, unattached floats, and boat lifts should be compatible with the shoreline area where they are located. Consideration should be given to shoreline characteristics, tidal action, aesthetics, and adjacent land and water uses.
7. Docks, unattached floats, and boat lifts should be constructed of materials that will not adversely affect water quality or aquatic plants and animals.
8. Use of marinas and public launches are preferred rather than the development of individual docks for private, non-commercial pleasure craft.
9. Joint-use and/or community use of docks are favored, especially in tidal waters. The use and development of public recreational docks should be encouraged.
10. Priority should be given to the use of community docks in all new waterfront subdivisions. In general, encouragement should be given to the cooperative use of docks.
11. Mooring buoys and unattached floats are preferred over docks with attached floats.
12. Boathouses and covered moorages should be prohibited where incompatible with environmental conditions.
13. Docks should be allowed only for water-dependent uses or public access. A dock associated with a single-family residence is considered a water-dependent use.
14. Water-related and water enjoyment uses may be allowed as part of a mixed use development on over-water structures where they are clearly auxiliary to and in support of water-dependent uses.
15. New docks, excluding docks accessory to single family residences, should be permitted only when the applicant has demonstrated that a specific need exists to support the intended water-dependent use.

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16. Vessels should be restricted from extended mooring on waters of the state unless authorization is obtained from the Washington Department of Natural Resources (DNR) and impacts to navigation and public access are mitigated.

B. Dock, Unattached Float, Mooring Buoy, Boat Lift, Boat House, and Covered Moorage - Regulations

For the purposes of this subsection, 'overwater structures' pertains to docks (piers, ramps, and/or attached floats); unattached floats; mooring buoys; boat lifts and overwater davits; and covered moorage.

1. All Overwater Structures

   a. Overwater structures shall be allowed only for water dependent uses or for public access.

   b. Overwater structures shall be limited to the minimum size necessary to meet the needs of the proposed water-dependent use.

   c. Overlapping Jurisdictions. New construction, replacement, ~~and~~ repair, installation, and use shall comply with all applicable state and federal policies and regulations, including but not limited to the Washington Department of Fish and Wildlife (Hydraulic Project Approval WAC 220-110), the Washington Department of Natural Resources, and the United States' Army Corps of Engineers. These include functional grating, size restrictions, and other standards.

   d. Avoidance, Minimization, and Mitigation. Overwater structures shall be designed and constructed to avoid or if that is not possible, to minimize and mitigate unavoidable impacts to ecological functions, critical area resources such as commercial and recreational shellfish areas; submerged aquatic vegetation such as eelgrass beds and macro-algae; forage fish spawning areas; salmon and other priority species and habitats; riparian vegetation; large woody debris; associated wetlands; and processes such as littoral drift.

      i. Applicants for new or expanded overwater structures on all marine shorelines and on lakes with species listed state or federally proposed, threatened, or endangered shall submit a Habitat Management Plan that identifies measures to protect habitats and mitigate for unavoidable impacts.

      ii. Work Windows. In-water construction shall be limited to all relevant fish work windows (WAC 220-110-271) to avoid impacts to spawning, migration and rearing of salmonids and other critical species.

      iii. Alongshore Sediment Transport. Overwater structures shall be designed to avoid impediments to alongshore sediment transport. Where they unavoidably adversely affect net sediment transport or other coastal processes to the detriment of nearby beaches or habitats, the County may require periodic replenishment of substrate to offset adverse impacts.

      iv. Distance to Eelgrass, Kelp, and Forage Fish Habitat. Wherever feasible, overwater structures shall be located a minimum of twenty-five feet (measured horizontally from the edge of the structure) in all directions from eelgrass and kelp beds and herring spawning areas. Projects with unavoidable impacts shall provide compensatory mitigation.

v. Grating to Allow Light Penetration. To minimize adverse effects on habitats and species caused by overwater structures that reduce ambient light levels, overwater structures shall incorporate functional grating that meets all standards (such as percent functional grating, percent open area, and orientation of the grating) required by state and federal agencies with jurisdiction.

vi. Treated Wood and Toxic Materials. Materials used for components that may come in contact with water shall be made of non-toxic materials where feasible. Tires and tire by-products shall not be used for construction where they would contact the water (e.g., flotation, fenders, and hinges). Where chemically-treated materials are the only feasible option, materials shall use the least toxic alternative approved by applicable state agencies for use in water. Treated wood elements shall incorporate design features (e.g., fenders, bumpers, metal bands) to minimize abrasion by vessels, pilings, floats or other objects. Wood treated with creosote, chromated copper arsenate and pentachlorophenol is prohibited for use in overwater structures.

e. Overwater structures shall be located, designed and operated to not significantly impact or unnecessarily interfere with the rights of adjacent property owners, or adjacent water uses including navigation and boat operation.

f. Except for community or joint use, structures shall be located a minimum of five feet from side property lines. Community use or joint use facilities may be located on the property line, where applicable. If the location of side property lines on a cove cannot be officially established without a survey, the Administrator may require a survey by a registered land surveyor before a permit is issued.

g. Artificial lighting on overwater structures shall be the minimum necessary for the proposed use. Lighting shall be designed to minimize glare and shall incorporate cut-off shields.

h. Overwater structures shall be constructed and maintained in a safe and sound condition. Abandoned or unsafe structures shall be removed or repaired promptly by the owner. Where any such structure constitutes a hazard to the public, the County may, following notice to the owner, abate the structure if the owner fails to do so within a reasonable time, and may impose a lien on the related shoreline property in an amount equal to the cost of the abatement. If the structure is abandoned and an owner cannot be located, the County will publish public notice before taking action to remove the hazard.

i. New covered moorage and over the water boat houses are prohibited except in marinas.

Note: For upland boat houses, see the structure setbacks and mitigation requirements per the applicable use chapter and the General Regulations (17.50.110).

j. Repair and Replacement.

i. As detailed in MCC 17.50.120~~,~~ Existing Structures, the footprints of existing legally established over water structures that do not conform to the Program's requirements are considered ~~grand-fathered,~~legal non-conforming, including docks, boat houses, and other overwater structures; therefore repairs and replacements ~~including grandfathered docks, boat houses, and other overwater structures~~ do not need to meet the County's dimensional standards but do need to use approved materials. Replacement structures shall be restricted to the original footprint and size dimensions, ~~except for any variations required by health and~~

~~safety regulations~~unless the reconfiguration meets current bulk dimensional standards and does not exceed the existing overwater square footage. Existing skirting shall be removed and may not be replaced. Whenever feasible, repairs to boathouses should include materials that allow for light penetration to intertidal and shallow subtidal water areas.

Note: The Washington Department of Fish and Wildlife may not issue Hydraulic Project Approvals for replaced docks or unattached floats that do not meet their current standards in WAC 220-110.

ii. For p~~P~~roposals involving the addition to or enlargement of existing overwater structures, it is the addition or area of enlargement that must comply with the requirements for new construction as~~. Enlargement beyond prescriptive standards outlined in 17.50.320.B, Table 17.50.320-A, and Table 17.50.320-B would require a Variance~~.

Commented [MW6]: Clarification that the "addition" or "area of enlargement" is the part of the proposal that has to meet requirements of new construction.

2. Docks and Unattached Floats

a. Evaluation of cumulative impacts of docks. When a Conditional Use Permit is required per Table 17.50.~~110~~090-A and/or this chapter, the following apply:

i. Mason County shall evaluate the cumulative effects on ecological functions, navigation and aesthetics and other water-dependent uses when determining if a residential dock is allowed. After consideration of potential cumulative effects and precedential effects, the County shall deny a new permit application where there is convincing evidence that impacts would risk harm to shoreline ecological functions, loss of community use, adjacent water dependent uses or a significant degradation of views and aesthetic values. A balancing of the interests of project proponents, adjacent shoreline property owners (and uses), and those of the public is necessary.

ii. The applicant shall prepare a cumulative impact analysis report that addresses the following within a defined area such as a drift cell or other appropriate shoreline reach:

(a) The current build-out of the proposed dock area. The report shall determine whether or not the proposed dock would alter an undeveloped shoreline reach or high quality habitat area, or compromise development of recreation opportunities.

(b) The potential for future build-out of the proposed dock area. The report shall assess if a shoreline reach~~-~~ area already has a substantial number of docks, and therefore the potential for future build-out of the area is more limited and the risk of significant environmental impacts from additional infilling of docks will likely be low. This is particularly true if the proposed dock will be sited between existing docks on adjacent properties. However, even if the area has limited build-out potential, should the specific location, characteristics, and natural functions of the shoreline and the health of the water body be especially susceptible to new dock development, then the report should identify the potential for significant environmental impacts.

(c) Aesthetics and visual compatibility. The report shall evaluate the context of the existing visual characteristics of the upland, shoreline, and overwater development and analyze compatibility with the surrounding area. Although

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any dock will have a physical presence and alter the view of a particular shoreline, it is the extent that the man-made alteration constituting a visual presence on the environment that will be considered by the County as important to the compatibility analysis.

b. If allowed under this Program, no more than one (1) dock may be permitted on a single waterfront lot. This does not apply to public recreational uses.

c. Prior to final project approval of a residential subdivision or short plat, a usable area shall be set aside for one (1) community dock, when feasible. A proposed community dock shall include no more than one mooring slip per dwelling unit within shoreline jurisdiction, up to a maximum of ten (10) slips. Individual docks shall not be allowed. All conditions of approval related to required access easements and dedications shall be identified on the face of the plat, along with a statement of prohibition of individual docks and piers. The community dock easement shall be recorded with the County Auditor.

d. Vessels shall be restricted from extended mooring on 'State Owned Aquatic Lands' except as allowed by WAC 332-52-155 and other applicable state regulations and provided that a lease or permission is obtained from the state and impacts to navigation and public access are mitigated.

e. Within a semi-enclosed body of water such as a bay, cove, or natural stream channel, a dock or unattached float may be constructed to the lesser of, the allowed dock length or fifteen percent (15%) fetch, provided there are no significant adverse impacts to navigation.~~No dock or unattached float may be constructed to the lesser of fifteen percent (15%) fetch or to within two hundred (200) feet of OHWM on the opposite shoreline of any semi-enclosed body of water such as a bay, cove, or natural stream channel.~~

f. **Residential** Docks and Unattached Floats (Single Family, Joint Use, and Community Use).

i. Joint-use residential docks are preferred over single-use docks.

(a) Prior to development of a new residential, single use dock, the applicant shall demonstrate that they have contacted adjacent property owners and none have indicated a willingness to share an existing dock or develop a shared moorage in conjunction with the applicant.

(b) For joint use facilities, a covenant executed between all property owners sharing the joint use docks shall be submitted to the County. The covenant shall cover the agreement for the joint use of common lot lines (if applicable), shall run with the land, and be filed with the County Auditor as a covenant with the land.

ii. No dock or unattached float shall have a residential structure constructed upon it, and skirting is not allowed.

iii. The portion of a dock that is landward of the OHWM, shall only be as long as that necessary to adequately anchor the dock.

iv. Maximum Overall Length.

(a) Freshwater Dock. Measured from the waterward edge of the structure, the overall length of docks shall not exceed 60 feet from OHWM for single waterfront lots (single use). The lengths permitted for joint or community use

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facilities are shown in Table 17.50.320-A. In addition, see (2)(e) for length restrictions that protect navigability.

(b) Saltwater Dock. The overall length of a marine dock for single use shall be only so long so as to obtain a depth of seven (7) feet of water as measured at mean lower low water, unless otherwise required by DNR use authorization or Hydraulic Project Approval. The length shall not exceed 120 feet from OHWM for single waterfront lots (single use). The lengths permitted for joint or community use facilities are shown in Table 17.50.320-B. In addition, see (2)(e) above for length restrictions that protect navigability.

For single use and joint use docks, the Administrator may approve a different dock or pier length when needed, to avoid known eelgrass beds, forage fish habitats, or other near shore resources up to a maximum of 150 feet (as measured from OHWM), beyond which would require a Variance.

vi. Piers.

(a) The width of piers, not including the pilings, ~~lot~~ shall not exceed six (6) feet.

(b) The bottom of saltwater piers must be at least 6 feet above the substrate.

Note: Depending on orientation and/or pier width (greater than 4 feet), t~~T~~he amount of functional grating required by state jurisdictions may increase. ~~for piers that are greater than 4 feet wide.~~

vii. Ramps. The width of ramps shall not exceed five (5) feet.

Note: State jurisdictions may require ramps to be 4 feet wide and fully grated.

viii. Floats.

(a) The width of floats shall not exceed eight (8) feet.

Note: The amount of functional grating required by state jurisdictions may increase for floats that are greater than 6 feet wide.

(b) All floating structures shall include float stops to keep structures off the tidelands or lake-bottom or be located at sufficient depth to avoid grounding during all tidal or lake elevations~~, unless exempt by WDFW Hydraulic Approval~~. Exclusion of float stops may be approved by WDFW through Hydraulic Approval. In saltwater, floats need to be suspended a minimum of one foot above the tidal substrate, unless otherwise required by DNR use authorization (when applicable) or by WDFW Hydraulic Project Approval. The preferred and least impacting option is to suspend the float above the substrate by installing float stops on piling anchoring new floats. The stops must be able to fully support the entire float during all tidal elevations.

(c) Flotation shall be fully enclosed and contained in a shell that prevents breakup or loss of the flotation material into the water and is not readily subject to damage by ultraviolet radiation or abrasion caused by rubbing against piling or waterborne debris.

(d) Flotation components shall not be counted toward functional grating calculation.

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(e) The surface of floating structures shall be a minimum of ten inches above the surface of the water, unless other limitations are set by DNR use authorization or WDFW Hydraulic Project Approval standards.

(f) There shall be no more than one unattached float per residence or privately owned recreational property, and the area of an unattached float is limited to:

(i) Freshwater. An unattached float shall not exceed 250 square feet for single use and 400 square feet for joint or community use facilities, unless other limitations are set by DNR use authorization (when applicable) or WDFW Hydraulic Project Approval standards.

(ii) Saltwater. An unattached float shall not exceed 400 square feet for single use and 700 square feet for joint or community use facilities, unless other limitations are set by DNR Use Authorization or Hydraulic Approval Standards.

Note: The amount of functional grating required by state jurisdictions may increase for floats that are greater than 6 feet wide.

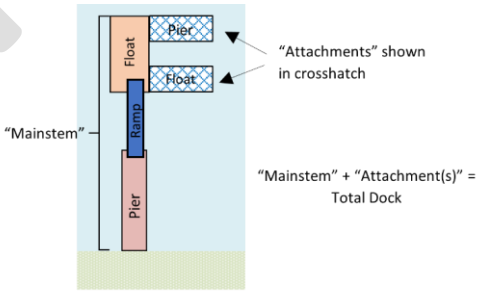
(g) Unattached floats shall be anchored using mid-line floats, helical anchors, or other designs that have minimal adverse effects on aquatic ecosystems.

viii. Attachments.

Attachments to the mainstem may be incorporated into the design of docks as follows:

(a) Freshwater Dock. The length (measured parallel with the shore) of the attachment (excluding the main-stem of the dock) for a single waterfront lot shall not exceed twenty (20) feet, or forty (40) feet for a joint-use or a community facility. ~~[See #(f)(vi) - (viii) for width requirements for the individual components of piers, ramps, and floats.]~~

~~The maximum area allowed for the dock attachment depends on the number of owners~~The total allowed area of all dock attachment(s) depends on the number of owners, see Table 17.50.320-A.~~:~~



Example of Dock Configuration

Commented [MW7]: The dimensional requirements for dock components (pier, ramp, & float) apply to the mainstem dock, the "Attachment" is limited by (a) and Table 17.50.320-A.

Commented [MW8]: Clarifies that multiple attachments to a mainstem are allowed as long as the total allowed area of dock attachment, based on number of owners, is not exceeded.

Table 17.50.320-A: Residential Dock Dimensions on Freshwater (Lakes)

# of Owners[A]	~~Max.~~Total Allowed Area (sq ft) of All Dock	Max. Length (ft) of Dock Attachment Parallel to	Max. Length (ft) of Total Dock Perpendicular to Shore[B,C]

	Attachments (excluding mainstem)	**Shore** (excluding mainstem)	
1	250	20	60
2	350	40	65
3 to 4	480	40	70
5 to 6	600	40	80
7 to 8	720	40	95
9 to 10	840	40	110

A. For community docks, the # of owners is the # of residential lots in shoreline jurisdiction to a maximum of 10.

B. Measured from the ordinary high water mark.

C ~~Dock length shall also be the lesser of fifteen percent (15%) fetch or to within two hundred (200) feet of OHWM on the opposite shoreline of any semi-enclosed body of water such as a bay, cove, or natural stream channel.~~See MCC 17.50.320.B.2.e

(b) Saltwater Dock. The length (measured parallel with~~to~~ the shore) of the attachment (excluding the main-stem of the dock) for a single waterfront lot shall not exceed thirty (30) feet, or sixty (60) feet for a joint-use or a community facility. ~~[See # (f)(vi) – (viii) for width requirements for the individual components of piers, ramps, and floats.]~~

~~-~~The ~~maximum area allowed~~total allowed area for all the dock attachment(s) depends on the number of owners, see Table 17.50.320-B.:

Table 17.50.320-B: Residential Dock Dimensions on Saltwater

# of Owners[A]	**~~Max.~~Total Allowed Area** (sq ft) **of All Dock Attachments** (excluding mainstem)	**Max. Length** (ft) **of Dock Attachment Parallel to Shore** (excluding mainstem)	**Max. Length** (ft) **of Total Dock Perpendicular to Shore**[B,C]	**Max Depth** (ft) **at Mean Lower Low Water**
1	350	30	120[D]	7
2	550	60	125[D]	
3 to 4	750	60	130[D]	
5 to 6	950	60	140[D]	
7 to 8	1150	60	150	
9 to 10	1350	60	160	

A For community docks, the # of owners is the # of residential lots in shoreline jurisdiction to a maximum of 10.

B Measured from the ordinary high water mark.

C ~~Dock length shall also be the lesser of fifteen percent (15%) fetch or to within two hundred (200) feet of OHWM on the opposite shoreline of any semi-enclosed body of water such as a bay, cove, or natural stream channel.~~See MCC 17.50.320.B.2.e

D The Administrator may approve a different dock length when needed, to avoid known eelgrass beds, forage fish habitats, or other near shore resources up to a maximum of 150 feet

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(as measured from OHWM), beyond which would require a Variance.

~~vi. Piers. The width of piers, not including the pilings, lot shall not exceed six (6) feet.~~

~~*Note: The amount of functional grating required by state jurisdictions may increase for piers that are greater than 4 feet wide.*~~

~~vii. Ramps. The width of ramps shall not exceed five (5) feet.~~

~~*Note: State jurisdictions may require ramps to be 4 feet wide and fully grated.*~~

~~viii. Floats.~~

~~(a) The width of floats shall not exceed eight (8) feet.~~

~~*Note: The amount of functional grating required by state jurisdictions may increase for floats that are greater than 6 feet wide.*~~

~~(b) All floating structures shall include float stops to keep structures off the tidelands or lake bottom or be located at sufficient depth to avoid grounding during all tidal or lake elevations. In saltwater, floats need to be suspended a minimum of one foot above the tidal substrate, unless otherwise required by DNR use authorization (when applicable) or by WDFW Hydraulic Project Approval. The preferred and least impacting option is to suspend the float above the substrate by installing float stops on piling anchoring new floats. The stops must be able to fully support the entire float during all tidal elevations.~~

~~(c) Flotation shall be fully enclosed and contained in a shell that prevents breakup or loss of the flotation material into the water and is not readily subject to damage by ultraviolet radiation or abrasion caused by rubbing against piling or waterborne debris.~~

~~(d) Flotation components shall not be counted toward functional grating calculation.~~

~~(e) The surface of floating structures shall be a minimum of ten inches above the surface of the water, unless other limitations are set by DNR use authorization or WDFW Hydraulic Project Approval standards.~~

~~(f) There shall be no more than one unattached float per residence or privately owned recreational property, and the area of an unattached float is limited to:~~

~~(i) Freshwater. An unattached float shall not exceed 250 square feet for single use and 400 square feet for joint or community use facilities, unless other limitations are set by DNR use authorization (when applicable) or WDFW Hydraulic Project Approval standards.~~

~~(ii) Saltwater. An unattached float shall not exceed 400 square feet for single use and 700 square feet for joint or community use facilities, unless other limitations are set by DNR Use Authorization or Hydraulic Approval Standards.~~

~~*Note: The amount of functional grating required by state jurisdictions may increase for floats that are greater than 6 feet wide.*~~

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~~(g) Unattached floats shall be anchored using mid-line floats, helical anchors, or other designs that have minimal adverse effects on aquatic ecosystems.~~

ix. Pilings.

(a) Pilings subject to abrasion and subsequent deposition of material into the water shall incorporate design features to minimize contact between all of the different components of overwater structures during all water elevations.

(b) Use the minimum number of piling necessary to build a safe structure. Pile spacing shall be consistent with requirements of DNR use authorization (when applicable) and WDFW Hydraulic Project Approval.

(c) Dolphins are not permitted.

(d) A maximum of two moorage piles may be installed to accommodate the moorage of boats exceeding the length of the floats.

g. Non Residential Docks and Unattached Floats:

i. Docks and unattached floats associated with commercial, industrial, port or public recreational developments should be permitted only when the applicant has demonstrated that a specific need exists to support the intended water-dependent uses and that the proposal meets the applicable use regulations in MCC 17.50.200.

ii. Water-related and water-enjoyment uses may be allowed as part of mixed-use development on over-water structures where they are clearly auxiliary to and in support of water-dependent uses, provided the minimum size requirement needed to meet the water-dependent use is not violated.

iii. There is no maximum length, width or height for public, commercial, or industrial docks.

If a port district or other public or commercial entity involving water-dependent uses has performed a needs analysis or comprehensive master plan projecting the future needs for dock space, and if the plan or analysis is approved by the County and consistent with these guidelines, it may serve as the necessary justification for pier design, size, and construction. The intent of this provision is to allow ports and other entities the flexibility necessary to provide for existing and future water-dependent uses.

iv. The proponent must show the size of the proposal is the minimum necessary to allow the intended use.

v. See Mining section for associated piers and docks (this chapter does not apply).

3. Mooring Buoys

a. The installation and use of mooring buoys in marine waters shall be consistent with all applicable federal and state laws, including the other state Departments of Fish & Wildlife, Health, and/or Natural Resources standards.

b. Buoys shall be located and managed in a manner that avoids and minimizes impacts from the buoy and the boat on eelgrass and other aquatic vegetation.

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c. Mooring buoys shall have a mid-line float system installed; mid-line float must hold the tether line off the bottom at all tides; and locate the mid-line float at a distance from the anchor that is equal to 1/3 of the water depth at mean high water (MHW).

d. New buoys that would result in being defined as a Marina under the Department of Health and possibly causing a closure of local shellfish beds for future harvest, per the National Shellfish Sanitation Standards, shall be prohibited.

e. No more than one (1) mooring buoy for each waterfront lot shall be permitted unless greater need is demonstrated by the proponent and documented by the County. In cases such as those of a community park with recreational users or a residential development with lot owners both on and away from the shoreline needing moorage, community moorage facilities shall be used instead of mooring buoys. This regulation does not apply to public recreational uses.

4. Boat Lifts and Overwater Davits

a. Boat lifts shall be placed as far waterward of the OHWM as feasible and safe.

b. Design the grid/lift so that the bottom of the grid/lift (not including the footings) rests at least 1 foot above the substrate and does not rest on the substrate at any time.

c. Residential boat lifts and davits waterward of the ordinary high water mark shall not be covered.

d. In freshwater, a Habitat Management Plan is not required to install a boat lift adjacent to an existing dock.

17.50.325 DREDGING AND DREDGING MATERIAL DISPOSAL

A. DREDGING AND DREDGE MATERIAL DISPOSAL - POLICIES

1. Upstream migration and downstream escapement of migratory fish should be considered. If dredging operations wholly involve a creek, stream, or river channel, or other recognized fish migration route, these operations should follow established state and federal work windows to allow for successful passage of these fish.

2. Dredging operations can be extremely detrimental and should be carried out only where alternatives are infeasible and where the dredging is:

a. part of an approved effort to preserve, protect, or improve existing ecological conditions; or

b. necessary to support an existing legal use or a proposed water dependent use or essential public facility; or

c. part of a federal or state approved clean-up program; or

d. part of an approved beach nourishment project; or

e. required to provide public access for a substantial number of people.

3. Dredging and dredge disposal operations should be the minimum needed to accommodate the allowed use or development.

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4. Dredging for the purpose of obtaining fill or building material should not be allowed except where necessary for environmental restoration.

5. Dredge spoil disposal is discouraged within channel migration zones.

B. DREDGING AND DREDGE MATERIAL DISPOSAL - REGULATIONS

1. Dredging shall be permitted or otherwise authorized where there are no feasible alternatives and provided any unavoidable environmental impacts can be mitigated as described in a Habitat Management Plan:

    a. If it is necessary to maintain, deepen or widen navigation channels to assure the safety and efficiency of existing navigational uses.

    b. If it is necessary to maintain, deepen or widen commercial moorage at approved harbors, marinas, or ports.

    c. If it is necessary to develop or maintain essential public infrastructure and facilities when other approaches are not feasible.

    d. If it is necessary in conjunction with a County-approved comprehensive flood control management plan.

    e. If it is necessary in creating solid foundations for placement of concrete, riprap, and other building materials as part of a water-dependent or priority use.

    f. If it is part of environmental clean-up activities required by the Model Toxics Control Act or Comprehensive Environmental Response, Compensation and Liability Act.

    g. If it is part of an approved restoration project (see 17.50.260) benefiting water quality and/or fish and wildlife habitat.

    h. If it is necessary to create or maintain public access from the shore to navigable water, including construction of public piers and docks.

    i. If it is necessary to maintain lagoons, ponds and other areas used by water-dependent industry.

2. Proponents of new development shall locate and design such development to avoid or, if avoidance is not possible, to minimize the need for new dredging and maintenance dredging.

3. Maintenance dredging that meets the maintenance exemption in WAC 173-27-040 shall be considered as a Shoreline Exemption. Restoration dredging shall be considered Substantial Development. Non-maintenance dredging (except for restoration dredging for restoration projects) may be considered as a Conditional Use.

4. Additional Dredging restrictions are as follows:

    a. Dredging operations shall not cause damage to adjacent shorelines or marine developments.

    b. Dredging operations shall be monitored to minimize any leaks or spillage of dredged materials.

    c. Dredging machinery or vessels shall use reasonable precautionary measures to prevent petroleum from entering the water.

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5. Dredged material, if deposited on shorelands, shall be contained or otherwise managed and monitored to prevent undesirable erosion. Dredged material disposal on land shall be considered fill and subject to applicable fill regulations.

6. Dredged material, when deposited waterward of the ordinary high water mark shall comply with the Dredged Material Evaluation & Disposal Procedures User Manual and other applicable local, state, and federal regulations. Depositing of dredge material in water areas shall be allowed only for habitat improvement, to correct problems of material distribution adversely affecting fish and shellfish resources, to remediate contaminated sediments, or where the alternatives of depositing material on land are more detrimental to shoreline resources than depositing in water areas.

7. Proposals for dredged material disposal shall be evaluated for their potential to cause adverse environmental impacts. Dredged material disposal shall be permitted only when the proponent demonstrates all of the following:

    a. The proposed action will not cause significant and/or ongoing damage to water quality, fish, shellfish and/or other biological resources; and

    b. The proposed action will not adversely alter natural drainage, water circulation, sediment transport, currents, or tidal flows or significantly reduce floodwater storage capacities; and

    c. The proposed action includes all feasible mitigation measures to protect marine, estuarine, freshwater and terrestrial species and habitats.

8. Dredging gravel for flood management purposes shall be consistent with an adopted flood hazard reduction plan and a biological and geomorphological study showing that extraction has a long-term benefit to flood hazard reduction, and that impacts to ecological functions are avoided, and where unavoidable, are mitigated.

9. Dredging and dredge disposal operations shall be the minimum needed to accommodate the allowed use or development.

10. Applications for dredging projects shall include the following information:

    a. A description of the purpose of the proposed dredging and an analysis of compliance with the policies and regulations of this Program.

    b. A detailed description of the existing physical character, shoreline geomorphology and biological resources provided by the area proposed to be dredged, including a site plan map outlining the perimeter of the proposed dredge area, and information on stability of bedlands adjacent to proposed dredging and spoils disposal areas.

    c. A detailed description and analysis of the physical, chemical and biological characteristics of the dredge spoils to be removed.

    d. A description of the method of materials removal, including facilities for settlement and movement. The description shall include estimates of the frequency and quantity of project maintenance dredging.

    e. Detailed plans for dredge spoil disposal, including specific land or water disposal sites and relevant information on the disposal site.

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17.50.330 FLOOD CONTROL

A. FLOOD CONTROL - POLICIES

1. Flood control planning should be undertaken in a coordinated manner among affected property owners and public agencies and should consider entire systems or sizable stretches of rivers, lakes or marine shorelines. Thus planning should consider the off-site erosion, accretion or flood damage that might occur as a result of stabilization or protection structures or activities.

2. Flood control planning should be comprehensive and long-term and focused on preventing flood damage, maintaining or restoring the natural hydraulic capacity of streams and floodplains, and conserving or restoring valuable resources such as fish, water, soil, and recreation and scenic areas.

3. Flood control projects should be located, designed, constructed and maintained to provide:

    a. Protection of the physical integrity of the shore process corridor and other properties which may be damaged by interruptions of the geohydraulic system;

    b. Protection of water quality and natural ground water movement;

    c. Protection of valuable fish and other life forms and their habitat vital to the aquatic food chain; and

    d. Preservation of valuable recreation resources and aesthetic values such as point and channel bars, islands and other shore features and scenery.

4. Non-structural flood control solutions should be used wherever possible, including prohibiting or limiting development in historically flood prone areas, regulating structural design and limiting increases in peak flow runoff from new upland development. The structural solution to reduce the identified flood hazard shall be allowed, after it is demonstrated that non-structural solutions would not be able to reduce the damage. The structural solution with the least impact on shoreline ecological functions – such as overflow corridors and setback levees – should be preferred over structural approaches with greater impact.

5. Substantial stream channel modification, realignment and straightening should be discouraged as a means of flood control.

6. In design of public flood control projects, consideration should be given to providing public pedestrian / non-motorized access to the shoreline for outdoor recreation. New flood control structures should not unduly interfere with navigation, water-related recreation or other existing public access to public waters.

7. New flood control structures should only be allowed where there is a documented need to protect an existing structure or new public transportation or utility structure where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate cost.

8. New development should be limited in flood-prone areas, and should be generally designed and located to preclude the need for flood control structures. New or expanded development or uses in the shoreline, including subdivision of land, that would likely require flood control structures within a stream, channel migration zone, or floodway should be prohibited.

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B. FLOOD CONTROL - REGULATIONS

1. The County shall require and utilize the following information, prepared by qualified engineers, hydrologists, and ecologists during its review of flood control projects:
    a. River channel hydraulics and floodway characteristics up and downstream from the project area;
    b. Existing shoreline stabilization and flood control works within the area;
    c. Physical, geological and soil characteristics of the area; and
    d. Predicted impact upon area shore and hydraulic processes, adjacent properties and shoreline and water uses, including:
        i. An analysis of the flood frequency, duration and severity and expected health and safety risks as a rationale and justification for the proposed structure.
        ii. The potential for increasing the base flood elevation, changes in stream velocity, and the potential for redirection of the normal flow of the affected stream.
        iii. A description of proposed plans to remove vegetation.
    e. Impacts on valuable recreation resources and aesthetic values such as point and channel bars, islands and other shore features and scenery.
    f. A Habitat Management Plan that identifies how impacts will be avoided, minimized and/or mitigated. The plan shall include requirements for monitoring of any mitigation actions.
    g. Proposed provisions for accommodating public access to and/or along the affected shoreline in funded public projects, as well as any proposed on-site recreational features.
2. The County shall require professional design of flood control projects, where permitted, to ensure such projects do not cause interference with normal river geohydraulic processes, leading to erosion of other upstream and downstream shoreline properties, or adverse effects to shoreline resources and uses.
3. Flood control structures shall be permitted only when credible engineering and scientific evidence demonstrates that:
    a. They are necessary to protect existing, lawfully established developments; or new, lawfully established bridges, utility lines, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate cost; and
    b. Non-structural flood control measures are infeasible.
4. Dams proposed for the sole purpose of flood control shall be prohibited.
5. All flood control structures shall be prohibited in Natural and Aquatic environments; except that limited elements of flood control structures may be permitted in Aquatic environments where such location is necessitated by the design of the flood control project.
6. Flood control structures may be considered as a Conditional Use in Commercial, Residential, Rural and Conservancy designations. Where allowed, flood control structures shall meet all requirements of this program, and PROVIDED they:

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a. Shall be set back from the ordinary high water mark or channel migration zone consistent with incorporated Resource Ordinance buffers

b. Shall be located outside of the mapped floodway;

c. Shall be located landward of associated wetlands and wetland buffers, as determined consistent with the incorporated Resource Ordinance.

d. Shall be setback to the landward-most edge of all such buffers and setbacks in instances when multiple buffers apply.

7. Timing and construction shall be coordinated with WDFW and other applicable state, and federal agencies, including acquiring necessary permits and approvals ;

8. Flood control measures shall be planned and constructed based on a state approved flood hazard management plan, when available, and in accordance with

a. The National Flood Insurance Program and Mason County's Flood Damage Prevention Ordinance (MCC 14.22);

b. An adopted Comprehensive Flood Hazard Management Plan, if available;

c. The County Comprehensive Plan; and

d. Washington Department of Fish and Wildlife Aquatic Habitat Guidelines technical manual standards.

9. New public flood control structures, such as dikes and levees, shall dedicate and improve public access pathways unless such improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigatable significant ecological impacts, unavoidable conflict with the proposed use, unavoidable conflict with private property rights, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.

10. Removal of gravel for flood control purposes shall be consistent with an adopted Flood Hazard Management Plan and only permitted after a biological and geomorphological study demonstrates that extraction has a long term benefit to flood hazard reduction, does not result in a net loss of shoreline ecological functions, and is part of a comprehensive flood management solution.

17.50.335 GRADING

A. GRADING - POLICIES

1. Any permitted grading should be designed so that no significant damage to existing ecological functions or natural resources, or alteration of water flow will occur, creating a hazard to adjacent life, property, ecological functions, or natural resources.

2. In evaluating grading projects and in designating areas appropriate for grading, such factors as total surface water reduction, navigation restriction, impediment of water flow and circulation, reduction of water quality and destruction of habitat and alteration of ecological processes should be considered.

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B. GRADING - REGULATIONS

1. Grading waterward of the ordinary high-water mark or in wetlands for ecological restoration projects that have been authorized by a state agency shall not require a Conditional Use Permit.

   All other grading is prohibited waterward of the ordinary high water mark or in wetlands, except that they may be considered as a Conditional Use for the following activities:

   a. Water dependent aquacultural practices;

   b. Water dependent uses where no upland or structural alternative is possible;

   c. Public access where no other upland or structural alternative is possible;

   d. Cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan;

   e. Disposal of dredged material considered suitable under, and conducted in accordance with the dredged material management program of the Washington Department of Natural Resources;

   f. Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline, upon a demonstration that alternatives to fill are not feasible;

   g. Mitigation actions;

   h. In wetlands, grading associated with construction of a single-family residence, provided the mitigation sequence has been followed and all other necessary state and/or federal permits obtained.

2. The regulations in this chapter do not apply to the fill necessary for shoreline stabilization measures, excavation below the ordinary high-water mark (dredging), or to mining.

3. Proposals for grading in wetlands shall also follow Resource Ordinance regulations (MCC 8.52.110).

4. Surface water drainage associated with grading and fill during and after construction shall be managed consistent with Mason County's current stormwater standards.

5. Permitted grading shall be appropriately sloped and planted with native vegetation to prevent erosion.

6. Applications for grading projects shall include the following information (at a minimum):

   a. Character and source of fill material;

   b. Method of placement and compaction;

   c. Type of surfacing proposed, if any;

   d. Method of perimeter erosion control;

   e. Proposed use of graded area;

   f. Location of fill and excavation material relative to property lines and to natural or existing drainage patterns;

   g. Proposed revegetation and/or landscaping;

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7. Perimeters of fills shall be provided with vegetation, retaining walls, or other mechanisms for erosion prevention. Fill shall be located and designed so that shoreline stabilization structures are not needed to protect the fill material. Exceptions may be allowed for approved restoration projects.

8. Fill materials shall be of such quality that they will not cause degradation of water quality. Fill materials shall consist of clean sand, gravel, soil, rock or similar material. The use of contaminated material or construction debris is prohibited.

9. After fill material is deposited and/or graded, the site shall be monitored for a minimum of three years for weeds that are on the Mason County Noxious Weed List. Fills greater than 250 cubic yards and/or with more than 1,000 square feet (not covered by concrete or asphalt) shall be inspected by a qualified professional at least once during the three year monitoring period, but not sooner than a year after the fill is graded. All Mason County regulated weeds shall be controlled as required by RCW 17.10 utilizing using methods recommended by the Mason County Noxious Weed Control Program or other vegetation control specialist.

10. Sanitary landfills and solid waste disposal sites are prohibited uses within the shoreline jurisdiction.

11. Grading shall only be allowed as part of an approved shoreline use or development activity. When allowed, grading shall be located, designed and constructed in a manner that avoids impacts to the shoreline environment, floodplains, and channel migration zones consistent with General Regulations. Unavoidable impacts shall be mitigated.

12. For water-dependent uses upland of the ordinary high water mark, grading may be permitted in Residential, Commercial and Rural designations; and may be considered as a Conditional Use in the Conservancy and Natural environments.

13. For non-water-dependent uses upland of the ordinary high water mark, grading may be considered as a Conditional Use.

17.50.340 SHORELINE STABILIZATION

A. SHORELINE STABILIZATION - POLICIES

1. Unarmored shorelines should be preserved to the greatest extent feasible to protect the ecological functions that shorelines provide.

2. Non-structural shoreline stabilization measures should be used to protect structures from erosion wherever feasible. Non-structural shoreline stabilization measures include relocating structures away from the water, enhancing vegetation, and managing drainage and runoff.

3. Shoreline stabilization measures should be located, designed and maintained to protect natural shore features and the integrity of the natural geohydraulic system, including feeder bluffs, littoral drift corridors and accretion beaches.

4. Shoreline stabilization measures should be located, designed and maintained in a manner that will conserve and enhance water quality, fish, shellfish, and other wildlife resources and habitats.

5. Owners of property containing feeder bluffs should be discouraged from constructing shoreline stabilization structures, particularly in areas not already developed or not already subject to shoreline modification.

6. Shoreline stabilization structures should be permitted only where protection to upland areas or facilities is provided, not for the indirect purpose of creating land by filling behind the structure.

7. Adjacent property owners should be encouraged to coordinate bio-engineered stabilization measures for an entire drift sector.

8. Structural shoreline stabilization measures, including bulkheads, should be allowed only where evidence is present that one of the following conditions exists:

    a. Serious wave erosion threatens an established use or existing buildings on upland property.

    b. The proposed structure is necessary to the operation and location of water dependent and/or water related activities consistent with the Master Program.

    c. Other alternatives are demonstrated to be infeasible and that the proposed structure meets other policies and regulations of this chapter.

    d. The proposed structure is necessary to replace a bulkhead which has failed within the past five years.

    e. The proposed action is a repair or maintenance of a bulkhead that is constructed at or near the ordinary high water mark to protect a primary structure, not for the purposes of creating land.

9. Shoreline stabilization projects on public lands should be designed to accommodate multiple use, restoration, and/or public access, provided that safety and ecological protection are fully addressed.

10. New development should be located and designed to avoid the need for future shoreline stabilization to the extent feasible.

11. Land subdivisions should be designed to assure that lots created will not require shoreline stabilization in order for development to occur.

12. Information should be made available upon request (or upon permit application) to existing and prospective shoreline property owners so they are informed about the risks of living in areas that are prone to erosion, channel migration, landslides and other hazards.

13. Where feasible, the Department should encourage the removal of any failing, harmful, unnecessary, or ineffective structural shoreline armoring and the improvement of ecological functions and processes using non-structural methods.

14. Non-regulatory methods to protect, enhance, and restore shoreline ecological functions and other shoreline resources should be encouraged. Non-regulatory methods may include public facility and resource planning, technical assistance, education, voluntary enhancement and restoration projects, land acquisition and restoration, tax breaks, permit fee reductions or other financial incentive programs.

15. Where sediment conveyance systems cross jurisdictional boundaries, local governments should coordinate shoreline management efforts. If beach erosion is threatening existing

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development, local governments should adopt master program provisions for a beach management district or other institutional mechanism to provide comprehensive mitigation for the adverse impacts of erosion control measures.

B. SHORELINE STABILIZATION - REGULATIONS

1. New development shall be located and designed to avoid the need for future shoreline stabilization to the extent feasible. Subdivision of land must be regulated to assure that the lots created will not require shoreline stabilization in order for reasonable development to occur using geotechnical analysis of the site and shoreline characteristics.

    a. When a Geotechnical Report or Geological Assessment is required for primary structures and appurtenances per the Landslide Hazard, Erosion Hazard, or Seismic Hazard Chapters of the Resource Ordinance, in addition to the requirements in 8.52.140, they shall consider sea level rise, if applicable, and include the following:

        i. A site plan, drawn to scale and stamped/signed by the author of the report or assessment, that shows the ordinary high water mark (OHWM), the crest of the bluff or shoreline bank (if applicable), the development envelope (including proposed or recent clearing and grading), and the proposed structures.

        ii. The geotechnical report shall assert that proposed development or uses are set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure. In addition, buffer widths for marine bluffs shall be equal to or greater than a distance from the OHWM landward at a slope of 2:1 (horizontal to vertical) that intersects with the existing topography of the site.

    b. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas is not allowed.

2. New structural stabilization measures shall not be allowed except as follows:

    a. To protect existing primary structures:

        i. New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, shall not be allowed unless there is conclusive evidence documented by a Shoreline Geotechnical Assessment that the structure is in danger from shoreline erosion caused by tidal action, currents, waves, or sea level rise. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical assessment shall evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization.

        ii. The erosion control structure will not result in a net loss of shoreline ecological functions. This shall be demonstrated in a Habitat Management Plan as required in MCC 8.52.170(J).

        iii. Primary structure means the structure or the only access associated with the principal use of the property that cannot feasibly be relocated. It may also include single family residential appurtenant structures ~~, including docks,~~ that cannot feasibly be relocated.

    b. In support of new non-water-dependent development, including single-family residences, when all of the conditions below apply:

i. A Shoreline Geotechnical Assessment demonstrates the following:

(a) The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage on the subject lot.

(b) Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

(c) A need to protect primary structures from damage due to erosion. The damage must be caused by natural processes, such as tidal action, currents, and waves.

ii. The erosion control structure will not result in a net loss of shoreline ecological functions. This shall be demonstrated in a Habitat Management Plan as required in MCC 8.52.170(J).

c. In support of water-dependent development when all of the conditions below apply:

i. A Shoreline Geotechnical Assessment demonstrates the following:

(a) The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.

(b) Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

(c) A need to protect primary structures from damage due to erosion.

ii. The erosion control structure will not result in a net loss of shoreline ecological functions. This shall be demonstrated in a Habitat Management Plan as required in MCC 8.52.170(J).

d. To protect the restoration of ecological functions, hazardous substance remediation pursuant to chapter 70.105.D RCW, essential public facilities, public lands that facilitate shoreline access for substantial numbers of people, public health safety and welfare, or unique natural and cultural resources when all of the conditions below apply:

i. Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

ii. The shoreline stabilization structure will not result in a net loss of shoreline ecological functions.

3. When structural shoreline stabilization measures are demonstrated to be necessary, pursuant to above provisions, proposals for new shoreline stabilization shall:

a. Limit the size of stabilization measures to the minimum necessary.

b. Use measures designed to assure no net loss of shoreline ecological functions, as demonstrated in a Habitat Management Plan as required in MCC 8.52.170.(J).

c. Include a Shoreline Geotechnical Assessment that, in addition to the requirements for assessments in subsection (2) above, addresses the following:

i. The need to prevent potential damage to a primary structure or to protect public health and welfare. The assessment shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation.

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ii. If a hard armoring solution is proposed, the assessment shall also confirm that there is a significant possibility that a primary structure will be damaged within three (3) years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate would foreclose the opportunity to use measures that avoid impacts on ecological functions or the opportunity to protect public health or welfare. Thus, where the Geotechnical Assessment confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, the report may still be used to justify more immediate authorization to protect against erosion using soft measures.

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

SOFT:

- Vegetation enhancement;
- Upland drainage control;
- Biotechnical measures;
- Beach enhancement;
- Anchor trees and/or root wads;
- Gravel placement;

HARD:

- Rock revetments;
- Gabions (prohibited);
- Concrete groins;
- Retaining walls and bluff walls;
- Bulkheads; and Seawalls.

Note: For properties on or near designated landslide, seismic, or erosion hazard areas, a Shoreline Geotechnical Assessment required by this program may be combined with the Geological Assessment, Geotechnical Report and/or a Soil Erosion and Sediment Control Plan required under MCC 8.52.140 - 160.

d. Locate structural stabilization measures at or above the OHWM unless a Shoreline Geotechnical Assessment demonstrates a need based on safety, or where a Habitat Management Plan demonstrates a net benefit to shoreline functions. If the Shoreline Geotechnical Assessment or the Habitat Management Plan demonstrates that the need to locate the proposed structure waterward of the OHWM, the Department of Natural Resources should be consulted to assess the potential impacts to State Owned Aquatic Lands (SOALs).

e. On rivers subject to erosion, locate stabilization measures sufficiently landward of the stream channel to allow streams to maintain point bars and associated aquatic habitat through normal accretion. New structures shall be prohibited on estuarine shores, on

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point and channel bars, and in channel migration zones unless the structure is necessary to protect public, health safety and welfare and unavoidable impacts are mitigated.

f. Hard armoring shall be sited and designed to meet all of the following criteria in addition to the other regulations in this section:

   i. They shall be located generally parallel to the shoreline. Adequate bank toe protection shall be provided to ensure bulkhead stability without relying on additional riprap; and

   ii. They shall be located so as to tie in flush with existing hard armoring on adjoining properties, except when adjoining hard armoring structures do not comply with the design or location requirements set forth in this Program.

g. Ensure that publicly financed or subsidized shoreline measures do not restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions. Where feasible, incorporate ecological restoration and public access improvements into the project.

h. Mitigate new erosion control measures, including replacement structures, on feeder bluffs or other actions that affect beach sediment-producing areas to avoid and, if that is not possible, to minimize adverse impacts to sediment conveyance systems.

i. When proposing soft stabilization, fees associated with Community Services Department applications and reviews shall be reduced by half.

4. The following pertains to all (new, replaced, or repaired) shoreline stabilization:

   a. The use of solid waste, junk, abandoned automobiles or asphalt or building demolition debris is prohibited in the construction or maintenance of shoreline stabilization structures.

   b. Gabions are prohibited as a means of stabilizing shorelines because of their limited durability and the potential hazard to shoreline users and the shoreline environment.

   c. Beach materials shall not be used for fill material behind bulkheads.

   d. Stairways shall be located 'in line' or landward of bulkheads except where proven infeasible.

5. Repair and Replacement.

   a. An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents, tidal action, or waves and not caused by normal sloughing, vegetation removal, or poor drainage.

   b. Replacement of a failed bulkhead shall be permitted in the same location and dimension as the original bulkhead, if such replacement is commenced within five (5) years of failure. The burden of proof of location of the original bulkhead shall be on the applicant.

   c. The replacement structure should be designed, located, sized, and constructed to assure no net loss of ecological functions.

   d. Replacement walls or bulkheads shall not encroach waterward of the ordinary high-water mark or existing structure unless the residence was occupied prior to January 1, 1992,

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and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.

e. When an existing bulkhead is being repaired or replaced, construction shall occur no further waterward of the existing bulkhead than is necessary for construction of the new footing.

f. Where a net loss of ecological functions associated with critical saltwater habitats would occur by leaving the existing structure, remove it as part of the replacement measure.

g. Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high-water mark.

h. For purposes of this section standards on shoreline stabilization measures, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose.

i. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures, except that 'capping' an existing bulkhead may be considered repair if the following criteria are met:

   i. The cap is twoone feeoot in height or less (cumulative over ten years) and no more wide than the bulkhead; and

   ii. All native trees and shrubs are preserved in place.

j. When replacing hard armoring with soft stabilization, fees associated with Community Services Department applications and reviews shall be reduced by half.

6. Shoreline stabilization projects may also require permits/approvals from the Washington Department of Fish and Wildlife (Hydraulic Project Approval), Washington Department of Natural Resources (lease authorization on State Owned Aquatic Lands), and the United States Army Corps of Engineers. As required by WDFW rules, projects shall incorporate mitigation measures as necessary to achieve no-net-loss of productive capacity of fish and shellfish habitat.

17.50.400 Permits, Exemptions, and Appeals

A. General Requirements for All Uses and Development

1. No authorization to undertake use or development on shorelines of the state shall be granted by the County unless upon review the use or development is determined to be consistent with the policy and provisions of the Shoreline Management Act and this master program. The burden of proving that the proposed development is consistent with these criteria shall be on the applicant.

2. Any person wishing to undertake substantial development or exempt development on shorelines shall apply to the County for a Substantial Development Permit or a Statement of Exemption.

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3. No permit shall be issued for any new or expanded building or structure of more than thirty-five feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where this master program does not prohibit the same and then only when overriding considerations of the public interest will be served.

4. A ~~pre-application~~shoreline ~~conference~~meeting, as described in MCC 15.05.020, is required for all ~~Type III (which includes~~ proposals that require Shoreline Substantial Development, Conditional Use, and/or Variance~~)~~ permits and some shoreline exemptions~~.~~

5. The County may attach conditions to the approval of permits or exemptions as necessary to assure consistency of the project with the Act and this Master Program.

6. **Developments and Uses Subject to Multiple Regulatory Sections.** Some proposed developments or uses will be subject to more than one regulatory section of this program. For example, a proposed marina may be subject to regulations concerning "Dredging, Filling, Marinas, Docks", etc. A proposed development must be reviewed for consistency with the regulations of each applicable section. If regulations conflict, the most restrictive shall apply.

7. **Adjacent Lands.** The purpose of this subsection is to discuss the coordination of development of lands adjacent to shorelines with the policies of the Master Program and the Shoreline Management Act. A development undertaken without obtaining the applicable shoreline permits or which is inconsistent with the regulations of the Master Program, is unlawful. On the other hand, a use or development which is to some extent inconsistent with a policy plan may not be unlawful, but may be denied or conditioned on the basis of its inconsistency with the plan. These principles apply to the regulation of shoreline and adjacent lands:

   a. Part of the property is inside the shoreline of the state, part is outside, and all of the development is outside the shoreline. No shoreline permit is required because all of the "development" lies outside the shoreline. However, uses and actions within the shoreline, though they do not constitute "development" must be consistent with the regulations of the Act and Shoreline Program.

   b. Part of the property is in the shoreline of the state, part is outside, and all or part of the development is proposed within the shoreline. A permit is required for "development" within the shorelines. In addition, uses and other actions within the shorelines must comply with Master Program regulations. Furthermore, when the development proposal consists of a single, integrated project and a shoreline permit is required due to development within the shorelines, review and approval of development outside the shorelines may be postponed until shoreline permit review is accomplished if the public interest would be served by such a review sequence. Finally, although development conditions may be attached to developments within shorelines, conditions may not be attached, pursuant to the Shoreline Management Act, to aspects of a development lying outside the shorelines.

8. **Vesting of Permit Applications**. An application shall become vested to the current Shoreline Master Program (SMP) on the date a 'determination of completeness' is made. Thereafter, the application shall be reviewed under the SMP in effect on the date of vesting; provided, in the event an applicant substantially changes his/her proposed development after a determination of completeness, as determined by the department, the application shall not be considered vested to the SMP until a new determination of completeness on the changes is made.

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B. DEVELOPMENT EXEMPT FROM THE SUBSTANTIAL DEVELOPMENT REQUIREMENTS

1. Exemptions Listed.

   The following exempt developments shall not require a Substantial Development Permit, but may require a Conditional Use Permit, Variance and/or a Statement of Exemption. All developments must be consistent with the Shoreline Master Program and Shoreline Management Act.

   a. Any development of which the total cost or fair market value, whichever is higher, does not exceed $7,047, or as amended by the state Office of Financial Management, if such development does not materially interfere with the normal public use of the water or shorelines of the state. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030(2)(e). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials.

   b. Normal maintenance or the repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.

   c. Construction of the normal protective bulkhead common to a single-family residence. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the Washington Department of Fish and Wildlife.

   d. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full

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compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or the local master program, obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and the local master program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;

e. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction of a barn or similar agricultural structure, and construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels; PROVIDED that a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations.

f. Construction or modification of navigational aids such as channel markers and anchor buoys.

g. Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for his own use or for the use of his family, which residence does not exceed a height of thirty-five (35) feet above average grade level and which meets all requirements of the state agency or this Master Program. "Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. Interpretations of “normal appurtenances” are set forth and regulated within the Mason County Shoreline Master Program. Construction authorized under this exemption shall be located landward of the ordinary high water mark.

h. Construction of a dock, including a community dock, designed for pleasure craft only, for the private non-commercial use of the owner, lessee, or contract purchaser of a single-family residence and multiple-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if either:

   i. In salt waters, the fair market value of the dock does not exceed two thousand five hundred dollars ($2,500); or

   ii. In fresh waters, the fair market value of the dock does not exceed:

      (a) Twenty two thousand five hundred dollars ($22~~0~~,5~~0~~00), or as amended by the state Office of Financial Management, for docks that are constructed to replace existing docks, are of equal or lesser square footage than the existing dock being replaced; or

(b) ~~Ten~~ Eleven thousand two hundred dollars ($~~10,000~~11,200), or as amended by the state Office of Financial Management, for all other docks constructed in fresh waters.

iii. However, if subsequent construction occurs within five years of completion of the prior construction, and the combined fair market value of the subsequent and prior construction exceeds the amount specified in either (i) or (ii) of this subsection, the subsequent construction shall be considered a substantial development for the purpose of this chapter.

iv. For purposes of this section, salt water shall include the tidally influenced marine and estuarine water areas of the state including the Puget Sound and all bays and inlets associated with any of the above.

i. Operation, maintenance or construction of canals, waterways, drains, reservoirs or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water from the irrigation of lands.

j. The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with the normal public use of the surface of the water.

k. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking system.

~~l. Any project with a certification from the governor pursuant to RCW Chapter 80.50.~~

l~~m~~. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:

i. The activity does not interfere with the normal public use of the surface waters;

ii. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

iii. The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;

iv. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the County to ensure that the site is restored to preexisting conditions; and

v. The activity is not subject to the permit requirements of RCW 90.58.550;

m~~n~~. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the Department of Agriculture or the Department of Ecology jointly with other state agencies under chapter 43.21C RCW.

n~~o~~. Watershed restoration projects as defined herein. The County shall review the projects for consistency with the shoreline master program in an expeditious manner and shall issue its decision along with any conditions within forty-five (45) days of receiving all materials necessary to review the request for exemption from the applicant. No fee may

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be charged for accepting and processing requests for exemption for watershed restoration projects as used in this section.

i. "Watershed restoration project" means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:

(a) A project that involves less than ten (10) miles of stream reach, in which less than twenty-five (25) cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;

(b) A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

(c) A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or in-stream habitat enhancement structure associated with the project, is less than two hundred (200) square feet in floor area and is located above the ordinary high water mark of the stream.

ii. "Watershed restoration plan" means a plan, developed or sponsored by the department of fish and wildlife, the department of ecology, the department of natural resources, the department of transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a County, or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21(C) RCW, the State Environmental Policy Act.

o~~p~~. A public or private project, the primary purpose of which is to improve fish or wildlife habitat or fish passage, when all of the following apply:

i. The project has been approved in writing by the department of fish and wildlife as necessary for the improvement of the habitat or passage and appropriately designed and sited to accomplish the intended purpose;

ii. The project has received hydraulic project approval by the department of fish and wildlife pursuant to chapter 77.55 RCW; and

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

p~~q~~. The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.

2. Statements of Exemption.

a. Except where activities are exempted from review by statute, the County is hereby authorized to grant or deny requests for statements of exemption from the shoreline

Substantial Development Permit requirement for uses and developments within shorelines that are specifically listed above. Such statements shall be applied for on forms provided by the County.

b. The County's statement shall be in writing and shall indicate the specific exemption of this Program that is being applied to the development, and shall provide a summary of the County's analysis of the consistency of the project with this Program and the Act.

c. The exemption granted may be conditioned to ensure that the activity is consistent with the Master Program and the Shoreline Management Act.

d. A denial of an exemption shall be in writing and shall identify the reason(s) for the denial. The County's actions on the issuance of a statement of exemption or a denial are subject to appeal pursuant to the appeal provisions in MCC Title 15.11.020.

e. Exempt activities related to any of the following shall not be conducted until a statement of exemption has been obtained from the County:

   i. Activities that require a U.S. Army Corps of Engineers Section 10 permit under the Rivers and Harbors Act of 1899 or a Section 404 permit under the Federal Water Pollution Control Act of 1972. The County shall send copies of written statements to the Washington Department of Ecology pursuant to WAC 173-27-050.

   ii. New aquaculture activities that do not constitute substantial development or otherwise require a Shoreline Permit. A written statement of exemption constitutes a valid authorization to conduct new or expanding aquaculture activities.

f. Applications that are processed as a Mason Environmental Permit per MCC 8.52.190(C), and do not require a Shoreline Variance, Shoreline Substantial Development Permit, or Shoreline Conditional Use shall instead be processed as a Shoreline Exemption.

g. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the Substantial Development Permit process.

h. An exemption from the Substantial Development Permit process is not an exemption from compliance with the Act or this Program, or from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and regulatory provisions of this Program and the Act.

i. A development or use that is listed as a conditional use pursuant to this Program or is an unlisted use, must obtain a Conditional Use Permit even if the development or use does not require a Substantial Development Permit.

j. When a development or use is proposed that does not comply with the bulk, dimensional and/or performance standards of the Program, such development or use shall only be authorized by approval of a Shoreline Variance, even if the development or use does not require a Substantial Development Permit.

k. The burden of proof that a development or use is exempt from the permit process is on the applicant.

l. If any part of a proposed development is not eligible for exemption, then a Substantial Development Permit is required for the entire project.

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m. Before determining that a proposal is exempt, the County may conduct a site inspection to ensure that the proposal meets the exemption criteria.

C. SHORELINE PERMITS: SUBSTANTIAL DEVELOPMENT, CONDITIONAL USE, AND VARIANCE

1. Permit Application.

   The information requested on the application, the applicant shall provide, at a minimum, the following information:

   a. SITE PLAN - drawn to scale and including:

      i. The boundary of the parcel(s) of land upon which the development is proposed;

      ii. The ordinary high water mark (OHWM). This may be an approximate location provided, that for any development where a determination of consistency with the applicable regulations requires a precise location of the OHWM the mark shall be located precisely and the biological and hydrological basis for the location as indicated on the plans shall be included in the development plan. Where the OHWM is neither adjacent to or within the boundary of the project, the plan shall indicate the distance and direction to the nearest OHWM of a shoreline;

      iii. Where appropriate, the proposed land contours using five-foot intervals in water area and ten-foot intervals on areas landward of OHWM, if development involves grading, cutting, filling, or other alteration of land contours;

      iv. The dimensions and location of existing structures which will be maintained;

      v. The dimensions and locations of proposed structures; parking and landscaping;

      vi. The location of proposed utilities, such as sewer, septic tanks and drain fields, water, gas and electricity;

      vii. The location, source, composition, and volume of fill material;

      viii. The location, composition and volume of any extracted materials, and proposed disposal area;

   b. CROSS SECTION, drawn to scale including:

      i. The existing ground elevations;

      ii. The proposed ground elevations;

      iii. The location and height of existing structures;

      iv. The location and height of proposed structures;

      v. The OHWM.

   c. VICINITY MAP, including:

      i. The location of subject parcel using natural points of reference (roads, state highways, prominent landmarks, etc.).

      ii. If the development involves the removal of any soils by dredging or otherwise, identify the proposed disposal site on the map. If disposal site is beyond the confines of the vicinity map, provide another vicinity map showing the precise location of the disposal site and its distance to nearest city or town.

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iii. On the map, or separately, give a brief narrative description of the vicinity of the proposed project including identification of the adjacent uses, structures and improvements, intensity of development and physical characteristics.

d. ADJACENT LANDOWNERS. Provide names and mailing addresses of all real property owners within 300 feet of property line boundaries where development is proposed.

e. FEES. A filing fee in an amount established by the Board of County Commissioners shall be paid to the Community Services Department at the time of application.

Completed application and documents shall be submitted to the County for processing and review. Any deficiencies in the application or documents shall be corrected by the applicant prior to further processing.

2. Permit Process.

a. Notice of Application.

i. A Notice of Application/Public Hearing shall be provided according to MCC 15.07.010 and 15.07.030. Advertising costs will be the responsibility of the applicant. The public comment period shall be no less than thirty (30) days following the date of Notice of Application. A public hearing shall not be held prior to thirty (30) days following the date of the notice.

ii. All persons who so submit their views shall be notified in a timely manner of the action taken upon the application.

iii. Unless required per MCC 17.50.400.C.2.b, applications for Substantial Development Permits do not require a public hearing. All Substantial Development Permits require a notice of application.

b. Public Hearings.

i. The following shoreline permits require a public hearing (type III review):

(a) Substantial Development Permits for overwater development that is for community, public, commercial, marina, or aquacultural use or if any part of the proposal requires public hearing for another permit (e.g. Shoreline Conditional Use Permit, Shoreline Variance, Development Regulations Variance, Special Use Permit, etc);

(b) Conditional Use Permits; and

(c) Variances.

ii. The Administrator shall make recommendations to the hearing examiner regarding permits, based upon:

(a) The policies and procedures of the Act;

(b) The Shoreline Master Program for Mason County, as amended.

iii. Review by the Hearing Examiner.

See MCC 15.09.070 for Hearing Examiner Decision Types, 15.09.080 Procedures for Open Record Public Hearings before the Hearing Examiner Procedures, and 15.09.090 for Remand.

(a) The Hearing Examiner shall review the application and make decisions regarding permits based upon MCC 15.09.050(C) and the following:

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- The Shoreline Master Program for Mason County;
- Policies and Procedures of Chapter 90.58 RCW, the Shoreline Management Act;
- Written and oral comments from interested persons;
- The comments and findings of the Administrator.

ii. The Hearing Examiner shall render a written decision including findings, conclusions, and a final order. The decisions of the Hearing Examiner shall be the final decisions of the County on all applications.

c. Notice of Decision. See section 15.07.040 for requirements.

d. Transmittal. According to WAC 173-27-130, the Administrator shall transmit one copy of the Decision, the Staff Report with Exhibits, the complete application, the SEPA documents (if applicable), the permit data sheet required by WAC 173-27-190, and all other supporting documents to the Washington State Department of Ecology and one copy to the Washington Attorney General. For administrative SDP's, a Findings of Fact and Conclusion prepared by the Administrator would be submitted in place of the Hearing Examiner Decision and the Staff Report above.

e. Washington State Department of Ecology Review. Development pursuant to a Substantial Development Permit, Conditional Use or Variance shall not begin and is not authorized until 21 days from the "date of filing," as defined in RCW 90.58.140(6) and WAC 173-27-130. PROVIDED all review and appeal proceedings initiated within 21 days of the date of such filing have been terminated, except as provided in RCW 90.58.140 (5)(a) and (b).

i. The "date of filing" for a Substantial Development Permit is the date the Department of Ecology receives the transmittal from the County.

ii. The "date of filing" for a Conditional use or Variance means the date the Department of Ecology has transmitted its decision to the County.

iii. When the County simultaneously transmits to the Department of Ecology its decision on a Shoreline Substantial Development with its approval of either a shoreline Conditional Use Permit or Variance, or both, "date of filing" has the same meaning as defined in (ii) of this subsection.

f. Time Limit for Action. The time requirements of this section shall apply to all Substantial Development Permits and to any development authorized pursuant to a Variance or Conditional Use Permit. Upon a finding of good cause, based on the requirements and circumstances of the project proposed and consistent with the policy and provisions of the master program, the Administrator may adopt different time limits from those set forth in subsections (i) and (ii) of this section as a part of action on a Substantial Development Permit.

i. Construction activities shall be commenced or, where no construction activities are involved, the use or activity shall be commenced within two years of the effective date of a shoreline permit. A single extension may be granted for a period not to exceed one year based on reasonable factors, if the request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record on the permit and to the Department of Ecology.

ii. Authorization to conduct development activities shall terminate five years after the effective date of a shoreline permit. However, a single extension may be granted for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and to the Department of Ecology.

g. The effective date of a shoreline permit shall be the date of filing as provided in RCW 90.58.140(6). The permit time periods in subsections (a) and (b) of this section do not include the time during which a use or activity was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals.

h. The County shall notify Washington Department of Ecology in writing of any change to the effective date of a permit, as authorized by this section, with an explanation of the basis for approval of the change. Any change to the time limits of a permit other than those authorized by RCW 90.58.143 as amended shall require a new permit application.

3. Review Criteria.

a. Review Criteria for Substantial Development Permits.

i. Any person wishing to undertake substantial development on shorelines shall apply to the County for a Substantial Development Permit.

ii. A Permit shall be granted only when the proposed development is consistent with:

(a) Policies and regulations of the Mason County Shoreline Master Program and applicable policies enumerated in Chapter 90.58 RCW in regard to shorelines of the state and of statewide significance; and

(b) Regulations adopted by the Department of Ecology pursuant to the Act, including Chapter 173-27 WAC.

b. Review Criteria for Conditional Use Permits.

i. The purpose of a Conditional Use Permit is to allow greater flexibility in varying the new application of the use regulations of the Master Program. Conditional Use Permits should also be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58. In authorizing a Conditional Use, special conditions may be attached to the permit by the County or the Department of Ecology to prevent undesirable effects of the proposed use.

ii. Uses which are classified or set forth in the Master Program as conditional uses may be authorized provided the applicant can demonstrate all of the following:

(a) That the proposed use will be consistent with the policies of RCW 90.58 and the policies of the Master Program;

(b) That the proposed use will not interfere with the normal public use of public shorelines;

(c) That the proposed use of the site and design of the project will be compatible with other permitted uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;

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(d) That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located;

(e) That the public interest suffers no substantial detrimental effect.

iii. This program does not attempt to identify or foresee all conceivable shoreline uses or types of development. When a use or development is proposed which is not readily classified within an existing use or development category, the unspecified use may be authorized as a conditional use provided that the applicant can demonstrate consistency with the criteria set forth above, and the General Use regulations of the Master Program.

iv. Uses which are specifically prohibited by the Master Program may not be authorized.

v. In the granting of all Conditional Use Permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if Conditional Use Permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses should remain consistent with the policies of the Master Program and should not produce substantial adverse effects to the shoreline environment.

c. Review Criteria for Variance Permits.

The purpose of a Variance Permit is strictly limited to granting relief to specific bulk, dimensional or performance standards set forth in the Master Program, where there are extraordinary or unique circumstances relating to the property such that the strict implementation of the Master Program would impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

i. Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

ii. Variance permits for development and/or uses that will be located landward of the OHWM, and/or landward of any wetlands, may be authorized provided the applicant can demonstrate all of the following:

(a) That the strict application of the bulk, dimensional or performance standards set forth in the Master Program precludes or significantly interferes with a reasonable use of the property not otherwise prohibited by the Master Program;

(b) That the hardship which serves as a basis for the granting of the Variance is specifically related to the property of the applicant, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the Master Program, and not, for example from deed restrictions or the applicant's own actions;

(c) That the design of the project will be compatible with other authorized uses in the area and with uses planned for the area under the comprehensive plan and this program and will not cause adverse effects to adjacent properties or the shoreline environment;

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(d) That the Variance authorized does not constitute a grant of special privilege not enjoyed by the other properties in the area;

(e) That the Variance requested is the minimum necessary to afford relief; and

(f) That the public interest will suffer no substantial detrimental effect.

iii. Variance Permits for developments and/or uses that will be located either waterward of the OHWM, or within wetlands, may be authorized provided the applicant can demonstrate, in addition to items ~~(~~ii.~~)~~ ~~(~~b~~)~~ – ~~(~~f~~)~~ above, that:

(a) The strict application of the bulk, dimensional or performance standards set forth in this master program precludes all reasonable use of the property;

(b) The public rights of navigation and use of the shorelines will not be adversely affected by the granting of the Variance.

iv. In the granting of all Variance Permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if Variances were granted to other developments in the area where similar circumstances exist the total of the Variances should also remain consistent with the policies of RCW 90.58.020 and should not produce substantial adverse effects to the shoreline environment.

v. Variances from the use regulations of this master program are prohibited. Requests for varying the use to which a shoreline area is to be put are not requests for Variances, but rather requests for conditional uses.

4. Appeal to Shorelines Hearings Board.

Any person aggrieved by the granting, denying, rescission or modification of a Shoreline Permit may seek review from the Shorelines Hearings Board by filing a~~n~~ petition for review within 21 days of the "date of filing" of the decision. Said request shall be in the form required by the rules for practice and procedure before the Shorelines Hearings Board. Concurrent with the filing of request for review with the Shorelines Hearings Board, the person seeking review shall file a copy of the request for review with the Department of Ecology, the Attorney General and the Hearing Examiner. The Shorelines Hearings Board regulations are contained in Chapter 461-08 WAC.

5. Permit Revisions/Rescission.

A person operating under a current Shoreline Permit may apply to the County for modification to the permit, or the Hearing Examiner or the County may rescind a permit if there is evidence of noncompliance with the existing permit. In either case, the following procedure shall apply:

a. The County shall determine if the revision is within the scope and intent of the original permit set forth under WAC 173-27-100, as amended.

b. If said revision is determined to be outside the scope and intent of the original permit, a new and complete permit application shall be made in compliance with the Act and this Program.

c. If said revision is determined to be within the scope and intent of the original permit, the Hearing Examiner may approve the revision. The revised permit shall become effective immediately. The approved revision along with copies of the revised site plan and text,

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shall be submitted by certified mail to the Washington Department of Ecology's (~~WDOE~~ECY) Regional Office, the Attorney General, and to persons who have previously notified the County relative to the original application.

d. If the revision to the original permit involves a Conditional Use or Variance, the County shall submit the revision to the Department of Ecology for the ~~WDOE's~~ ECY's approval, approval with conditions, or denial. The revision shall indicate that it is being submitted under the requirements of WAC 173-27-100(6). The ECY~~WDOE~~ shall render and transmit to the County and the applicant its final decision within 15 days of the date of the department's receipt of the submittal from the County. The County shall notify the parties of record of the Department of Ecology's final decision. The revised permit is effective immediately upon final action by the County, or when appropriate under WAC 173-27-100(7).

e. Appeals shall be in accordance with RCW 90.58.180 and shall be filed within 21 days from receipt of the County's action by ECY~~WDOE~~ or, when appropriate under subsection (c) of this section, the date the ECY~~WDOE~~'s final decision is transmitted to the County and the applicant. The party seeking review shall have the burden of proving the revision granted was not within the scope and intent of the original permit.

f. If the County determines that there exists noncompliance with a shoreline permit and/or any conditions attached thereto or any revisions and modifications, then the County may, in addition to the enforcement actions outlined in 17.50.500, move to rescind the shoreline permit after a hearing.

17.50.500 Enforcement and Penalties

A. AUTHORITY AND PURPOSE

This part is adopted under RCW 90.58.200 and 90.58.210 to implement the enforcement responsibilities of the County under the Shoreline Management Act. The act calls for a cooperative program between local government and the state. It provides for a variety of means of enforcement, including civil and criminal penalties, orders to cease and desist, orders to take corrective action, and permit rescission. The following should be used in addition to other County enforcement mechanisms.

B. DEFINITIONS

The definitions contained in WAC 173-27-030 shall apply in this part also except that the following shall apply when used in this part of the regulations:

1. "Permit" means any form of permission required under the act prior to undertaking activity on shorelines of the state, including Substantial Development Permits, Variances, Conditional Use Permits, permits for oil or natural gas exploration activities, permission which may be required for selective commercial timber harvesting, and shoreline exemptions; and

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2. "Exemption" means authorization from local government which establishes that an activity is exempt from Substantial Development Permit requirements under WAC 173-27-040, but subject to regulations of the Act and this master program.

C. POLICY

Enforcement action by the County may be taken whenever a person has violated any provision of the act or any master program or other regulation promulgated under the act. The choice of enforcement action and the severity of any penalty should be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the existence or degree of bad faith of the persons subject to the enforcement action.

D. ORDER TO CEASE AND DESIST

The County shall have the authority to serve upon a person a cease and desist order if an activity being undertaken on shorelines of the state is in violation of chapter 90.58 RCW or the local master program.

1. Content of order. The order shall set forth and contain:
    a. A description of the specific nature, extent, and time of violation and the damage or potential damage; and
    b. A notice that the violation or the potential violation cease and desist or, in appropriate cases, the specific corrective action to be taken within a given time. A civil penalty under WAC 173-27-280 may be issued with the order.
2. Effective date. The cease and desist order issued under this section shall become effective immediately upon receipt by the person to whom the order is directed.
3. Compliance. Failure to comply with the terms of a cease and desist order can result in enforcement actions including, but not limited to, the issuance of a civil penalty.

E. CIVIL PENALTY

1. A person who fails to conform to the terms of a Substantial Development Permit, Conditional Use Permit or Variance issued under RCW 90.58.140, who undertakes a development or use on shorelines of the state without first obtaining a permit, or who fails to comply with a cease and desist order issued under these regulations may be subject to a civil penalty by the County. The County may impose a penalty upon an additional finding that a person:
    a. Has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule; or
    b. Has been given previous notice of the same or similar type of violation of the same statute or rule; or
    c. The violation has a probability of placing a person in danger of death or bodily harm; or
    d. Has a probability of causing more than minor environmental harm; or
    e. Has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars.

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2. In the alternative, a penalty may be issued to a person by Mason County for violations which do not meet the criteria of subsection (1)(a) through (e) of this section, after the following information has been provided in writing to a person through a technical assistance visit or a notice of correction:

    a. A description of the condition that is not in compliance and a specific citation to the applicable law or rule;

    b. A statement of what is required to achieve compliance;

    c. The date by which the agency requires compliance to be achieved;

    d. Notice of the means to contact any technical assistance services provided by the agency or others; and

    e. Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the agency.

3. No penalty shall be issued by the County until the individual or business has been given a reasonable time to correct the violation and has not done so.

4. Amount of penalty. The penalty shall not exceed one thousand dollars for each violation. Each day of violation shall constitute a separate violation.

5. Aiding or abetting. Any person who, through an act of commission or omission procures, aids or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty.

6. Notice of penalty. A civil penalty shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from Mason County. The notice shall describe the violation, approximate the date(s) of violation, and shall order the acts constituting the violation to cease and desist, or, in appropriate cases, require necessary corrective action within a specific time.

F. APPEAL OF CIVIL PENALTY

1. Right of appeal. Persons incurring a penalty imposed by Mason County or jointly by the Department of Ecology and Mason County may appeal the same to the Shorelines Hearings Board. Appeals to the Shorelines Hearings Board are adjudicatory proceedings subject to the provisions of chapter 34.05 RCW.

2. Timing of appeal. Appeals shall be filed within thirty days of the date of receipt of the penalty. The term "date of receipt" has the same meaning as provided in RCW 43.21B.001.

3. Penalties due.

    a. Penalties imposed under this section shall become due and payable thirty days after receipt of notice imposing the same unless application for remission or mitigation is made or an appeal is filed. Whenever an application for remission or mitigation is made, penalties shall become due and payable thirty days after receipt of the County's and/or the Department of Ecology's decision regarding the remission or mitigation. Whenever an appeal of a penalty is filed, the penalty shall become due and payable upon completion of all review proceedings and upon the issuance of a final decision confirming the penalty in whole or in part.

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b. If the amount of a penalty owed the department is not paid within thirty days after it becomes due and payable, the attorney general, upon request of the department, shall bring an action in the name of the state of Washington to recover such penalty. If the amount of a penalty owed local government is not paid within thirty days after it becomes due and payable, Mason County may take actions necessary to recover such penalty.

c. Penalty recovered. Penalties recovered the County shall be paid to the County Treasurer. Penalties recovered jointly by the Department of Ecology and the County shall be divided equally between the Department of Ecology and the County unless otherwise stipulated in the order.

G. CRIMINAL PENALTY

The procedures for criminal penalties shall be governed by RCW 90.58.220.

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