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CLARK COUNTY
WASHINGTON

COMMUNITY PLANNING

STAFF REPORT

TO: Clark County Planning Commission

FROM: Gary Albrecht, Planner III, AICP

DATE: April 6, 2017

SUBJECT: CPZ2017-00005 Shoreline Master Program Limited Amendment

BACKGROUND:

Clark County adopted an updated shoreline master program (SMP) in July 2012. It was approved by the Department of Ecology (Ecology) in August 2012 and took effect in September 2012. SMP policies are included in Chapter 13 of the comprehensive plan. SMP regulations are included in Clark County Code Chapter 40.460. Local governments may periodically amend their shoreline programs when there is a change in law, zoning or other local conditions (WAC 173-26-090). Below are brief summaries of changes made by each of the three laws.

ESHB 1090 - Dock Construction

This bill, which was enacted in 2014, amended the provisions of [RCW 90.58.030](#) that exempt certain dock construction from the definition of “substantial development.” It increased the threshold dollar amount for the fair market value of a replacement dock eligible for an exemption from \$10,000 to \$20,000. The proposed code amendment would increase the exemption threshold to match the new statutory exemption.

ESSB 6450 - On-Water Dwellings

This bill, which was enacted in 2014, amended the provisions of [RCW 90.58.270](#) to create a new class of “floating on-water residences.” The bill requires to treat as a conforming use a floating on-water residence which meets the new definition and was legally established before July 1, 2014. It further requires that these uses be accommodated through reasonable shoreline master program regulations, permit conditions, or mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating on-water residences and their moorages. The proposed amendments are designed to implement these new statutory requirements.

SHB 2847 - Created a Substantial Development Permit Exemption for Retrofit of Existing Structures for Disabled Access.

This bill was enacted and effective in 2016. Projects in Shoreline jurisdiction that provide access for disabled persons to existing structures are exempt from obtaining Shoreline Substantial Development permits. Retrofitting an existing structure is removed from the definition of "substantial development" in RCW 90.58.030 if the project is undertaken with the exclusive purpose of complying with the Americans with Disabilities Act or to otherwise provide physical access to a structure by individuals with disabilities. The proposed amendment is designed to implement the statutory exemption.

SUMMARY:

The proposed limited amendments to the Clark County SMP are necessary to reflect changing local circumstances and new information. These proposed changes comply with RCW 90.58.

This limited amendments would also improve the consistency between the county's shoreline program and the state standards. The proposed amendments would revise the Shoreline Management Committee, add new state requirements for dock construction, floating homes, and create a substantial development permit exemption for retrofit existing structures are exempt from obtaining shoreline substantial development permits.

ANALYSIS:

The proposed amendments to the SMP (Exhibit 1) are intended to comply with state mandates. Ecology must ultimately approve the amendments to the SMP; after the county's final decision is rendered per RCW 90.58.090 of the Shoreline Management Act (SMA). Washington Administrative Codes (WAC) Section 173.26.100, describes the process, and subsection 201, requires that the county provide evidence that the amendments will result in no net loss of ecological functions. The state code is in italics below.

WAC 173.26.201(c) *"Limited master program amendments may be approved by the department provided the department concludes:*

(i) The amendment is necessary to:

(A) Comply with state and federal laws and implementing rules applicable to shorelines of the state within the local government jurisdiction;

(B) Include a newly annexed shoreline of the state within the local government jurisdiction;

(C) Address the results of the periodic master program review required by RCW 90.58.080(4), following a comprehensive master program update;

(D) Improve consistency with the act's goals and policies and its implementing rules; or

(E) Correct errors or omissions.

Findings: The limited amendments to the SMP, Exhibit 1, are intended to comply with state and federal laws, as required by "A" above. The county has not annexed new shorelines as required by "B", and the county is not reviewing the master program for a comprehensive master program update, as required by "C". It is consistent with the SMA goals and policies as required by "D", and is not correcting errors or omissions, as required by "E".

(ii) *The local government is not currently conducting a comprehensive shoreline master program update designed to meet the requirements of RCW [90.58.080](#), unless the limited amendment is vital to the public interest;*

Findings: The county is not conducting a comprehensive shoreline master program update.

(iii) *The proposed amendment will not foster uncoordinated and piecemeal development of the state's shorelines;*

Finding: The limited amendment to the SMP, Exhibit 1, will avoid inconsistencies with development standards.

(iv) *The amendment is consistent with all applicable policies and standards of the act;*

Findings: The limited amendments to the SMP will be consistent with the policies and standards of state and federal regulations.

(v) *All procedural rule requirements for public notice and consultation have been satisfied;*

Findings: A public notice was sent and will be published on April 4, 2017, prior to the public hearing on April 20, 2017. A public notice will be sent and published for the Board of Clark County Councilor's hearing in December. A 60-day notice was sent to the Department of Commerce on February 14, 2017. The county issued a SEPA DNS on March 27, 2017, and distributed it to the applicable agencies. Email notification sent to Shoreline Stakeholder Advisory Committee Members from the 2012 SMP update, and interested parties; updated August 2015.

(vi) *Master program guidelines analytical requirements and substantive standards have been satisfied, where they reasonably apply to the limited amendment. All master program amendments must demonstrate that the amendment will not result in a net loss of shoreline ecological functions."*

Findings: The limited amendment will be consistent with the changes required by state mandate, and no local ecological analysis has been conducted.

PROPOSED ACTION:

Based upon the information and the findings presented in this report and Exhibit 1, staff recommends that the Planning Commission forward to the Board of Clark County Councilors a recommendation of APPROVAL of the limited amendment to the SMP.

Attachments:

Exhibit 1: 40.460 text changes

40.460.230 (B) (8), page 2
40.460.230 (B) (19), page 3
Table 40.460.620-1 Floating on-water residence, page 7 & 8
40.460.630 K (13) floating on-water residences, page 23
40.460.710 A (2), page 26
40.460.800 Definitions, page 32

40.460.230 Exemptions from a Shoreline Substantial Development Permit**A. General Requirements.**

1. Except as specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to Chapter 90.58 RCW, the Act, and this Program.
2. A use or development that is listed as a conditional use pursuant to this Program or is an unclassified use or development must obtain a conditional use permit (Section 40.460.270) even if the development or use does not require a substantial development permit.
3. When a development or use is proposed that does not meet the bulk, dimensional, and/or performance standards of this Program, such development or use shall only be authorized by approval of a shoreline variance (Section 40.460.260) even if the development or use does not require a substantial development permit.
4. If any part of a proposed development requires a shoreline substantial development permit, then a shoreline substantial development permit is required for the entire proposed development project.
5. Exemptions from the requirement to obtain a shoreline substantial development permit shall be construed narrowly. Only those developments that meet the precise terms of one (1) or more of the listed exemptions may be granted exemptions from the substantial development permit process. The burden of proof that a development or use is exempt is on the applicant for the development action.

B. List of Exemptions.

The following activities shall not be considered substantial developments but shall obtain a statement of exemption, as provided for in Section 40.460.230(C).

1. Any development of which the total cost or fair market value does not exceed five thousand seven hundred eighteen dollars (\$5,718) or as adjusted 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)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed, or found labor, equipment or materials.
2. Subject to the provisions of Section 40.460.250, normal maintenance or repair of existing legally established structures or developments, including those that have been damaged by accident, fire, or elements. The features of the repaired structure or development, including but not limited to its size, shape, configuration, location, and external appearance, must be comparable to the original structure or development, and the repair must not cause substantial adverse effects to shoreline resources or environment. The replacement of demolished existing single-family residences and their appurtenances is not considered normal maintenance and repair.
3. Construction of a normal protective bulkhead common to single-family residences. A “normal protective” bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one (1) cubic yard of fill per one (1) foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the Department of Fish and Wildlife (WDFW).

4. 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 that requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Shoreline Administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit that would have been required, absent an emergency, pursuant to Chapter 90.58 RCW, these regulations, or this Program, shall be obtained. All emergency construction shall be consistent with the policies and requirements of this chapter, Chapter 90.58 RCW, and this 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.
5. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels. 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.
6. Construction or modification of navigational aids such as channel markers and anchor buoys.
7. Construction on shorelands by an owner, lessee, or contract purchaser of a single-family residence or appurtenance for their own use or for the use of their family, which residence does not exceed a height of thirty-five (35) feet above average grade level, and which meets all requirements of the county, other than requirements imposed pursuant to Chapter 90.58 RCW. Construction authorized under this exemption shall be located landward of the ordinary high water mark.
8. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of a single-family or multiple-family residence. This exception applies ~~in fresh waters~~ if either (a) the dock is a new dock, and ~~when~~ the fair market value of the dock does not exceed ten thousand dollars (\$10,000), or (b) the dock is a replacement dock that is constructed to replace an existing dock and is of equal or lesser square footage than the replaced dock, and the replacement dock has a fair market value that does not exceed twenty thousand (\$20,000) dollars. However, if subsequent construction occurs within five years of completion of the prior construction that was exempt pursuant to this provision, and the combined fair market value of the subsequent and prior construction exceeds the applicable amount specified in either (a) or (b) herein, the subsequent construction shall be considered a substantial development. ~~but if subsequent construction having a fair market value exceeding two thousand five hundred dollars (\$2,500) occurs within five (5) years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter.~~
9. 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.
10. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water.
11. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, that were created, developed or utilized primarily as a part of an agricultural drainage or diking system.
12. Any project with a certification from the Governor pursuant to Chapter 80.50 RCW (certification from the State Energy Facility Site Evaluation Council).
13. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:
 - a. The activity does not interfere with the normal public use of surface waters;

- b. 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;
 - c. 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; and
 - d. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to assure that the site is restored to pre-existing conditions.
14. 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 published by the Departments of Agriculture or Ecology jointly with other state agencies under Chapter 43.21C RCW.
15. Watershed restoration projects as defined in RCW 89.08.460.
16. a. A public or private project that is designed to improve fish or wildlife habitat or fish passage when all of the following apply:
- (1) The project has been approved by WDFW;
 - (2) The project has received hydraulic project approval (HPA) by WDFW pursuant to Chapter 77.55 RCW; and
 - (3) Clark County has determined that the project is substantially consistent with the local Shoreline Master Program. Clark County shall make such determination in a timely manner and provide it by letter to the applicant.
- b. Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with local Shoreline Master Programs and do not require a statement of exemption.
17. Any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to Chapter 70.105D RCW or to Ecology when it conducts a remedial action under Chapter 70.105D RCW.
18. Other than conversions to nonforest land use, forest practices regulated under Chapter 76.09 RCW are not subject to additional regulations under the Act or this Program (RCW 90.58.030(2)(d)(ii)).
19. The external or internal retrofitting of an existing structure for 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 (RCW 90.58.030(3)(e)(xiii)).

(Amended: Ord. 2015-12-12)

C. Statements of Exemption.

1. Any person claiming exemption from the substantial development permit requirements shall make an application to the Shoreline Administrator for such an exemption in the manner prescribed by the Shoreline Administrator, except that no written statement of exemption is required either for a project designed to improve fish or wildlife habitat or fish passage pursuant to WAC 173-27-040(2)(p)(iii)(A), or for emergency development pursuant to WAC 173-27-040(2)(d).
2. The Shoreline Administrator is 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 in Section 40.460.230(B). The 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 Shoreline Administrator's analysis of the consistency of the project with this Program and the Act. The letter shall be sent to the applicant and maintained on file in the offices of the Shoreline Administrator.

3. Statements of exemption may contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of this Program and the Act.
4. A denial of an exemption shall be in writing and shall identify the reason(s) for the denial. The Shoreline Administrator’s decision on a statement of exemption is not subject to administrative appeal.
5. Exempt activities shall not be conducted until a statement of exemption has been obtained from the Shoreline Administrator.

(Amended: Ord. 2012-07-16; Ord. 2015-12-12)

40.460.620 Shoreline Use, Modification, and Standards Table

A. Each shoreline designation shall be managed in accordance with its designated purpose as described in this Program. Table 40.460.620-1 identifies those uses that are prohibited, may be permitted or permitted with a conditional use approval in each shoreline designation. In the event conflicts exist between Table 40.460.620-1 and the text in this chapter, the text shall apply.

B. Table 40.460.620-1 also summarizes general setbacks and building heights for uses within each shoreline designation. These setbacks apply in conjunction with the requirements of the critical areas requirements established in Section 40.460.530. In the event a conflict exists between Table 40.460.620-1 and the requirements of Section 40.460.500, the most protective of shoreline ecological functions shall apply.

C. Residential densities and lot dimensions are the same as those described in the Clark County Comprehensive Growth Management Plan and this title for the respective zoning districts.

D. In Table 40.460.620-1, setbacks are measured landward from the ordinary high water mark (OHWM). For transportation facilities and utilities, the setback from OHWM pertains to the right-of-way and not just the structure or pipeline. In the Aquatic shoreline designation, the setback is waterward of the OHWM. Building heights are calculated according to WAC 173-27-030(9), or from the OHWM in the Aquatic shoreline designation.

E. All shoreline designations, even if they are not applied within the county or urban growth areas, are included in Table 40.460.620-1 to maintain consistency countywide (see Sections 40.460.430 and 40.460.440(E)).

Table 40.460.620-1. Shoreline Use, Modification, and Development Standards

Abbreviations P = Permitted; C = Conditional Use; X = Prohibited; N/A = Not Applicable; UNL = Unlimited.	AQ	NT	UC (UGA)	MI (UGA)	HI (UGA)	RC-RD	RC-RL
Shoreline Designation	Aquatic	Natural	Urban Conservancy	Medium Intensity	High Intensity	RC Residential	RC Resource Lands
Shoreline Uses							
Agriculture							
Agriculture	X	X	C	P	P	P	P
• Structure Setback	N/A	N/A	100'	100'	100'	100'	100'
• Structure Height	N/A	N/A	35'	35'	35'	35'	35'
Aquaculture							
Aquaculture, General	P	X	C	C	C	C	C
• Structure Setback	0'	N/A	50'	50'	50'	50'	50'
Boating Uses							

Abbreviations P = Permitted; C = Conditional Use; X = Prohibited; N/A = Not Applicable; UNL = Unlimited.	AQ	NT	UC (UGA)	MI (UGA)	HI (UGA)	RC-RD	RC-RL
Shoreline Designation	Aquatic	Natural	Urban Conservancy	Medium Intensity	High Intensity	RC Residential	RC Resource Lands
Motorized Boat Launches	P	X	C	C	P	P	P
Nonmotorized Boat Launches	P	C	P	P	P	P	P
Marinas	P	X	X	C	P	C	C
• Structure Setback	0'	N/A	N/A	25'	25'	25'	25'
• Structure Height							
- 0 – 100' from OHWM	20'	N/A	N/A	25'	35'	25'	35'
- >100' from OHWM	20'	N/A	N/A	35'	45'	35'	45'
Docks, Piers, Mooring Buoys	P ¹	X	P ¹	P ¹	P ¹	P ¹	P ¹
• Structure Setback	0'	N/A	0'	0'	0'	0'	0'
Commercial Uses							
Water-Dependent	C	X	X	P	P	C	C
• Structure Setback	0'	N/A	N/A	0'	0'	0'	0'
• Structure Height							
- 0 – 100' from OHWM	15'	N/A	N/A	35'	35'	35'	35'
- >100' from OHWM	15'	N/A	N/A	45'	60'	45'	45'
Water-Related, Water-Enjoyment	X	X	X	P	P	C	C
• Structure Setback	N/A	N/A	N/A	25'	25'	25'	25'
• Structure Height							
- 0' – 100' from OHWM	N/A	N/A	N/A	25'	35'	35'	35'
- >100' from OHWM	N/A	N/A	N/A	35'	45'	45'	45'
Non-Water-Oriented	X	X	X	C ²	C ²	X	X
• Structure Setback	N/A	N/A	N/A	100'	100'	N/A	N/A
• Structure Height	N/A	N/A	N/A	25'	25'	N/A	N/A
Forestry							
Log Storage	C	X	X	X	P	X	P
• Setback	0'	N/A	N/A	N/A	50'	N/A	50'
Timber Harvest	X	X	C	P	P	P	P
• Activity Setback	N/A	N/A	100'	100'	50'	100'	50'

Abbreviations P = Permitted; C = Conditional Use; X = Prohibited; N/A = Not Applicable; UNL = Unlimited.	AQ	NT	UC (UGA)	MI (UGA)	HI (UGA)	RC-RD	RC-RL
Shoreline Designation	Aquatic	Natural	Urban Conservancy	Medium Intensity	High Intensity	RC Residential	RC Resource Lands
Industrial Uses							
Water-Dependent	P	X	X	X	P	X	X
• Structure Setback	0'	N/A	N/A	N/A	0'	N/A	N/A
• Structure Height							
- 0 – 100' from OHWM	20'	N/A	N/A	N/A	UNL	N/A	N/A
- >100' from OHWM	20'	N/A	N/A	N/A	UNL	N/A	N/A
Water-Related	X	X	X	X	P	X	X
• Structure Setback	N/A	N/A	N/A	N/A	50'	N/A	N/A
• Structure Height							
- 0 – 100' from OHWM	N/A	N/A	N/A	N/A	UNL	N/A	N/A
- >100' from OHWM	N/A	N/A	N/A	N/A	UNL	N/A	N/A
Non-Water-Oriented	X	X	X	X	P	X	X
• Structure Setback	N/A	N/A	N/A	N/A	100'	N/A	N/A
• Structure Height	N/A	N/A	N/A	N/A	35'	N/A	N/A
Institutional Uses							
Water-Dependent	C	X	C	P	P	C	C
• Structure Setback	N/A	N/A	0'	0'	0'	0'	0'
• Structure Height							
- 0 – 100' from OHWM	N/A	N/A	25'	35'	35'	35'	35'
- >100' from OHWM	N/A	N/A	35'	45'	35'	45'	45'
Water-Related	X	X	X	P	P	C	X
• Structure Setback	N/A	N/A	N/A	25'	25'	50'	N/A
• Structure Height							
- 0 – 100' from OHWM	N/A	N/A	N/A	35'	45'	35'	N/A
- >100' from OHWM	N/A	N/A	N/A	45'	60'	35'	N/A
Non-Water-Oriented	X	X	X	C ²	C ²	X	X
• Structure Setback	N/A	N/A	N/A	100'	100'	N/A	N/A
• Structure Height	N/A	N/A	N/A	35'	35'	N/A	N/A

Abbreviations P = Permitted; C = Conditional Use; X = Prohibited; N/A = Not Applicable; UNL = Unlimited.	AQ	NT	UC (UGA)	MI (UGA)	HI (UGA)	RC-RD	RC-RL
Shoreline Designation	Aquatic	Natural	Urban Conservancy	Medium Intensity	High Intensity	RC Residential	RC Resource Lands
Mining							
Gravel Mining	C ³	X	X	X	C ³	C ³	C ³
• <i>Activity Setback</i>	0'	N/A	N/A	N/A	200'	200'	200'
Hard Rock Mining	X	X	X	X	C ³	C ³	C ³
• <i>Activity Setback</i>	N/A	N/A	N/A	N/A	100'	100'	50'
Parking							
Primary Use	X	X	X	X	X	X	X
• <i>Structure or Surface Lot Setback</i>	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Accessory Use	X	X	P	P	P	P	P
• <i>Structure or Activity Setback</i>	N/A	N/A	100'	100'	50'	100'	100'
• <i>Structure Height</i>	N/A	N/A	35'	35'	35'	35'	35'
Recreational Uses							
Water-Dependent	P	P ⁴	P	P	P	P	P
• <i>Structure Setback</i>	0'	0'	0'	0'	0'	0'	0'
• <i>Structure Height</i>	15'	15'	15'	35'	35'	35'	35'
Water-Related/Enjoyment (Trails, Accessory Buildings)	C ⁴	C ⁴	P	P	P	P	P
• <i>Structure Setback</i>	0'	50'5	50'5	50'5	20'	20'	20'
• <i>Structure Height</i>	15'	15'	15'	35'	35'	35'	35'
Non-Water-Oriented (Golf Courses, Sports Fields)	X	X	C	C	C	C	X
• <i>Structure Setback</i>	N/A	N/A	100'	100'	100'	200'	N/A
• <i>Structure Height</i>	N/A	N/A	25'	25'	25'	15'	N/A
Residential Uses							
Single-Family	X	X	P	P	X	P	P
• <i>Structure Setback</i>	N/A	N/A	100'	50'	N/A	100'	100'
• <i>Structure Height</i>	N/A	N/A	35'	35'	N/A	35'	35'
• <i>Density</i>	N/A	N/A	In accordance with the underlying zoning				
Floating Homes (New)	X	N/A	N/A	N/A	N/A	N/A	N/A
<u>Floating on-water residence</u> <u>(NEW)</u>	<u>X</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
• <i>Structure Height</i>	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Abbreviations P = Permitted; C = Conditional Use; X = Prohibited; N/A = Not Applicable; UNL = Unlimited.	AQ	NT	UC (UGA)	MI (UGA)	HI (UGA)	RC-RD	RC-RL
Shoreline Designation	Aquatic	Natural	Urban Conservancy	Medium Intensity	High Intensity	RC Residential	RC Resource Lands
Floating Homes (Existing <u>as of Jan. 1, 2011</u>)	P	N/A	N/A	N/A	N/A	N/A	N/A
<u>Floating on-water residence</u> (Existing as of July 1, 2014)	<u>P</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
• <i>Structure Height</i>	Existing	N/A	N/A	N/A	N/A	N/A	N/A
Multifamily	X	X	X	P	P	X	X
• <i>Structure Setback</i>	N/A	N/A	N/A	35'	35'	N/A	N/A
• <i>Structure Height</i>	N/A	N/A	N/A	35'	35'	N/A	N/A
• <i>Density</i>	N/A	N/A	N/A	In accordance with the underlying zoning		N/A	N/A
Signs							
Agricultural	X	X	P	X	P	P	P
Fascia or Wall Signs	X	X	X	P	P	P	P
Freestanding Informational	P	P	P	P	P	P	P
High School Electronic Message	X	X	P	P	P	P	P
Monument	X	P	P	P	P	P	P
Navigation	P	P	P	P	P	P	P
Transportation Uses							
Highways, Arterials, Railroads (Parallel to OHWM)	C	X	P	P	P	P	P
• <i>Right-of-Way Setback</i>	0'	N/A	200'	100'	100'	200'	200'
Secondary/Public Access Roads (Parallel to OHWM)	X	X	P	P	P	P	P
• <i>Right-of-Way Setback</i>	N/A	N/A	100'	50'	50'	100'	100'
Roads Perpendicular to the OHWM	X	X	P	P	P	P	P
• <i>Setback</i>	N/A	N/A	Limited to the setback for the use the road is serving ⁶				
Bridges (Perpendicular to Shoreline)	C	C	C	P	P	C	C
• <i>Structure Setback</i>	0'	0'	0'	0'	0'	0'	0'
Utility Uses							
Above-Ground Utilities (Parallel to Shoreline)	C	C	P	P	P	P	P
• <i>Right-of-Way Setback</i>	0'	200'	100'	50'	50'	100'	100'
• <i>Structure Height</i>	15'	15'	35'	35'	UNL	15'	15'

Abbreviations P = Permitted; C = Conditional Use; X = Prohibited; N/A = Not Applicable; UNL = Unlimited.	AQ	NT	UC (UGA)	MI (UGA)	HI (UGA)	RC-RD	RC-RL
Shoreline Designation	Aquatic	Natural	Urban Conservancy	Medium Intensity	High Intensity	RC Residential	RC Resource Lands
• <i>Distribution Pole Height</i>	0'	45'	45'	45'	UNL	45'	45'
Electrical Transmission Lines	C	C	C	C	C	C	C
• <i>Tower Height</i>	UNL	UNL	UNL	UNL	UNL	UNL	UNL
Underground Utilities (Parallel to Shoreline)	C	C	P	P	P	P	P
• <i>Right-of-Way Setback</i>	0'	200'	100'	50'	50'	50'	50'
Underground Utilities (Perpendicular to Shoreline)	C	C	C	C	C	C	C
• <i>Right-of-Way Setback</i>	0'	0'	0'	0'	0'	0'	0'
Unclassified Uses							
Unclassified Uses	C	C	C	C	C	C	C
• <i>Structure or Activity Setback</i>	0'	200'	100'	100'	100'	100'	100'
• <i>Structure Height</i>	15'	15'	35'	35'	35'	35'	35'
Shoreline Modification							
Dredging and Dredge Material Disposal							
Nonmaintenance Dredging	C	N/A	N/A	N/A	N/A	N/A	N/A
Maintenance Dredging	P	N/A	N/A	N/A	N/A	N/A	N/A
Dredge Material Disposal	C	X	X	C	C ⁷	C	C
Dredging and Disposal as Part of Ecological Restoration/Enhancement	P	C	P	P	P	P	P
Fill							
Speculative	X	X	X	X	X	X	X
Other	C ⁸	P ⁹	P	P	P	P	P
Flood Control Works and In-Stream Structures							
Dams, Dikes, and Levees	C	X	C	C	P	C	C
In-Stream Structures	C	N/A	N/A	N/A	N/A	N/A	N/A
Shoreline Restoration							
Ecological Restoration/Enhancement/Mitigation	P	P	P	P	P	P	P
Shoreline Stabilization							
Bioengineered	P	P	P	P	P	P	P
Structural (i.e., Bulkheads and	C	X	C	C	C	C	C

Abbreviations P = Permitted; C = Conditional Use; X = Prohibited; N/A = Not Applicable; UNL = Unlimited.	AQ	NT	UC (UGA)	MI (UGA)	HI (UGA)	RC-RD	RC-RL
Shoreline Designation	Aquatic	Natural	Urban Conservancy	Medium Intensity	High Intensity	RC Residential	RC Resource Lands
Revetments)							
Breakwaters, Jetties, Rock Weirs, and Groins	C	X	C	C	C	C	C

¹ Private docks permitted as joint-use only (see Section 40.460.630(C)(4)(j)).

² See Section 40.460.630(D)(4).

³ In Surface Mining Overlay areas only.

⁴ Low intensity only.

⁵ Water-related/enjoyment features such as viewpoints, gazebos, or fishing piers may have a zero (0) foot setback when connected to a public access trail.

⁶ New roads may connect to existing roads within shoreline jurisdiction as long as the connection is landward of the existing road and the ordinary high water mark.

⁷ Permitted outside of channel migration zones.

⁸ See Section 40.460.560(B)(10).

⁹ Permitted for restoration only; otherwise prohibited.

Note: Setbacks are landward from the OHWM in the NT, UC, MI, HI, RC-RD, and RC-RL shoreline designations; setbacks are waterward of the OHWM in the AQ shoreline designation.

(Amended: Ord. 2012-07-16; Ord. 2014-08-10)

40.460.630 Use-Specific Development Regulations

A. Agriculture.

1. Agricultural practices shall prevent erosion of soils and bank materials within shoreline areas and minimize siltation, turbidity, pollution, and other environmental degradation of watercourses and wetlands.
2. Stream banks and water bodies shall be protected from damage due to concentration and overgrazing of livestock by providing the following:
 - a. Suitable bridges, culverts or ramps for stock crossing;
 - b. Ample supplies of clean water in tanks on dry land for stock watering; and
 - c. Fencing or other grazing controls to prevent damage to riparian vegetation, bank compaction or bank erosion.
3. New confinement lots, feeding operations, lot wastes, stockpiles of manure solids, manure lagoons, and storage of noxious chemicals are prohibited.
4. The disposal of farm wastes, chemicals, fertilizers and associated containers and equipment within shoreline jurisdiction is prohibited. Composted organic wastes may be used for fertilization or soil improvement.
5. New uses proposed as part of a conversion of agricultural lands shall comply with the provisions of this title and this Program.

6. For purposes of this Program, the definitions in RCW 90.58.065 and in Section 40.460.800 for agricultural activities, agricultural equipment and facilities, and agricultural products control.

B. Aquaculture.

1. No aquatic species shall be introduced into county waters without prior written approval of the appropriate state or federal regulatory agency for the species proposed for introduction. Such approval(s) shall be submitted in writing to the county as part of the shoreline permit application.

2. Aquaculture facilities shall only be permitted where impacts to existing uses can be fully mitigated.

3. Fish net-pens shall not occupy more than one (1) surface acre of water, excluding booming and anchoring equipment, and shall not be located within one (1) mile of any other aquaculture facility.

4. No processing of any aquaculture product, except for the sorting or culling of the cultured species and the washing or removal of surface materials or species after harvest, shall occur in or over the water. All other processing activities and facilities shall be located on land.

5. If uncertainty exists regarding potential impacts of a proposed aquaculture activity, baseline and periodic operational monitoring by a county-approved consultant (unless otherwise provided for) may be required, at the applicant's expense, and shall continue until adequate information is available to determine the success of the project and/or the magnitude of any probable significant adverse environmental impacts. Permits for such activities shall include specific performance measures and provisions for adjustment or termination of the project at any time if monitoring indicates significant, adverse environmental impacts that cannot be adequately mitigated.

6. Aquacultural uses and facilities not involving substantial substrate modification shall be located at least six hundred (600) feet from any wildlife refuge lands; those involving substantial substrate modification shall be located at least fifteen hundred (1,500) feet from such areas. Lesser distances may be authorized without a variance if it is demonstrated by the applicant that the fish and wildlife habitat resources will be protected, and if the change is supported by the reviewing resource agencies. Greater distances may be required if recommended by the reviewing resource agencies.

7. Aquacultural structures and activities that are not water-dependent (including, but not limited to, warehouses for storage of products, parking and loading facilities) shall be located landward of the OHWM and landward of water-dependent portions of the project, and shall minimize detrimental impacts to the shoreline.

8. For aquaculture projects using over-water structures, storage of necessary tools and apparatus waterward of the OHWM shall be limited to containers of not more than three (3) feet in height, as measured from the surface of the raft or dock. Materials which are not necessary for the immediate and regular operation of the facility shall not be stored waterward of the OHWM.

9. No garbage, wastes or debris shall be allowed to accumulate at the site of any aquaculture operation. All wastes shall be disposed of in a manner that will ensure strict compliance with all applicable waste disposal standards.

10. When feasible, the cleaning of nets and other apparatus shall be accomplished by air drying, spray washing or hand washing, rather than chemical treatment and application.

11. Prior to use of any agents such as antibiotics, vaccines, growth stimulants, or anti-fouling agents, approval must be obtained from all appropriate state and federal agencies, including but not limited to the U.S. Food and Drug Administration, Ecology, WDFW, and the Department of Agriculture, as required, and proof thereof is submitted to the county.

12. Only nonlethal, nonabusive predator control methods shall be used. Double netting for seals, overhead netting for birds, and three (3) foot high fencing or netting for otters are approved methods of predator control. The use of other nonlethal, nonabusive predator control measures shall be contingent upon receipt of written approval from the National Marine Fisheries Service and/or the U.S. Fish and Wildlife Service, as required.

C. Boating Uses.

1. General Requirements.

- a. All boating uses, development, and facilities shall protect the rights of navigation.
- b. Boating facilities shall be sited and designed to ensure no net loss of shoreline ecological functions, and shall meet DNR requirements and other state guidance if located in or over state-owned aquatic lands.
- c. Boating facilities shall locate on stable shorelines in areas where:
 - (1) There is adequate water mixing and flushing;
 - (2) Such facilities will not adversely affect flood channel capacity or otherwise create a flood hazard;
 - (3) Water depths are adequate to minimize spoil disposal, filling, beach enhancement, and other channel maintenance activities; and
 - (4) Water depths are adequate to prevent the structure from grounding out at the lowest low water or else stoppers are installed to prevent grounding out.
- d. Boating facilities shall not be located:
 - (1) Along braided or meandering river channels where the channel is subject to change in alignment;
 - (2) On point bars or other accretion beaches;
 - (3) Where new or maintenance dredging will be required; or
 - (4) In areas with important bank margin habitat for aquatic species or where wave action caused by boating use would increase bank erosion rates.
- e. Boating uses and facilities shall be located far enough from public swimming beaches, fishing and aquaculture harvest areas, and waterways used for commercial navigation to alleviate any adverse impacts, safety concerns and potential use conflicts.
- f. In-water work shall be scheduled to protect biological productivity (including but not limited to fish runs, spawning, and benthic productivity). In-water work shall not occur in areas used for commercial fishing during a fishing season unless specifically addressed and mitigated for in the permit.
- g. Accessory uses at boating facilities shall be:
 - (1) Limited to water-oriented uses, including uses that provide physical or visual shoreline access for substantial numbers of the general public; and
 - (2) Located as far landward as possible while still serving their intended purposes.
- h. Parking and storage areas shall be landscaped or screened to provide visual and noise buffering between adjacent dissimilar uses or scenic areas.
- i. Boating facilities shall locate where access roads are adequate to handle the traffic generated by the facility and shall be designed so that lawfully existing or planned public shoreline access is not unnecessarily blocked, obstructed nor made dangerous.
- j. Joint-use moorage with ten (10) or more berths is regulated under this section as a marina (Section 40.460.630(C)(3)). Joint-use moorage with fewer than ten (10) berths is regulated under this section as a moorage facility (Section 40.460.630(C)(4)).

- k. All marinas and public launch facilities shall provide restrooms/hand-sanitizing facilities for boaters' use that are designed, constructed and maintained to be clean, well lighted, safe and convenient for public use. One (1) restroom and hand-sanitizing facility shall be provided for every seventy-five (75) marina moorage sites or twenty (20) boat launch parking spaces.
 - l. Installation of boat waste disposal facilities such as pump-outs and portable dump stations shall be required at all marinas and shall be provided at public boat launches to the extent possible. The locations of such facilities shall be considered on an individual basis in consultation with the Washington Departments of Health, Ecology, Natural Resources, Parks, and WDFW, as necessary.
 - m. All utilities shall be placed at or below dock levels, or below ground, as appropriate.
 - n. All signage shall adhere to the standards for signs in this Program and Chapter 40.310, except that a marina or boat launch may have one (1) advertising sign oriented towards the water that does not exceed twenty-four (24) square feet in area and fifteen (15) feet in height above the OHWM.
 - o. When appropriate, marinas and boat launch facilities shall install public safety signs, to include the locations of fueling facilities, pump-out facilities, and locations for proper waste disposal.
 - p. Boating facilities shall be constructed of materials that will not adversely affect water quality or aquatic plants and animals over the long term. Materials used for submerged portions, decking and other components that may come in contact with water shall be approved by applicable state agencies for use in water to avoid discharge of pollutants from wave splash, rain or runoff. Wood treated with creosote, copper chromium, arsenic, pentachlorophenol or other similarly toxic materials is prohibited for use in moorage facilities.
 - q. Boating facilities in waters providing a public drinking water supply shall be constructed of untreated materials, such as untreated wood, approved plastic composites, concrete, or steel.
 - r. Vessels shall be restricted from extended mooring on waters of the state except as allowed by state regulations; and provided, that a lease or permission is obtained from the state and impacts to navigation and public access are mitigated.
2. Boat Launch Facilities.
- a. A private boat launch shall be allowed on a parcel or lot only when public boat launches are unavailable within one-half (1/2) mile upstream or downstream of any property line.
 - b. No more than one (1) private boat launch facility or structure shall be permitted on a single residential parcel or lot.
 - c. Boat launch and haul-out facilities, such as ramps, marine travel lifts and marine railways, and minor accessory buildings shall be designed and constructed in a manner that minimizes adverse impacts on fluvial processes, biological functions, aquatic and riparian habitats, water quality, navigation and neighboring uses.
 - d. Boat launch facilities shall be designed and constructed using methods/technology that have been recognized and approved by state and federal resource agencies as the best currently available.
3. Marinas.
- a. Marinas shall be designed to:
 - (1) Provide thorough flushing of all enclosed water areas;
 - (2) Allow the free movement of aquatic life in shallow water areas; and

- (3) Avoid and minimize any interference with geohydraulic processes and disruption of existing shore forms.
 - b. Open pile or floating breakwater designs shall be used unless it can be demonstrated that riprap or other solid construction would not result in any greater net impacts to shoreline ecological functions, processes, fish passage, or shore features.
 - c. Wet-moorage marinas shall locate a safe distance from domestic sewage or industrial waste outfalls.
 - d. To the maximum extent possible, marinas and accessory uses shall share parking facilities.
 - e. New marina development shall provide public access amenities, such as viewpoints, interpretive displays and public access to accessory water-enjoyment uses such as restaurants.
 - f. If a marina is to include gas and oil handling facilities, such facilities shall be separate from main centers of activity in order to minimize the fire and water pollution hazard, and to facilitate fire and pollution control. Marinas shall have adequate facilities and procedures for fuel handling and storage, and the containment, recovery, and mitigation of spilled petroleum, sewage, and other potentially harmful or hazardous materials, and toxic products.
 - g. Live-aboards are restricted to marinas, may occupy up to twenty percent (20%) of the slips at a marina and shall be connected to utilities that provide potable water and wastewater conveyance to an approved disposal facility. Live-aboards are not allowed at joint-use moorages.
 - h. The marina operator shall be responsible for the collection and dumping of sewage, solid waste, and petroleum waste.
 - i. No commercial or sport fish-processing discharge or discarding of unused bait, scrap fish, or viscera shall be permitted within any marina.
4. Moorage Facilities: Docks, Piers, and Mooring Buoys.
 - a. Mooring buoys shall be used instead of docks and piers whenever feasible.
 - b. Existing, legally established, private recreational docks, piers, and floats for individual lots in existing subdivisions and for existing individual single-family developments are considered nonconforming uses and structures. If such dock or float is abandoned, becomes hazardous, or is removed for any reason, it may be replaced with only one joint-use facility that complies with the policies and regulations of this Program. All required permits and approvals shall be obtained prior to commencing construction.
 - c. All moorage facilities shall be constructed and maintained in a safe and sound condition. Those that are abandoned or unsafe shall be removed or repaired promptly by the owner.
 - d. Docks and piers for water-dependent commercial and industrial uses shall be allowed to the outer harbor line or combined U.S. Pierhead/Bulkhead line but no more than that required for the draft of the largest vessel expected to moor at the facility. These provisions are also applicable to multiple-use facilities where the majority use is water-dependent and public access can safely be provided.
 - e. Fixed piers shall not be permitted for residential use on rivers. Docks for residential use on a river shall be securely anchored to pilings to allow for changes in river level, and shall be designed to withstand the one hundred (100) year flood or be seasonably removable.
 - f. Commercial covered moorage facilities may be permitted only where vessel construction or repair work is to be the primary activity and covered work areas are demonstrated to be the minimum necessary over water, including a demonstration that adequate landside sites are not feasible.
 - g. Covered moorage facilities associated with any residential development shall be prohibited.

- h. Provisions for waste discharge shall be made in all proposals for public moorage facilities, and shall include oil containment barriers when required by the U.S. Coast Guard under provisions of the Clean Water Act.
- i. Bulk storage (nonportable storage in fixed tanks) for gasoline, oil and other petroleum products for any use or purpose is prohibited on docks and piers.
- j. Residential docks and piers shall be allowed, as follows:
- (1) A new private dock or pier serving an individual lot is prohibited, unless it can be demonstrated that such dock or pier will result in no net loss of shoreline ecological function.
 - (2) New joint-use docks and piers serving two or more lots each with water frontage are allowed if no marina or public boat launch is located within one-half (1/2) mile of the upstream property line or one-half (1/2) mile downstream from the downstream property line, and provided they meet the requirements of this Program.
 - (3) New land divisions with shoreline frontage shall provide for joint-use docks if the proposal includes construction of a dock. Proposed docks and piers shall include no more than one mooring space per dwelling unit. Where a new moorage facility is proposed within a residential waterfront development of more than four (4) units, only one (1) joint-use facility shall be allowed, but only after demonstrating that such use is appropriate for the water body. The applicant must also demonstrate that no public moorage facility is available to residents. This condition of approval with required access easements and dedications shall be identified on the face of the plat. In addition, the joint-use dock easement shall be recorded with the County Auditor.
 - (4) Only a single, joint-use moorage facility shall be permitted in association with hotels, motels, and multifamily residences. No more than one (1) mooring slip per unit shall be allowed.
- k. Applicants for joint-use docks and piers shall demonstrate and document that adequate maintenance of the structure, activities, and associated landward area will be provided by identified responsible parties. The applicant shall file a legally enforceable joint use agreement or other legal instrument prior to the issuance of any building permits. The documents shall at minimum address the following:
- (1) Apportionment of construction and maintenance expenses;
 - (2) Easements and liability agreements; and
 - (3) Use restrictions.
- l. Docks and piers shall be designed and constructed to meet the following standards:
- (1) The maximum dimensions of a dock or pier shall be no greater than necessary, and shall generally meet the following development standards. These dimensions may be adjusted by the Shoreline Administrator on a case-by-case basis to protect sensitive shoreline resources.
 - (a) Docks, piers, and ramps shall be no more than four (4) feet in width.
 - (b) A dock or pier shall be long enough to obtain a depth as required by WDFW at its landward edge, and only as long as necessary to serve the intended use.
 - (c) The deck surface of docks and piers shall not exceed three (3) feet in height above the OHWM on the landward side, and shall extend one (1) foot above the water surface at all other locations.
 - (2) Over-water structures shall be located in water sufficiently deep to prevent the structure from grounding out at the lowest low water or stoppers should be installed to prevent grounding out.

- (3) The portions of piers, elevated docks, and gangways that are over the nearshore/littoral area shall have unobstructed grating over the entire surface area. Floating docks and piers shall have unobstructed grating over at least fifty percent (50%) of the surface area.
 - (4) Piers/anchors and/or ramps shall extend waterward, perpendicular from the ordinary high water mark (OHWM), to a point where the water depth is sufficient to prevent damage to shallow-water habitat.
 - (5) Skirting shall not be placed on piers, ramps, or floats. Protective bumper material will be allowed along the outside edge of the float as long as the material does not extend below the bottom edge of the float frame or impede light penetration.
 - (6) If a bulkhead-like base is proposed for a fixed pier or dock where there is net positive littoral drift, the base shall be built landward of the OHWM or protective berms. When plastics or other nonbiodegradable materials are used in float, pier, or dock construction, precautions shall be taken to ensure their containment.
 - (7) Pilings must be structurally sound and cured prior to placement in the water. Pilings employed for docks, piers, or any other structure shall have a minimum vertical clearance of one foot above extreme high water. Pile spacing shall be the maximum feasible to minimize shading and avoid a “wall” effect that would block or baffle wave patterns, currents, littoral drift, or movement of aquatic life forms, or result in structure damage from driftwood impact or entrapment.
 - (8) Docks used for motor boats should be located where the water will be deeper than seven (7) feet at the lowest low water to avoid prop scour.
 - (9) Docks and piers shall be set back a minimum of ten (10) feet from side property lines, except that joint-use facilities may be located closer to or upon a side property line when agreed to by contract or covenant with the owners of the affected properties. A copy of such agreement shall be recorded with the County Auditor and filed with the shoreline permit application.
- m. Recreational floats shall be designed and constructed to meet the following standards:
- (1) They shall be located as close to the shore as possible, and no farther waterward than any existing floats and established swimming areas.
 - (2) They shall be constructed so that the deck surface is a minimum of one (1) foot above the water surface and with reflectors for night-time visibility.
 - (3) Floats serving the public, a multifamily development, or multiple property owners shall not exceed one hundred (100) square feet; those serving only a legally established single-family residence shall not exceed sixty-four (64) square feet.
- n. Mooring buoys shall be placed as specified by WDFW, DNR, and the U.S. Coast Guard to balance the goals of protecting nearshore habitat and minimizing obstruction to navigation. Anchors and other design features shall meet WDFW standards.
- o. Mooring buoys shall be discernible from a distance of at least one hundred (100) yards. Only one (1) mooring buoy for each waterfront lot shall be permitted unless greater need is demonstrated by the applicant 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, joint-use facilities shall be used.
- p. Mooring buoys for residential use on a river shall be securely anchored to pilings to allow for changes in river level, and shall be designed to withstand the one hundred (100) year flood or be seasonably removable.

D. Commercial Uses.

1. Water-oriented commercial uses are preferred over non-water-oriented commercial uses.
2. An applicant for a new commercial use or development shall demonstrate that:
 - a. There will not be a net loss of shoreline ecological function by reason of the use or development; and
 - b. The use or development will have no significant adverse impacts to other shoreline resources or other shoreline uses.
3. Loading, service areas, and other accessory uses and structures shall be located landward of a commercial structure or underground whenever possible, but shall in no case be waterward of the structure. Loading and service areas shall be screened from view with native plants.
4. Where allowed, non-water-oriented commercial uses may be permitted:
 - a. As part of mixed use developments where the primary use is residential and where there is a substantial public benefit with respect to the goals and policies of this Program such as providing public access or restoring degraded shorelines;
 - b. Where navigability is severely limited at the proposed site and the commercial use provides a significant public benefit with respect to the Act's objectives such as providing public access and ecological restoration; or
 - c. If the site is physically separated from the shoreline by another property or public right-of-way.
5. Non-water-oriented commercial uses may occupy:
 - a. Up to a total of twenty-five percent (25%) of the total frontage length of all parcels in the master planned development (regardless of ownership); or
 - b. Up to a total of twenty-five percent (25%) of the total project area within shoreline jurisdiction of all parcels in the master planned development (regardless of ownership).

(Amended: Ord. 2014-08-10)

E. Forest Practices.

1. Commercial harvest of timber undertaken on shorelines shall comply with the applicable policies and provisions of the Forests and Fish Report (U.S. Fish and Wildlife Service, et al., 1999) and the Forest Practices Act, Chapter 76.09 RCW as amended, and any regulations adopted pursuant thereto (WAC Title 222), as administered by the Department of Natural Resources.
2. When timberland is to be converted to another use, such conversion shall be clearly indicated on the Forest Practices application. Failure to indicate the intent to convert the timberland to another use on the application will result in subsequent conversion proposals being reviewed pursuant to Conversion Option Harvest Plan. Failure to declare intent to convert on the application shall provide adequate grounds for denial of subsequent conversion proposals for a period of six (6) years from date of forest practices application approval per RCW 76.09.060(3)(d), (e) and (f), RCW 76.09.460, and RCW 76.09.470, subject to the provisions of Sections 40.260.080(A)(4)(a)(2) and (C).
3. With respect to timber situated within two hundred (200) feet landward of the OHWM within shorelines of statewide significance, Ecology or the county shall allow only selective commercial timber cutting, so that no more than thirty percent (30%) of the merchantable trees may be harvested in any ten (10) 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; and 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 only.

4. For the purposes of this Program, preparatory work associated with the conversion of land to nonforestry uses and/or developments shall not be considered forest practices and shall be reviewed in accordance with the provisions for the proposed nonforestry use and the general provisions of this Program, including vegetation conservation.

F. Industrial Uses.

1. General Requirements.

- a. Water-oriented industrial uses and development are preferred over non-water-oriented industrial uses and development.
- b. Water-related uses shall not displace existing water-dependent uses or occupy space designated for water-dependent uses identified in a substantial development permit or other approval.
- c. Water-enjoyment uses shall not displace existing water-dependent or water-related uses or occupy space designated for water-dependent or water-related uses identified in a substantial development permit or other approval.
- d. Waterward expansion of existing non-water-oriented industry is prohibited.
- e. Proposed developments shall maximize the use of legally established existing industrial facilities and avoid duplication of dock or pier facilities before expanding into undeveloped areas or building new facilities. Proposals for new industrial and port developments shall demonstrate the need for expansion into an undeveloped area.
- f. Proposed large-scale industrial developments or major expansions shall be consistent with an officially adopted comprehensive scheme of harbor improvement and/or long-range port development plan.
- g. New facilities for shallow-draft shipping shall not be allowed to preempt deep-draft industrial sites.
- h. Ship, boat-building, and repair yards shall employ best management practices (BMPs) with regard to the various services and activities they perform and their impacts on surrounding water quality.
- i. Industrial water treatment and water reclamation facilities may be permitted only as conditional uses and only upon demonstrating that they cannot be located outside of shoreline jurisdiction. They shall be designed and located to be compatible with recreational, residential, or other public uses of the water and shorelands.

2. Log Storage.

- a. Log booming, rafting and storage in the Aquatic shoreline designation shall comply with WAC 332-30-145 or its successor.
- b. Log storage shall be permitted in public waters only where:
 - (1) Water quality standards can be met at all times;
 - (2) Grounding will not occur;
 - (3) Associated activities will not hinder other beneficial uses of the water, such as small craft navigation; and
 - (4) Fish and wildlife habitat conservation areas can be avoided.
- c. No log raft shall remain in the Aquatic shoreline designation for more than one (1) year, unless specifically authorized in writing.

- d. Log storage facilities shall be sited to avoid and minimize the need for dredging in order to accommodate new barging and shall be located in existing developed areas to the greatest extent feasible. If a new log storage facility is proposed along an undeveloped shoreline, an alternatives analysis shall be required that demonstrates that it is not feasible to locate the facility within an existing developed area.
- e. A debris management plan describing the removal and disposal of wood waste must be approved by the county. Debris monitoring reports shall be provided, where stipulated. Positive control, collection, treatment, and disposal methods for keeping leachate, bark, and wood debris (both floating and sinking particles) out of surface water and groundwater shall be employed at log storage areas, log dumps, raft building areas, and mill-side handling zones. In the event that bark or wood debris accidentally enters the water, it shall be immediately removed. Surface runoff from log storage areas shall be collected and discharged at only one point, if possible.
- f. Existing in-water log storage and log booming facilities in critical habitats utilized by threatened or endangered species classified under the Endangered Species Act (ESA) shall be re-evaluated if use is discontinued for one (1) year, or if substantial repair or reconstruction is required. The evaluation shall include an alternatives analysis in order to determine if logs can be stored upland and out of the water, or if the site should be used for other purposes that would have lesser impacts on ESA-listed species. The alternatives analysis shall include evaluation of the potential for moving all, or portions of, log storage and booming to uplands.
- g. Nonaquatic log storage areas shall meet the following requirements:
 - (1) The ground surface of any unpaved log storage area underlain by permeable soils shall be separated from the highest seasonal water table by at least four (4) feet in order to reduce waste buildup and impacts on groundwater and surface water;
 - (2) Stormwater shall be managed consistent with Chapters 13.26A and 40.386; and
 - (3) A berm must be located around the outer edge of the upland sort surface using rocks, or other suitable materials to prevent loss of wood debris into the water.

(Amended: Ord. 2015-12-12)

G. Institutional Uses.

1. Water-oriented institutional uses and developments are preferred.
2. Where allowed, non-water-oriented institutional uses may be permitted as part of a mixed use development; provided, that a significant public benefit such as public access and/or ecological restoration is provided.
3. Loading, service areas, and other accessory uses shall be located landward of a primary structure or underground whenever possible, but shall in no case be waterward of the structure. Loading and service areas shall be screened from view with native plants.
4. Where institutional uses are allowed as a conditional use, the following must be demonstrated:
 - a. A water-dependent use is not reasonably expected to locate on the proposed site due to topography, surrounding land uses, physical features of the site, or the site's separation from the water;
 - b. The proposed use does not displace a current water-oriented use and will not interfere with adjacent water-oriented uses; and
 - c. The proposed use will be of substantial public benefit by increasing the public use, enjoyment, and/or access to the shoreline consistent with protection of shoreline ecological function.

H. Mining.

1. An applicant for mining and associated activities within the shoreline jurisdiction shall demonstrate that the proposed activities are dependent on a shoreline location consistent with this Program and WAC 173-26-201(2)(a).
 2. Mining and associated activities shall be designed and conducted to result in no net loss of shoreline ecological functions and processes, and will only be allowed if they will not cause:
 - a. Damage to or potential weakening of the structural integrity of the shoreline zone that would change existing aquatic habitat or aquatic flow characteristics;
 - b. Changes in the water or exchange of water to or from adjacent water bodies that would damage aquatic or shoreline habitat; and
 - c. Changes in groundwater or surface water flow that would be detrimental to aquatic habitat, shoreline habitat, or groundwater.
 3. Mining within the active channel(s) or channel migration zone of a stream shall not be permitted unless:
 - a. Removal of specified quantities of sand and gravel or other materials at specific locations will not adversely affect in-stream habitat or the natural processes of gravel transport for the stream system as a whole.
 - b. The mining and any associated permitted activities, such as flood hazard reduction (Section 40.460.530(C)), will not have significant adverse impacts to habitat for priority species nor cause a net loss of shoreline ecological functions.
 4. The applicant shall obtain and fully comply with all necessary permits and approvals, including, but not limited to, hydraulic project approvals (HPA) from WDFW.
 5. A reclamation plan that complies with the format and detailed minimum standards of Chapter 78.44 RCW and Chapter 332-18 WAC and that meets the provisions of this Program shall be included with any shoreline permit application for mining. The proposed subsequent use of mined property must be consistent with the provisions of the shoreline designation in which the property is located, and shall obtain and fully comply with all necessary permits and approvals. Reclamation of disturbed shoreline areas shall provide appropriate ecological functions consistent with the setting.
 6. Aggregate washing and ponding of waste water are prohibited in floodways.
 7. Disposal of overburden or other mining spoil or nonorganic solid wastes shall comply with fill policies and regulations of this Program and other applicable county regulations.
 8. 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.
 9. Where a lawfully established mining operation has resulted in the creation of a lake(s) greater than twenty (20) acres and such lake(s) is subject to the provisions of this Program and the Act, such lake(s) shall be given a shoreline designation of Rural Conservancy – Resource Lands or as otherwise adopted. Notwithstanding any other applicable regulations, such mining operations shall be permitted to continue and may be expanded subject to approval of a shoreline conditional use permit.
 10. The provisions of this section do not apply to dredging of authorized navigation channels when conducted in accordance with WAC 173-26-231.
- I. Parking.
1. Parking as a primary use is prohibited in all shoreline areas.

2. Where parking is allowed as accessory to a permitted use, it shall be located landward of the primary structure as far as possible or within the primary structure.

J. Recreational Uses.

1. Recreational developments shall provide for nonmotorized access to the shoreline such as pedestrian and bicycle paths.

2. The minimum width of public access easements for trails shall be twenty (20) feet when a trail is not located within a public right-of-way, unless the Shoreline Administrator determines that undue hardship would result, or that it is impractical or environmentally unsound. In such cases, easement width may be reduced only by the minimum extent necessary to meet public access standards.

3. Recreation areas or facilities on the shoreline shall provide physical or visual public access to the shoreline.

4. Parking areas shall be located upland away from the immediate shoreline, with pedestrian trails or walkways providing access to the water.

5. All permanent, substantial, recreational structures and facilities shall be located outside officially mapped floodways. The Shoreline Administrator may grant administrative exceptions for nonintensive minor accessory uses (including, but not limited to, picnic tables, playground equipment).

6. Recreational sites with active uses shall be provided with restrooms and hand-sanitizing facilities in accordance with public health standards and without adversely altering the natural features attractive for recreational uses.

7. Recreational facilities shall include features such as buffer strips, screening, fences, and signs, if needed to protect the value and enjoyment of adjacent or nearby private properties and natural areas from trespass, overflow and other possible adverse impacts.

8. Where fertilizers and pesticides are used in recreational developments, waters in and adjacent to such developments shall be protected from drainage and surface runoff.

9. Golf course structures (clubhouses and maintenance buildings) that are non-water-oriented shall be located no closer than one hundred (100) feet from the OHWM of any shorelines of the state.

10. Tees, greens, fairways, golf cart routes, and other site development features shall be located no closer than one hundred (100) feet from the OHWM of any shorelines of the state to the extent practicable. Where unavoidable, such development shall be designed to minimize impacts to shoreline and critical areas and their buffers and mitigate impacts by including ecological restoration and enhancement.

11. Golf course water hazards and stormwater drainage basins shall be managed:

- a. For wildlife through appropriate plantings and measures to maintain or enhance water quality; and
- b. Consistent with Chapters 13.26A and 40.386.

12. The setback for water-related and water-enjoyment recreational development in Natural, Urban Conservancy, and Medium Intensity shoreline designations is fifty (50) feet, except trails which may meander between twenty (20) and fifty (50) feet landward of the OHWM to:

- a. Respond to site characteristics such as natural topography and existing vegetation; or
- b. Take advantage of opportunities for visual or physical access to the shoreline; or
- c. Connect existing trail easements; or
- d. Create an interesting experience for trail users.

A trail project, any portion of which encroaches closer than fifty (50) feet, shall maintain no net loss of shoreline ecological function and include shoreline restoration where feasible.

13. The following trail types as described in the Vancouver-Clark Parks and Recreation Regional Trails and Bikeway Systems Plan (2006) are preferred in the Natural shoreline designation:

- a. Type A3: Primitive Trails or Paths;
- b. Type C2: Walking Trails or Paths; and
- c. Type D1: Equestrian Trails or Paths.

14. When regional or local shared-use or other impervious surface trails are proposed in the Natural or Urban Conservancy shoreline designations, to respond to Americans with Disabilities Act (ADA) requirements or other circumstances or conditions, the project shall maintain no net loss of shoreline ecological functions and shall include restoration where feasible.

(Amended: Ord. 2015-12-12)

K. Residential Uses.

1. Residential development shall include provisions to ensure preservation of native vegetation and to control erosion during construction.
2. New residential construction shall be located so as not to require shoreline stabilization measures.
3. New residential development shall be prohibited in, over, or floating on the water.
4. New residential development shall be located and designed to a density that minimizes view obstructions to and from the shoreline.
5. Clustering of residential units as permitted by this title shall be allowed where appropriate to minimize physical and visual impacts on shorelines.
6. In those areas where only on-site sewage systems are available, density shall be limited to that which can demonstrably accommodate protection of surface and groundwater quality.
7. New residential development, including sewage disposal systems, shall be prohibited in floodways and channel migration zones.
8. Appurtenances, accessory uses, and facilities serving a residential structure shall be located outside setbacks, critical areas, and buffers unless otherwise allowed under this Program to promote community access and recreational opportunities. Normal appurtenances are limited to garages (up to three (3) cars), shops (up to one thousand (1,000) square feet), decks, driveways, utilities, and fences.
9. Residential lots that are boundary line-adjusted or newly created through a land division shall be configured such that:
 - a. Structural flood hazard reduction measures are not required and will not be necessary during the life of the development or use;
 - b. Shoreline stabilization measures are not required; and
 - c. Any loss of shoreline ecological function can be avoided.
10. Where a new moorage facility is proposed within a residential waterfront development of more than four (4) units, only one (1) joint-use facility shall be allowed, but only after demonstrating that such use is appropriate for the water body. The applicant must also demonstrate that no public moorage facility is available to residents.

This condition of approval with required access easements and dedications shall be identified on the face of the plat. In addition, the joint-use dock easement shall be recorded with the County Auditor.

11. New floating homes are prohibited.
12. Floating homes legally established as of January 1, 2011, are considered conforming uses. A one (1) time expansion is allowed, as follows:
 - a. The expansion maintains the size of the footprint of the existing residence;
 - b. The expansion does not exceed the allowed height limit; and
 - c. The applicant demonstrates through a letter of exemption that the expansion will result in no net loss of shoreline ecological functions.

13. Floating on-water residences legally established prior to July 1, 2014, are considered conforming uses. A one (1) time expansion is allowed, as follows:

- a. The expansion maintains the size of the footprint of the existing residence;
- b. The expansion does not exceed the allowed height limit; and
- c. The applicant demonstrates through a letter of exemption that the expansion will result in no net loss of shoreline ecological functions.

~~13~~ 14. Existing Residential Structures.

- a. Legally established existing residential structures and appurtenances located landward of the OHWM and outside the floodway that do not meet the standards of this Program are considered to be conforming, except that an application to replace an existing residential structure must meet all setback, height, and other construction requirements of the Program and the Act. A one (1) time expansion is allowed, as follows:
 - (1) The expansion is no more than twenty-five percent (25%) of the habitable floor area of the existing residence;
 - (2) The expansion does not exceed the allowed height limit;
 - (3) The expansion is no farther waterward than the existing structure; and
 - (4) The applicant demonstrates that the expansion will result in no net loss of shoreline ecological functions.
- b. If a structure or development is damaged by fire, flood, explosion, or other natural disaster and the damage is less than seventy-five percent (75%) of the replacement cost of the structure or development, it may be restored or reconstructed to those configurations existing at the time of such damage, provided:
 - (1) The reconstructed or restored structure will not cause additional adverse effects to adjacent properties or to the shoreline environment;
 - (2) The rebuilt structure or portion of structure shall not expand the original footprint or height of the damaged structure;
 - (3) No degree of relocation shall occur, except to increase conformity or to increase ecological function, in which case the structure shall be located in the least environmentally damaging location possible;

(4) The submittal of applications for permits necessary to restore the development is initiated within twelve (12) months of the damage. The Shoreline Administrator may waive this requirement in situations with extenuating circumstances;

(5) The reconstruction is commenced within one (1) year of the issuance of permit;

(6) The Shoreline Administrator may allow a one (1) year extension provided consistent and substantial progress is being made; and

(7) Any residential structures, including multifamily structures, may be reconstructed up to the size, placement and density that existed prior to the damage, so long as other provisions of this Program are met.

c. If a structure or development is either demolished, or damaged by fire, flood, explosion, or other natural disaster and the damage is more than seventy-five percent (75%) of the replacement cost of the structure or development, then any replacement structure has to meet the requirements of the Program and the Act.

~~14~~ 15. New appurtenances shall meet the setback requirements of this Program.

(Amended: Ord. 2015-12-12)

L. Signs.

1. Freestanding signs shall be for only informational purposes such as directional, navigational, educational/interpretive, and safety purposes, unless otherwise allowed under this Program and as specified in Table 40.460.620-1.

2. Signs for commercial purposes shall be limited to fascia or wall signs and as regulated by Chapter 40.310, unless otherwise provided for in this chapter for specific uses.

3. All signs shall be located and designed to minimize interference with vistas, viewpoints, and visual access corridors to the shoreline.

4. Over-water signs or signs on floats or pilings shall be prohibited, except when related to navigation or a water-dependent use. Such signs shall be limited to fifteen (15) feet in height above the OHWM.

5. Illuminated signs shall be limited to informational, directional, navigational or safety purposes and shielded so as to eliminate glare when viewed from surrounding properties or watercourses.

M. Transportation Uses.

1. All transportation facilities in shoreline areas shall be constructed and maintained to cause the least possible adverse impacts on the land and water environments, shall respect the natural character of the shoreline, and make every effort to preserve wildlife, aquatic life, and their habitats.

2. New or expanded surface transportation facilities not related to and necessary for the support of shoreline activities shall be located outside the shoreline jurisdiction wherever possible, or set back from the ordinary high water mark far enough to make shoreline stabilization, such as riprap, bulkheads or jetties, unnecessary.

3. Transportation facilities shall not adversely impact existing or planned water-dependent uses by impairing access to the shoreline.

4. All roads shall be adequately set back from water bodies and shall provide buffer areas of compatible, self-sustaining native vegetation. Shoreline scenic drives and viewpoints may provide breaks in the vegetative buffer to allow open views of the water.

5. Transportation facilities that are allowed to cross over water bodies and associated wetlands shall utilize elevated, open pile or pier structures whenever feasible to reduce shade impacts. All bridges shall be built high enough to allow the passage of debris and anticipated high water flows.
6. Fills for transportation facility development shall not be permitted in water bodies or associated wetlands except when all structural or upland alternatives have proven infeasible and the transportation facilities are necessary to support uses consistent with this Program.
7. Transportation and utility facilities shall be required to make joint use of rights-of-way and to consolidate crossing of water bodies.

N. Utility Uses.

These provisions apply to services and facilities that produce, convey, store, or process power, gas, wastewater, communications, and similar services and functions. On-site utility features serving a primary use, such as a water, sewer or gas line to a residence or other approved use, are “accessory utilities” and shall be considered a part of the primary use.

1. Whenever feasible, all utility facilities shall be located outside shoreline jurisdiction. Where distribution and transmission lines (except electrical transmission lines) must be located in the shoreline jurisdiction they shall be located underground.
2. Where overhead electrical transmission lines must parallel the shoreline, they shall be outside of the two hundred (200) foot shoreline environment unless topography or safety factors would make it unfeasible.
3. Utilities, including limited utility extensions, shall be designed, located and installed in such a way as to preserve the natural landscape, minimize impacts to scenic views, and minimize conflicts with present and planned land and shoreline uses.
4. Transmission, distribution, and conveyance facilities shall be located in existing rights-of-way and corridors or shall cross shoreline jurisdictional areas by the shortest, most direct route feasible, unless such route would cause significant environmental damage.
5. Utility production and processing facilities, such as power plants and wastewater treatment facilities, or parts of those facilities that are non-water-oriented shall not be allowed in the shoreline jurisdiction unless it can be demonstrated that no other feasible option is available.
6. Stormwater control facilities, limited to detention/retention/treatment ponds, media filtration facilities, and lagoons or infiltration basins, within the shoreline jurisdiction shall only be permitted when the stormwater facilities are designed to mimic and resemble natural wetlands, ponds, or closed depressions, and meet applicable water quality requirements of Chapter 40.386.
7. Stormwater outfalls may be placed below the OHWM to reduce scouring, but new outfalls and modifications to existing outfalls shall be designed and constructed to avoid impacts to existing native aquatic vegetation attached to or rooted in substrate. In river and stream shorelines, stormwater outfall structures may require permanent bank hardening to prevent failure of the outfall structure or erosion of the shoreline. Diffusers or discharge points must be located offshore at a distance beyond the nearshore area to avoid impacts to nearshore habitats.
8. Water reclamation discharge facilities such as injection wells or activities such as land application are prohibited in the shoreline jurisdiction, unless the discharge water meets Ecology’s Class A reclaimed water standards. An applicant for discharge of Class A reclaimed water in the shoreline jurisdiction shall demonstrate habitat benefits of such discharge.
9. Where allowed under this Program, construction of underwater utilities or those within the wetland perimeter shall be scheduled to avoid major fish migratory runs or use construction methods that do not cause disturbance to the habitat or migration.

10. All underwater pipelines transporting liquids intrinsically harmful to aquatic life or potentially detrimental to water quality shall be equipped with automatic shut off valves.

11. Upon completion of utility installation/maintenance projects on shorelines, banks shall, at a minimum, be restored to pre-project configuration, replanted and provided with maintenance care until the newly planted vegetation is fully established. Plantings shall be native species and/or be similar to vegetation in the surrounding area.

(Amended: Ord. 2012-07-16; Ord. 2015-12-12)

40.460.710 Administrative Authority and Responsibility

A. Shoreline Administrator and Shoreline Management Review Committee.

1. The responsible official or his/her designee is the Shoreline Administrator for the county.
2. The Shoreline Management Review Committee (SMRC), consisting of the Public Works Director (Chairman), Community Development Director, ~~Environmental Services Director~~, and the Parks and Recreation Director, or their designated representatives, shall convene as often as necessary on the call of the Chairman to review shoreline requests and permit applications for which the notice of application procedures of Chapter 173-27 WAC and this section have been completed. After considering the application and other relevant material, SMRC may, by majority vote, take one (1) of the following actions:
 - a. Approve issuance of the permit;
 - b. Approve the permit subject to certain specified conditions; or
 - c. Formulate recommendations on the application to be forwarded to the Shoreline Administrator for action.
3. The Shoreline Administrator, through the Shoreline Management Review Committee, shall have the authority to act upon the following matters:
 - a. Interpretation, enforcement, and administration of this Program as prescribed in this title;
 - b. Applications for shoreline management substantial development permits;
 - c. Applications for shoreline conditional use permits;
 - d. Applications for shoreline variances;
 - e. Modifications or revisions to any of the above approvals; and
 - f. Requests for statements of exemption.
4. The Shoreline Administrator shall document all project review actions in shoreline areas in order to periodically evaluate the cumulative effects of authorized development on shoreline conditions per WAC 173-26-191.

B. Clark County Planning Commission.

The County Planning Commission shall be responsible for hearing and making recommendations for action to the Board of County Commissioners on the following types of matters:

1. Amendments to the Shoreline Master Program. Any of the provisions of this Program may be amended as provided for in WAC 173-26-100.
2. Review and Adjustments. Periodic review of this Program shall be conducted as required by state law and regulations (RCW 90.58.080(4)). Adjustments shall be made as necessary to reflect changing local

circumstances, new information or improved data, and changes in state statutes and regulations. This review process shall be consistent with WAC 173-26-090 and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

C. Board of County Commissioners.

The Board of County Commissioners shall be responsible for making final determinations on amendments to this Program, which shall be adopted by ordinance. The Board shall enter findings and conclusions setting forth the factors it considered in reaching its decision. Amendments shall be submitted to and reviewed by Ecology.

D. Ecology and the Attorney General.

1. The duties and responsibilities of Ecology shall include, but are not limited to, the following:
 - a. Reviewing and approving Program amendments prepared by the county pursuant to WAC 173-26-120 (State Process for Approving/Amending Shoreline Master Programs). Amendments or revisions to this Program, as provided by law, do not become effective until approved by Ecology.
 - b. Final approval and authority to condition or deny shoreline conditional use permits and shoreline variance permits filed by the county.
2. Ecology and the Attorney General have the authority to review and petition for review the county's permit decisions. Petitions for review must be commenced within twenty-one (21) days from the date the final decision was filed.

E. Ecology Review.

1. Ecology shall be notified of any substantial development, conditional use or variance permit decisions made by the Shoreline Administrator, whether it is an approval or denial. The notification shall occur after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals has lapsed. When a substantial development permit and either conditional use or variance permit are required for a development, the submittal of the permits shall be made concurrently. The Shoreline Administrator shall file the following with Ecology and the Attorney General:
 - a. A copy of the complete application per WAC 173-27-180;
 - b. Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation, applicable Program policies and regulations and the consistency of the project with appropriate review criteria for the type of permit(s);
 - c. The final decision of the county;
 - d. The permit data sheet per WAC 173-27-990;
 - e. Affidavit of public notice; and
 - f. Where applicable, the Shoreline Administrator shall also file the applicable documents required by the State Environmental Policy Act (Chapter 43.21C RCW).
2. When the project has been modified in the course of the local review process, plans or text shall be provided to Ecology that clearly indicates the final approved plan.
3. If Ecology determines that the submittal does not contain all of the documents and information required by this section, Ecology shall identify the deficiencies and notify the county and the applicant in writing. Ecology will not act on conditional use or variance permit submittals until the material requested in writing is submitted to them.

4. Ecology shall convey to the county and applicant its final decision approving, approving with conditions, or disapproving the permit within thirty (30) days of the date of submittal by the county. The Shoreline Administrator will notify those interested persons having requested notification of such decision.
5. Ecology shall base its determination to approve, approve with conditions or deny a conditional use permit or variance permit on consistency with the policy and provisions of the Act and the criteria listed in this Program.
6. Appeals of Ecology decisions on conditional use and variance requests shall be made to the Shorelines Hearings Board as specified in Section 40.460.735(A).

F. Master Program Amendments.

1. This Program shall be periodically reviewed no later than eight (8) years following its approval by Ecology and adjustments shall be made as are necessary to reflect changing local circumstances, new information or improved data, and changes in State statutes and regulations. This review process shall be consistent with Chapter 173-26 WAC requirements and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.
2. Any of the provisions of this Program may be amended as provided for in RCW 90.58.120 and 90.58.200 and Chapter 173-26 WAC. Amendments or revisions to this Program, as provided by law, do not become effective until approved by Ecology.
3. Proposals for shoreline redesignation (i.e., amendments to the shoreline maps and descriptions) must demonstrate consistency with the criteria set forth in WAC 173-22-040.

(Added: Ord. 2012-07-16)

40.460.800 Definitions

For purposes of this Program and this chapter, the following definitions shall apply. Additional definitions applicable to this Program can be found in Section 40.100.070.

Accessory structure	“Accessory structure” means a subordinate building incidental to the use of the main building.
Accessory use	“Accessory use” means any use or activity incidental and subordinate to a primary use or development.
Accretion	“Accretion” means the growth of a beach by the addition of material transported by wind and/or water. Included are such shore forms as barrier beaches, points, spits, hooks, and tombolos.
Act	“Act” means the Washington State Shoreline Management Act of 1971 (Chapter 90.58 RCW), as amended.
Adjacent lands	“Adjacent lands” means lands adjacent to the shorelines of the state (not in shoreline jurisdiction) (RCW 90.58.340).
Aggrieved person	“Aggrieved person” means a person who is suffering from an infringement or denial of legal rights or claims.
Agricultural activities	“Agricultural activities” means agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation.
Agricultural equipment and facilities	“Agricultural equipment” and “agricultural facilities” include, but are not limited to: <ul style="list-style-type: none"> • 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;

	<ul style="list-style-type: none"> • Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands; • Farm residences and associated equipment, lands, and facilities; and • Roadside stands and on-farm markets for marketing fruit or vegetables.
Agricultural land	“Agricultural land” means those specific land areas on which agricultural activities are conducted as of the date of adoption of a local master program pursuant to these guidelines as evidenced by aerial photography or other documentation. After the effective date of this Program, land converted to agricultural use is subject to compliance with the requirements of this Program.
Agricultural products	“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 (20) 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.
Amendment	“Amendment” means a revision, update, addition, deletion, and/or re-enactment to an existing shoreline master program.
Appurtenance	“Appurtenance” means a structure or development normally and necessarily connected to a primary use.
Appurtenance, normal	“Appurtenance, normal” means appurtenances for residential uses limited to garages (up to three (3) cars), shops (up to one thousand (1,000) square feet), decks, driveways, utilities, and fences.
Aquaculture	“Aquaculture” means the cultivation or farming of fish, shellfish, or other aquatic plants and animals (WAC 173-26-020(6)).
Associated wetlands	“Associated wetlands” means those wetlands which are in proximity to and either influence or are influenced by waters of a lake, river or stream subject to the Shoreline Management Act.
Average grade level	“Average grade level” means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure. For structures to be built over water, average grade level shall be the elevation of the ordinary high water mark. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure (WAC 173-27-030(3)).
Beach enhancement	“Beach enhancement” means the process of restoring a beach to a state more closely resembling a natural beach, using beach feeding, vegetation drift sills, and other nonintrusive means as applicable.
Bedlands	“Bedlands” means those submerged lands, including tidelands where appropriate, underlying navigable waters.
Berm	<p>“Berm” means:</p> <ul style="list-style-type: none"> • A linear mound or series of mounds of earth, sand and/or gravel generally paralleling the water at or landward of the line of ordinary high water; or • A linear mound used to screen an adjacent activity, such as a parking lot, from transmitting excess noise and glare.
Best available science	“Best available science” means the most reliable and available scientific information, most often used in the context of local government compliance with the State Growth Management Act (RCW 36.70A.172) for developing policies and development regulations regarding critical areas (Chapter 365-195 WAC).
Best available technology	“Best available technology” means the most effective method, technique, or product available which is generally accepted in the field, and which is demonstrated to be reliable, effective, and preferably low maintenance.
Bioengineering	“Bioengineering” means project designs or construction methods which use live woody vegetation or a combination of live woody vegetation and specially developed natural or synthetic materials to establish a complex root grid within the existing bank which is resistant to erosion, provides bank stability, and maintains a healthy riparian environment with habitat features important to fish life. Use of wood structures or limited use of clean angular rock may be allowable to provide stability for establishment of the vegetation (WAC 220-110-020(12)).
Boat	“Boat” means any floating vessel or watercraft, including ships and barges, which is designed and used for navigation for commerce or recreation.

Boat house	“Boat house” means an over-water structure designed for storage of boats.
Boat launch facility	“Boat launch facility” means a facility or structure providing access in and out of the water for boats, such as ramps, rails, or lift stations.
Breakwater	“Breakwater” means a structure aligned parallel to shore, sometimes shore-connected, that provides protection from waves.
Buffer area	“Buffer area” means a tract or strip of land that is designed and designated to permanently remain vegetated in a natural condition to protect an adjacent aquatic or wetland site from upland impacts, improve water quality, and to provide habitat for wildlife.
Bulkhead	“Bulkhead” means a solid, open-pile, or irregular wall of rock, rip-rap, concrete, steel, or timber or combination of these materials erected parallel to and near ordinary high water mark to provide a protective vertical wall resistant to water and wave action.
Channel	“Channel” means an open conduit for water either naturally or artificially created, but does not include artificially created irrigation, return flow, or stock-watering channels (WAC 173-27-030(8b)).
Channel migration zone	“Channel migration zone” means the area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.
Clean Water Act	“Clean Water Act” means the primary federal law providing water pollution prevention and control, previously known as the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).
Commercial	“Commercial” means a business use or activity at a scale greater than a home business or cottage industry involving retail or wholesale marketing of goods and services. Examples of commercial uses include restaurants, offices, and retail shops.
Commercial fishing	“Commercial fishing” means the activity of capturing fish and other seafood under a commercial license.
Conditional use	“Conditional use” means a use, development, or substantial development which is classified as a conditional use, or is not classified within this Program, and requires a conditional use permit (WAC 173-27-030(4)).
Covered moorage	“Covered moorage” means a boat moorage, with or without walls, that has a roof to protect a boat.
Critical habitat	“Critical habitat” means specific geographical areas that possess physical or biological features that are essential to the conservation of federally listed species. These designated areas may require special management considerations or protection.
Date of filing	<p>“Date of filing” means the date of actual receipt by Ecology of the county’s decision.</p> <ul style="list-style-type: none"> • For a variance or conditional use permit, the date of filing is the date Ecology’s decision is transmitted to the county. • For a variance or conditional use permit decision in conjunction with a shoreline substantial development permit decision, the date of filing is the date Ecology’s decision is transmitted to the county.
Development regulations	“Development regulations” means the controls placed on development or land uses, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a shoreline master program other than goals and policies approved or adopted under Chapter 90.58 RCW, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto (WAC 173-26-020(8)).
Dike	“Dike” means an artificial embankment normally set back from the bank or channel in the floodplain for the purpose of keeping floodwaters from inundating adjacent land.
Dock	“Dock” means a landing or moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances.
Dredge material	“Dredge material” means material removed by dredging.
Dredging	“Dredging” means the removal or displacement of earth or sediments such as gravel, sand, mud, silt, or debris from below the OHWM.
Dredging, maintenance	“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.
Dredging, nonmaintenance	“Nonmaintenance dredging” means any dredging that is not maintenance dredging.

Drift sector	“Drift sector” means the extent of the littoral drift area downstream from and caused by a breakwater, jetty, rock weir or groin.
Ecology	“Ecology” means the Washington Department of Ecology.
Ecosystem-wide processes	“Ecosystem-wide processes” means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions (WAC 173-26-020(12)).
Effective date of permit	“Effective date of permit” means, for shoreline substantial development, conditional use, and variance permits, the date of filing as provided in RCW 90.58.140(6) which includes completion of all appeals or legal actions.
Emergency	“Emergency” means the unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with Chapter 173-27 WAC.
Enhancement	“Enhancement” means alterations performed to improve the condition of an existing degraded area so that shoreline functions provided are of a higher quality. Enhancements are to be distinguished from resource creation or restoration projects.
Erosion	“Erosion” means the general process or the group of processes whereby the materials of the earth’s crust are loosened, dissolved, or worn away, and simultaneously moved from one place to another, by natural forces that include weathering, solution, corrosion, and transportation, but usually exclude mass wasting.
Exempt/exemption	“Exempt/exemption” means developments that are not required to obtain a Shoreline Substantial Development Permit but which must otherwise comply with applicable provisions of the Act and this Program.
Fair market value	“Fair market value” means the open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials (WAC 173-27-030(8)).
Feasible	<p>“Feasible” means an action, such as a development project, mitigation, or preservation requirement, that meets all of the following conditions:</p> <ul style="list-style-type: none"> • The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results; • The action provides a reasonable likelihood of achieving its intended purpose; and • The action does not physically preclude achieving the project’s primary intended legal use. <p>In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action’s infeasibility, the reviewing agency may weigh the action’s relative public costs and public benefits, considered in the short- and long-term time frames.</p>
Feeder bluff	“Feeder bluff” means any bluff (or cliff) experiencing periodic erosion from waves, sliding, or slumping, whose eroded earth, sand, or gravel material is naturally transported (littoral drift) via a driftway to an accretion shore form. Feeder bluff exceptional segments lack a backshore, old or rotten logs, and coniferous bluff vegetation.
Fill	“Fill” means the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation of or creates dry land (WAC 173-26-020(16)).
Fill, speculative	“Speculative fill” means the placement of fill material not associated with an approved project.
Fish and wildlife habitat conservation area	“Fish and wildlife habitat conservation areas” means habitat for endangered, threatened and sensitive species; priority habitats and areas associated with priority species; habitats of local importance; and water bodies, and that are designated in Chapter 40.440.
Float	“Float” means a fixed platform structure anchored in and floating upon a water body that does not connect to the shore, and that provides landing for water-dependent recreation or moorage for vessels or watercraft.

Floating home	“Floating home” means a single-family dwelling unit constructed on a float that is moored, anchored, or otherwise secured in waters, and is not a boat, even though it may be capable of being towed.
<u>Floating on-water residence</u>	<u>“Floating on-water residence” means any floating structure other than a floating home, as defined above that is designed or used primarily as a residence on the water and has detachable utilities, and whose owner or primary occupant has held an ownership interest in space in a marina, or has held a lease or a sublease to use space in a marina, since a date prior to July, 1, 2014.</u>
Flood hazard reduction	“Flood hazard reduction” means measures taken to reduce flood damage or hazards. Flood hazard reduction measures may consist of nonstructural or indirect measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, bioengineering measures, and stormwater management programs; and of structural measures, such as dikes, levees, and floodwalls intended to contain flow within the channel, channel realignment, and elevation of structures consistent with the National Flood Insurance Program.
Floodplain	See “special flood hazard area.”
Floodway	“Floodway” means the area that has been established in Federal Emergency Management Agency flood insurance rate maps or floodway maps.
Forb	“Forb” means an herbaceous, nonwoody plant other than grass.
Forest practices	“Forest practices” means any activity conducted on or directly related to forest land and relating to growing, harvesting, or processing timber. These activities include but are not limited to: road and trail construction, final and intermediate harvesting, pre-commercial thinning, reforestation, fertilization, prevention and suppression of disease and insects, salvage of trees, and brush control (WAC 222-16-010(21)).
Gabion	“Gabion” means a structure composed of masses of rocks, rubble, or masonry held tightly together usually by wire mesh so as to form blocks or walls. They are sometimes used on heavy erosion areas to retard wave action, to reduce mass wasting, or as foundations for breakwaters or jetties.
Geologic hazard area study	“Geological hazard area study” means a scientific study or evaluation of geological, hydrological, geochemical and/or geomorphological aspects of a site conducted by a qualified expert that meets the requirements of Section 40.430.030(C)(4).
Grassy swale	“Grassy swale” means a vegetated drainage channel that is designed to remove various pollutants from stormwater runoff through biofiltration.
Groin	“Groin” means a barrier-type structure extending from the backshore or stream bank into a water body for the purpose of the protection of a shoreline and adjacent upland by influencing the movement of water and/or deposition of material.
Height	“Height” means the distance measured from the 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 it obstructs the view of a substantial number of residences on areas adjoining such shorelines (or the Master Program provides otherwise); and provided further that temporary construction equipment is excluded in this calculation (WAC 173-27-030(9)).
Hook	“Hook” means a spit or narrow cape of sand or gravel which turns landward at its outer end.
Institutional use	“Institutional use” means a use and related structure(s) for the provision of educational, medical, cultural, public safety, social and/or recreational services to the community, including but not limited to schools, colleges, museums, community centers, and the relevant essential public facilities identified in WAC 365-196-550.
In-stream structure	“In-stream structure” means a structure placed by humans 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. A stormwater outfall is not an in-stream structure.
Interested party	“Interested party” means a person who has notified local government of their desire to receive a copy of the final order on a permit under WAC 173-27-030.
Invasive	“Invasive” means a non-native plant or animal species that: <ul style="list-style-type: none"> • Causes or may cause significant displacement in range or significant reduction in abundance of native species; or • Threatens or may threaten natural resources or their use in the state; or • Causes or may cause economic damage to commercial or recreational activities that are

	<p>dependent upon state waters; or</p> <ul style="list-style-type: none"> Threatens or harms human health (RCW 77.08.010(28)).
Jetty	“Jetty” means a structure usually projecting out into the water for the purpose of protecting a navigation channel, a harbor, or to influence water currents.
Joint-use moorage facility	<p>“Joint-use moorage facility” means a moorage for pleasure craft and/or landing for water sports for use in common by shoreline residents with adjoining lots, each with water frontage, or of a certain subdivision or community within shoreline jurisdiction or for use by patrons of a public park or quasi-public recreation area, including rental of nonpowered craft. A joint-use moorage facility is a marina if:</p> <ul style="list-style-type: none"> It provides commercial goods or services; It is of a large scale (more than ten (10) slips); Moorage is proposed to be leased to upland property owners; or The proposal includes a boat launching facility other than a ramp.
Lake	“Lake” means a body of standing water in a depression of land or expanded part of a river, including reservoirs, of twenty (20) acres or greater in total area. A lake is bounded by the ordinary high water mark or, where a stream enters a lake, the extension of elevation of the lake’s ordinary high water mark within the stream (RCW 90.58.030(2)(c); WAC 173-20-030; WAC 173-22-030(4)).
Levee	“Levee” means a large dike or embankment, often having an access road along the top, which is designed as part of a system to protect land from floods.
Limited utility extension	“Limited utility extension” means the extension of a utility service that is categorically exempt under Chapter 43.21C RCW for natural gas, electricity, telephone, water or sewer to service an existing use and which will not extend more than twenty-five hundred (2,500) linear feet within the shorelines of the state.
Littoral	“Littoral” means the area of the shore from the OHWM waterward to a depth of two meters below ordinary low water or to the maximum extent of nonpersistent emergent plants.
Littoral drift	“Littoral drift” means the mud, sand, or gravel material moved parallel to the shoreline in the nearshore zone by waves and current.
Live-aboard	“Live-aboard” means a boat or vessel principally used as an over-water residence. Principal use as an over-water residence means that it is occupied in a single location for a period exceeding two (2) months in any one (1) calendar year. Live-aboards are licensed and designed for use as a mobile structure with detachable utilities or facilities, anchoring, and the presence of adequate self-propulsion and steering equipment to operate as a boat.
Local government	“Local government” means any county, incorporated city, or town which contains within its boundaries shorelines of the state subject to Chapter 90.58 RCW.
Log booming	“Log booming” means the placement in or removal of logs and log bundles from the water, and the assembly and disassembly of rafts for waterborne transportation.
Marina	<p>“Marina” means a water-dependent commercial use which consists of a system of piers, buoys, or floats that provides moorage for at least ten (10) boats. For the purposes of this Program, large community moorage facilities, yacht club facilities, and camp or resort moorage areas are also considered marinas. Boat launch facilities and supplies and services for small commercial or pleasure craft are often associated with marinas. Uses accessory to marinas may include fuel docks and storage, boating equipment sales and rental, repair services, public launching, bait and tackle shops, potable water, waste disposal, administration, parking, groceries, and dry goods.</p> <p>“Foreshore marinas” are marinas located waterward of the ordinary high water mark.</p> <p>“Backshore marinas” are marinas located landward of the ordinary high water mark. There are two (2) common types of backshore marinas:</p> <ul style="list-style-type: none"> A wet-moorage marina that is dredged out of the land artificially creating a basin; and A dry-moorage marina which has upland storage with a hoist, marine travel lift, or ramp for water access.
Marine railway	“Marine railway” means a set of steel rails running from the upland area into the water upon which a cart or dolly can carry a boat to be launched.
Marine travel lift	“Marine travel lift” means a mechanical device that can hoist vessels off trailers and transport them

	into the water. Often associated with dry land moorage.
May	“May” means the action is acceptable, provided it conforms to the provisions of this Program.
Merchantable trees	“Merchantable trees” means live trees, six (6) inches in diameter at breast height (DBH) and larger, unless documentation of current, local market conditions is submitted and accepted by the local jurisdiction indicating nonmarketability. “Merchantable trees” shall not include trees smaller than four (4) inches DBH.
Mining	“Mining” means the removal of sand, gravel, soil, minerals, and other earth materials for commercial and other uses (WAC 173-26-241).
Mitigation	“Mitigation” means to avoid, minimize or compensate for adverse impacts to shoreline ecological functions and processes.
Mixed-use project	“Mixed-use project” means a development which includes a combination of components, such as residential uses, hotels, marinas, habitat improvement actions, public access provisions, and other uses.
Moorage	“Moorage” means a pier, dock, buoy or float, either fixed or floating, to which boats may be secured.
Mooring buoy	“Mooring buoy” means a floating object anchored to the bottom of a water body that provides tie-up capabilities for boats or watercraft.
Multifamily dwelling	“Multifamily dwelling” means a building containing two (2) or more dwelling units including but not limited to duplexes, apartments, and condominiums.
Must	“Must” means a mandate; the action is required.
Navigable waters	“Navigable waters” means that a body of water is capable or susceptible of having been or being used for the transport of useful commerce. The state of Washington considers all bodies of water meandered by government surveyors as navigable unless otherwise declared by a court (WAC 332-30-106).
Navigational channels	“Navigational channels” means those routes on the waters of Clark County beyond the outer harbor line, commonly used by ships for useful commerce.
Nonconforming structure	“Nonconforming structure” means a structure that was lawfully constructed or established prior to the effective date of the applicable Act or Program provision, and that no longer conforms to the applicable shoreline provisions (WAC 173-27-080(1)).
Nonconforming use	“Nonconforming use” means a use or activity that was lawfully established prior to the effective date of the applicable Act or Program provision, and that no longer conforms to the applicable shoreline provisions. (WAC 173-27-080(1)).
Normal maintenance	“Normal maintenance” means those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition (WAC 173-27-040(2)(b)), except for maintenance that would cause substantial adverse effects to shoreline resources or environment; and, provided, that the replacement of demolished existing single-family residences and their appurtenances is not considered normal maintenance; and further provided, that maintenance of nonconforming structures and developments is subject to the provisions of Sections 40.420.010 and 40.460.250. See also “normal repair.” (Amended: Ord. 2015-12-12)
Normal repair	“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 for repair that would cause substantial adverse effects to shoreline resources or environment; and, provided, that the replacement of a demolished existing single-family residence and its appurtenances is not considered normal repair; and further provided, that repair or replacement of nonconforming uses is subject to Sections 40.420.010 and 40.460.250. See also “normal maintenance.” (Amended: Ord. 2015-12-12)
Noxious weeds	“Noxious weeds” means non-native plants which are destructive, competitive, and difficult to control, as defined by the Washington State Noxious Weed Control Board.
Operation	“Operation” means an industrial, commercial, institutional, or residential activity that may be publicly or privately owned and operated, and may involve the use of stationary facilities, equipment, transport vehicles, or transfer equipment. To the extent allowed by state or federal law, this definition includes all federal, state, or local government entities.
Ordinary high water mark	“Ordinary high water mark” means that mark found by examining the bed and banks of a body of water and ascertaining where the presence and action of waters are so common and usual, and so long

	continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or Ecology; provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the OHWM adjoining fresh water shall be the line of mean high water (RCW 90.58.030(2)(c) and WAC 173-22-030(6)).
Outer harbor line	“Outer harbor line” means the line located and established by the Department of Natural Resources in navigable waters that delineates the extent of water area that may be leased to private interests.
Over-water structure	“Over-water structure” means a structure or other construction located waterward of the ordinary high water mark (OHWM) or a structure or other construction erected on piling above the surface of the water, or upon a float.
Parking	“Parking” means the temporary storage of automobiles or other motorized vehicles. Accessory parking is that which directly serves an approved shoreline use.
Party of record	“Party of record” means all persons, agencies or organizations who have submitted written comments in response to a notice of application, made oral comments in a formal public hearing conducted on the application, or requested in writing to be a “party of record.” Notwithstanding any of the foregoing, no person shall be a party of record who has not furnished an accurate post office mailing address.
Permit	“Permit” means any substantial development, variance, conditional use permit, or revision authorized under Chapter 90.58 RCW.
Permitted use	“Permitted use” means a use which is allowed under the rules and regulations of this Program.
Person	“Person” means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated.
Pier	“Pier” means a fixed platform structure supported by piles in a water body that abuts the shore to provide landing for water-dependent recreation or moorage for vessels or watercraft and does not include above-water storage.
Pierhead line	“Pierhead line” means the waterward limit to which open pile work may be constructed as designated by the federal government.
Point	“Point” means a low profile shoreline promontory of more or less triangular shape, the top of which extends seaward. A point may be the wavecut shelf remnant of a headland bluff or a purely accretional deposit which began as a hooked spit and becomes a point by subsequently closing the lagoon gap between the headland and the tip of the hook. Points are characterized by converging berms that normally enclose a lagoon, marsh, or meadow, depending on the point’s stage of development.
Port	“Port” means a municipal corporation which is a special purpose district of local government authorized by the Washington State Constitution and regulated by RCW Title 53.
Potentially harmful materials	<p>“Potentially harmful materials” means hazardous materials as defined in this section as well as other materials such as the following which, if discharged or improperly disposed, may present a risk to water resources:</p> <ul style="list-style-type: none"> • Petroleum products including but not limited to petroleum fuel and petroleum based coating and preserving materials; • Oils containing PCBs; • Antifreeze and other liquid automotive products; • Metals, either in particulate or dissolved form, in concentrations above established regulatory standards; flammable or explosive materials; • Radioactive material; • Used batteries; corrosives, acids, alkalis, or bases; • Paints, stains, resins, lacquers or varnishes; • Degreasers; • Solvents; • Construction materials;

	<ul style="list-style-type: none"> • Drain cleaners and other toxic liquid household products; • Pesticides, herbicides, fungicides or fertilizers unless applied in accordance with local, state and federal standards; • Steam cleaning and carpet cleaning wastes; • Car wash water; • Laundry wastewater; • Soaps, detergents, ammonia; • Swimming pool backwash; • Chlorine, bromine, and other disinfectants; • Heated water; • Domestic animal wastes; • Sewage; • Recreational vehicle waste; • Animal carcasses, excluding salmonids; • Food wastes; • Collected lawn clippings, leaves or branches; • Trash or debris; • Silt, sediment, or gravel; • Dyes; and • Untreated or unapproved wastewater from industrial processes.
<p>Priority species</p>	<p>“Priority species” means species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the following criteria:</p> <ul style="list-style-type: none"> • State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the Department of Fish and Wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297. • 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. • Species of recreational, commercial, and/or tribal importance. Native and non-native 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. • Species listed under the federal Endangered Species Act as proposed, threatened, or endangered (WAC 173-26-020(25)).
<p>Program (Shoreline Master Program)</p>	<p>“Program” means the comprehensive use plan for the county’s shorelands, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020. As provided in RCW 36.70A.480, the goals and policies of a shoreline master program approved under Chapter 90.58 RCW shall be considered an element of Clark County’s comprehensive plan. All other portions of the Shoreline Master Program for Clark County adopted under Chapter 90.58 RCW,</p>

	including use regulations, shall be considered a part of Clark County's development regulations.
Project area	"Project area" means the area which will be directly physically affected by a proposed development.
Provisions	"Provisions" means policies, regulations, standards, guideline criteria, or environment designations.
Public access	"Public access" means the physical ability of the general public 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 (WAC 173-26-221).
Public interest	"Public interest" means the interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected including, but not limited to, an effect on public property or on health, safety, or general welfare resulting from a use or development (WAC 173-27-030(14)).
Qualified professional	"Qualified professional" means a person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4).
Recreational use	"Recreational use" means a use and related structures for the provision of recreational activities, as follows: <ul style="list-style-type: none"> • Active recreational use/facility: involves a large number of participants or viewers; requires high levels of maintenance; or that results in high levels of noise. Examples are sports fields, golf courses, skate parks, and motorized boat launches. • Passive recreational use/facility: involves a small number of participants or viewers at any given time; requires low levels of maintenance; or that results in little noise generation. Examples are wildlife viewing areas, picnic tables, hand launch facilities and nonmotorized trails.
Residential use	"Residential use" means the development of single-family and multifamily dwellings and their normal appurtenances, and the creation of new residential lots through land division.
Restoration	"Restoration" means to re-establish or upgrade impaired ecological processes or functions. This may be accomplished through measures including, but not limited to, revegetation, 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	"Revetment" means a sloped wall constructed of riprap or other material placed on stream banks or other shorelines to retard bank erosion and minimize lateral stream movement. A revetment typically slopes waterward and has rough or jagged facing. The slope differentiates it from a bulkhead, which is a vertical structure.
Riprap	"Riprap" means a foundation or retaining wall of stones or rock placed along the water's edge or on an embankment to prevent erosion.
Rock weir	See "groin."
Setback	"Setback" means the distance an activity or structure must be located from the ordinary high water mark.
Shall	"Shall" means a mandate; the action must be done.
Shorelands	"Shorelands" means those lands extending landward for two hundred (200) feet in all directions as measured on a horizontal plane from the OHWM; floodways and contiguous floodplain areas landward two hundred (200) feet from such floodways; the full extent of floodplains; and all wetlands and river deltas associated with the streams and lakes and tidal waters that are subject to the provisions of this Program; the same to be designated as to location by Ecology.
Shoreline Administrator	"Shoreline Administrator" means the responsible official or his/her designee.
Shoreline designations	"Shoreline designations" means the categories of shorelines established by this Program in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas.
Shoreline ecological functions	"Shoreline ecological functions" means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem (WAC 173-26-200(2)(c)).
Shoreline jurisdiction	"Shoreline jurisdiction" means all shorelines of the state and shorelands, as defined in RCW 90.58.030 and in Section 40.460.210(A) of this Program.
Shoreline modifications	"Shoreline modifications" means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater,

	<p>pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.</p>
Shoreline restoration project	<p>“Shoreline restoration project” means a project designed to restore impaired ecological function of a shoreline.</p>
Shoreline stabilization	<p>“Shoreline stabilization” means actions taken to address erosion impacts to property and structures caused by processes such as current, flood, wind, or waves. Structural measures include but are not limited to bulkheads, revetments and rip-rap. Nonstructural measures include building setbacks, relocation of structures, and bioengineered methods that use vegetation or wood.</p>
Shoreline substantial development permit	<p>“Shoreline substantial development permit” means the permit required by this Program for uses that are substantial developments in shoreline jurisdiction.</p>
Shorelines	<p>“Shorelines” means all of the water areas of Clark County, including reservoirs, and their associated shorelands, together with the lands underlying them, except: (a) shorelines of statewide significance; (b) shorelines on segments of streams upstream of a point where the mean annual flow is twenty (20) cubic feet per second or less, and the wetlands associated with such upstream segments; and (c) shorelines on lakes less than twenty (20) acres in size and wetlands associated with such small lakes. (RCW 90.58.030(2)(e) and Chapters 173-18, 173-22 and 173-26 WAC).</p>
Shorelines Hearings Board	<p>“Shorelines Hearings Board” means the quasi-judicial body established by the Shoreline Management Act of 1971 to hear appeals by any aggrieved party on the issuance of substantial development permits, conditional uses, variance, or enforcement penalties.</p>
Shorelines of statewide significance	<p>“Shorelines of statewide significance” means a select category of shorelines of the state, defined in RCW 90.58.030(2)(f), where special policies apply, and as described below:</p> <ul style="list-style-type: none"> • Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand (1,000) acres or more, measured at the ordinary high water mark, and their associated shorelands; and • Those natural rivers or segments thereof, downstream of a point where the mean annual flow is measured at one thousand (1,000) cubic feet per second or more, and their associated shorelands.
Shoreline of the state	<p>“Shorelines of the state” means the total of all “shorelines” and “shorelines of statewide significance” within the state.</p>
Should	<p>“Should” means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and Chapter 173-26 WAC, against taking the action.</p>
Sign	<p>“Sign” means any structure, device, advertisement, advertising device, or visual representation intended to advertise, identify, or communicate information to attract the attention of the public for any reason. Informational signs are noncommercial and intended to communicate safety, directional, navigation, educational, or interpretive information.</p>
Significant vegetation removal	<p>“Significant vegetation removal” means the removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, where it does not affect ecological functions, does not constitute significant vegetation removal (WAC 173-26-020(33)).</p>
Solid waste facility	<p>“Solid waste facility” means any land or structure where solid waste is stored, collected, transported, or processed in any form, whether loose, baled or containerized, including but not limited to the following: transfer stations, landfills, or solid waste loading facilities. Solid waste handling and disposal facilities do not include the following: handling or disposal of solid waste as an incidental part of an otherwise permitted use; and solid waste recycling and reclamation activities not conducted on the same site as and accessory to the handling and disposal of garbage and refuse.</p>
Special flood hazard area	<p>“Special flood hazard area” means the one hundred (100) year floodplain and refers to the land area susceptible to inundation with a one percent (1%) chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood hazard maps as adopted in Chapter 40.420 or a reasonable method which meets the objectives of the Act (WAC 173-26-020(15)).</p>
Stormwater	<p>“Stormwater” means runoff resulting from precipitation or snowmelt, including surface runoff, drainage, and interflow.</p>
Substantial development	<p>“Substantial development” means any development of which the total cost or fair market value exceeds five thousand seven hundred eighteen dollars (\$5,718), or as adjusted by the State Office of Financial Management, or any development which materially interferes with the normal public use of the water or shorelines of the state, except as specifically exempted pursuant to RCW 90.58.030(3)(e) and WAC 173-27-040.</p>

Substantially degrade	“Substantially degrade” means to cause significant ecological impact (WAC 173-26-020(35)).
Surface water	“Surface water” means water that flows across the land surface, in channels, or is contained in depressions in the land surface, including but not limited to ponds, lakes, rivers, and streams.
Terrestrial	“Terrestrial” means of or relating to land as distinct from air and water.
Transmit	“Transmit” means to send from one person or place to another by mail or hand delivery. The date of transmittal for mailed items is the date that the document is certified for mailing or, for hand-delivered items, is the date of receipt at the destination (WAC 173-27-030(16)).
Transportation facility	“Transportation facility” means a road, railway, bridge, and related structures such as culverts, fills, and embankments, for the purpose of moving people or freight using motorized and nonmotorized means of transport, including the relevant essential public facilities identified in WAC 365-196-550.
Upland	“Upland” means generally the dry land area above and landward of the OHWM.
Variance	“Variance” means to grant relief from the specific bulk, dimensional or performance standards set forth in the applicable Master Program and not a means to vary a use of a shoreline. See RCW 90.58.160 and WAC 173-27-030(17).
Vegetation conservation	“Vegetation conservation” means activities to protect and restore vegetation along or near marine and freshwater shorelines that contribute to the ecological functions of shoreline areas. Vegetation conservation provisions include the prevention or restriction of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and non-native species (WAC 173-26-221).
Vessel	See “boat.”
View corridor	“View corridor” means a portion of a viewshed reserved through development regulations for the purpose of retaining the ability of the public to see a particular object (such as a mountain or body of water) or a landscape within a context which fosters appreciation of its aesthetic value.
Water-dependent use	“Water-dependent” means a use or a portion of a use which requires direct contact with the water and cannot exist at a nonwater location due to the intrinsic nature of its operations.
Water-enjoyment use	“Water-enjoyment use” means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public’s ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that foster shoreline enjoyment.
Water frontage	“Water frontage” means the portion of a parcel adjacent to the OHWM between property lines.
Water-oriented use	“Water-oriented use” means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.
Water quality	“Water quality” means the characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. (WAC 173-26-020(42)).
Water quantity	“Water quantity” means development and uses affecting water quantity, such as impermeable surfaces and stormwater handling practices. Water quantity, for purposes of this chapter, does not mean the withdrawal of groundwater or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340 (WAC 173-26-020(42)).
Water-related use	“Water-related use” means a use or portion of use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because: <ul style="list-style-type: none"> • Of a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or • 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.
Watershed restoration project	“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 (1) or more of the following activities (RCW 89.08.460): <ul style="list-style-type: none"> • 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 are removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;

	<ul style="list-style-type: none"> • 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 • 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.
Weir	“Weir” means a structure in a stream or river for measuring or regulating stream flow.

(Amended: Ord. 2012-07-16; Ord. 2014-08-10)