# Draft - Clallam County Shoreline Master Program (SMP)—Planning Commission Review Draft (June 2017)

## *Guide To Revisions to the Previous November 2014 Draft SMP*

| Revision Highlight Color | Description |
|---|---|
| Yellow | Specific revision made by Planning Commission based on review of SMP and public comments on the 2014 Draft SMP. |
| Green | SMP Policy, Regulation, or Other SMP provisions identified by Planning Commission for further evaluation and/or revision. ***See related comments in the right column for more explanation.*** |
| Orange | SMP Policy, Regulation, or Other Provisions was moved or copied to another location in the SMP. In most cases, this was done to better integrate and consolidate SMP standards. ***See related comments in the right column for more explanation.*** |
| Blue | SMP Policy, Regulation or Other Provisions recommended to be clarified, corrected, added, and/or deleted by the Department of Community Development. ***See related comments in the right column for more explanation.*** |

Planning Commission Review Draft – ~~November 2014~~June 2017

# DRAFT - CLALLAM COUNTY SHORELINE MASTER PROGRAM (SMP)

***Note to Reviewers***: *The Clallam County Shoreline Master Program (SMP) was adopted in 1976, and last amended in 1992. The 1976 SMP, as amended, sets forth goals, policies, and regulations for development along County shorelines. County procedures for administration of the SMP are currently found in Title 35, Shorelines, Clallam County Code (CCC). The County is in the process of updating the SMP for consistency with the Washington State Shoreline Management Act, RCW 90.58, and state shoreline master program guidelines (WAC 173-26, WAC 173-27).*

*This Draft SMP represents a proposed update to and replacement of the 1976 SMP (as amended) and Title 35 CCC. It is now under review by the Clallam County Planning Commission. The Planning Commission held regional public hearings in February 2015 on a Draft SMP (November 2014) and reviewed public comments received at regular-meetings in 2015-2016. The current Draft SMP (June 2017) is based on these deliberations, Ecology comments, and other considerations. The Planning Commission will review this current Draft SMP (June 2017) ~~will conduct a public review and hearing process to consider and support~~ to formulate their recommendation on a revised Final Draft SMP to the Board of Clallam County Commissioners (BOCC). Planning Commission meetings are open to the public and contain opportunities for public comment at all meetings. The BOCC will hold a public review and hearing process on the Planning Commission recommended Draft SMP. Following County adoption, the SMP will be submitted to the Washington State Department of Ecology for additional public review process and state approval. Therefore, this Draft SMP is a work in progress and subject to further revision as the local and state SMP update process moves forward. More information on the Clallam County's SMP Update process and supporting documents (e.g., shoreline inventory & characterization, shoreline restoration plan) is available at the Clallam County Department of Community Development, Clallam County Courthouse, 223 E. 4th St., Port Angeles,WA, and on the County's SMP Update web site at: http://www.clallam.net/LandUse/SMP.html*

**Comment [SG1]:** Updated to summarize PC public process on the 2014 Draft SMP..

Funded by:

Ecology Grant: G6100062

EPA Grant: PO-00J08801

# Table of Contents

**Chapter 1 Introduction and Overview ..... 1-1**

1.1 Background Information ..... 1-1

1.2 Program Content and Format ..... 1-3

1.3 How to Use this Document ..... 1-5

1.4 SMP Update Vision ..... 1-6

1.5 Shoreline Master Program Goals ..... 1-17

1.6 Applicability ..... 1-18

1.7 Exceptions to Applicability ..... 1-19

1.8 Jurisdictional Limits ..... 1-19

1.9 Classification of Shoreline Uses and Developments ..... 1-20

1.10 Authority ..... 1-21

1.11 Relationship to Other Plans and Regulations ..... 1-22

1.12 Limitations and Disclaimer ..... 1-23

1.13 Governing Principles ..... 1-23

1.14 Severability ..... 1-24

**Chapter 2 Shoreline Environment Designations ..... 2-1**

2.1 Basis of the Designations ..... 2-1

2.2 Shoreline Environment Designation Map ..... 2-1

2.3 Aquatic Designation (A) ..... 2-2

2.4 Natural Designation (N) ..... 2-4

2.5 Resource Conservancy Designation (ReC) ..... 2-6

2.6 Shoreline Residential – Conservancy Designation (SRC) ..... 2-8

2.7 Shoreline Residential – Intensive Designation (SRI) ..... 2-10

2.8 Marine Waterfront Designation (MWf) ..... 2-12

2.9 Allowed Uses in Each Shoreline Environment Designation ..... 2-16

DRAFT

**Chapter 3 Policies and Regulations for Specific Shoreline Uses and Developments ..... 3-1**

3.1 Agriculture ..... 3-1

**3.1.0** Applicability ..... 3-1

**3.1.1** Policies ..... 3-1

**3.1.2** Regulations ..... 3-2

**3.1.3** Application Requirements ..... 3-3

3.2 Aquaculture ..... 3-3

**3.2.0** Applicability ..... 3-3

**3.2.1** Policies ..... 3-3

**3.2.2** Regulations – General ..... 3-5

**3.2.3** Regulations – Commercial Geoduck Aquaculture ..... 3-7

**3.2.4** Regulations – Fin Fish Aquaculture ..... 3-8

**3.2.5** Application Requirements ..... 3-9

3.3 Commercial and Industrial Development ..... 3-13

**3.3.0** Applicability ..... 3-13

**3.3.1** Policies ..... 3-13

**3.3.2** Regulations ..... 3-14

**3.3.3** Application Requirements ..... 3-16

3.4 Forest Practices ..... 3-16

**3.4.0** Applicability ..... 3-16

**3.4.1** Policies ..... 3-16

**3.4.2** Regulations ..... 3-17

**3.4.3** Application Requirements ..... 3-18

3.5 Mining ..... 3-19

**3.5.0** Applicability ..... 3-19

**3.5.1** Policies ..... 3-19

DRAFT

**3.5.2** Regulations – Mining ..... 3-19

**3.5.3** Regulations – Mining on Marine and Lake Shorelines ..... 3-20

**3.5.4** Regulations – Mining on River and Stream Shorelines ..... 3-20

**3.5.5** Application Requirements ..... 3-21

3.6 Parking ..... 3-22

**3.6.0** Applicability ..... 3-22

**3.6.1** Policies ..... 3-22

**3.6.2** Regulations ..... 3-23

**3.6.3** Application Requirements ..... 3-23

3.7 Recreation ..... 3-24

**3.7.0** Applicability ..... 3-24

**3.7.1** Policies ..... 3-24

**3.7.2** Regulations ..... 3-25

**3.7.3** Application Requirements ..... 3-27

3.8 Residential Development ..... 3-27

**3.8.0** Applicability ..... 3-27

**3.8.1** Policies ..... 3-27

**3.8.2** Regulations – General ..... 3-28

**3.8.3** Regulations – Accessory Structures ..... 3-30

**3.8.4** Regulations – Land Divisions ..... 3-30

**3.8.5** Application Requirements ..... 3-32

3.9 Restoration ..... 3-32

**3.9.0** Applicability ..... 3-32

**3.9.1** Policies ..... 3-32

**3.9.2** Regulations ..... 3-33

**3.9.3** Application Requirements ..... 3-34

DRAFT

3.10 Signs ..... 3-34
**3.10.0** Applicability ..... 3-34
**3.10.1** Policies ..... 3-34
**3.10.2** Regulations ..... 3-34
**3.10.3** Application Requirements ..... 3-35
3.11 Transportation ..... 3-36
**3.11.0** Applicability ..... 3-36
**3.11.1** Policies ..... 3-36
**3.11.2** Regulations – Design and Operation ..... 3-37
**3.11.3** Application Requirements ..... 3-40
3.12 Utilities ..... 3-40
**3.12.0** Applicability ..... 3-40
**3.12.1** Policies ..... 3-40
**3.12.2** Regulations – General ..... 3-41
**3.12.3** Regulations – Dams and Hydroelectric Generating Facilities ..... 3-43
**3.12.4** Regulations – Electrical Energy and Communication Systems ..... 3-44
**3.12.5** Regulations – Essential Public Facilities ..... 3-44
**3.12.6** Regulations – Off-shore Wind /Tidal Energy Systems ..... 3-44
**3.12.7** Regulations – Oil, Gas, and Natural Gas Transmission ..... 3-45
**3.12.8** Regulations – Municipal / Public Sewage Systems ..... 3-45
**3.12.9** Regulations – Solid Waste Facilities ..... 3-45
**3.12.10** Regulations – Stormwater Facilities ..... 3-46
**3.12.11** Regulations – Public Water Systems ..... 3-46
**3.12.12** Application Requirements ..... 3-47
**Chapter 4 Policies and Regulations for Shoreline Modifications ..... 4-1**
4.1 Beach Access Structures ..... 4-1

DRAFT

**4.1.0** Applicability ..... 4-1

**4.1.1** Policies ..... 4-1

**4.1.2** Regulations ..... 4-1

**4.1.3** Application Requirements ..... 4-2

4.2 Boating Facilities and Moorage ..... 4-3

**4.2.0** Applicability ..... 4-3

**4.2.1** Policies ..... 4-3

**4.2.2** Regulations – Marinas ..... 4-4

**4.2.3** Regulations – Boat Launches ..... 4-6

**4.2.4** Regulations – Piers, Docks, and Floats, Non-residential ..... 4-6

**4.2.5** Regulations – Piers, Docks, Floats, and Lifts, Accessory to Residential Development ..... 4-8

**4.2.6** Regulations – Mooring Buoys ..... 4-10

**4.2.7** Application Requirements ..... 4-11

4.3 Dredging and Dredge Material Disposal ..... 4-12

**4.3.0** Applicability ..... 4-12

**4.3.1** Policies ..... 4-12

**4.3.2** Regulations – Dredging ..... 4-12

**4.3.3** Regulations – Dredge Material Disposal ..... 4-13

**4.3.4** Application Requirements ..... 4-14

4.4 Flood Hazard Management and Flood Control Structures ..... 4-15

**4.4.0** Applicability ..... 4-15

**4.4.1** Policies ..... 4-15

**4.4.2** Regulations ..... 4-16

**4.4.3** Application Requirements ..... 4-17

4.5 In-stream and In-water Structures ..... 4-18

**4.5.0** Applicability ..... 4-18

DRAFT

**4.5.1** Policies....4-18

**4.5.2** Regulations....4-19

**4.5.3** Application Requirements....4-20

4.6 Shoreline Stabilization....4-20

**4.6.0** Applicability....4-20

**4.6.1** Policies....4-21

**4.6.2** Regulations – General....4-22

**4.6.3** Additional Regulations – Existing Structural Shoreline Armoring....4-24

**4.6.4** Additional Regulations – Subdivisions and Existing Lots without Structures....4-25

**4.6.5** Additional Regulations – New or Expanded Shoreline Stabilization....4-25

**4.6.6** Additional Regulations – Bulkheads....4-28

**4.6.7** Additional Regulations – Revetments....4-28

**4.6.8** Additional Regulations – Breakwaters, Jetties, and Seawalls....4-28

**4.6.9** Application Requirements....4-29

**Chapter 5 General Policies and Regulations....5-1**

5.1 Existing (Grandfathered) Uses and Developments....5-1

**5.1.0** Applicability....5-1

**5.1.1** Policies....5-1

**5.1.2** Regulations – Existing Uses....5-1

**5.1.3** Regulations – Existing Structures....5-2

**5.1.4** Regulations – Existing Vegetation....5-5

5.2 Clearing, Grading and Filling....5-6

**5.2.0** Applicability....5-6

**5.2.1** Policies....5-6

**5.2.2** Regulations....5-6

5.3 Public Access....5-8

DRAFT

**5.3.0** Applicability ..... 5-8

**5.3.1** Policies ..... 5-8

**5.3.2** Regulations ..... 5-8

5.4 Water Quality and Water Management ..... 5-9

**5.4.0** Applicability ..... 5-9

**5.4.1** Policies ..... 5-10

**5.4.2** Regulations ..... 5-10

5.5 Archaeological, Historical, and Cultural Resources ..... 5-12

**5.5.0** Applicability ..... 5-12

**5.5.1** Policies ..... 5-12

**5.5.2** Regulations ..... 5-12

**Chapter 6 Shoreline Buffers and Vegetation Conservation ..... 6-1**

6.1 Applicability ..... 6-1

6.2 General Shoreline Buffer and Vegetation Policies ..... 6-1

6.3 Regulations – General Shoreline Buffer and Vegetation Requirements ..... 6-2

6.4 Regulations – Shoreline Buffer Averaging ..... 6-8

6.5 Regulations – Shoreline Buffer Clearing ..... 6-10

6.6 Regulations – Developments Allowed in the Buffer ..... 6-12

6.7 Regulations – View Protection Common Line Buffer ..... 6-13

**Chapter 7 Critical Areas within Shoreline Jurisdiction ..... 7-1**

7.1 Applicability ..... 7-1

7.2 General Policies for all Critical Areas ..... 7-1

7.3 Regulations – General Regulations for all Critical Areas ..... 7-2

7.4 Regulations – Wetland Designation, Delineation, Mapping, and Classification ..... 7-4

7.5 Regulations – Wetland Buffers ..... 7-5

7.6 Regulations – Wetland Protection Standards ..... 7-11

DRAFT

7.7 Regulations – Aquatic Habitat Conservation Area Designation and Mapping ..... 7-13

7.8 Regulations – Aquatic Habitat Conservation Area Buffers ..... 7-13

7.9 Regulations – Aquatic Habitat Conservation Area Protection Standards ..... 7-16

7.10 Regulations – Class I and II Terrestrial Habitat Conservation Areas Designation and Mapping 7-16

7.11 Regulations – Class I and II Terrestrial Habitat Conservation Areas Protection Standards .... 7-17

7.12 Regulations – Geologically Hazardous Areas Designation, Classification, and Mapping ..... 7-18

7.13 Regulations – Geologically Hazardous Area Buffers ..... 7-20

7.14 Regulations – Geologically Hazardous Areas Protection Standards ..... 7-22

7.15 Regulations – Frequently Flooded Area Designation and Mapping ..... 7-27

7.16 Regulations – Frequently Flooded Area Protection Standards ..... 7-28

7.17 Regulations – Critical Aquifer Recharge Areas Designation, Mapping, and Classification ... 7-29

7.18 Regulations – Critical Aquifer Recharge Area Protection Standards ..... 7-30

**Chapter 8 Mitigation and No Net Loss ..... 8-1**

8.1 Applicability ..... 8-1

8.2 Policies ..... 8-1

8.3 Regulations – General Mitigation Requirements ..... 8-2

8.4 Regulations – Compensatory Mitigation Plan Contents ..... 8-5

8.5 Regulations – Wetland Mitigation Plans ..... 8-7

8.6 Regulations – Aquatic and Wildlife Habitat Conservation Areas Mitigation Plans ..... 8-1

8.7 Regulations – Frequently Flooded Areas Mitigation Plans ..... 8-1

8.8 Regulations – Critical Aquifer Recharge Areas Mitigation Plans ..... 8-2

**Chapter 9 Shorelines of Statewide Significance ..... 9-1**

9.1 Adoption of Policy ..... 9-1

9.2 Designation of Shorelines of Statewide Significance ..... 9-1

9.3 Additional Policies for Shorelines of Statewide Significance ..... 9-2

**Chapter 10 Administrative Procedures ..... 10-1**

DRAFT

10.1 Administrative Authority and Responsibility ..... 10-1

10.2 Permit Provisions and Review ..... 10-2

**10.2.0** General Requirements ..... 10-2

**10.2.1** Substantial Development Permits ..... 10-2

**10.2.2** Conditional Use Permits ..... 10-2

**10.2.3** Variances ..... 10-3

**10.2.4** Unclassified Uses ..... 10-4

**10.2.5** Exemptions from Shoreline Substantial Development Permit ..... 10-4

**10.2.6** Permit Conditions ..... 10-5

**10.2.7** Expiration of Permits and Permit Exemptions ..... 10-6

**10.2.8** Permits and Permit Exemptions - Effective Date ..... 10-6

**10.2.9** Permit Revisions ..... 10-6

**10.2.10** Fees ..... 10-7

**10.2.11** Transfer of Permits ..... 10-8

**10.2.12** Permit Criteria for All Development ..... 10-8

10.3 Permit Application Process ..... 10-8

**10.3.0** Minimum Permit Application Requirements ..... 10-8

**10.3.1** Burden of Proof ..... 10-9

**10.3.2** Pre-application Meeting ..... 10-9

**10.3.3** Notice of Application and Permit Application Review ..... 10-10

**10.3.4** Public Hearings ..... 10-10

**10.3.5** Notice of Decision, Reconsideration, and Appeal ..... 10-10

**10.3.6** Third-party Review ..... 10-11

**10.3.7** Initiation of Development ..... 10-11

10.4 Remedies and Enforcement ..... 10-11

**10.4.0** Permit Rescission and Modification ..... 10-11

DRAFT

**10.4.1** Violations and Penalties ..... 10-12

**10.4.2** Remedies..... 10-12

**10.4.3** Inspections ..... 10-13

**10.4.4** Abatement..... 10-13

10.5 State Environmental Policy Act (SEPA) Compliance..... 10-13

10.6 Master Program Amendments ..... 10-14

**Chapter 11 Definitions ..... 11-1**

# LIST OF FIGURES

Figure 1-1. The Steps to the Shoreline Master Program Update Process ..... 1-3

Figure 1-2. The SMP can help ensure that future generations will continue to enjoy fishing on the Sol Duc and other rivers (Photo: Clallam County) ..... 1-6

Figure 1-3. Forests, like these at the confluence of the Calawah and Bogachiel rivers, provide shade, large woody debris and other valuable functions (Photo: Ecology, 2007)..... 1-7

Figure 1-4. Effective regulations can help ensure new developments are located and designed to maintain healthy stands of riparian vegetation and prevent and minimize adverse impacts on the shoreline environment (photo: Ecology) ..... 1-8

Figure 1-5. Abundant kelp on Bullman Beach contributes to a healthy nearshore environment for fish and wildlife (Photo by A. MacLennan)..... 1-9

Figure 1-6. Sediment delivery and transport processes - bluff erosion, landslides and littoral drift help to sustain beaches and spits (Source: King County) ..... 1-9

Figure 1-7. Left: One of the many "exceptional" feeder bluffs along the Strait of Juan de Fuca, Southeast of Dungeness River (photo: A, McLennan). Right: Small forage fish eggs on gravel beach. Forage fish are a critical part of the diet for salmon and other species in the Strait of Juan de Fuca (photo: M. Clancy)1-10

Figure 1-8. Bluff erosion threatening homes along Cypress Circle, west of Dungeness Spit (Source: R. Johnson)..... 1-11

Figure 1-9. Erosion at base of bluff contributing sand, cobble and gravel to the nearshore. Erosive forces could become more severe in the future due to climate change (Photo by A. MacLennan)..... 1-12

Figure 1-10. Evidence of recent landslide activity near Shipwreck Point (Photo by A. MacLennan).... 1-13

Figure 1-11a-d. Channel migration areas are potentially hazardous areas and development within these areas should be avoided to reduce safety risk and prevent ecological impacts (From the Dungeness Flood Hazard Management Plan; sketches by Amanda Kingsley, used with permission)..... 1-14

DRAFT

Figure 1-12. Locating new developments outside of channel migration zones will help prevent situations like this which occurred during a recent Dungeness River channel migration event (Photo: Randy Johnson) ..... 1-15

Figure 1-13. The County and partners are moving existing developments outside of channel migration zones to prevent potential human and property harm; this project along the Lower Dungeness River also allowed for riparian and floodplain restoration (Photo: Clallam County) ..... 1-15

Figure 1-14. The natural setting at Lake Pleasant (Photo: Google Earth) ..... 1-16

Figure 2-1. Juxtaposition of the Aquatic and upland (shoreland) designations on a typical waterfront parcel (the location of the OHWM needs to be determined in the field) ..... 2-4

Figure 2-2. Typical Examples of Shoreline Environment Designations on lakes, rivers and marine shores in Clallam County ..... 2-14

Figure 5-1. Preferred techniques for non-destructive thinning and pruning to maintain shoreline views 5-5

Figure 6-1. Buffer widths for the Natural Designation ..... 6-14

Figure 6-2. Buffer widths for the Resource Conservancy designation ..... 6-15

Figure 6-3. Buffer widths for the Shoreline Residential - Conservancy designation ..... 6-16

Figure 6-4. Buffer widths for the Shoreline Residential - Intensive designation ..... 6-17

Figure 6-5. Buffer widths for the Marine Waterfront designation ..... 6-18

Figures 6-6 a and b. Common Line setbacks within shoreline jurisdiction. ..... 6-19

DRAFT

## LIST OF TABLES

Table 2-1. Residential Development: Permitted Uses, Conditional Uses, and Prohibited Uses for Each Shoreline Environment Designation ..... 2-17

Table 2-2. Non-Residential Uses: Permitted Uses, Conditional Uses, and Prohibited Uses for Each Shoreline Environment Designation ..... 2-18

Table 6-1. Shoreline Buffer Widths (in feet) by Environment Designation ..... 6-5

Table 6-2. Critical Area Buffers ..... 6-6

Table 7-1. Categories of Proposed Use ..... 7-6

Table 7-2. Wetland Buffers for Low Impact Land Uses ..... 7-7

Table 7-3. Wetland Buffers for Moderate Impact Land Uses ..... 7-7

Table 7-4. Wetland Buffers for High Impact Land Uses ..... 7-8

Table 7-5. Required Measures to Minimize Impacts ..... 7-9

Table 7-6. Aquatic Habitat Conservation Area Buffers for Type S, F, Np, and Ns Waters ..... 7-14

Table 7-7. Landslide Hazard Area Minimum Buffer Standards…….7-21

Table 8-1. Wetland Mitigation Ratios .....8-8

DRAFT

# Chapter 1 Introduction and Overview

The following is an overview of the Shoreline Master Program (Program or SMP) with background information on how it was developed, a brief explanation of its general format, and tips on procedures for using this document for a proposed shoreline development project.

## 1.1 Background Information

Clallam County is updating the SMP to improve protection of the shoreline environments and ensure their continued use and enjoyment. The update is also required by the Shoreline Management Act of 1971 (Act or SMA; RCW 90.58) and Chapter 173-26 of the Washington Administrative Code (WAC 173-26). The latter is a set of rules commonly referred to as the SMP Guidelines. The Washington State Department of Ecology (Ecology) promulgated these rules as instructions to local governments for preparing SMPs. Ecology reviews all locally adopted SMPs to ensure they meet the policies and provisions of the Shoreline Management Act. Ultimately Ecology must approve Clallam County's SMP update before it can take effect[1].

The Clallam County SMP is a comprehensive use plan for shoreline areas that includes goals and policies consistent with state law (RCW 90.58.020); maps, diagrams and charts or other descriptive material and text; use and development regulations; and administrative procedures for the shoreline permitting process. The SMP is based on the SMP guidelines (WAC 173-26), but tailored to the specific conditions and needs of Clallam County.

The Shoreline Management Act prioritizes water-dependent shoreline uses, which are those uses that are particularly dependent upon the water to support their use. The Act has two other main policy objectives:

- Promote public access for a substantial number of people; and
- Protect shoreline natural resources and functions.

A major concept in the protection of ecological functions is "no net loss." According to the SMP Guidelines:

"*…Local master programs shall include regulations and mitigation standards ensuring that each permitted development* ***will not cause a net loss*** *of ecological functions of the shoreline; local government shall design and implement such regulations and mitigation standards in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property. Local master programs shall include regulations ensuring that exempt development in aggregate will not cause a net loss of ecological functions of the shoreline." (WAC 173-26-186 (8b))*

No net loss means that where environmental impacts will occur, efforts must be made to mitigate or off-set those impacts to maintain baseline environmental processes and functions.

[1] Consequences for failing to achieve Ecology approval in a timely manner could result in legal challenges or other adverse circumstances. Ultimately, the State could step in and update the SMP for the County.

There are many steps to the SMP update process (Figure 1-1). At the beginning of the process, the County prepared a Consistency Review to identify and consider which if any of the existing SMP policies or regulations needed to change. The results are presented in the *Consistency Review Report (July 2011).* The Consistency Review identified several areas where the SMP could be improved to be more consistent with current State requirements, to enhance clarity and readability, and/or to address likely future development scenarios.

Clallam County also conducted a series of public forums, interviews, and workshops to talk with citizens about their goals and visions for shoreline management. The results are documented in two reports: the *Vision Statement* (August 2011) for Water Resource Inventory Areas (WRIAs) 17, 18 and 19, and the *Visioning Forums and Interview Report* (June 2011) for WRIA 20. These reports reflect the shared history of local residents and their ideas and goals about how to accommodate change in the future. Tribal community perspectives about shoreline use are also summarized, based on interviews with Tribal staff and elected officials. Finally, the vision reports talk about Clallam County shorelines in the future as a gauge for designing policies and regulations that will provide a future that the community wants.

A key step to support development of the SMP is the preparation of a shoreline inventory and characterization report (ICR) on all freshwater and marine shorelines subject to this Program. Two ICRs were prepared to cover County shorelines: 1) *Clallam County ICR for Portions of Clallam County Draining to the Strait of Juan de Fuca (March 2012)* that includes shorelines located within Water Resource Inventory Areas (WRIA) 17, 18 and 19 that are part of the Puget Sound Basin; and 2) *Clallam County WRIA 20 ICR (May 2012)* covering shorelines that are part of watersheds that drain to the Pacific Ocean. The ICRs describe the shoreline conditions in terms of their characteristics, functions, and values, and were compiled to meet the requirements in RCW 90.58.100(1) and WAC 173.26.201(2). The ICRs considered plans, studies, surveys, inventories, and systems of classification made or being made by federal, state, regional, or local agencies, by Tribes and private individuals, and by other organizations dealing with pertinent shorelines of the state. The data sources are identified in the ICRs.

The ICRs include a Geographic Information System (GIS) database. This GIS will link the inventory information to parcels and applicable goals, policies, and regulations, and it will be updated as additional data become available. The GIS database was also used to update the Shoreline Environment Designations (SEDs) that apply to each shoreline segment. The SEDs provide a system for managing shorelines with similar ecological characteristics and land use patterns in a similar manner.

The ICRs will be used to administer the SMP as they provide pertinent information on baseline ecological conditions that need to be protected and maintained over time. The County will rely on the ICRs as well as other scientifically valid pertinent plans, studies and analyses that describe the shoreline environment when making permitting decisions. The ICRs and other background documents were developed during a three-year long SMP update process, which included multiple steps (Figure 1-1).

Clallam County convened a SMP Update Committee that met 13 times from April 2011 to April 2013. The SMP Update Committee provided input and review in the development of two earlier Draft SMPs released in February 2012 and November 2012. The County held regional public information meetings between 2011 – 2013 at key points as well as made presentations to interested groups and organizations on the SMP update. Public comments were also received by mail and email on earlier SMP drafts.

The Clallam County Planning Commission held regional public hearings at Sequim, Sekiu, Forks and Port Angeles in February 2015 on a Draft SMP (November 2014) and reviewed public comments received at regular-meetings in 2015-2016. This current Draft SMP (June 2017) is based on these deliberations, Ecology comments, and other considerations. The Planning Commission will review this current Draft SMP (June 2017) to formulate their recommendation on a revised Final Draft SMP to the

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**Comment [SG2]:** Updated to summarize PC public process on 2014 Draft SMP.

SMP related support documents, summary of public outreach efforts, and public comments received are available for viewing on the County's SMP Update website at:
http://www.clallam.net/LandUse/SMP.html

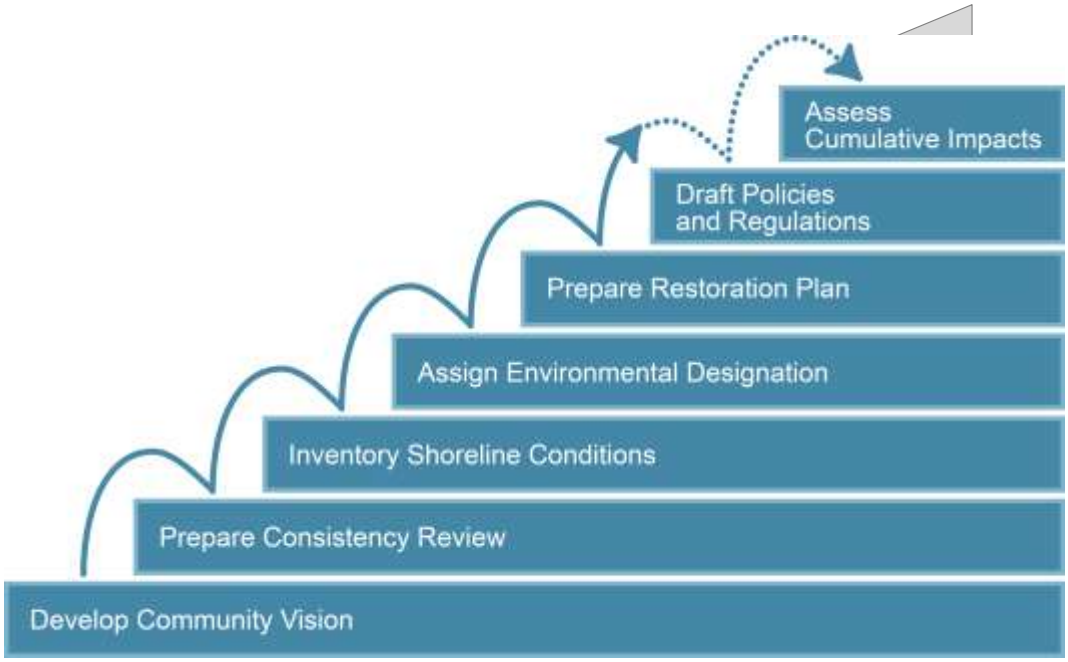


**Figure 1-1. The Steps to the Shoreline Master Program Update Process**

## 1.2 Program Content and Format

The Clallam County SMP includes goals, policies, and regulations for shoreline management. The goals, policies, and regulations provide direction to County planning staff and to shoreline users and developers on how to implement the state Shoreline Management Act (RCW 90.58) and its implementing rules in Washington Administrative Code (WAC) 173-26 at the local level. The SMP is intended to protect shoreline resources while allowing appropriate use and development of shoreline areas. The SMP is organized as separate chapters, which collectively will become Title 35 of the Clallam County Code (replacing the existing Title 35). Here is what each chapter of the SMP contains:

**Chapter 1** contains a preamble and describes general goals of the SMP, which are largely based on the principals of the Shoreline Management Act and the feedback collected during the community visioning

process. Chapter 1 explains the types of shoreline use and development activities over which the Program has jurisdiction and the Program's relationship to other land use plans, programs, and regulations.

**Chapter 2** describes the shoreline environment designations that apply to each segment (or reach) of the shoreline. The designations reflect the ecological conditions, existing land use patterns, zoning, the types of health and safety hazards that are present (flooding or landslides, for example), geology, and other characteristics. The environment designations provide a framework for tailoring shoreline policies and regulations to different shoreline segments based on their characteristics. There are five different upland environment designations in Clallam County that apply to the shorelands, plus one additional designation that applies to the aquatic area (below the ordinary high water mark). Chapter 2 contains tables that describe the uses allowed within the various environment designations.

Policies and regulations that apply to specific shoreline uses and developments, including residential development, are listed in **Chapter 3**. The policies and regulations that apply to each shoreline development may vary depending on the shoreline environment designation assigned to that parcel. A single development proposal may involve multiple uses and therefore may be subject to more than one set of policies and regulations. An example is a residential use that also involves construction of a private dock.

Policies are aspirational statements that are meant to be general or broad in scope. Policies are typically phrased using the word "should." Regulations flow from the policies and define the conditions under which shoreline development or use is allowed or not allowed. Policies give context to the regulations and aid in their interpretation. Here is an example:

> **Policy**: *The County should take active measures to preserve unarmored shorelines and prevent the future proliferation of bulkheads and other forms of structural shoreline stabilization.*
>
> **Regulation**: *Use of a bulkhead, revetment or similar shoreline armoring to protect a platted lot where no primary use or structure presently exists shall be prohibited.*

**Chapter 4** contains policies and regulations for specific types of shoreline modification such as shoreline stabilization and dredging. These modifications can have significant effects on the shoreline environment and require very specific policies and regulations.

**Chapter 5** contains general policies and regulations that apply to all types of use and development within shoreline jurisdiction including policies and regulations for "grandfathered" uses and development. **Chapter 6** contains the shoreline buffer and vegetation conservation standards to which all developments must adhere. **Chapter 7** has specific protections for critical areas located within shoreline jurisdiction. The shoreline-specific critical areas regulations are similar to the existing critical areas regulations in Clallam County Code 27.12, but contain many revisions that reflect the best available science and ensure consistency with the Shoreline Management Act. **Chapter 8** describes the standards that shoreline uses and developments must meet to achieve the no net loss requirements of the Shoreline Management Act.

Shorelines designated as shorelines of statewide significance (SSWS) by the Shoreline Management Act (RCW 90.58) are listed in **Chapter 9**, along with policies for their use. Shorelines of statewide significance are major resources from which all people of the state derive benefit. These areas must be managed to ensure optimum implementation of the Act's objectives.

**Chapter 10** addresses the administration of the Program. This chapter contains procedures and review criteria for substantial development permits, conditional use permits, and shoreline variances.

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**Chapter 11** provides definitions for important terms used throughout the document.

## 1.3 How to Use this Document

If you intend to develop or use lands adjacent to a shoreline of the state, consult first with the Clallam County Department of Community Development (DCD) to determine if you need a shoreline permit; they will also tell you about other necessary government approvals that may be required. Most development projects require review by multiple County departments and many also require approval from state and/or federal agencies. Ultimately, it is your responsibility to obtain all of the required permits and comply with applicable laws.

To find out ~~if~~ what Program requirements might apply to your ~~proposal~~ proposed shoreline activity ~~is permitted by the Program~~, first determine what type of use or development best describes it. All shoreline activities can be identified by a particular use and may also include a development. To summarize the definitions in Chapter 11:

- Development includes structures and other tangible evidence of a shoreline activity, while a
- Use refers more to the intended purpose of a development activity or to a non-structural or intangible shoreline activity.

For example, an observation blind along with the clearing and grading required for siting are types of development related to bird watching as a passive recreational use. Also consider if the type of use is water-oriented or not. The three categories in order of priority are: water- dependent, water-related, and water enjoyment. While some uses that are not water-dependent are still preferred, all shoreline use and development activities must comply with the Program even if a permit or letter of exemption is not required. Chapters 3, 4 and 5 address the most common and anticipated shoreline activities.

Next, determine which shoreline environment designation applies to your site (see Exhibit A). Then check to see if the environment designation policies and regulations in Chapter 2 allow the proposed use (refer to Tables 2-1 and 2-2). Your proposal may be permitted, allowed only as a conditional use, or prohibited. It may also require a variance if you cannot meet the dimensional requirements such as shoreline and critical area buffers (see Tables 6-1 and 6-2), height limits, etc.

**Comment [SG3]:** Added for clarification.

Although your proposal may be permitted by the Program, or even exempt from specific permit requirements, you must comply with all relevant policies and regulations of the entire Program. Review Chapters 3 and 4 to learn about policies and regulations specific to your proposed use. Review Chapters 5 through 8 to learn about buffers and setbacks, clearing and grading, vegetation conservation, and other requirements that may apply to your project. The County may require you to complete special studies or analyses prior to implementing your project. If your proposal is found to have unavoidable adverse impacts on shoreline function or processes, based on the terms of this Program, you will be required to provide mitigation to offset the impacts so that the net effect of your proposal is neutral.

For development and uses allowed under this Program, the County must find that the proposal is ~~generally~~ consistent with the applicable policies and regulations. When your proposal requires an approval or statement of exemption, submit the required application materials to the ~~DCD Permit Center~~Clallam County Department of Community Development. Processing of your application will vary depending on its size, value, and features. Contact the Clallam County Department of Community Development for additional information.

**Comment [SG4]:** Correction. "Generally" is not the standard.

**Comment [SG5]:** Correction.

## 1.4 SMP Update Vision

Clallam County is endowed with one of the most striking natural settings in Washington. The County's lake, river, and marine resources are among the most pristine, diverse, valuable, and picturesque in the nation. In the mid-1970s Clallam County developed a comprehensive strategy for managing its shoreline resources in accordance with the state Shoreline Management Act. The County adopted a Shoreline Master Program with policies and regulations designed to accomplish three specific goals: (1) protect the natural environment along shorelines; (2) provide public access to public waters; and (3) accommodate water-dependent uses.

Clallam County has pursued these goals for the benefit of residents and visitors alike for over 40 years. During this time, County residents have witnessed the passage of the Growth Management Act (GMA), County adoption of a County Critical Areas Code under the GMA to protect sensitive areas (wetlands, geologically hazardous areas, aquatic and wildlife habitat conservation areas, frequently flooded areas, and critical aquifer recharge areas), regional watershed planning initiatives, the start of the Elwha River ecosystem restoration, the Dungeness River instream flow rule-making process, new National Flood Insurance Program requirements, significant public and private investments in salmon recovery, and a variety of other events. Despite the changing social, political, and economic circumstances, the County's original Shoreline Master Program has never been comprehensively updated . . . until now.

**Comment [SG6]:** Added as reference to critical areas code because it added new significant regulations that have applied since 1992 in the shoreline jurisdiction in addition to the current Shoreline Master Program.

Through all these changes, the County's shoreline resources remain in relatively good condition overall. Development in the western part of the County is generally sparse and, in many ways, the shoreline ecosystem functions much as it has for decades. The fact that salmon runs in most of the rivers that drain to the Pacific Ocean have not been federally listed as threatened or endangered is evidence of the good stewardship of shoreline property owners, government agencies, Tribes and citizens.

Fishing organizations consider the rivers of western Clallam County to be among the most productive and pristine in the state (Figure 1-2). Effective land use regulations provided through the Shoreline Master Program will help protect the riparian corridors and in-stream habitats that sustain these salmon runs, preserving these important resources for future generations.

**Figure 1-2. The SMP can help ensure that future generations will continue to enjoy fishing on the Sol Duc and other rivers (Photo: Clallam County)**

Extensive stands of private and state-owned timberland line the major rivers including the Bogachiel, Calawah, Quillayute, Hoko, Clallam, Sekiu, and Pysht. The forests help keep stream temperatures low, provide food resources for aquatic species, and contribute woody debris that builds complex instream

habitat for salmon and trout (Figure 1-3). The Shoreline Master Program seeks to accommodate sustainable timber harvest on managed forest lands while preserving the essential ecological functions that healthy riparian forests provide.

**Figure 1-3. Forests, like these at the confluence of the Calawah and Bogachiel rivers, provide shade, large woody debris and other valuable functions (Photo: Ecology, 2007)**

Conditions are more variable along the shorelines in the central and eastern parts of the County. Many of the rivers draining into the central Strait have degraded floodplains or blockages that prevent salmon from migrating to upstream spawning grounds. The County is working with Tribes, timber companies, property owners, and state resource agencies to restore parts of the Lyre River, Twin Rivers, Salt Creek, and Morse Creek to improve habitat and allow these rivers to meander naturally across their floodplains. The Shoreline Master Program promotes and encourages these types of shoreline restoration efforts.

A major restoration effort is now underway on the Elwha River. Largely unimaginable when the Shoreline Master Program was first adopted, demolition of the Elwha dams creates the first opportunity to witness the "recovery" of a major river ecosystem. It also creates tremendous uncertainty for the residents who live downstream. Property owners and scientists alike acknowledge the need to monitor and respond quickly to changing conditions in the years following dam removal. Lessons learned on the Elwha River will improve and inform our ability to manage and restore other large rivers in Clallam County.

Another major restoration effort is underway on the lower Dungeness River, where efforts – including estuary and associated floodplains restoration – is the top restoration priority for the Dungeness basin. Initial restoration actions by the County, Jamestown S'Klallam Tribe, and State Department of Fish and Wildlife have included property acquisitions, removal of structures and septic systems associated with previous uses, and native vegetation enhancement. Additional acquisitions, levee setbacks, and estuarine marsh restoration are currently being planned. The restoration of the Lower Dungeness will increase the quantity and quality of spawning, rearing and transitional habitat available to salmon runs. Efforts will also reconnect flood water storage areas, decreasing flood hazards to surrounding human uses and structures. These restoration efforts require considerable resources of time and money. Protecting existing

resources from harm or degradation is generally much less expensive; that's why the Shoreline Master Program contains policies and regulations to prevent new impacts from occurring.

Because of its location in the rain shadow of the Olympic Mountains, eastern Clallam County has experienced relatively rapid growth compared to other areas of the County. This has led to shoreline management challenges related directly to water—too little flow for salmon and agriculture at certain times of the year; too much flow for river residents during floods; and substandard water quality caused by animal wastes and malfunctioning septic systems. The Shoreline Master Program can help address these issues by ensuring that new developments are located and designed to minimize adverse impacts on the environment and by reducing the potential for conflicts between adjoining land uses (Figure 1-4).

**Figure 1-4. Effective regulations can help ensure new developments are located and designed to maintain healthy stands of riparian vegetation and prevent and minimize adverse impacts on the shoreline environment (photo: Ecology)**

The marine shorelines of Clallam County are special in many ways. The Strait of Juan de Fuca is a vital passageway for goods and materials as well as a critical migratory corridor for salmon and other species. Chinook salmon and Hood Canal summer chum, two federally threatened species, are among the many culturally and economically important species that migrate to and from the ocean through the Strait. These species forage and rear in the eelgrass and kelp beds that predominant in the nearshore environment. The abundant eelgrass and kelp beds that occur from Sequim Bay to the Makah Reservation are part of what makes the County's nearshore environment so ecologically valuable and worthy of continued protection (Figure 1-5).

**Figure 1-5. Abundant kelp on Bullman Beach contributes to a healthy nearshore environment for fish and wildlife (Photo by A. MacLennan)**

Clallam County's beaches would not exist without the adjoining bluffs that provide the sands and gravel materials that make up the beach surface (Figure 1-6). The steep bluffs and rocky shores along the Strait supply sediments that build beaches and spits, including Dungeness Spit—the longest natural sand spit in the United States—which is nourished by the "feeder bluffs" to the west. The beaches and spits become spawning grounds for smelt, sand lance, and herring (Figure 1-7). They are also treasured places for surfing, beachcombing and other forms of recreation. A recent (2013) study of feeder bluffs in Clallam County conducted by scientists from the Washington Department of Natural Resources, the Coastal Watershed Institute and Western Washington University confirmed that beach sediment from feeder bluffs play an important role in maintaining habitat for forage fish. The study authors suggest that feeder bluffs be managed conservatively because loss of sediment supply to the nearshore, due to in-river damming and shoreline alterations, results in significantly larger and more variable beach sediment at the drift-cell scale. They note that protecting the role of feeder bluffs in nearshore habitat restoration practices is a high priority.

**Figure 1-6. Sediment delivery and transport processes - bluff erosion, landslides and littoral drift help to sustain beaches and spits (Source: King County)**

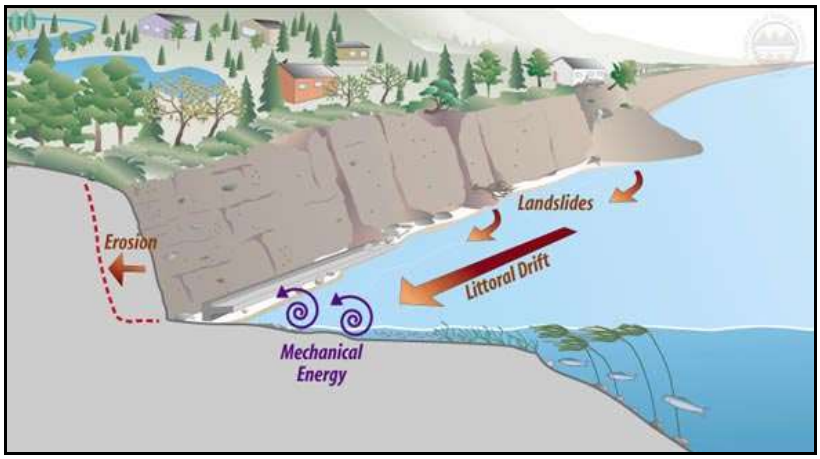

**Figure 1-7. Left: One of the many "exceptional" feeder bluffs along the Strait of Juan de Fuca, Southeast of Dungeness River (photo: A, McLennan). Right: Small forage fish eggs on gravel beach. Forage fish are a critical part of the diet for salmon and other species in the Strait of Juan de Fuca (photo: M. Clancy)**

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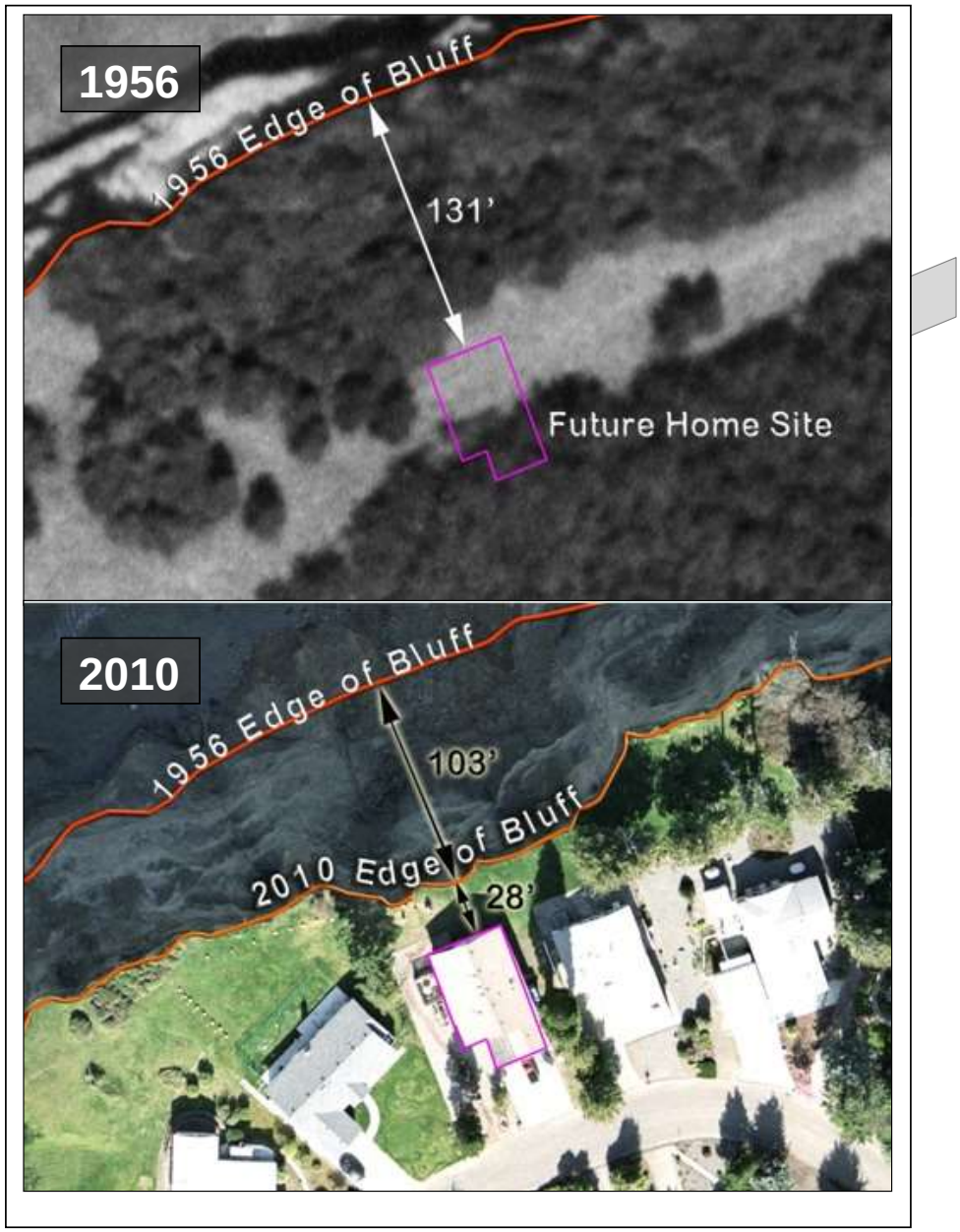
As part of the Shoreline Master Program update, Clallam County conducted a first-ever, comprehensive inventory and assessment of marine bluffs along the Strait of Juan de Fuca (see the March 2012 Shoreline Inventory and Characterization Report for WRIAs 17-19). Using a combination of field investigation and aerial photo interpretation, coastal geologists mapped and categorized the bluffs based on their geologic characteristics and contribution to sediment input. The mapping revealed high variability in the range of geomorphic conditions and the relative distribution of the different shore types found along the marine shore. The bluff characteristics vary due to the relative range of exposure/fetch, contrasting lithology/stratigraphy, sediment transport rates, drift cell lengths, and the influence of large-scale rivers systems including the Dungeness, Elwha, Salt Creek, Lyre, Twin Rivers, Pysht, Hoku, Clallam and Sekiu rivers. The mapping highlights three different types of feeder bluffs: talus bluffs (mainly Western Clallam County), feeder bluffs and "exceptional" feeder bluffs. The "exceptional" feeder bluffs (mostly located between the mouth of Morse Creek and the base of Dungeness Spit, between Kulakala Point and Gibson Spit, and along the Miller Peninsula) are most rapidly receding bluff type. The bluff mapping and characterization allow Clallam County to tailor the shoreline regulations to protect the areas that are most critical to the marine sediment supply.

The eroding bluffs that are essential to beaches and spits can also be a source of anxiety to waterfront homeowners. The primary driver of bluff recession in Clallam County and other parts of the region is wave attack at the toe or base of the bluff. Clallam County bluffs are also subject to landslides, triggered primarily by forces acting on top of the bluffs, making them inherently unstable. There is widespread evidence of erosion and landslides, both recent and historic, all along the Strait of Juan de Fuca. Some areas are more prone to erosion than others. Erosion rates in the range of 3 feet per year have been documented west of Dungeness Spit. As a result, a home site that was 131 feet landward of the edge of the bluff in 1956 is now a mere 28 feet from the edge (Figure 1-8). Some residents actively consider moving their houses back from the edge of the retreating bluffs for fear of losing their homes in a catastrophic event. More residents may face similar decisions in the coming years

**Figure 1-8. Bluff erosion threatening homes along Cypress Circle, west of Dungeness Spit (Source: R. Johnson)**



The threat of erosion and landslides will continue to pose challenges to developments along the bluffs (Figures 1-9 and 1-10). These challenges could intensify in the future as the effects of climate change and sea level rise become more apparent. ~~The implications of climate change are potentially serious and widespread. These implications include more frequent and intense storms, more frequent El Niño conditions, and increasing wave heights, which contribute to the frequency and magnitude of coastal flooding and erosion events. Landslides and flooding of freshwater streams and rivers may also increase along with increases in winter precipitation and altered rainfall patterns. In addition, climate change is expected to exacerbate sea level rise which will affect high bluffs but also low bank developments in places such as Diamond Point, 3 Crabs Road and Clallam Bay. Rising sea levels will likely result in an increase in mass-wasting, beach erosion and overwash, barrier migration, shifting tidal inlets, changes in tidal prism, marsh erosion and accretion, inlet dynamics and accelerated bluff retreat.~~ These changes present significant challenges for shoreline planning in Clallam County and throughout the world. Planners and property owners will need to be increasingly vigilant when making decisions about how, where and whether to develop along the County's shorelines.

**Comment [SG7]:** The Planning Commission deleted the text highlighted in yellow.

The recommended addition of ***"and sea level rise"*** is to recognize this is specific challenge of "climate change" concerns applicable to our marine shorelines. The addition does not change any specific SMP policy or regulation.

**Figure 1-9. Erosion at base of bluff contributing sand, cobble and gravel to the nearshore. Erosive forces could become more severe in the future due to climate change (Photo by A. MacLennan)**

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**Figure 1-10. Evidence of recent landslide activity near Shipwreck Point (Photo by A. MacLennan)**

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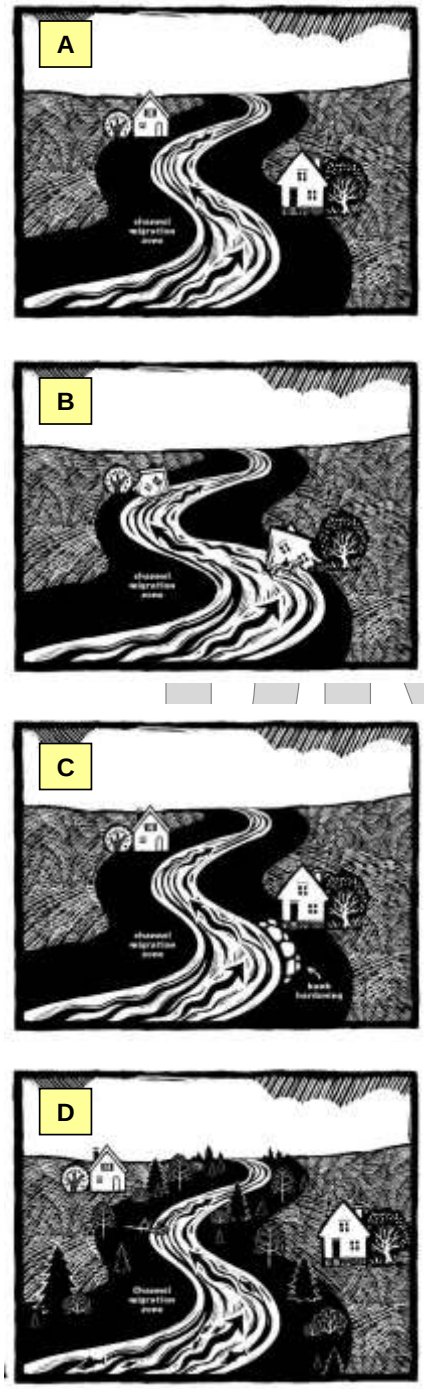


Flooding and channel migration pose serious threats to citizens and property in Clallam County (Figure 1-11, a through d). Channel migration is a natural process that has a dramatic effect on freshwater rivers and streams and the people who live near them. River channels naturally move across and sometimes outside of their mapped floodplains by eroding the outside banks of a meander bend, or through channel avulsion. This can create very hazardous situations for development within the channel migration zone, which can be damaged or destroyed by gradual or sudden channel shifts (Figure 1-12).Where vegetation along the river has been removed, the risk of channel migration is generally greater.

People often try to contain rivers within their channels by hardening the banks with riprap or other materials that resist erosion. Levees and bank hardening are cited as major factors in the decline of salmon runs, so the challenge of protecting people *and* habitat is very real in Clallam County. Bank hardening reduces habitat quality for salmon and other species and can accelerate the flow, transferring the erosive energy downstream and potentially creating problems for other property owners. Locating development outside of the channel migration zones and maintaining riparian vegetation along stream banks is a safer, less costly and ecologically preferred alternative.

Already, the County has worked with partnering agencies to identify and move at-risk structures from the floodplain along the Dungeness River, and have done so in a way that maintains ongoing use of the structure (Figure 1-13). These efforts have occurred concurrently with ecological restoration.

The extent of a channel migration zone is difficult to accurately determine at a site- or parcel-scale; an in-depth study of an entire river reach by a professional hydrogeologist is required for accurate mapping. The ~~County~~Department of Ecology has documented and mapped many areas that are subject to potential channel migration ~~and flooding~~ along shorelines and the Jamestown S'Klallam Tribe has mapped potential CMZ's for the Dungeness River. ~~and~~The County has used ~~that~~this information to inform the development of the policies and regulations in this Program.

**Comment [SG8]:** Revision clarifies sources of recent channel migration zone (CMZ) mapping. The Dept. of Ecology mapped potential CMZs for many river reaches subject to the SMP. The Jamestown S' Klallam Tribe mapped the CZM for the Dungeness River.

**Figure 1-11a-d. Channel migration areas are potentially hazardous areas and development within these areas should be avoided to reduce safety risk and prevent ecological impacts (From the Dungeness Flood Hazard Management Plan; sketches by Amanda Kingsley, used with permission)**

**Figure 1-12. Locating new developments outside of channel migration zones will help prevent situations like this which occurred during a recent Dungeness River channel migration event (Photo: Randy Johnson)**

Tsunami hazards are another consideration for shoreline developments in Clallam County. The County has tsunami hazard zone mapping and excavation route planning at: **http://www.clallam.net/Maps/evacuation.html).**

In the future, more tough choices must be made about how to manage these areas and minimize risks to people, infrastructure and property. The Shoreline Master Program includes policies and regulations to limit new development in floodplains and channel migration zones, which helps keep these habitats intact and keeps people and property out of harm's way (Figure 1-13). For example, this Program is consistent with the Dungeness River Management Plan recommendations concerning development within the floodplain and channel migration corridor.

**Figure 1-13. The County and partners are moving existing developments outside of channel migration zones to prevent potential human and property harm; this project along the Lower Dungeness River also allowed for riparian and floodplain restoration (Photo: Clallam County)**

The high energy, dynamic nature of the Strait and the Pacific Coast makes most of Clallam County marine shorelines unsuitable for docks, piers, and other offshore structures. As a result, there are relatively few structural modifications along the marine shoreline. Relative to other marine shoreline areas in the Puget Sound region, Clallam County has a low percentage of armoring. There are areas, however, where natural sediment supply processes have been disrupted. One area that is armored is the shoreline west of the mouth of Morse Creek into downtown Port Angeles, where fill and riprap have been placed and maintained at the toe of the feeder bluff along this reach to create and protect the former railroad grade that now serves as the alignment for the Olympic Discovery Trail. Similar to the railroad the riprap is intended to protect the trail, and the bluff with residences at top, from direct exposure to wave action, although wave caused erosion still occurs and bluff failures and slides remain common due to upland factors. The loss of natural sediment supply in this area reduces the amount of material available to down-drift beaches. Shoreline armoring has resulted in more dramatic changes along Ediz Hook, where loss of sediment supply in the area caused rapid erosion and necessitated riprap along its entire length to prevent washouts. The Shoreline Master Program contains policies and regulations designed to discourage and limit the construction of new shoreline armoring. This is consistent with the Puget Sound Partnership's goal of reducing armoring throughout the Puget Sound region.

Lakes in Clallam County provide unique opportunities for private residential development and public recreational use. Both Lake Sutherland and Lake Pleasant support water-related development and are popular destinations for fishing, boating, and other water-oriented pursuits. Large stretches of the lake shorelines are forested and relatively undeveloped, which adds to their natural beauty and ecological value (Figure 1-14).

**Figure 1-14. The natural setting at Lake Pleasant (Photo: Google Earth)**

Although the basic goals of shoreline management are as relevant today as they were in the 1970s, the realities of balancing environmental protection with public access and water-dependent use are more complicated than they were when the original Shoreline Master Program was adopted. This updated Shoreline Master Program reflects these realties and provides an important tool for the continued stewardship of shoreline resources. Other tools such as ecological restoration, water cleanup plans, open space tax incentives, beachwatcher and streamkeeper programs, stormwater management plans, land acquisition programs, and property owner outreach will be needed to fully realize the community's goals for shoreline management in the years to come.

Marine spatial planning is another important tool that is increasingly being used around the country and world to coordinate decisions for coastal and ocean environments. Marine spatial planning uses data on the location of important marine resources, human activities, and other key components to determine the

most appropriate locations for particular uses to achieve ecological, economic and social objectives. In March 2010, the state legislature enacted a marine spatial planning law to address resource use conflicts in Washington waters. In 2012, the Governor amended the law and the legislature provided funding for mapping, ecosystem assessment, data tools and stakeholder outreach on Washington's Pacific Coast. The Legislature provided continued funding in 2013 for the development of a Pacific Coast Marine Spatial Plan.

Maintaining the value of Clallam County's shorelines benefits Tribes who have lived here for centuries, hikers who enjoy the views from the Olympic Discovery Trail, fishers after kokanee in Lake Pleasant, shellfish growers in Sequim Bay, surfers riding waves at Crescent Beach, business owners who benefit from tourism and, of course, shoreline property owners. Thoughtful implementation of this Shoreline Master Program is in the interest of all County citizens.

## 1.5 Shoreline Master Program Goals

The purpose of this Program is to promote the health, safety, and general welfare of the community by providing reasonable regulations for use and development of Clallam County shorelines consistent with the Washington State Shoreline Management Act of 1971 (Revised Code of Washington [RCW] 90.58) as amended. This Program will be implemented and administered to achieve the following goals:

1. To preserve, to the fullest extent possible, the scenic, historic, and ecological qualities of the shorelines of Clallam County, in harmony with those uses which are essential to the life of its citizens.

2. To provide property owners with clear guidelines and requirements for future shoreline development and provide fair and reasonable allowances for the continued use and enjoyment of private property.

3. To ensure, at minimum, no net loss of shoreline ecological functions and processes, and to promote, where feasible, voluntary and collaborative efforts by government agencies, Tribes, businesses, property owners, and other citizens to restore shorelines that have been impaired or degraded in the past by non-natural events.

4. To respect the rights of private property owners and the rights of citizens-at-large to use and enjoy shorelines of the state.

5. To accommodate and give priority to water-dependent uses such as aquaculture and preferred uses such as single-family residential uses when they are consistent with the goal of preserving shoreline ecological functions and processes, in accordance with the policy enunciated in RCW 90.58.020.

6. To discourage development in areas where there is a documented risk of erosion, landslides, flooding, channel migration, tsunami, or other health or safety hazards.

7. To facilitate public access to public waters where it will not interfere with private property rights or irreparably harm the ecological quality of those shorelines.

8. To maintain and protect water quality and quantity for the benefit of people, fish, and wildlife.

9. To complement and contribute positively to salmon recovery efforts and promote healthy and sustainable salmon populations in the County's lakes, rivers, and marine waters.

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10. To preserve shorelines for water-related commerce and industry that are essential to the County's economy, and to discourage interference with established water-related use of shorelines.

11. To channel future commercial and industrial use into shoreline areas already so utilized, or which lend themselves to such use.

12. To discourage the establishment of new non-water-oriented uses on the shoreline except when they provide substantial public benefit with respect to public access and/or ecological restoration.

~~13. To protect people and property from adverse impacts related to climate change and to promote resiliency in responding to climate change impacts.~~

~~14.~~13. To use sound, credible, scientific data and information when making decisions about shoreline use and development so that people, resources and property are protected. Credible scientific information includes but is not limited to the March 2012 Shoreline Inventory and Characterization Report (ICR) for WRIAs 17-19; the May 2012 Revised Draft WRIA 20 Inventory and Characterization Report; the August 2013 Shoreline Restoration Plan; and the SMP Cumulative Impact Analysis and No Net Loss Reports.

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## 1.6 Applicability

1. The provisions of the Program shall apply to all shorelines of the state in unincorporated Clallam County, including all freshwater and saltwater shorelines, shorelines of statewide significance, and all shorelands as defined in RCW 90.58.030, except where this Program makes explicit exception consistent with state law.

2. This Program shall apply to every person, individual, firm, partnership, association, organization, local or state governmental agency, public or municipal corporation, or other non-federal entity who or which:

   a. Proposes any new use, activity, development or structure within the unincorporated area of Clallam County subject to the Shoreline Management Act, as now or hereafter amended; or

   b. Proposes a change, modification, addition or alteration to an existing use, activity, development or structure within the unincorporated area of Clallam County subject to the Act, as now or hereafter amended.

3. Federal agencies are subject to this Program and RCW 90.58, as provided by the Coastal Zone Management Act (Title 16 United States Code §1451 et seq.) and Washington Administrative Code (WAC)173-27-060(1).

4. Activities on privately owned lands (in-holdings) or any lands subject to non-federal/tribal ownership, lease, or easement, including tribal lands owned in fee by non-tribal members that fall within the external boundaries of federally/tribally owned lands shall be subject to this Program.

## 1.7 Exceptions to Applicability

1. This Program shall not apply to:

   a. lands held in trust by the United States for Indian Nations, Tribes, or individuals:

   b. lands within the boundaries of the Olympic National Park in accordance with RCW 37.08.210.

## 1.8 Jurisdictional Limits

1. The jurisdictional limits of this Program correspond to the following areas, which are defined in RCW 90.58.030 as shorelines of the state:

   a. All marine waters of the Strait of Juan de Fuca – the jurisdiction shall extend waterward from the ordinary high water mark to the state boundary with British Columbia; and

   b. All marine waters of the Pacific Ocean – the jurisdiction shall extend from the ordinary high water mark to the state boundary (the three nautical-mile limit). The waters of the Pacific Ocean below (waterward) of the ordinary high water mark, including designated marine sanctuaries and bedlands owned by the Washington State Department of Natural Resources, shall be subject to this Program even where the adjacent shorelands are under federal or tribal ownership; and

   c. ~~Segments of~~Reaches of rivers and streams where the mean annual flow is more than 20 cubic feet per second; and

   d. Lakes and reservoirs 20 acres and larger in area; and

   ~~e. Shorelines of statewide significance as defined by this Program and RCW 90.58.020; and~~

   e. Shorelands adjacent to the above -water bodies ~~listed in a through e of this Section (1.8.1).~~subject to the provisions of this Program that ~~Shorelands regulated by this Program shall~~ include: those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark ~~plus the full extent of the mapped 100-year floodplain;, all~~ floodways and contiguous floodplain areas landward two hundred feet from such floodways~~,~~; all associated wetlands and river deltas;~~,~~ and the full-extent of the mapped 100-year floodplain pursuant to RCW 90.58.030 (2)(d)(i); as defined herein, and

   f. ~~thefollowing~~ Shoreline jurisdiction also extends to all lands necessary for buffers to protect critical areas ~~and buffers when~~that are overlapping or otherwise coincident with the ~~shorelands~~ shoreline jurisdiction ~~in accordance with~~pursuant to RCW 90.58.030(2)~~(d)(i) and~~ (d)(ii)~~.~~:

      ~~i. Areas that a qualified agency, organization or professional has identified as feeder bluffs, feeder bluff - exceptional, or feeder bluff - talus using accepted protocols; and~~

      ~~ii. Areas identified by the Washington State Coastal Atlas (https://fortress.wa.gov/ecy/coastalatlas/tools/Map.aspx) as unstable slope, unstable slope (old slide), and unstable slope (recent slide); and~~

      ~~iii. Areas identified by the Washington Department of Natural Resources (https://fortress.wa.gov/dnr/geology/?Theme=landslides) as landslide areas; and~~

**Comment [SG9]:** The recommended changes are to clarify jurisdictional limits with reference to authority.

**Comment [SG10]:** Recommended wording. Both the terms "segments" and "reaches" are defined in Chapter 11 and used interchangeably

**Comment [SG11]:** Already addressed by sub-parts (a, b, & c)

**Comment [SG12]:** Revision recommended to clarify proposed jurisdictional limits with reference to authority.

**Comment [SG13]:** Revision to clarify jurisdiction of critical area buffers with reference to authority.

**Comment [SG14]:** The Planning Commission requested clarification of intent of terms "organization" and "professional". Staff recommends delete sub-parts i-iv, since Section 7.12 addresses classification/designation of geologic hazard areas (marine bluffs, channel migration, landslide hazard areas) and other sections of SMP speak to qualifications of "qualified professionals" based on type of special report.

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~~iv. Areas that the Department of Ecology or other qualified agency, organization or professional has identified as potential channel migration zones using accepted protocols.~~

2. The portion of any individual parcel subject to shoreline jurisdiction shall be determined by the County on a case-by-case basis at the time shoreline development is proposed. The Administrator may require proponents of shoreline development proposals to provide site-specific information on the location or extent of the floodplain, the ordinary high water mark, and/or any associated wetlands or other critical areas to determine the extent of shoreline jurisdiction on a parcel-by-parcel basis.

3. The County shall maintain a map, which shall be appended (see Exhibit A) to this Program, showing the general location and approximate extent of shorelines subject to this Program. The County shall also maintain a Geographic Information Systems database that depicts the coordinates for locating the upstream extent of shoreline jurisdiction (that is, the location where the mean annual stream flow is at least 20 cubic feet per second). The database shall also show the approximate location of the floodplain, floodway, wetlands, feeder bluffs, landslide hazard areas, channel migration zones and other features that may have a determinant effect on the jurisdictional boundaries of the Program. The database shall show features that have been identified by local, state and/or federal agencies using the best available information. The map and database shall be used for planning purposes only. The map and database shall be updated regularly as new information is made available and the public shall have access to the information upon request.

## 1.9 Classification of Shoreline Uses and Developments

1. Shoreline uses and developments shall be classified as follows:

   a. Permitted uses and developments – Uses and developments that are consistent with this Program and RCW 90.58. Such uses/developments shall require a shoreline substantial development permit per Section 10.2.1, a shoreline conditional use permit per Section 10.2.2, a shoreline variance per Section 10.2.3, or a statement from the County Community Development Department that the use/development is exempt from a shoreline substantial development permit per Section 10.2.5, of this Program.

   b. Prohibited uses and developments – Uses and developments that are inconsistent with this Program and/or RCW 90.58 and which cannot be allowed through any permit or variance.

   c. Grandfathered uses and developments – Existing uses and developments that were legally established shall be allowed to continue without modification, provided that redevelopment, expansion, change of ~~occupancy~~use, or replacement of such uses/developments shall be regulated according Section 5.1 of this Program.

**Comment [SG15]:** PC made this recommended change at 6-21-17 work session..

2. All proposed shoreline uses and development activities occurring within shoreline jurisdiction shall comply with this Program and RCW 90.58 whether or not a shoreline permit is required.

3. Classification of a use or development as permitted does not necessarily mean the use/development is allowed outright. It means the use/development may be allowed if it is implemented according to the policies and regulations of this Program. Permitted uses and developments are subject to review and approval by the County; conditional uses and variances are also subject to review and approval by the Department of Ecology. Many permitted uses/developments, including those that do not require a substantial development

permit, can individually or cumulatively affect adjacent properties and/or natural resources and therefore must comply with the Program in order to avoid or minimize such adverse impacts. The County may attach conditions of approval to any permitted use via a permit or statement of exemption as necessary to assure consistency of the project with the Shoreline Management Act and the Program.

4. Compliance with this Program is demonstrated by the issuance of a statement of exemption, shoreline substantial development permit, conditional use permit or variance, as specified in Section 10.2 of this Program.

5. Non-project actions, such as rezones, code and plan adoption, and annexations, shall be reviewed for consistency with this Program. Prior to taking action on a zoning or comprehensive plan map amendment, the proponent shall complete an environmental assessment that shall be approved by Clallam County to confirm the nature, extent, and rating of shorelines and critical areas on the property; determine if the subsequent development proposal would be consistent with this Program; and determine whether mitigation or other measures would be necessary if the proposal were approved. Such review shall occur prior to any State Environmental Policy Act (SEPA) threshold determination pursuant to Chapter 27.01 CCC, Clallam County Environmental Policy. Findings of such review may be used to condition or mitigate the impact through the SEPA threshold determination or to deny the proposed zoning or comprehensive plan map amendment if the impacts are significant and cannot be mitigated.

6. Clallam County shall not grant any permit, license, or other development approval that is inconsistent with the provisions of this Program.

## 1.10 Authority

1. This Program is adopted under the authority granted by RCW 90.58 and WAC 173-26. The Shoreline Management Act and this Program are exempt from the rule of strict construction and shall be liberally construed to give full effect to its goals, policies, and regulations. This means that the interpretation of this Program shall not only be based on the actual words and phrases used in it, but also by taking its deemed or stated purposes into account.

2. In administering this Program and evaluating development proposals regulated by the Program, Clallam County, as the Administrator, shall:

    a. Make available to the public information including but not limited to: maps showing the general location and extent of shoreline designations; maps and information describing feeder bluffs, hazard areas such as steep slopes, landslide and erosion hazards, floodplains and channel migration zones; and any public data related to shoreline functions and characteristics.

    b. Confirm and make interpretations, where needed, of the regulatory boundary of the Program and the applicability of protection standards contained within.

    c. Determine whether development proposals are consistent with this Program, and grant, deny, or condition projects as appropriate.

    d. Determine if the protection mechanisms and mitigation measures proposed by development proponents are sufficient to protect the public health, safety, and welfare consistent with the goals, policies, and regulations of this Program.

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e. Maintain and make available for public inspection all records pertaining to certificates of compliance or other permits granted, denied, or conditioned under this Program.

f. Coordinate review of proposals with other agencies of jurisdiction and relay information to the applicant about other required permits for any development proposal within shorelines.

3. Consistent with RCW 90.58.080 the County will conduct a periodic review of this Program and, if necessary, revise this Program to assure:

a. That the Program complies with applicable law and guidelines in effect at the time of the review, including the Shoreline Management Act, Chapter 90.58 RCW; State Master Program Approval/Amendment Procedures and Master Program Guidelines, Chapter 173-26 WAC; and Shoreline Management Permit and Enforcement Procedures, Chapter 173-27 WAC.

b. Continued consistency of this Program with the Clallam County Comprehensive Plan and development regulations adopted under the Washington State Growth Management Act (GMA), RCW 36.70A, as applicable.

~~3.~~4. The County shall periodically review the application and administration of this Program and make adjustments as needed to ensure that the policies and regulations are being effectively implemented with respect to state law. The County shall convene a citizen review panel to assist in the review process and shall report the findings to the public at-large. The periodic review schedule shall not be construed as altering or superseding any legally mandated update requirements pursuant to RCW 90.58.080 ~~imposed by the state legislature~~.

**Comment [SG16]:** Addresses direction to clarify state required periodic SMP review from other County reviews such as in sub-part (4) below.

**Comment [SG17]:** See above comment.

## 1.11 Relationship to Other Plans and Regulations

1. Uses and developments regulated by this Program may also be subject to other provisions of the Clallam County Code, the Clallam County Comprehensive Plan, the Washington State Environmental Policy Act (RCW 43.21C and WAC 197-11), the federal Clean Water Act, the federal Endangered Species Act, the State Water Pollution Control Act, the State Hydraulic Code and various other local, state, and federal laws. Project proponents are responsible for complying with all applicable laws prior to commencing any use, development, or activity, regardless of whether this Program specially calls for such compliance.

2. The provisions of this Program are intended to complement and not duplicate existing local, state, and federal regulations. When development actions are subject to multiple regulations with overlapping and complementary purposes (such as minimizing environmental impacts), the County shall conduct the development review process in an integrated, fair, and efficient manner so that project proponents have a straightforward pathway for compliance.

3. Where this Program makes reference to any RCW, WAC, or other state or federal law or regulation, the most recent amendment or current edition shall apply.

4. All County development regulations including, but not limited to, zoning, subdivision, building, and health regulations apply in addition to this Program, except that regulation of critical areas within the shoreline jurisdiction is accomplished exclusively by this Program.

~~4.~~5. In the event this Program conflicts with other applicable County policies or regulations, all regulations shall apply. Unless otherwise stated, the more restrictive provisions shall prevail.

**Comment [SG18]:** Recommended to clarify nexus to County codes and how once adopted relates to how critical area will be regulated in the shoreline jurisdiction.

## 1.12 Limitations and Disclaimer

1. The degree of environmental protection required by this Program is considered reasonable for regulatory purposes. This Program does not imply that lands outside of shoreline jurisdiction do not provide beneficial functions, nor does it imply that any lands within or outside of shoreline jurisdiction will be free from hazards. This Program shall not create liability on the part of Clallam County, any officer or employee thereof, for any damages that result from reliance on this Program or any administrative decision lawfully made pursuant to the spirit and purpose of this Program.

2. Maps and other data prepared and made publicly available by the County or other agency to assist in the implementation of this Program shall be based on the best available information. This information shall be advisory and used by the Administrator to provide guidance in determining applicability of the standards of this Program to a property.

3. The shoreline jurisdictional boundaries depicted on the maps shown in Exhibit A are based on the approximate location of the ordinary high water mark (OHWM), 100-year floodplain, and associated wetlands. The maps are intended for planning purposes only and do not necessarily identify or depict the precise lateral extent of shoreline jurisdiction or the location of all associated wetlands and critical areas regulated by the SMP. Interpretation of the maps requires professional judgment and site-specific information as to the actual physical location of shoreline jurisdiction, floodplains, wetlands, critical areas, and other such features. The designations assigned to each shoreline reach shall apply throughout the full jurisdictional limits set forth by this SMP as determined on a parcel-by-parcel basis at the time a shoreline use/development is proposed. In the event of a mapping error or discrepancy, the text of this SMP and applicable authority of RCW 90.58 and WAC 173-26 shall prevail.

**Comment [SG19]:** Response to direction to address Ecology comment related to use and limitations of the shoreline jurisdiction maps in Exhibit A. Similar disclaimer put on Exhibit A maps.

## 1.13 Governing Principles

**Comment [SG20]:** Recommended add this section to further clarify intent and concepts central to SMP. They include reference to relationship to the Shoreline Inventory and Characterization Reports and Shoreline Restoration Plan. They also state important considerations related to regulation of private property. This addition does not change any other policy or regulation in the Draft SMP. Kitsap County has a similar section in their SMP.

The following governing principles, along with the policy statement of RCW 90.58.020 and the principles of WAC 173-26, establish the basic concepts of this Program:

1. Any inconsistencies between this Program and the Shoreline Management Act, Chapter 90.58, RCW, must be resolved in accordance with Act.

2. The policies of this Program may be achieved by diverse means, one of which is regulation. Other means authorized by the Act include, but are not limited to: implementation of voluntary public or private restoration of shoreline ecological functions; acquisition of lands and/or easements by purchase or gift for protecting shoreline ecological functions and/or increasing public access to the shoreline; and incentive programs.

3. Protecting the shoreline environment is an essential statewide policy goal. Permitted and/or exempt development, actions taken prior to the Act's adoption, and/or unregulated activities can impair shoreline ecological processes and functions. This Program protects shoreline ecological functions from such impairments in the following ways:

   a. By using a process that identifies, inventories, and ensures ~~meaningful~~ understanding of current and potential ecological functions provided by shorelines.

   b. By including policies and regulations that require mitigation of significant adverse impacts in a manner that ensures no net loss of shoreline ecological functions. The

**Comment [SG21]:** PC deleted word "meaningful" at 6-7-17 meeting

required mitigation shall include avoidance, minimization, and compensation of impacts in accordance with the policies and regulations for mitigation sequencing.

c. This Program and any future amendment hereto shall ensure no net loss of shoreline ecological functions and processes on a programmatic basis in accordance with the baseline functions documented in the Clallam County Shoreline Inventory and Characterization Reports.

d. By including policies and regulations that ensure that the cumulative effect of exempt development will not cause a net loss of shoreline ecological functions, and by fairly allocating the burden of addressing such impacts among development opportunities.

e. By including regulations and regulatory incentives designed to protect shoreline ecological functions, and restore impaired ecological functions where such opportunities have been identified, consistent with the Shoreline Restoration Plan.

4. Regulation of private property to implement Program goals, such as public access and protection of ecological functions and processes, must be consistent with all relevant constitutional and other legal limitations. These include, but are not limited to the protections afforded by the federal and state constitutions, and federal, state and local laws.

5. Regulatory or administrative actions contained herein must be implemented with consideration to the Public Trust Doctrine, regulatory takings, and other applicable legal principles as appropriate.

6. Regulatory provisions of this Program are limited to jurisdictional limits of this Program, whereas the planning functions of this Program may extend beyond the shoreline jurisdiction.

7. Consistent with the policy and use preferences of RCW 90.58.020, Clallam County should balance the ~~various~~ policy goals of this Program along with ~~giving~~ consideration to other relevant local, state, and federal regulatory and non-regulatory programs.

**Comment [SG22]:** PC deleted words "various" and "giving" to tighten language at 6-7-17 meeting.

## ~~1.13~~1.14 Severability

1. If any section or provision of this Program is declared invalid it shall not affect the validity of this Program as a whole.

# Chapter 2 Shoreline Environment Designations

***Note to Users**: Each segment (or reach) of the shoreline has an "environment designation" that reflects its existing ecological condition, land use pattern, zoning, the types of health and safety hazards that are present (flooding, landslides, for example), geology, and other characteristics. The environment designations, which are depicted on maps attached to this document, provide a framework for tailoring shoreline policies and regulations to different shoreline segments based on their characteristics. This chapter explains the designations including the criteria for determining where each environment designation is applied and the overall management polices of each designation.*

## 2.1 Basis of the Designations

1. All lands and waters within the jurisdiction of this Program have one or more of the following shoreline environment designations, depending on the configuration and location of the parcel:

    a. Aquatic

    b. Natural

    c. Resource Conservancy

    d. Shoreline Residential – Conservancy

    e. Shoreline Residential – Intensive

    f. Marine Waterfront

2. A shoreline environment designation has been assigned to each segment (or reach) of the shoreline in accordance with the purposes and policies of WAC 173-26-211(5), WAC 173-26-211(4)(c) and this chapter.

3. The designations were assigned based upon an analysis of the following:

    a. The ecological functions and processes that characterize the shoreline, the nature and type of hazards that are present, and the extent to which the shoreline functions and processes have been altered, as described in the March 2012 Shoreline Inventory and Characterization Report for WRIA 17-19 and the May 2012 Revised Draft WRIA 20 Inventory and Characterization Report; and

    b. Existing development patterns as evidenced by lot size, current land use, and current zoning designation; and

    c. Planned land use as indicated in the Clallam County Comprehensive Plan, Title 31 CCC, and on the Comprehensive Plan Land Use and Zoning Map.

## 2.2 Shoreline Environment Designation Map

1. The shoreline environment designations are depicted on a map attached to this Program (Exhibit A) and available through the County's website (http://www.clallam.net) or at the County Community Development Department.

2. The maps show the designation(s) assigned to each shoreline segment (or reach).

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3. The lateral extents of shoreline jurisdiction shown on the shoreline environmental designation maps (Exhibit A) are approximate. The mapped jurisdictional extent is based on the approximate location of the ordinary high water mark, the floodplain and wetlands that appear to be associated with the shoreline waterbodies. Although based on the best available information, the maps have inherent discrepancies. Therefore, interpretation of the maps requires professional judgment and site-specific information as to the actual physical location of floodplains, wetlands and other such features. The full lateral extent of shoreline jurisdictional limits shall be determined consistent with Section 1.8 of this Program. The designations assigned to each shoreline segment shall apply throughout the full jurisdictional limits, as determined at the time shoreline development is proposed.

4. The breaks between each designation can be determined using coordinates contained in the Geographic Information Systems database maintained by the County Community Development Department. In the event of a disagreement as to the exact location of a shoreline environment designation break shown on the map, the Administrator shall interpret the maps using the following guidelines:

   a. Boundaries indicated as approximately following lot, tract, or section lines shall be so construed.

   b. Boundaries indicated as approximately following roads, improved trails, or railways shall be respectively construed to follow their centerlines.

5. Changes to the shoreline environment designations assigned to each shoreline segment (or reach) must be approved through a Shoreline Master Program amendment. Any Master Program amendment shall be subject to the requirements of WAC 173-26-100 and shall require approval by the Washington Department of Ecology. This shall not limit prudent efforts by the Administrator to improve depiction of the lateral extent of shoreline jurisdiction based on new information or minor mapping adjustments or to address areas where the shoreline may have moved due to natural process such as erosion and accretion.

6. Any shoreline segment within shoreline jurisdiction that is not mapped and/or not designated shall be designated Shoreline Residential – Conservancy or Resource Conservancy, determined by the Administrator consistent with designation criteria of this Program, unless the Administrator determines that the undesignated area is due to inherent discrepancies in the mapping of dynamic shorelines which are constantly accreting and eroding due to natural process. In such cases, the Administrator shall apply the appropriate designation based on the criteria defined in Sections 2.3 through 2.8 of this Program and the mapping of the surrounding areas. Changes to designations that are unrelated to localized mapping discrepancies shall be addressed through a formal Master Program amendment.

## 2.3 Aquatic Designation (A)

1. Criteria: The Aquatic designation is assigned to all shoreline waters as described in Section 1.6 of this Program waterward of the ordinary high water mark together with their underlying lands and their water column (Figure 2-1). For purposes of Program administration, the marine waters shall be classified Aquatic – Straits (for the Strait of Juan de Fuca) and Aquatic – Pacific Ocean (for the Pacific Ocean), including harbors, bays, estuaries and inlets.

2. Purpose: The purpose of the Aquatic designation is to protect and restore the quality and health of marine and fresh waters and the species that depend upon them, while allowing for

~~limited modification for~~ water-dependent uses and public access when located in appropriate areas and developed to avoid a net loss of shoreline functions.

3. Management Policies: The Aquatic environment should be managed consistent with the following policies:

   a. Except as otherwise noted, the permitted, conditional and prohibited shoreline development, uses and modifications in the Aquatic environment are based on the adjacent shoreline environmental designation landward of the ordinary high water mark as shown in Tables 2-1 and 2-2, and as further prescribed by the policies and regulations of this Program.

   b. Permitted, conditional and prohibited shoreline development, uses and modifications in the Aquatic-Pacific Ocean environment are shown in Tables 2-1 and 2-2, and as further prescribed by the policies and regulations of this Program. Shorelands landward of the ordinary high water mark of the Aquatic -Pacific Ocean Environment are located within the Olympic National Park and Tribal Lands and are not subject to this Program.

   c. New structures should be allowed in- or over-water only when necessary for approved water-dependent uses, public access, or ecological restoration.

   d. The size of new in-/over-water structures should be limited to the minimum necessary to support the structure's intended water-dependent use.

   e. To reduce the cumulative impacts on shoreline functions and processes, new in-/ over-water structures should serve more than one approved use where feasible.

   f. New in-/over water structures should be located, oriented and designed to minimize interference with surface navigation and to allow for the safe, unobstructed movement of fish and wildlife species that depend on the waters for migration, rearing or spawning.

   g. New in-/over water structures should be located, oriented and designed to minimize impacts on water quality, sediment delivery and transport, productivity of aquatic vegetation, and shellfish productivity.

   h. In- or over-water uses that adversely impact the functions of critical saltwater and freshwater habitats should not be allowed unless their impacts are mitigated according to the sequence described in Section 8.3 as necessary to assure no net loss of ecological functions.

   i. New uses and development in marine waters should be evaluated for consistency with Chapter 43.372 RCW, Marine Waters Planning and Management, and Chapter 43.143 RCW, Ocean Resources Management Act.

4. Areas Designated. The general location and approximate extent of the Aquatic designation is shown on the Shoreline Environmental Designation Maps in Exhibit A of this Program.

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**Figure 2-1. Juxtaposition of the Aquatic and upland (shoreland) designations on a typical waterfront parcel (the location of the OHWM needs to be determined in the field)**

## 2.4 Natural Designation (N)

1. Criteria: Figure 2-2 shows sample photographs representing typical river and marine shorelines that are designated Natural. The Natural designation is applied to shoreline areas landward of the ordinary high water mark located outside of County forest lands of long-term commercial significance designated pursuant to RCW 36.70A.170 (see also Section 2.5, Resource Conservancy Designation). These shorelines are characterized as also having a preponderance of the following characteristics:

    a. Densely forested (closed-canopy) riparian and/or floodplain habitat extending throughout the shoreline environment;

    b. Shorelines and adjacent upland areas are largely free of development and modification; existing residential development, if any, is scattered at densities generally lower than one dwelling unit per 20 acres;

    c. Mostly undeveloped and unaltered estuarine wetland or marine spit habitat; or

    d. Mostly encumbered by erosion and/or landslide hazards, including areas of feeder bluff and channel migration;

    e. High priority river restoration areas, limited to:

        i. Areas of the Elwha River downstream of US 101 being managed as part of the Elwha River restoration project; and

ii. Lands of the lower Dungeness River, below River Mile 2.75, that are being actively restored as part of County-approved and/or managed restoration project.

2. Purpose: The purpose of the Natural designation is to maintain shorelines that are mostly undisturbed and undeveloped in a relatively undisturbed and undeveloped condition. These shorelines perform important ecological functions and processes that could be lost if development were to occur.

3. Management Policies: The Natural environment should be managed consistent with the following policies:

   a. Shoreline permitted, conditional and prohibited uses, developments, and modifications are to be based on Tables 2-1 and 2-2, and as further prescribed by the policies and regulations of this Program for specific shoreline uses, developments and modification activities. All shoreline uses must also be a permitted use under the Clallam County Zoning Code, Title 33 CCC.

   b. New uses, developments, and shoreline modification activities are subject to the prescribed policies and regulations of this Program addressing shoreline buffer and vegetation conservation, critical area protection, clearing, grading and filling, water quality and water management, public access, and archaeological, historical and cultural resources.

   c. Ensure retention of the existing natural character of shoreline reaches in the Natural environment as part of the evaluation and permitting of new uses, developments and shoreline modification activities.

   d. Any use that would substantially degrade or result in a net loss of ecological functions or natural character of the shoreline area should not be allowed.

   e. New development or significant vegetation removal that would reduce the capability of vegetation to perform normal shoreline ecological functions should not be allowed.

   f. Identify and pursue opportunities to restore and enhance shoreline functions in these overall ecologically intact shoreline reaches.

   g. Except as otherwise permitted by this Program, new uses and developments in the Natural environment should be limited to low intensity land uses and implement low impact development site design techniques and practices.

   h. Commercial, industrial, mixed use, multi-family residential and other types of intensive development and nonwater-oriented recreation should be prohibited within the Natural environment.

   i. Property owners should be made aware these areas may be subject to hazards such as storm surges, flooding, landslides, erosion caused by wind and waves, and/or channel migration even where there are bulkheads, levees, or other flood/erosion protection structures in place.

   j. New development should be located and designed to maintain vegetation coverage and functionality. Clearing of vegetation for views should be minimized.

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k. New single-family residential development ~~and low intensity water-oriented recreational uses~~ may be allowed as a conditional use in the Natural environment if the density and intensity of such use is limited as necessary to maintain the ecological functions and natural character of the shoreline.

l. Scientific, historical, cultural, and educational ~~research~~ uses may be allowed provided no significant ecological impact on the area will result.

m. New roads, utility corridors, and parking areas that can be located outside of the Natural environment should not be allowed. Maintenance of existing roads and infrastructure should be allowed while minimizing and mitigating impacts to shoreline ecological functions.

n. New structural shoreline armoring should be prohibited.

o. Subdivision to create additional shoreline residential lots should be prohibited.

p. Low intensity, water-oriented recreational uses on public lands may be allowed as a permitted use in the Natural environment if the density and intensity of such use is limited as necessary to maintain the ecological functions and natural character of the shoreline.

4. Areas Designated. The general location and approximate extent of the Natural environment is shown on the Shoreline Environmental Designation Maps in Exhibit A of this Program.

5. Undesignated Natural Shorelines. Clallam County contains hundreds of miles of lake, river and ocean shoreline areas that are not subject to this Program due to their location within Olympic National Park (RCW 37.08.210) that are characterized by largely intact ecological functions and protected as natural systems with minimal human alteration. These shorelines include, but are not limited to:

   a. Lake Crescent and Lake Ozette;

   b. Pacific Coast (some areas Tribal);

   c. Upper reaches and tributaries of the Dungeness River, Morse Creek, Elwha River, Little River, and Sol Duc River subject to this Program; and

   d. Lower coastal reaches of the Quillayute River, Ozette River and Sooes River draining into the Pacific Ocean.

   These national park shorelines provide significant opportunities for both County residents and Park visitors to experience and enjoy the physical and aesthetic qualities of natural freshwater and marine shorelines. In addition, shorelines in the Park are not isolated from shorelines subject to this Program due to hydrologic connections, fish and wildlife corridor connections, and public recreational corridor connections that do not stop at the Park boundary.

## 2.5 Resource Conservancy Designation (ReC)

1. Criteria: Figure 2-2 shows sample photographs representing typical river and marine shorelines that are designated Resource Conservancy. The Resource Conservancy designation is applied to shoreline areas landward of the ordinary high water mark located within or bordering forest lands of long-term commercial significance designated under the Clallam County Comprehensive Plan, Title 31 CCC, pursuant to RCW 36.70A.170, and zoned Commercial Forest(CF), Commercial Forest/Mixed Use 20 (CFM20), and Commercial

Forest/Mixed Use 5 (CFM5) on the Clallam County Comprehensive Plan Land Use and Zoning Maps. These shorelines are characterized as also having a preponderance of the following characteristics:

a. Typically associated with large, contiguous blocks of forest lands and natural areas;

b. Dispersed, scattered and/or relatively isolated residential, recreational, or other developments;

c. High percentages of closed-canopy forest, but may include areas of recent timber harvests and related forest practices;

d. Minimal constraints to overbank flooding and/or channel migration; or

e. Forest fragmentation or conversion of forest cover to other land cover types is minimal.

2. Purpose: The purpose of the Resource Conservancy designation is to maintain resource lands in a predominantly forested condition for sustained timber production, habitat conservation, wilderness and/or outdoor recreational use.

3. Management Policies: The Resource Conservancy environment should be managed consistent with the following policies:

a. Shoreline permitted, conditional and prohibited uses, developments, and modifications are to be based on Tables 2-1 and 2-2, and as further prescribed by the policies and regulations of this Program for specific shoreline uses, developments and modification activities. All shoreline uses must also be a permitted use under the Clallam County Zoning Code, Title 33 CCC.

b. New uses, developments, and shoreline modification activities are subject to the prescribed policies and regulations of this Program addressing shoreline buffer and vegetation conservation, critical area protection, clearing, grading and filling, water quality and water management, public access, and archaeological, historical and cultural resources.

c. Riparian forest cover should be protected and maintained through effective use of Forest Practices Act harvest rules, shoreline buffer standards, and voluntary conservation practices.

d. Uses should be limited to those which sustain the shoreline reach physical and biological resources and uses of a nonpermanent nature (e.g., forest practices) that do not substantially degrade ecological functions or the predominant forested and natural character of the shoreline reach.

e. New uses or developments that convert forest lands should be isolated and the intensity and density of such use limited as necessary to maintain ecological functions and the predominant forested and natural character of the shoreline reach.

f. Permitted new uses or developments should not result in a land use pattern that would support reclassification to a more intense shoreline environment classification.

g. New commercial and industrial water-oriented resource- based uses or other low intensity, water-oriented uses may be allowed as a conditional use if the density and intensity of

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such use is limited as necessary to maintain the ecological functions of the shoreline and retain the predominant forested and natural character of the shoreline reach.

h. Property owners should be made aware these areas may be subject to hazards such as storm surges, flooding, landslides, erosion caused by wind and waves, and/or channel migration even where there are bulkheads, levees, or other flood/erosion protection structures in place.

i. New development should be located and designed to maintain vegetation coverage and functionality. Clearing of vegetation for views should be minimized.

j. Significant vegetation removal of a permanent nature that would reduce the capability of vegetation to perform normal shoreline ecological functions should not be allowed.

k. New uses and development should implement low impact development site design techniques and practices.

l. Mining is a unique use as a result of its inherent linkage to geology. Therefore, mining and related activities may be an appropriate use within the Resource Conservancy environment when conducted in a manner consistent with the policies and regulations of this Program.

m. New single-family residences and low intensity, water oriented recreational uses may be allowed if the density and intensity of such use is limited as necessary to maintain the ecological functions and predominantly forested and natural character of the shoreline reach.

n. If forest lands are converted to another use, there should not be significant adverse impacts to shoreline functions or processes.

o. Land uses incompatible with timber harvest, habitat conservation, and/or outdoor recreational use should be discouraged or prohibited.

p. New structural shoreline armoring should be prohibited.

q. New roads, utility corridors, and parking areas that can be located outside of the Resource Conservancy environment should not be allowed. Maintenance of existing roads and infrastructure should be allowed while minimizing and mitigating impacts to shoreline ecological functions.

r. Proposed Master Planned Resorts pursuant to Chapter 33.25 CCC and RCW 36.70A.360, and any new divisions of land for residential or other development may be allowed as a conditional use where adequate measures are taken to maintain the ecological functions and protect the predominant forested and natural character of the shoreline reach.

4. Areas Designated. The general location and approximate extent of the Resource Conservancy environment is shown on the Shoreline Environmental Designation Maps in Exhibit A of this Program.

## 2.6 Shoreline Residential – Conservancy Designation (SRC)

1. Criteria: Figure 2-2 shows sample photographs representing typical river and marine shorelines that are designated Shoreline Residential – Conservancy. The Shoreline Residential

DRAFT

– Conservancy designation is applied to shoreline areas waterward of the ordinary high water mark in areas designated as rural lands under the County's Comprehensive Land Use Plan and Zoning Map that are generally characterized by adjacent low intensity and density land uses and where ecological functions are not substantially degraded. These areas also include some limited areas of unincorporated Urban Growth Areas that are similar in character. These shorelines generally support a mixture of existing residential uses with densities generally greater than one unit per acre and less than one unit per twenty (20) acres, including some platted lands with moderate potential for future development because of zoning, lot size, and location relative to infrastructure and amenities. These shorelines are characterized as also having a preponderance of the following characteristics:

a. Large patches of dense or contiguous riparian forest, presence of priority habitats or species, and/or extensive wetlands;

b. Minimal shoreline modifications, including a general absence of levees, hardened stream banks, or other structural shoreline armoring;

c. Partially encumbered by landslide, flooding, or channel migration hazards but with sufficient developable area outside of the mapped hazard zone to support rural residential uses;

d. Less intensively developed with respect to existing shoreline setback width, shoreline hardening and/or other alteration, and/or riparian clearing compared to Shoreline Residential – Intensive shorelines;

e. Public or private commercial forest-zoned (CF or CFM) parcels that are adjacent to, or surrounded by, non-commercial forest zoned-parcels which meet criteria 1a through 1d of this section (2.6); or

f. Public lands providing moderate levels of existing shoreline access where occurring adjacent to rural lands which meet criteria 1a through 1e of this section (2.6).

2. Purpose: The purpose of the Shoreline Residential – Conservancy designation is to protect marine and freshwater shorelines that have large patches of continuous forest cover and/or minimal evidence of ecological degradation, while allowing low-intensity uses that do not cause a net loss of shoreline functions.

3. Management Policies: The Shoreline Residential – Conservancy environment should be managed consistent with the following policies:

a. Shoreline permitted, conditional and prohibited uses, developments, and modifications are to be based on Tables 2-1 and 2-2, and as further prescribed by the policies and regulations of this Program for specific shoreline uses, developments and modification activities. All shoreline uses must also be a permitted use under the Clallam County Zoning Code, Title 33 CCC.

b. New uses, developments, and shoreline modification activities are subject to the prescribed policies and regulations of this Program addressing shoreline buffer and vegetation conservation, critical area protection, clearing, grading and filling, water quality and water management, public access, and archaeological, historical and cultural resources.

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c. Uses should be limited to those which sustain the shoreline area's physical and biological resources, including vegetation coverage.

d. Water-oriented commercial and industrial uses may be allowed as a conditional use if the density and intensity of such use is limited as necessary to maintain the ecological functions of the shoreline and retain the rural and natural character of the shoreline reach.

e. Water-oriented ~~dependent and water-enjoyment~~ recreation facilities that do not deplete the resource over time, such as boating facilities, angling, hunting, wildlife viewing trails, and swimming beaches are preferred uses, provided significant adverse impacts to the shorelines are mitigated.

f. Mining is a unique use as a result of its inherent linkage to geology. Therefore, mining and related activities may be an appropriate use within the Shoreline Residential – Conservancy environment when conducted in a manner consistent with the policies and regulations of this Program.

g. Intensive or high-density development in these areas could lead to a loss of ecological functions and should be discouraged or prohibited.

h. Property owners should be made aware these areas may be subject to hazards such as storm surges, flooding, landslides, erosion caused by wind and waves, and/or channel migration even where there are bulkheads, levees, or other flood/erosion protection structures in place.

i. Shoreline Residential – Conservancy shorelines may be suitable for trails, viewpoints, non-motorized watercraft launches, or other types of low-impact public access and water-oriented recreational development as long as such uses are sited to avoid and minimize impacts on shoreline functions or private property rights.

j. Construction of new structural shoreline stabilization and flood control structures should only be allowed through a conditional use permit where there is a documented need to protect an existing structure or where restoration of ecological functions is the primary purpose. New development should be designed and located to preclude the need for new structural shoreline stabilization and flood control structures.

4. Areas Designated. The general location and approximate extent of the Shoreline Residential-Conservancy environment is shown on the Shoreline Environmental Designation Maps in Exhibit A of this Program.

## 2.7 Shoreline Residential – Intensive Designation (SRI)

1. Criteria: Figure 2-2 shows sample photographs representing typical lake, river and marine shorelines that are designated Shoreline Residential – Intensive. The Shoreline Residential – Intensive designation is applied to shoreline areas landward of the ordinary high water mark that are characterized as having moderate- to high-density shoreline residential use. These shorelines are characterized as also having a preponderance of the following characteristics:

   a. Moderately to mostly developed with existing residential use occurring on relatively small rural residential lots, or with recreational and transportation uses;

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b. Native forest cover has been cleared or is highly fragmented with areas of minimal or no native riparian vegetation, especially between developed areas and the ordinary high water mark;

c. Shoreline is partially or entirely armored with structural armoring such as bulkheads because of exposure to strong wind and wave action; or

d. Generally associated with low bank areas where existing development and supporting infrastructure is in close proximity to the water and not separated from the water by steep slopes (e.g., marine bluffs) and other significant natural features.

2. Purpose: The purpose of the Shoreline Residential – Intensive designation is to accommodate moderate- to high-density shoreline residential development in areas that are zoned and platted for these uses, while ensuring infill and new development occur in a manner that avoids and minimizes adverse impacts on shoreline functions.

3. Management Policies: The Shoreline Residential – Intensive environment should be managed consistent with the following policies:

a. Shoreline permitted, conditional and prohibited uses, developments, and modifications are to be based on Tables 2-1 and 2-2, and as further prescribed by the policies and regulations of this Program for specific shoreline uses, developments and modification activities. All shoreline uses must also be a permitted use under the Clallam County Zoning Code, Title 33 CCC.

b. New uses, developments, and shoreline modification activities are subject to the prescribed policies and regulations of this Program addressing shoreline buffer and vegetation conservation, critical area protection, clearing, grading and filling, water quality and water management, public access, and archaeological, historical and cultural resources.

c. Water-oriented commercial may be allowed as a conditional use if the density and intensity of such use is limited as necessary to maintain the ecological functions of the shoreline and retain the rural residential character of the shoreline reach.

d. The scale and density of new uses and development should be compatible with, and protect or enhance, the existing residential character of the area while sustaining shoreline ecological functions and processes.

e. Construction of new structural shoreline stabilization and flood control structures should only be allowed through a conditional use permit where there is a documented need to protect an existing structure or where restoration of ecological functions is the primary purpose. New development should be designed and located to preclude the need for new structural shoreline stabilization and flood control structures.

f. Property owners should be made aware these areas may be subject to hazards such as storm surges, flooding, erosion caused by wind and waves, and/or channel migration even where there are bulkheads, levees, or other flood/erosion protection structures in place.

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

DRAFT

h. These areas should generally not be high priorities for new public access because of the potential for conflicts with existing residential uses.

4. Areas Designated. The general location and approximate extent of the Shoreline Residential-Intensive environment is shown on the Shoreline Environmental Designation Maps in Exhibit A of this Program.

## 2.8 Marine Waterfront Designation (MWf)

1. Criteria: Figure 2-2 shows a sample photograph representing a typical marine shoreline that is designated Marine Waterfront. The Marine Waterfront designation is applied to shoreline areas landward of the ordinary high water mark found along portions of the Clallam Bay-Sekiu Urban Growth Area marine waterfront and at existing isolated, rural and resource land locations characterized as moderately to mostly developed with existing intensive, marine water-oriented commercial or recreational uses or transportation uses. These shorelines are characterized as also having a preponderance of the following characteristics:

   a. Native forest cover has been cleared or is highly fragmented with minimal or no native riparian vegetation;

   b. Shoreline is modified with over-water and in-water structures, including breakwaters, piers, and/or marinas supporting water-oriented uses; or

   c. Shoreline is partially or entirely armored with structural armoring such as bulkheads.

2. Purpose: The purpose of the Marine Waterfront designation is to accommodate high-intensity marine water-oriented commercial, recreational and transportation uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

3. Management Policies: The Marine Waterfront environment should be managed consistent with the following policies:

   a. Shoreline permitted, conditional and prohibited uses, developments, and modifications are to be based on Tables 2-1 and 2-2, and as further prescribed by the policies and regulations of this Program for specific shoreline uses, developments and modification activities. All shoreline uses must also be a permitted use under the Clallam County Zoning Code, Title 33 CCC.

   b. New uses, developments, and shoreline modification activities are subject to the prescribed policies and regulations of this Program addressing shoreline buffer and vegetation conservation, critical area protection, clearing, grading and filling, water quality and water management, public access, and archaeological, historical and cultural resources.

   c. The scale, intensity, and density of new uses and development should be compatible with, and protect or enhance, the existing recreational and/or mixed use character of the area while sustaining shoreline ecological functions and processes.

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

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e. Where feasible, proposals for new development should include environmental cleanup and/or restoration of past shoreline damage or degradation.

f. Where feasible, proposals for new development should provide visual and physical public access to the water.

g. Property owners should be made aware these areas may be subject to hazards such as storm surges, flooding, erosion caused by wind and waves, and/or channel migration even where there are bulkheads, levees, or other flood/erosion protection structures in place.

h. Construction of new structural shoreline stabilization and flood control structures should only be allowed where there is a documented need to protect an existing structure or where restoration of ecological functions is the primary purpose. New development should be designed and located to preclude the need for new structural shoreline stabilization and flood control structures.

4. Areas Designated. The general location and approximate extent of the Marine Waterfront environment is shown on the Shoreline Environmental Designation Maps in Exhibit A of this Program.

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**Figure 2-2. Typical Examples of Shoreline Environment Designations on lakes, rivers and marine shores in Clallam County**

**Shoreline Residential - Conservancy *(Sequim Bay)***

**Shoreline Residential – Conservancy *(Tyler View Road)***

**Resource Conservancy *(Hoko River)***

**Natural *(Elwha River)***

**Shoreline Residential - Intensive *(Lake Sutherland)***

**Shoreline Residential - Conservancy *(Dungeness River)***

***Resource Conservancy (Pillar Pt.)***

***Natural (Dungeness Bay)***

**Shoreline Residential - Intensive *(Vista Drive, Hoko River)***

**Marine Waterfront *(Clallam Bay)***

**Resource Conservancy *(Calawah & Bogachiel Confluence)***

**Shoreline Residential - Conservancy *(Bogachiel & SolDuc Confluence into the Quillayute)***

## 2.9 Allowed Uses in Each Shoreline Environment Designation

Each new shoreline environment designation shall be managed in accordance with its designated purpose as described in Sections 2.3 to 2.8 of this chapter and according to the other applicable policies and regulations of this Program. Table 2-1 shows the permitted uses, conditional uses, and prohibited uses for each environment designation specific to residential uses and developments and modifications typically accessory to residential uses and developments. Table 2-2 shows the permitted uses, conditional uses, and prohibited uses for each environment designation for all non-residential uses and developments. Additional requirements governing each use are described in Chapters 3 through 9 of this Program. The permit criteria (for exempt shoreline uses, substantial development, conditional uses, and prohibited uses) and administrative standards are described in Chapter 10. All shoreline uses must also be a permitted use under the Clallam County Zoning Code, Title 33 CCC.

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**Table 2-1. Residential Development: Permitted Uses, Conditional Uses, and Prohibited Uses for Each Shoreline Environment Designation**

**P** = Permitted, if it complies with the standards in Chapter 3 and Chapter 4 (via a Shoreline Substantial Development Permit or a Statement of Exemption if it is exempt per WAC 173-27-040) ; **X** = Prohibited; **C** = Conditional Use. See permit criteria in Chapter 10.

| Use/Development/ Modification | Aquatic-Straits[1] | Aquatic-Pacific Ocean[1] | Marine Waterfront | Shoreline Residential - Intensive | Shoreline Residential - Conservancy | Resource Conservancy | Natural |
|---|---|---|---|---|---|---|---|
| **Residential Use/Development** (see Section 3.8) | | | | | | | |
| **Single-family Residences** | X | X | P[2] | P[2] | P[2] | P[2] | C |
| **Overwater Residences** | X | X | X | X | X | X | X |
| **Floating Homes** | X | X | X | X | X | X | X |
| **Multi-family Residences** | X | X | C | C | X | X | X |
| **Accessory Dwelling Units** | X | X | P | P | P | P/X[4] | X |
| **Land Division / Subdivision** | X | X | P[3] | P[3] | P[3] | C[3] | X |
| **Master Plan Resort** | X | X | P | P | C | C | X |
| **Modifications Accessory to Residential Development** (see Sections 4.1, 4.2, and 4.6) | | | | | | | |
| **Shoreline stabilization** | | | | | | | |
| Structural shoreline stabilization | **See Note 1** | X | P[2,5] | C[5] | C[5] | C[5] | X |
| Bioengineered shoreline stabilization | **See Note 1** | C | P[2] | P[2] | P[2] | P[2] | C |
| **Private beach access structures** | **See Note 1** | C | P | P | C | C | X |
| **Mooring buoys** | **See Note 1** | C | P | P | P | P | C |
| **Private float plane moorage** | **See Note 1** | C | C | C | C | X | X |
| **Docks, piers, floats, lifts (residential)** | **See Note 1** | C | P[2] | P[2] | P[2] | C | X |
| **Clearing, grading and filling** | X | X | Only allowed in conjunction with an approved shoreline use or development; See Section 5.2 of this Program | | | | |

1. The requirements for the Aquatic designation for the marine waters of the Strait of Juan de Fuca and all lakes and rivers that drain toward the Strait shall be linked to the adjacent, upland ~~Shoreland~~shoreline environmental designation. Thus if the use/development is prohibited in the Shoreland area it shall be prohibited in the Aquatic area. The County does not have jurisdiction for the shorelands along the Pacific, so the requirements for the Aquatic designation on the Pacific are not tied to the adjacent shoreland designation.
2. Construction that meets criteria under WAC 173-27-040 (2) is exempt from a substantial development permit but requires a statement of exemption in accordance with Section 10.2.5 of compliance with this Program.
3. Land divisions must also comply with standards under Section 3.8.4 and Section 7.3.9.
4. Detached, accessory dwelling units (ADU) are a prohibited in Resource Conservancy designation.
5. New or expanded structural shoreline stabilization along feeder bluff, feeder bluff-talus and exceptional feeder bluffs is prohibited (Section 4.6.4.2).

**Comment [SG23]:** Revision recommended for clarification and for consistency with language in footnote 1 of Table 2-2.

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**Table 2-2. Non-Residential Uses: Permitted Uses, Conditional Uses, and Prohibited Uses for Each Shoreline Environment Designation**

**P** = Permitted, if it complies with the standards in Chapter 3 and Chapter 4 (via a Shoreline Substantial Development Permit or a Statement of Exemption if it is exempt per WAC 173-27-040; **X** = Prohibited; **C** = Conditional Use. See permit criteria in Chapter 10.

| Use/Development/ Modification | Aquatic – Straits[1] | Aquatic – Pacific Ocean[1] | Marine Waterfront | Shoreline Residential - Intensive | Shoreline Residential - Conservancy | Resource Conservancy | Natural |
|---|---|---|---|---|---|---|---|
| **Agriculture**[2] (see Section 3.1) | X | X | X | X | P | P | X |
| **Aquaculture:** (see Section 3.2) | | | | | | | |
| Aquaculture activities other than geoduck or finfish | P | C | P | P | P | P | C |
| Geoduck | C | C | C | C | C | C | C |
| Net pens/Finfish | C | C | C | C | C | C | C |
| **Beach access structures - Public** (see Section 4.1) | see note 1 | C | P | P | P | C | ~~X~~C |
| **Boating facilities:** (see Section 4.2) | | | | | | | |
| Public boat launches | see note 1 | ~~C~~P | P | P | ~~C~~P | ~~C~~P | P~~C~~ |
| Public docks, piers, floats, lifts | See note 1 | P | P | P | P | P | P |
| Docks, piers, floats, lifts – non-residential | see note 1 | C | P | P | C | C | C |
| Float plane moorage | see note 1 | C | P | C | X | X | X |
| Marinas | see note 1 | C | P | C | C | X | X |
| Mooring buoys | see note 1 | C | P | P | P | P | C |
| Public mooring buoys | See note 1 | P | P | P | P | P | P |
| **Clearing, grading and filling** | X | X | Only allowed in conjunction with an approved shoreline use or development; see Section 5.2 of this Program | | | | |
| **Commercial / Industrial development:** (see Section 3.3) | | | | | | | |
| Water-dependent | see note 1 | C | P | C | C | C | X |
| Water-related | see note 1 | C | P | C | C | C | X |
| Water-enjoyment | see note 1 | C | P | C | C | C | X |
| Non-water-oriented[3] | see note 1 | X | C | C | C | C | X |

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**P** = Permitted, if it complies with the standards in Chapter 3 and Chapter 4 (via a Shoreline Substantial Development Permit or a Statement of Exemption if it is exempt per WAC 173-27-040; **X** = Prohibited; **C** = Conditional Use. See permit criteria in Chapter 10.

| Use/Development/ Modification | Aquatic – Straits[1] | Aquatic – Pacific Ocean[1] | Marine Waterfront | Shoreline Residential - Intensive | Shoreline Residential - Conservancy | Resource Conservancy | Natural |
|---|---|---|---|---|---|---|---|
| **Dredging and dredge material disposal** (see Section 4.3) | see notes 1 & 2 | C[4] | C | C | C | C | X |
| **Flood control structures** (see Section 4.4) | see note 1 | C | C | C | C | C | X[5] |
| **Forest practices**[6] (see Section 3.4.) | X | X | C | P | P | P | C |
| **In-stream structures:** (see Section 4.5) | | | | | | | |
| Power generation structures | see note 1 | C | P | P | C | C | X |
| Transportation structures (e.g., culverts) | see note 1 | C | P | P | C | C | X |
| Irrigation structures | see note 1 | C | P | P | C | C | X |
| Utility structures | see note 1 | C | P | P | C | C | X |
| Water supply structures | see note 1 | C | P | P | C | C | X |
| **Parking:** (see Section 3.6) | | | | | | | |
| As a primary use | X | X | X | X | X | X | X |
| Accessory to a permitted use | X | X | P | P | C | C | X |
| Public disabled parking | X | X | P | P | P | C | C |
| **Mining** (see Section 3.5) | see note 1 | X | C/X[8] | C/X[8] | C/X[8] | C/X[8] | X |
| **Recreational development:** (see Section 3.7) | see note 1 | | | | | | |
| Public Trails | See note 1 | P | P | P | P | P | P |
| Public water-oriented (e.g., marine trail campsites) | See note 1 | P | P | P | P | P | P |
| Other Water-oriented ~~(trails, campgrounds)~~ | see note 1 | C | P | P | P | P | C |
| Non-water-oriented (golf courses, sports fields) | X | X | C | C | X | X | X |
| Underwater parks | C | P | C | C | C | C | C |

**Comment [SG24]:** Addresses direction to allow for disabled parking in Natural shorelines to address State Park concerns. Many of state park shorelines in County (e.g., Miller Peninsula) are proposed as Natural.

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**P** = Permitted, if it complies with the standards in Chapter 3 and Chapter 4 (via a Shoreline Substantial Development Permit or a Statement of Exemption if it is exempt per WAC 173-27-040; **X** = Prohibited; **C** = Conditional Use. See permit criteria in Chapter 10.

| Use/Development/ Modification | Aquatic – Straits[1] | Aquatic – Pacific Ocean[1] | Marine Waterfront | Shoreline Residential - Intensive | Shoreline Residential - Conservancy | Resource Conservancy | Natural |
|---|---|---|---|---|---|---|---|
| **Restoration and Enhancement** (see Section 3.9)[7] | P | P | P | P | P | P | P |
| **Shoreline stabilization:** (see Section 4.6) | | | | | | | |
| Structural shoreline stabilization (except gabions, which are prohibited) | see note 1 | C[8] | P[8] | P[8] | C[8] | C[8] | X |
| Bioengineered shoreline stabilization | see note 1 | C | P | P | P | P | C |
| **Signs** (see Section 3.10) | X[8] | X[8] | P | P | P | P | X[8] |
| **Transportation facilities** (see Section 3.11) | see note 1 | C | P | P | P | P | C |
| **Utilities** (see Section 3.12) | | | | | | | |
| Dams and hydroelectric generating facilities | C | C | C | C | C | C | X |
| Off-shore wind/tidal energy systems | C | C | C | C | C | C | X |
| Municipal sewage systems | C | X | P | C | C | C | X |
| Solid waste facilities | see note 1 | X | C | C | C | C | X |
| Essential public facilities | see note 1 | C | P | P | P | P | X |
| Oil Gas and Natural Gas Transmission | see note 1 | C | C | C | C | C | C |
| Electrical Energy and Communications | see note 1 | C | C | C | C | C | C |
| Stormwater facilities | see note 1 | X | P | P | P | P | X |
| Public water systems | see note 1 | C | P | P | C | C | C |
| **Unclassified uses** | C | C | C | C | C | C | C |

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**P** = Permitted, if it complies with the standards in Chapter 3 and Chapter 4 (via a Shoreline Substantial Development Permit or a Statement of Exemption if it is exempt per WAC 173-27-040; **X** = Prohibited; **C** = Conditional Use. See permit criteria in Chapter 10.

| Use/Development/ Modification | Aquatic – Straits[1] | Aquatic – Pacific Ocean[1] | Marine Waterfront | Shoreline Residential - Intensive | Shoreline Residential - Conservancy | Resource Conservancy | Natural |
|---|---|---|---|---|---|---|---|

1. The requirements for the Aquatic designation on the marine waters of the Strait of Juan de Fuca and all lakes and rivers that drain toward the Strait shall be linked to the adjacent, upland shoreline environmental designation. Thus if the use/development is prohibited in the Shoreland area it shall be prohibited in the Aquatic area. The County does not have jurisdiction for the shorelands along the Pacific, so the requirements for the Aquatic designation on the Pacific are not tied to the adjacent shoreland designation.
2. Does not modify or limit existing agricultural uses on existing agricultural lands per WAC 173-26-241(3)(a)(ii)
3. Non-water-oriented industrial and commercial use/development may be allowed as part of a mixed use if consistent with the criteria in Section 3.3 of this Program.
4. Maintenance dredging in areas that have lawfully dredged in the past may be permitted in accordance with Section 4.3.
5. May be permitted when done in conjunction with a project whose primary purpose is ecological restoration.
6. Pertains to non timber harvest activities only. Timber harvest is regulated by the Forest Practices Act (RCW 76.09)
7. Some restoration projects may be exempt from a substantial development permit if they meet the criteria in RCW 77.55 and RCW 90.58.147.
8. Subject to exceptions as noted in this Program. See specific use section for details.

**Comment [SG25]:** This was a change by the Planning Commission (PC). The change was in the 2017 Revised Draft SMP provided previously to the PC. However, it did show as a red-line change.

# Chapter 3 Policies and Regulations for Specific Shoreline Uses and Developments

***Note to Users**: This section describes the policies and regulations that apply to specific shoreline uses and developments as well as specific shoreline modifications. The regulations that apply to each parcel may vary depending on the Shoreline Environment Designation assigned to that parcel (see Chapter 2 for information on designations). A single development proposal may involve multiple uses and/or modifications and therefore may be subject to more than one set of policies and regulations. An example is a residential use that also involves construction of a private dock (a modification). The policies and regulations in this section are applied in addition to the general SMP policies and regulations. All of the uses described here are also subject to the County's zoning code requirements in Clallam County Code Title 33 as well as other local, state and federal regulations as indicated in Section 1.11.*

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## 3.1 Agriculture

### 3.1.0 Applicability

New agricultural uses and developments, as defined in Chapter 11, on land not currently in agricultural use shall be consistent with the following policies and shall conform to the following regulations.

### 3.1.1 Policies

1. Agriculture is important to the long-term economic viability of Clallam County. Consistent with WAC 173-26-241 (3) (a) (ii), this Program should not modify or limit ongoing agricultural activities occurring on agricultural lands.

2. New agricultural uses and development proposed on land not currently in agricultural use, and conversion of agricultural lands to non-agricultural uses, should conform to this Program.

3. New agricultural use and development should be managed to:

   a. Prevent livestock intrusion into the water;

   b. Control runoff;

   c. Prevent water quality contamination caused by nutrients and noxious chemicals;

   d. Minimize clearing of riparian areas;

   e. Prevent bank erosion; and

   f. Assure no net loss of ecological functions and avoid significant adverse impacts on other shoreline functions and values.

4. New agricultural use and development should preserve and maintain native vegetation between tilled lands and adjacent water bodies.

5. Conversion of agricultural uses to other uses should comply with all policies and regulations for non-agricultural uses.

6. Existing and new agricultural uses are encouraged to use USDA Natural Resource Conservation Service and/or Clallam Conservation District best management practices to prevent erosion, runoff, and associated water quality impacts.

7. The County should review proposals for new agricultural developments to determine if any such development would thwart or substantially compromise planned restoration actions in the vicinity of the project. The County should work with the proponents of each project to resolve likely conflicts between agricultural development and planned restoration.

### 3.1.2 Regulations

1. New agricultural use/development on lands not meeting the definition of agricultural land may be permitted in the Shoreline Residential – Conservancy and Resource Conservancy designations through a substantial development permit as indicated by Table 2-2 when it complies with this Program and all of the following:

   a. Manure spreading shall be conducted in a manner that prevents animal wastes from entering water bodies or wetlands adjacent to water bodies.

   b. Confinement lot, feeding operations, manure storage or stockpiles, and storage of noxious chemicals shall not be permitted within floodways, within the shoreline buffer, or within the buffer of any critical area within shoreline jurisdiction. Intentional discharge from any manure storage facility into groundwater or surface water shall be prohibited.

   c. A buffer of naturally occurring or planted woody vegetation (trees and shrubs) shall be established and maintained between the shoreline and areas used for crops or intensive grazing. The width and composition of the buffer on marine, river, and lake shorelines shall be consistent with the standards in Chapter 6.

   d. Bridges, culverts, and/or ramps shall be used to enable livestock to cross streams without damaging the streambed or banks.

   e. Stock watering facilities shall be provided so that livestock do not need to access streams or lakes for drinking water.

   f. Construction of new structures including residences, barns, sheds and similar buildings on agricultural lands shall conform to the requirements of this Program for such structures. Such structures shall adhere to the buffer requirements, height limits, and other regulations established by this Program.

   g. Fencing or other grazing controls shall be used as appropriate to prevent bank compaction, bank erosion, or the overgrazing of, or damage to, shoreline buffer vegetation.

   h. New agricultural use/development shall use best management practices concerning animal keeping, animal waste disposal, fertilizer use, pesticide use, wastewater applications, and stream corridor management. Technical assistance on best management practices is available from the Clallam County Conservation District and Cooperative Extension Agent.

   i. Livestock access to shorelines and shoreline buffers, or alteration of such areas for livestock use, shall be prohibited unless the Administrator finds that such access or alteration is minimal and the impacts are mitigated in accordance with an approved mitigation plan as specified in Section 8.3 of this Program. The Administrator may waive

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the need for a mitigation plan where the proponent implements a plan and/or project sponsored by the County, Clallam Conservation District, Natural Resources Conservation Service, Washington State Department of Fish and Wildlife, U.S. Fish and Wildlife Service, or other agency/organization approved by the Administrator, which controls impacts caused by introduction of livestock.

2. New agricultural use/development on lands not meeting the definition of agricultural land shall not be permitted in the Natural, Shoreline Residential – Intensive or Marine Waterfront designations.

3. New agricultural use/development on lands not meeting the definition of agricultural land shall comply with the applicable provisions of Chapters: 6, Shoreline Buffers and Vegetation Conservation; 7, Critical Areas; 8 Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4 Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

4. In accordance with RCW 90.58.065, existing or ongoing agricultural activities occurring on agricultural lands shall not be regulated by this Program.

5. If an agricultural use is converted to another type of use, the provisions of this Program for the proposed use shall apply.

6. Upland finfish aquaculture use and development shall be subject to the Aquaculture policies and regulations (Section 3.2) of this Program.

### 3.1.3 Application Requirements

1. Applications for new agricultural use/development shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of the Program.

## 3.2 Aquaculture

### 3.2.0 Applicability

Aquaculture uses and developments, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations. Aquaculture for personal, non-commercial use is not subject to the requirements of this Section.

### 3.2.1 Policies

1. Aquaculture is of statewide interest and is important to the long-term economic viability, cultural heritage and environmental health of Clallam County. Properly managed, it can result in long-term benefit and can protect the resources and ecology of the shoreline. Aquaculture is dependent on the use of the water area and is a preferred use of the water area when pollution is controlled and damage to the environment is prevented.

2. Aquaculture should not be permitted in areas where it would result in a net loss of ecological functions, adversely impact eelgrass and macroalgae, or significantly conflict with navigation and other water-dependent uses. Aquaculture facilities should be designed and located so as not to spread disease to native aquatic life, establish new non-native species which cause significant ecological impacts, or significantly impact the aesthetic qualities of the shoreline.

Impacts to ecological functions shall be mitigated according to the mitigation sequence described in Section 8.3 of this Program.

~~3. When properly managed, aquaculture can result in long-term ecological and economic benefits. The County should engage in coordinated planning to identify potential aquaculture areas and assess long-term needs for aquaculture. This includes working with the Department of Fish and Wildlife (DFW), the Department of Natural Resources (DNR), area tribes and shellfish interests to identify areas that are suitable for aquaculture and protect them from uses that would threaten aquaculture's long-term sustainability.~~

~~4.~~3. Aquaculture use and development should locate in areas where biophysical conditions, such as tidal currents, water temperature and depth, will minimize adverse environmental impacts. The County should support aquaculture uses and developments that:

a. Protect and improve water quality; and

b. Minimize damage to important nearshore habitats; and

c. Minimize interference with navigation and normal public use of surface waters; and

d. Minimize the potential for cumulative adverse impacts, such as those resulting from in-water structures/apparatus/equipment, land-based facilities, and

e. Minimize ~~S~~substrate disturbance/modification (including rate, frequency, and spatial extent).

~~5.~~4. The County should support tideland aquaculture use and development when consistent with this Program and protect tidelands and bedlands that were acquired and retained under the Bush and Callow Acts by not permitting non-aquaculture use and development on these tidelands.

~~6. Intensive residential uses, other industrial and commercial uses, and uses that are unrelated to aquaculture should be located so as not to create conflicts with aquaculture operations.~~

**Comment [SG26]:** Planning Commission requested reevaluate this policy to determine whether applied to proposed or existing aquaculture and whether conflicts with Table 2-1 and Table 2-2 that allow or conditionally allow intensive residential or other commercial uses.

Staff recommends deleting this regulation after further evaluation because proposed shoreline-intensive and marine waterfront SED's already contain intensive residential and commercial uses, respectively.

~~7.~~5. Chemicals and fertilizers used in aquaculture operations should be used in accordance with state and federal laws, and this Program.

~~8.~~6. Aquaculture uses/developments should ~~be permitted when they have been evaluated and approved by state and federal agencies, when they~~ incorporate appropriate measures to mitigate adverse ~~effects~~impacts on people and the environment and when they demonstrate that the use/development will not:

a. Materially and adversely disrupt important intracoastal or international navigation routes; or

b. Cause significant adverse ~~effects~~impacts on water quality, sediment quality, benthic and pelagic organisms, and/or wild fish populations; or

c. Cause significant adverse ~~effects~~impacts on critical saltwater or critical freshwater habitats; or

d. Cause significant adverse ~~effects~~impacts to Tribal fishing tracts or other Treaty fisheries resources; or

DRAFT

e. Conflict with other legally established water-dependent uses, including normal public use of the surface waters.

~~9.~~7. Commercial geoduck aquaculture should only be allowed where sediments, topography, land and water access support geoduck aquaculture operations without significant clearing or grading.

~~10.~~8. When a new aquaculture facility is proposed, the County should provide for public notice consistent with this Program and Chapter 26.10 CCC and notice to tribes with usual and accustomed fishing rights to the area.

~~11.~~9. Experimental aquaculture projects in water bodies should be limited in scale and duration until their effects can be adequately understood. Flexibility to experiment with new aquaculture techniques should be allowed when consistent with state and federal regulations and this Program and when properly monitored to prevent significant adverse impacts.

~~12.~~10. Commercial net pen aquaculture operations that propagate non-native finfish species should ~~be discouraged unless these operations are conducted in a manner that prevents~~ be monitored and have contingency plans to address escapement, disease transmission, or significant waste-related environmental impacts.

~~13.~~11. Development accessory to aquaculture planting and harvesting should be located landward of the minimum shoreline buffers (Chapter 6) and critical area buffers (Chapter 7) of the Program, unless it requires a location in, over, or adjacent to the water.

~~14.~~12. Cooperative arrangements between aquaculture growers and public recreation agencies are encouraged so that public use of public shorelines can be enhanced, where appropriate, and conflicts between public use of public shorelines and aquaculture operations is minimized or eliminated.

~~15. The County should support community restoration projects associated with aquaculture when they are consistent with this Program.~~

~~16.~~13. The County should review proposals for new aquaculture developments to determine if any such development would thwart or substantially compromise past or planned restoration actions in the vicinity of the project. The County should work with the proponents of each project to resolve likely conflicts between aquaculture development and planned restoration.

14. The County should minimize redundancy between federal, state and local commercial aquaculture permit application requirements by accepting documentation that has been submitted to other permitting agencies, and using permit applications that are compatible with federal or state permit applications.

15. County authorizations for aquaculture uses/developments should indicate that, prior to commencing activities, project applicants must obtain state and federal approvals required for those activities.

### 3.2.2 Regulations – General

1. Permitted, conditional and prohibited aquaculture uses and developments within each shoreline environmental designation are to be based on Section 2.9, Table 2-2, and as further prescribed by the policies and regulations of this Section and Program. All aquaculture uses

**Comment [SG27]:** Planning Commission requested that staff revise or delete this regulation based on Ecology comment. Ecology noted that no net pen could meet this provision as written, which would result in the SMP disallowing a state permitted activity. Ecology also thought that the policy was not consistent with other provisions, and thought that Policy 6 above (was #8 in 2014 draft) set a better framework.

The Department recommends the recommended changes to address this issue and to support recommended monitoring and application requirements for net pens in Section 3.2.

DRAFT

landward of the ordinary high water mark must also be a permitted use under the Clallam County Zoning Code, Title 33 CCC.

2. Aquaculture that does not involve geoduck or fin fish production may be permitted in all shoreline environment designations through a substantial development permit or conditional use permit as indicated by Table 2-2 when it complies with this Program.

3. Aquaculture uses and developments shall comply with the applicable provisions of Chapters: 6, Shoreline Buffers and Vegetation Conservation; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

4. Subtidal, intertidal, floating, and upland structures and apparatus associated with aquaculture use shall be located, designed, and maintained to avoid, minimize and otherwise mitigate adverse ~~effects~~impacts on ecological functions and processes.

5. Upland structures accessory to aquaculture use that do not have a functional relationship to the water shall be located landward of shoreline buffers in Tables 6-1 and 6-2 and any critical area buffers as required in Chapter 7.

6. Sleeping quarters and other work structures accessory to aquaculture use/development shall not be constructed in or over water. This regulation shall not preclude the use of moored watercraft for sleeping or work quarters when such moorage is consistent with this Program.

7. Floating/hanging aquaculture structures and associated equipment shall not exceed six (6) feet in height above the water's surface. The Administrator may approve hoists and similar structures greater than six (6) feet in height when there is a clear demonstration of need. The six (6) foot height limit shall not apply to vessels.

8. Abandoned or failed aquaculture equipment shall be removed from the water and/or the adjacent shoreline buffer area identified in Tables 6-1 and 6-2.

9. Aquaculture facilities, including fin fish facilities and facilities for floating/hanging aquaculture, shall use colors and materials that when viewed from the shoreline blend into the surrounding environment in order to minimize visual impacts. This regulation shall not apply to navigation aids.

10. Aquaculture use and development shall not materially interfere with intracoastal or international navigation routes, or access to adjacent waterfront properties, public recreation areas, or Tribal harvest areas. Mitigation shall be provided to offset such impacts where there is high probability that significant adverse impact would occur consistent with Section 8.3 of this Program. This provision shall not be interpreted to mean that an aquaculture operator is required to provide access across owned or leased tidelands at low tide for adjacent upland owners.

11. Aquaculture use and development shall be sited so that scouring, shading and other significant adverse impacts to existing red/brown macroalgae (kelp) and eelgrass beds are avoided and minimized. ~~In evaluating the potential for significant adverse impact, the Administrator shall also consider beneficial effects that shellfish species can have on water quality.~~

12. Aquaculture use and development shall be designed and located so as not to spread disease to native aquatic life, establish new non-native species which cause significant ecological

DRAFT

impacts, or significantly impact the aesthetic qualities of the shoreline, as required by WAC 173-26-241 (3)(b)(i)(C).

13. Aquaculture uses and developments that require attaching structures to the bed or bottomlands shall use anchors, such as helical anchors or other methods that minimize disturbance to substrate.

14. Where aquaculture use and development are authorized to use public facilities, such as boat launches or docks, the Administrator shall reserve the right to require the project proponent to pay a portion of the maintenance costs and any required improvements commensurate with the project proponent's use.

15. Non-navigational directional lighting associated with aquaculture use and development shall be used wherever possible. The height of the light source above the water surface shall be the minimum necessary, not to exceed 80 inches, unless otherwise specified by State or federal requirements. Non-navigational lighting shall not adversely affect vessel traffic.

16. Aquaculture waste materials and by-products shall be disposed of in a manner that will ensure strict compliance with all applicable governmental waste disposal standards, including but not limited to the Federal Clean Water Act, Section 401, and the Washington State Water Pollution Control Act (RCW 90.48).

17. The County may require applicants for aquaculture developments provide a bond or similar financial surety to fund the removal of any abandoned or failed aquaculture facility. The amount of the bond shall be determined based upon the value of the facility and the gross value of the annual facility production.

18. Predator control measures used in aquaculture may not include those intended to kill or injure wildlife. Predator control methods must comply with federal and state regulations, as determined by applicable state and federal agencies.

19. Project applicants must obtain all required state and federal approvals to ensure compliance with established water quality standards and regulations relating to the introduction or transfer of aquatic organisms into or within the County's salt or fresh waters.

### 3.2.3 Regulations – Commercial Geoduck Aquaculture

1. Commercial geoduck aquaculture may be permitted in all shoreline environment designations through a conditional use permit as indicated by Table 2-2 when it complies with this Program. Conversion of existing non geoduck aquaculture to geoduck aquaculture shall require a conditional use permit.

2. Conditional use permits shall recognize that commercial geoduck operators have a right to harvest geoduck once planted.

3. A single conditional use permit may be submitted for multiple sites within an inlet, bay or other defined feature, provided the sites are all under control of the same applicant and within the same shoreline environment designation.

4. Commercial geoduck aquaculture should only be allowed where sediments, topography, land and water access support geoduck aquaculture operations without significant clearing or grading.

**Comment [SG28]:** Recommend add to establish a specific regulation for predator control. Application requirements under Section 3.5.5.(4) require information about predator control methods.

**Comment [SG29]:** Aquaculture also requires state and federal permits related to water quality and introduction/transfer of species. Recommend add this provision to make clear prior to operation in Clallam County the applicant must also have the applicable state and federal permits. These permits are important because address issues, information requirements, monitoring, reporting, and regulations to address environmental impacts of aquaculture.

**Comment [SG30]:** The Planning Commission requested staff update Section 3.2.3 to address Ecology comment for regulation of commercial geoduck aquaculture that are fully inclusive of the requirements of WAC 173-26-241 (3) (b).

The Department recommends adding the Regulations 3.2.3(4 through 7) as shown.

5. All subsequent cycles of planting and harvest shall not require a new conditional use permit, subject to Section 10.2.9, Permit Revisions, of this Program.

6. Commercial geoduck aquaculture workers shall be allowed to accomplish on-site work during low-tides, which may occur at night or on weekends. Where such activities are necessary, noise and light impacts to nearby residents and existing uses shall be mitigated to the greatest extent practicable.

7. Conditional use permits shall include monitoring and reporting requirements necessary to verify that geoduck aquaculture operations are in compliance with permit conditions and to support cumulative impacts analysis. The County may rely on documentation submitted by an aquaculture operator to federal or state agencies to satisfy any monitoring or reporting requirements.

**Comment [SG31]:** See previous comment related to the above revisions.

### 3.2.4 Regulations – Fin Fish Aquaculture

1. The culture of finfish, including net pens as defined in Chapter 11, whether on land or in-water, may be permitted with a conditional use permit as indicated in Table 2-2 subject to the policies and regulations of this Program.

2. In evaluating conditional use proposals for in-water finfish aquaculture use/development the County shall use the most recent regulatory information from state and federal agencies to ensure that the provisions of this Program are being met and that the proposal meets all required state and federal water quality and aquaculture compliance standards.

3. Finfish aquaculture facilities shall employ best available control technologies and practices to ~~prevent~~avoid and minimize release of herbicides, pesticides, antibiotics, fertilizers, non-indigenous species, parasites, viruses, pharmaceuticals, genetically modified organisms, feed, or other materials known to be harmful into surrounding waters.

4. The depth of water below the bottom of any in-water finfish aquaculture facility shall be sufficient to prevent adverse impacts on benthic communities.

5. The pen configuration (e.g., parallel rows, compact blocks of square enclosures, or clusters of round enclosures) of any in-water finfish aquaculture facility shall be designed and maintained to minimize the depth and lateral extent of solids accumulation.

6. The use of unpelletized wet feed shall be prohibited to minimize undigested feed reaching the benthos or attracting scavengers in the water column.

7. When necessary, vaccination is preferred over the use of antibiotics. Only FDA-approved antibiotics shall be used and such use shall be reported to the State as required.

8. All in-water finfish aquaculture facilities shall be located to avoid significant adverse impacts on critical saltwater and critical freshwater habitats as defined herein.

9. In-water finfish aquaculture facilities shall comply with existing state and federal regulations to ensure importation of new and/or non-native species does not adversely affect existing and/or native species.

10. In-water finfish aquaculture facilities shall be located sufficiently distant from river mouths where wild fish are known to be most vulnerable to genetic degradation, as determined on a case-by-case basis with guidance from state resource agencies including National Oceanic and

DRAFT

Atmospheric Administration (NOAA), Ecology, the Department of Natural Resources and the Department of Fish and Wildlife.

11. In-water finfish aquaculture facilities shall comply with state and federal requirements to control pests, parasites, diseases, viruses and pathogens and to prevent escapement including, but not limited to, those for certified eggs, approved import/transport and live fish transfer protocols, escapement prevention, reporting and recapture plans, and disease inspection and control.

12. Monitoring of seabed beneath a finfish pen is required for changes in the bathos and appearance of scavengers in the water column. Independent monitoring is necessary with changes reported to the county as required. The County may rely on documentation submitted by an aquaculture operator to federal or state agencies to satisfy any monitoring or reporting requirements.

13. Introduction of a new species, changing the species cultivated, expansions of the physical area cultivated or relocation of the aquaculture operation is considered a new use/development and shall require a new permit and compliance with this Program..

14. In-water finfish net pen operations shall not be permitted to use firearms or underwater noise emitting devices to drive off birds or marine mammals that may be attracted to the net pen.

15. Clallam County shall use the best available science appropriate for permitting the location of in-water finfish facilities, including net pens, to protect our natural resources such as National Wildlife Refuges, seal and sea lion haulouts, seabird nesting colonies or other habitats identified as critical feeding or migration areas for birds and mammals.

16. The County may require the applicant to provide baseline and periodic surveys, assessments, and/or operational monitoring by a qualified professional to determine the magnitude of any significant adverse impacts. Conditional use permits shall include specific performance measures and provisions for adjustment or termination of the project if monitoring indicates significant, adverse environmental impacts that cannot be adequately mitigated. The County may rely on documentation submitted by an aquaculture operator to federal or state agencies to satisfy any monitoring or reporting requirements.

**Comment [SG32]:** First two sentences moved from 3.2.5.(5a) of Application Requirements, since more of a standard than basic application requirement. The last sentence was recommended to be added, since other state and federal permits related to fin fish aquaculture may already require such information or monitoring.

### 3.2.5 Application Requirements

1. Applications for new aquaculture use/development shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of the Program.

2. ~~Prior to approving a permit for a new aquaculture use or development,~~Where significant public views or views from a substantial number of residences on areas adjoining the proposed project may be affected, the Administrator may require~~, at his/her discretion,~~ a visual analysis prepared by the applicant/proponent describing effects on nearby uses and aesthetic qualities of the shoreline. The analysis shall demonstrate that significant adverse impacts on the character of those areas are effectively mitigated.

3. ~~Prior to approving a permit for a new aquaculture use or development,~~In areas adjacent to navigation lanes with high wind or wave energy, the Administrator may require~~, at his/her discretion,~~ a plan to address and mitigate the potential for net pens to be swept from moorings into navigation lanes.

4. ~~Prior to issuing a permit for any proposed aquaculture use or development, the~~~~The Administrator shall consider how the proposed activity is being regulated by other agencies and then establish the appropriate level of additional review. The Administrator may require, at his/her discretion, copies of permit applications and/or studies required by state and federal agencies to ensure provisions of this Program are met, including but not limited to, the following information:~~An application for net pens and in-water finfish aquaculture shall include:

a. An operation plan that includes information and projections for:

i. Anticipated harvest cycles and potential plans for future expansion or change in species grown or harvest practices~~.~~;

~~i.~~ii. Improvements at the site (e.g., pens, booms, etc.) and their relationship to the natural features (e.g., bathymetry, shorelines, etc.);

iii. Number, types, and dimensions of structures, apparatus, or equipment~~.~~;

iv. The number and duration of barges or vessels that will be permanently or temporarily moored at the site;

v. Species cultured;

vi. Fish size at harvest;

vii. Annual production;

viii. Average and maximum stocking density;

ix. Source of eggs, juveniles, and broodstock;

x. Type of feed used and feeding methods;

xi. Chemical use (e.g., antifouling, antibiotics, etc.);

~~ii.~~xii. Predator control methods~~.~~;

xiii. Anticipated levels of noise, light, and odor and plans for minimizing their impacts~~.~~; and

xiv. How prevention of marine debris accumulation will be addressed and what site operational management practices will be implemented.

b. Baseline site characterization survey to include:

i. Bathymetric survey (bottom features).

ii. Hydrographic survey (current velocity and direction, drogue tracking, vertical profiles of temperature, salinity and dissolved oxygen).

iii. Ecological survey, including underwater video or photographic survey, of bottom substrate, features, vegetation and habitats.

iv. Baseline benthic survey of sediment chemistry and infauna sampling.

~~b.~~c. Potential impacts to animals, plants, and water quality due to the discharge of wastewater from any related upland development.

~~c.~~d. Proof of application for an aquatic lands lease from the Washington State Department of Natural Resources or proof of lease or ownership if bedlands are privately owned.

**Comment [SG33]:** The recommended deleted and added language is for simplification. In addition, since Section3.2 as a whole applies to all new aquaculture that is also regulated at state and federal levels, the intent of the deleted language was incorporated into provision 3.2.5(7) below.

**Comment [SG34]:** The operation plan requirement highlighted in orange in sub-part 4(a)(ii, v, vi, vii, viii, ix, s,xi) were moved from deleted sub-part (6) of this Section and integrated under this requirement to consolidate all net pen specific application requirements under one standard.

**Comment [SG35]:** Recommended addition. For example, current net pen application pending east of Ediz Hook will have a permanently moored feed barge and also deliveries of fuel, food and supplies.

**Comment [SG36]:** Staff recommends adding this application information requirement, since a marine aquaculture operation has potential to contribute debris.

**Comment [SG37]:** Recommend adding the proposed baseline surveys noted. This type of information in sub-part (i, ii, & iv) also will be required by state or federal permits.

**Comment [SG38]:** The Planning Commission requested adding a provision that requires submittal of a visual analysis of the bottom-type under the net pens in the form of video or other reviewable visual record.

~~d.~~e. Department of Health Shellfish Certification Number.

~~e.~~f. Department of Fish and Wildlife commercial aquatic farm or non- commercial, personal consumption designation.

~~f.~~g. Proof of application for any permits required by the U.S. Army Corps of Engineers, Department of Health, or other agency.

~~g.~~h. ~~In-water finfish aquaculture facilities shall provide e~~Estimates of high, average, and low volumes of waste to be produced, including catastrophic events.

~~5. The Administrator, at his/her discretion, may require the applicant to provide baseline and periodic surveys, assessments, and/or operational monitoring by a qualified consultant to determine the magnitude of any significant adverse impacts. Conditional use permits shall include specific performance measures and provisions for adjustment or termination of the project if monitoring indicates significant, adverse environmental impacts that cannot be adequately mitigated.~~

~~6. For in-water finfish aquaculture facility proposals the Administrator may require an operations plan that includes projections for:~~

~~a. Improvements at the site (e.g. pens, booms, etc.) and their relationship to the natural features (e.g. bathymetry, shorelines, etc.);~~

~~b. Number, size and configuration of pens/structures;~~

~~c. Species cultured;~~

~~d. Fish size at harvest;~~

~~e. Annual production;~~

~~f. Average and maximum stocking density;~~

~~g. Source of eggs, juveniles, and broodstock;~~

~~h. Type of feed used and feeding methods;~~

~~i. Chemical use (e.g. antifouling, antibiotics, etc.); and~~

~~j. Predator control measures.~~

5. An application for commercial geoduck aquaculture shall include:

a. A narrative description and timeline for all anticipated geoduck planting and harvesting activities;

b. A baseline ecological survey of the proposed site, including surveys of existing shellfish resources, potential finfish habitat, substrate composition, and aquatic vegetation;

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

d. Whether the proposal involves placing nursery tanks, holding pools or other impervious materials directly on the intertidal sediments;

**Comment [SG39]:** Deleted language eliminates unnecessary or duplicative wording. The start of this application requirement already states applies to net pens and in-water finfish aquaculture..

**Comment [SG40]:** Deleted text was incorporated into added Regulation 3.2.4(16).

**Comment [SG41]:** Deleted text under sub-part (6) was fully incorporated and consolidated under Application Requirement 3.2.(4a) above.

**Comment [SG42]:** Revisions address direction of Planning Commission to update Section 3.2 to respond to Ecology comment to fully incorporate the requirements for commercial geoduck aquaculture under WAC 173-26-241 (3)(b).

In response, the Department recommends adding the Application Requirements under new sub-part 5 (a through o) as shown. See also related additions and comment to commercial geoduck regulations under Section 3.2.3 above.

e. Whether the proposal involves the use of motorized vehicles, such as trucks, tractors and forklifts below the ordinary high water mark;

f. Specific periods when limits on activities are necessary to protect priority habitats and associated species and avoid conflicts with neighboring uses;

g. Any required alterations to the natural conditions of the site, including significant removal of vegetation or rocks and regrading of the natural slope and sediments;

h. Whether the proposal involves marking of property corners such that they are visible at low tide during planting and harvesting;

i. The proposed use of predator exclusion devices with minimal adverse ecological effects and timing of planned removal of such devices as soon as they are no longer needed for predator exclusion;

j. Planned methods of minimizing turbid runoff during harvest;

k. The number and duration of barges or vessels that will be moored or beached at the site as well as duration limits;

l. Whether the proposal will affect public rights to navigation over the surface of the water;

m. How prevention of marine debris accumulation will be addressed and what site operational management practices will be implemented including worker training and regular removal of equipment, tools, extra materials, and all wastes;

n. Whether the site contains existing public access to publicly-owned lands; and

o. Proposed mitigation measures to achieve no net loss of ecological functions consistent with Chapter 8, Mitigation and No Net Loss, of this Program.

**Comment [SG43]:** See previous comment related to the above provisions.

6. Cumulative Impact Analysis - Expanded requirements: Applicants proposing complex projects, such as multi-species farms, farms on shorelines of statewide significance, farms that have the potential to harm habitat, community recreation use or significant degradation of views and aesthetic values, farms within low-energy shorelines areas including but not limited to bays, coves and estuaries and areas situated adjacent to identified critical areas; farms proposed in areas adjacent to existing aquaculture activities: or when the proposal is the first of its kind in the areas shall be required to provide additional base line information that may include:

a. Aquatic and benthic organism diversity and abundance;

b. Sediment compaction;

c. Littoral drift estimates;

d. Multi-level current flow date;

e. Water quality;

f. Analysis of flushing rates;

g. An analysis of impacts of farms within water bodies or with the vicinity of the proposal; and

h. An analysis of visual, aesthetic impacts, and real estate impacts of farms proposed adjacent to residential and high intensity residential shoreline environmental designations.

7. The County will accept documentation that has been submitted by the project applicant to state and federal permitting agencies to satisfy application requirements of this section and Program.

**Comment [SG44]:** This added provision incorporates and streamlines the intent of the deleted language from the opening part of sub-part 3.5.2.(4) above. It is recommended as stand-alone provision, since would apply to all aquaculture projects not just net pens.

## 3.3 Commercial and Industrial Development

### 3.3.0 Applicability

Commercial and Industrial development and use, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations. See Section 3.8, Residential Development, for home businesses located entirely within an existing single-family dwelling.

**Comment [SG45]:** Planning Commission requested clear statement in Section 3.3 to how County will address home enterprises.

### 3.3.1 Policies

1. Where allowed, commercial and industrial development and use should be located, designed and operated to avoid and minimize adverse impacts on shoreline ecological functions and processes.

2. Commercial and industrial use and development should be located outside of shoreline jurisdiction unless the use/development is ~~water-dependent or water-related~~water -oriented. Preference should be given first to water-dependent uses, then to water-related, and water-enjoyment uses. When permitted, the scale and degree of disturbance associated with the commercial and industrial use/development should be minimized.

3. Allow for new water-oriented commercial uses and infill/redevelopment of existing areas within the Marine Waterfront shoreline environmental designation consistent with this Program. Commercial land use in all other environmental designations should be limited to isolated, small-scale businesses consistent with the policies and regulations of this Program and Clallam County zoning code (Title 33 CCC). Avoid creating new patterns of waterfront commercial development along shoreline reaches.

4. Water-oriented industrial and port development (Port of Port Angeles) should be directed to, existing waterfront industrial areas such as in the City of Port Angeles, and urban growth areas and rural centers, where such uses already exist, are planned for, and supported by adequate infrastructure in city or county comprehensive plans and zoning regulations. Avoid creating new patterns of industrial waterfront development outside of such established and planned areas.

5. Where allowed, commercial and industrial use and development should be located and designed to be compatible with adjoining non-commercial/industrial uses in terms of noise, aesthetics, scale and other factors.

6. New commercial and industrial uses located in the shoreline should be encouraged to provide public access unless public access would create a significant ecological impact, a human health or safety hazard or is otherwise infeasible due to inherent constraints of the property.

DRAFT

7. Proponents of commercial and industrial development are encouraged to restore impaired shoreline ecological functions and processes as part of their development proposal.

8. The County should review proposals for new commercial and industrial developments to determine if any such development would thwart or substantially compromise planned restoration actions in the vicinity of the project. The County should work with the proponents of each project to resolve likely conflicts between the proposed development and planned restoration.

### 3.3.2 Regulations

1. Permitted, conditional and prohibited commercial and industrial uses and developments within each shoreline environmental designation are to be based on Section 2.9, Table 2-2, and as further prescribed by the policies and regulations of this Section and Program. All commercial and industrial uses and development are prohibited within shoreline areas designated Natural. All shoreline commercial and industrial uses must also be a permitted use under the Clallam County Zoning Code, Title 33 CCC.

2. A water-oriented commercial or industrial use or development may be permitted in certain environment designations through substantial development permit or conditional use permit consistent with Table 2-2 when the project proponent demonstrates that it will not have a significant adverse impact on shoreline ecological functions or processes, adjacent shoreline uses, navigation, recreation or public access.

3. To avoid significant adverse impacts on shoreline functions and processes and protect people and properties from hazards, commercial and industrial uses and developments shall comply with the applicable provisions of Chapters: 6, Shoreline Buffers and Vegetation Conservation; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

4. Components of an approved commercial or industrial use or development that are water-dependent or water-related may be permitted within the shoreline buffer provided that the amount of buffer encroachment and disturbance are the minimum needed to accommodate the water-dependent or water-related component and provided further that the use/development:

   a. Is located in pre-existing disturbed areas, areas with low habitat value, and/or within the 'active use' area prescribed in Section 6.3; and

   b. Will not impact a geologically hazardous area; and

   c. Uses low impact development techniques to minimize adverse ~~effects~~impacts on water quality and habitat; and

   d. Complies with all other requirements of this Program.

5. To ensure consistency with Section 3.3.2.4 above, the County shall determine whether and how much water-dependent or water-related use/development to allow in the shoreline buffer on a case-by-case basis by considering all of the following factors:

   a. The type and intensity of the proposed use; and

b. The size and configuration of the parcel and the ability to locate structures and other facilities outside the buffer; and

c. The amount of native vegetation that would be cleared/removed; and

d. The sensitivity of the aquatic habitat to the disturbances caused by the proposed use; and

e. The ability of the proponent to offset unavoidable impacts through compensatory mitigation on-site or at an appropriate off-site location.

6. Construction of over-water (i.e., waterward of the ordinary high water mark) commercial or industrial structures shall be prohibited, provided this prohibition does not preclude the development of docks, boat launch ramps, or other river/marine access facilities that are consistent with the intent of this Program and necessary for the operation of an associated water-dependent commercial or industrial use.

**Comment [SG46]:** Recommended clarification as to what is meant by construction of over-water. The ordinary high water mark is a regulatory boundary and defined in Chapter 11.

7. A commercial/industrial use or development shall not be considered water-dependent, water-related or water-enjoyment unless the proposed design, layout and operation of the use/development meets the definition and intent of the water-dependent, water-related or water-enjoyment designation.

8. To ensure that water-oriented commercial uses have priority along shorelines, new non-water-oriented commercial or industrial uses are prohibited unless they meet one or more of the following criteria:

a. The site is physically separated from the water by another property in separate ownership or a public right-of-way; or

b. The site is located on a water body that is non-navigable or where navigability is severely limited and the use would provide a significant public benefit with respect to the goals of this Program, such as providing public access and ecological restoration; or

c. The use is part of a mixed-use project that includes an associated water-dependent use and provides a significant public benefit by providing public access or restoring/enhancing the shoreline environment to improve ecological functions and processes. The County shall determine the type and extent of access or restoration on a case-by-case basis according to the opportunities and constraints provided by the site. The County may waive or modify the requirement to provide public access and/or restoration when the size of the parcel and/or the presence of adjacent uses preclude restoration or enhancement of shoreline ecological functions. In such cases, where on-site access or restoration/enhancement is not feasible, equivalent off-site access or restoration/enhancement shall be provided consistent with the policies and regulations of this Program.

9. Existing non-water-dependent and non-water-related commercial or industrial use or development on shorelines that conform to this Program may be permitted to expand landward but not waterward of existing structures provided the expansion otherwise conforms to this Program.

10. Encroachment onto a public beach by a commercial or industrial development is prohibited. Where a commercial use is allowed on shorelands in public ownership, public access to the shoreline waterward of such use must be retained and provided.

DRAFT

11. To preserve shoreline views, new commercial and industrial structures shall not exceed 40 feet in height above the average grade level.

12. The design and scale of a commercial development shall be compatible with the shoreline environment. The following criteria will be used to assess compatibility:

    a. Building materials;

    b. Site Coverage

    c. Height

    d. Density;

    e. Lighting, signage, and landscaping;

    f. Public access; and

    g. Visual assessment.

### 3.3.3 Application Requirements

1. Applications for new commercial or industrial use/development shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required to demonstrate the use/development is water-dependent and any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of the Program.

2. Applications for all commercial or industrial use/development shall also include the following information at the time of permit application:

    a. A description of the reason for needing a shoreline location; and

    b. Any proposed measures to enhance the relationship of the activity to the shoreline; and

    c. A description of the proposed provisions for providing public visual and/or physical access to the shoreline; and

    d. A description of mitigation measures proposed to ensure that the development will not cause significant adverse environmental impacts.

## 3.4 Forest Practices

### 3.4.0 Applicability

Forest practices, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations.

### 3.4.1 Policies

1. Forest practices are essential to the County's long-term economic health. Forest lands should be reserved for long-term forest management and uses that are compatible with forest management.

DRAFT

2. Clallam County should rely on the ~~To be consistent with WAC 173-26-241(3)(e), the Administrator should rely on~~ the Forest Practices Act (RCW 76.09), its implementing rules, and the 1999 Forest and Fish Report and the Forest Practices Habitat Conservation Plan as adequate management of commercial forest uses within shoreline jurisdiction, unless or until those lands are converted to non-forest uses. [WAC 173-26-241 (3)(e)]

3. Review conversions of forest lands to non-forestry uses for compliance with this Program. Forest practices conversions and other Class IV-General forest practices should also:

   a. ~~Forest practices conversions and other Class IV-General forest practices should~~ maintain natural surface and groundwater movement patterns and protect the quality of surface and groundwater~~.~~;

   b. ~~Forest practices conversions and other Class IV-General forest practices should~~ minimize damage to fish and wildlife species and terrestrial, wetland, and aquatic habitats~~.~~; and

   c. ~~Forest practices conversions and other Class IV-General forest practices should~~ maintain or improve the quality of soils and minimize erosion.

4. Forest practices conversions and other Class IV-General forest practices on slopes that are steep or subject to sliding, erosion, or high water table, should use best management practices to minimize damage to shorelands and water bodies, and adjacent properties.

### 3.4.2 Regulations

1. Timber harvesting and forest practices activities ~~that do not meet the definition of development~~ within the shoreline jurisdiction shall be conducted in accordance with the Washington State Forest Practices Act (RCW 76.09), WAC 222, and the 1999 Forest and Fish Report, and any regulations adopted pursuant thereto and are not regulated by this Program except as expressly provided herein.. ~~Such practices shall not be regulated by this Program and shall not require a shoreline permit or statement of exemption, except for the following activities:~~

2. ~~a. With respect to~~ All timber harvesting situated within two hundred feet ~~abutting landward~~ of the ordinary high water mark with shorelines of statewide significance shall be conducted consistent with RCW 90.58.150 (selective harvest), as amended. ~~, only~~Only selective commercial timber cutting may be permitted so that no more than thirty percent of the merchantable trees may be harvested in any ten (10) year period of time, ~~as required by RCW 90.58.150~~ further provided that:

   a. Other timber harvesting methods may be permitted in those limited instances where the topography, soil conditions or silviculture practices necessary for regeneration render selective logging ecologically detrimental; and

   b. Clear cutting of timber which is solely incidental to the preparation of land for other uses authorized by this chapter may be permitted..

   The County may allow exceptions to the thirty percent (30%) limit with a conditional use permit in accordance with RCW 90.58.150 and WAC 173-26-241(3)(e).

~~2.~~3. Within the shoreline jurisdiction, ~~O~~other development activities associated with timber harvesting, such as filling, excavation, and building roads and structures, that meet the statutory definition of development, shall require a shoreline substantial development permit

**Comment [SG47]:** Recommended wording for clearer intent. Does not change intent.

**Comment [SG48]:** Recommended wording to streamline and consolidate policy. 2014 draft had 3 a, b & c as separate policies.

**Comment [SG49]:** Revisions recommended to sub-part (1) to streamline language to clarify intent.

**Comment [SG50]:** Revisions to sub-part (2) fully incorporate intent of RCW 90.58.150. New sub-parts 2a and 2b are taken directly from RCW 90.58.150.

**Comment [SG51]:** Recommend changes for clarification.

DRAFT

or conditional use permit, as specified in Table 2-2 of this Program. Such activities shall comply with the applicable provisions of Chapters: 6, Shoreline Buffers and Vegetation Conservation; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable Sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

~~3.~~4. Conversion of forest land to non-forestry uses (Class IV-General Conversion Forest Practices Permit) shall be reviewed in accordance with the provisions for the proposed non-forestry use and the general policies and regulations in Chapter 5 and shall be subject to any permit requirements associated with the non-forestry use.

5. When forest land is to be converted to another use, such conversion shall be clearly indicated on the Forest Practices application. Such failure to declare intent to convert on the application shall provide grounds for the denial of subsequent development proposals for a period of six years from the date of the Forest Practices application approval (RCW 76.09.060(3)(d)).

~~4.~~6. Those lands harvested and not reforested under a Class I, II, or III Forest Practices permit or subject to a notice of conversion to nonforestry use under RCW 76.09.060 shall be subject to denial of all applications for county permits and approvals ~~and which do not meet the standards of this Program and are later converted to non-forest uses shall have all local permits withheld~~ for a period of six (6) years, as authorized by the Forest Practices Act~~. This moratorium shall run with the land and be duly noted in the public record. The conversion of land to non-forest uses shall mean the division of land or the preparation of land for land division or construction.~~ The Administrator may consider removal of the moratorium on county permits and approvals subject to full compliance with the Forest Practices Act (RCW 76.09.460 or 76.09.470) and this Program. ~~Should a landowner wish to remove the moratorium or convert the land to non-forest uses, the owner shall:~~

~~a. Reforest the land as prescribed by the Department of Natural Resources and/or provide stabilization and protection of the area in a manner approved by Clallam County in accordance with this Program. Said reforestation shall be by planting and not by natural regeneration, unless the Department verifies that natural regeneration has already occurred to such an extent that planting is not necessary. Provide stabilization and protection through drainage and erosion control measures; and~~

~~b. Submit and have approved by the Administrator a conversion option harvest plan. The approval of said plan may include conditions and improvement requirements to control erosion, protect or enhance the shoreline critical area or buffer, or other conditions which are intended to reduce significant adverse impacts.~~

**Comment [SG52]:** Recommended clarification. Class IV General Forest Practice Permits are conversions to non-forestry uses that are subject to demonstrating consistency with local government regulations.

**Comment [SG53]:** Recommend add sub-part (5) to have a provision in SMP that clearly specifies County addressing conversions to non-forestry uses where a conversion was not noted on the forest practice application and harvest activity proceeded.

This is not a new regulation. It is already addressed under the state Forest Practices Act. The intent of state law is to ensure timber harvesting that will not be replanted and continued to be managed as forest lands demonstrates compliance with local regulations (e.g., buffers) prior to forest practice activities. See also recommended changes and clarifications to sub-part (6) below.

**Comment [SG54]:** Recommended changes to sub-part (6) are consistent with and reference applicable sections of the state Forest Practice Act.

### 3.4.3 Application Requirements

1. Applications for forest practices activities that are subject to regulation under this Program shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of the Program. In addition, a Timber Harvest Permit (Class IV General, Class III Conversion Option Harvest Plan) shall be required.

## 3.5 Mining

### 3.5.0 Applicability

Mining uses and developments, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations.

### 3.5.1 Policies

1. The potential economic benefits provided by mining should be balanced with the goal of protecting shoreline ecological functions. New mining activity should not be permitted in areas where the ecological damage would be significant and/or could not be offset through effective mitigation or restoration measures.

2. Mining should be located and conducted to minimize disruption to the natural shoreline character, resources and ecology, and to avoid net loss of ecological functions in accordance with this Program and other applicable laws.

3. Areas that are mined should be promptly restored, following completion of the mining activities, to semi-natural or other useful condition through a reclamation process.

4. Mining should not interfere with existing public access or recreation on the shoreline.

5. Mining operations should be located, designed, and managed so that adjoining properties do not experience significant adverse impacts from noise, dust, or other effects of the operation.

6. The County should review proposals for new mining to determine if any such development would thwart or substantially compromise planned restoration actions in the vicinity of the project. The County should work with the proponents of each project to resolve likely conflicts between mining and planned restoration.

### 3.5.2 Regulations – Mining

1. Permitted, conditional and prohibited mining uses and developments within each shoreline environmental designation are to be based on Section 2.9, Table 2-2, and as further prescribed by the policies and regulations of this Section and Program. All mining uses and development are prohibited within shoreline areas designated Natural. All mining uses must also be a permitted use under the Clallam County Zoning Code, Title 33 CCC.

2. All mining activities shall be conducted to ensure compliance with the Washington State Surface Mining Act (RCW 78.44) and with the no net loss provisions of this Program. The determination of whether there will be a net loss of ecological functions shall be based on an evaluation of the reclamation plan required for the site and shall consider impacts on ecological functions during operation of the mine.

3. Mining activities shall comply with the applicable provisions of Chapters: 6, Shoreline Buffers and Vegetation Conservation; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

4. When mineral extraction is permitted by this Program, associated mineral processing activities shall take place outside of shoreline jurisdiction, unless no feasible location outside of shoreline jurisdiction exists.

DRAFT

5. No materials (such as mining overburden, debris, and tailings) or equipment shall be placed in water bodies, critical areas, or floodways and shall be stored to prevent erosion or seepage to surface and groundwater.

6. To minimize noise, dust, vibration, glare, and other significant adverse impacts, a buffer of at least one hundred (100) feet wide shall be maintained between any mining facilities/sites, and adjacent properties not used for mining operations. The buffer shall consist of undisturbed soils and vegetation and shall only include land owned or leased by the mine operator.

7. Following mining, disturbed shoreline areas shall be reclaimed to provide appropriate ecological processes and functions consistent with the setting. Approved reclamation programs shall be initiated within sixty (60) days following the completion of the mineral extraction operations, in consultation with the Washington Department of Natural Resources.

8. When reviewing mining proposals, the County shall first consider how the proposed activity has been regulated by other agencies, note same as a reference, and then establish whether the mining project will result in net loss of shoreline ecological functions and processes during the course of mining and after reclamation. The County shall condition approval of the mining activity to ensure the proposal is consistent with the policies and regulations of this Program.

### 3.5.3 Regulations – Mining on Marine and Lake Shorelines

1. Mining of quarry rock from any marine or lake waterbody or adjacent shoreland may be permitted as a conditional use in certain environment designations as indicated in Table 2-2 provided that shoreline processes and resources are not adversely affected.

2. Mining of sand, gravel, cobbles, ~~or~~ boulders, or other minerals from any marine or lake waterbody or adjacent shoreland is prohibited, regardless of the shoreline environment designation.

### 3.5.4 Regulations – Mining on River and Stream Shorelines

1. Mining within the active channel or channels (a location waterward of the ordinary high-water mark) of a river may be permitted as a conditional use, consistent with Table 2-2, when consistent with this Program and the following:

   a. Removal of specified quantities of sand and gravel or other materials at specific locations will not adversely affect the natural processes of sediment transport for the river system as a whole; and

   b. The mining and any associated permitted activities will not have significant adverse impacts to habitat for priority species nor cause a net loss of ecological functions of the shoreline.

2. Specific studies accompanying applications for in-river mining shall demonstrate that no adverse flood, erosion, or other significant adverse environmental impacts occur either upstream or downstream of extraction sites. Mining extraction amounts, rates, timing, and locations shall be based on a scientifically determined sediment budget adjusted periodically according to data provided by a regular monitoring plan.

3. Aggregate washing and ponding of wastewater are prohibited in floodways.

DRAFT

4. Storage of mining equipment or materials within the FEMA floodway is prohibited during the flood season (November 1 through March 1); provided that temporary stockpiling is permitted during working hours if all such materials are removed from the floodway at the end of each day's operation.

5. All applicable permits and approvals, including but not limited to a Hydraulic Project Approval (HPA) from the Department of Fish and Wildlife, shall be obtained prior to commencement of any mining activity and all applicable provisions attached thereto shall be adhered to.

6. Open pit mining may be permitted in a floodplain as a conditional use when consistent with this Program and when all of the following criteria are met:

   a. All pits and other operations should be located outside of the channel migration zone.

   b. All pits of each operation should be located and excavated to a depth to function as a self-flushing chain of lakes whenever the pits are overtopped by floods in order to prevent eutrophication and fish entrapment.

   c. The entire operation should be sized and designed so that additional bank erosion, catastrophic changes in channel location, or significant adverse impact to fish resources or water quality will not likely result in the long term.

   d. The scale and mode of operation will not have significant adverse impacts on fish resources, water quality, and recreation resources, nor adversely impact a stream's natural capacity to erode, shift, accrete, and/or flood.

   e. All equipment, works, and structures are designed to withstand flooding without becoming a hazard in themselves nor causing adverse ~~effects~~impacts on shore features, without the necessity for shore stabilization structures.

   f. All structures or equipment which are not flood-proofed shall be located outside of the 100-year floodplain during the flood season (November 1 through March 1); provided that such equipment is permitted during daily operations.

7. Overburden or other mining spoil or non-putrid solid wastes shall comply with the fill policies of this Program, and be disposed of in an approved manner to protect shoreline ecological functions and processes, other uses, and aesthetic values.

### 3.5.5 Application Requirements

1. Applications for mining activities shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of the Program.

2. Applications for mineral extraction and processing shall be accompanied b a report prepared by a licensed professional geotechnical engineer that includes a description of all of the following:

   a. Types of materials present on the site;

   b. Quantity and quality of each material;

   c. Lateral extent and depth of mineral deposits;

DRAFT

d. Depth of overburden and proposed depth of mining;

e. Cross section diagrams indicating present and proposed elevations and/or extraction levels;

f. Existing drainage patterns, seasonal or continuous, and proposed alterations to drainage patterns;

g. Proposed means of controlling surface runoff and preventing or minimizing erosion and sedimentation;

h. The location and sensitivity of any affected flood hazard areas;

i. The overall mineral extraction and processing plan, including scheduling, seasonal changes in activity levels, and daily operation schedules;

j. Proposed screening, buffering or fencing plans consistent with the requirements of this Program;

k. Anticipated impacts to aquatic and riparian habitat; measures to mitigate or offset adverse impacts; and

l. A proposed reclamation plan that, at a minimum, meets the requirements of Chapter 78.44 RCW.

DRAFT

## 3.6 Parking

### 3.6.0 Applicability

Parking facilities, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations.

### 3.6.1 Policies

1. Parking facilities should be located outside of the shoreline jurisdiction whenever feasible.

2. Parking in shoreline areas should be limited to that which directly serves a permitted shoreline use.

3. Parking facilities should be located and designed with appropriate stormwater management to minimize significant adverse environmental impacts to water quality, vegetation, and habitat. Low impact development techniques and other best management practices should be employed to prevent impacts.

4. Parking areas should be planned to achieve optimum use. Where feasible, parking areas should serve more than one use (e.g., recreational use on weekends, commercial use on weekdays).

5. The County should review proposals for new parking facilities to determine if any such development would thwart or substantially compromise planned restoration actions in the vicinity of the project. The County should work with the proponents of each project to resolve likely conflicts between the parking facility and planned restoration.

### 3.6.2 Regulations

1. Parking facilities shall only be permitted in shoreline jurisdiction through a substantial development permit or conditional use permit as indicated in Table 2-2 when necessary to support an authorized use and where the proponent can demonstrate that there are no feasible locations outside of shoreline jurisdiction.

2. Parking as a primary use shall be prohibited in all shoreline designations.

3. All overwater parking facilities shall be prohibited in all shoreline designations.

4. Parking facilities to accommodate public disabled parking shall be a conditional use ~~prohibited~~ in shorelines designated Natural.

5. If permitted within shoreline jurisdiction, parking facilities shall be located landward of shoreline buffers identified in Tables 6-1 and 6-2.

6. Parking facilities shall comply with the applicable provisions of Chapters: 6, Shoreline Buffers and Vegetation Conservation; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

7. Parking facilities shall be designed and located to minimize significant adverse impacts upon aquatic habitats and abutting properties. Parking areas shall be screened from adjacent land uses by landscaping, undeveloped space, or structures associated with the authorized primary use to the maximum practicable extent. Landscaping for parking facilities shall consist of County-approved vegetation planted prior to completion of the parking area. Landscape plantings shall be selected, planted, and maintained to provide effective screening within three (3) years of project completion and through maturity of the species.

8. Parking facilities shall require that any required lighting be screened from the aquatic areas, shorelines, associated wetlands, and required buffers.

9. Parking facilities shall be developed using low impact development techniques such as permeable pavement or bioswales when conditions are appropriate for and conducive to such techniques.

10. Parking facilities serving individual buildings shall be located landward of the principal building being served, except when the parking facility is located within or beneath the structure and is adequately screened, or in cases when an alternate location would have less environmental impact on the shoreline.

11. Parking facilities shall be provided with measures adequate to prevent surface water runoff from contaminating water bodies, using best available technologies. A parking facility maintenance program shall be required to assure the proper functioning of drainage facilities over time.

### 3.6.3 Application Requirements

1. Applications for parking facilities shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of the Program.

**Comment [SG55]:** The recommendation by the Planning Commission to allow a conditional use process for parking in Natural shorelines was based on comments from Washington State Parks to allow for consideration of creating opportunities for disabled parking in Natural designations. Many of state park lands (e.g., Miller Peninsula State Park). in Clallam County along shorelines were designated as "Natural". The added language recommended specifies for disabled parking. See also related change to Table 2-2 to add public disabled parking.

DRAFT

## 3.7 Recreation

### 3.7.0 Applicability

Recreational use and development, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations.

### 3.7.1 Policies

1. Recreational development should be given priority for shoreline location to the extent that the use facilitates the public's ability to access (visual and physical), enjoy, and use the water and shoreline. Where appropriate, such facilities should be dispersed along the shoreline in a manner that supports more frequent recreational access and aesthetic enjoyment of the shoreline for a substantial number of people.

2. Preference should be given to activities on publically-owned lands which are consistent with county, state, and federal park and recreation plans for water-oriented recreational uses and development.

~~1.~~3. The need to accommodate water-oriented recreational development should be balanced with the need to protect shoreline resources including native vegetation, substrates, water quality, and fish and wildlife species and habitats.

~~2.~~4. Recreational developments should facilitate appropriate use and enjoyment of shoreline resources while also conserving them.

~~3.~~5. Recreational development should incorporate educational information and displays information about the shoreline environment and the effects of human actions on shoreline ecological functions and processes.

~~4.~~6. Recreational facilities should only be located within shoreline jurisdiction when they support a water-oriented recreational use. Non-water-oriented recreational facilities should be prohibited in ecologically intact shorelines and should be located landward of the shoreline buffer in Tables 6-1 and 6-2 of this Program.

~~5.~~7. Recreational developments should be designed to minimize the need for clearing and grading. Utilities and roads should not be located or expanded in areas where damage to persons, property, and/or shoreline functions or processes is likely to occur.

~~6.~~8. Recreational developments and plans should provide a varied and balanced choice of recreation experiences in appropriate locations. Public agencies and private developers should coordinate their plans and activities to provide a wide variety of recreational opportunities without duplicating facilities.

~~7.~~9. Trail links between shoreline parks and public access points should be provided for walking, horseback or bicycle riding, and other non-motorized access where appropriate.

~~8.~~10. Cooperative efforts among public and private persons toward the acquisition and/or development of suitable recreation sites or facilities should be explored to assure long-term availability of sufficient public sites to meet local recreation needs.

~~9.~~11. The County should review proposals for new recreational developments to determine if any such development would thwart or substantially compromise planned restoration actions in the

**Comment [SG56]:** Recommend add policy 1 to clarify recreation policy and further support proposed regulations.

**Comment [SG57]:** Revision proposed to address Planning Commission direction to add a policy to specifically support recreation uses on public lands.

DRAFT

vicinity of the project. The County should work with the proponents of each project to resolve likely conflicts between the recreational development and planned restoration.

### 3.7.2 Regulations

1. Recreational developments may be permitted in certain environment designations through a substantial development permit or conditional use permit consistent with Table 2-2 when they are consistent with this Program and when the proponent demonstrates that:

   a. They provide opportunities for substantial numbers of people to reach, view and enjoy shoreline water bodies; and

   b. They are located, designed and operated in a way that minimizes significant adverse impacts on native vegetation, substrates, water quality, and fish and wildlife species and habitats.

2. Recreational use and development shall comply with the applicable provisions Chapters: 6, Shoreline Buffers and Vegetation Conservation; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

3. Components of an approved recreational use or development that are water-dependent or water-related may be permitted within the shoreline buffer provided that the amount of buffer encroachment and disturbance are the minimum needed to accommodate the water-dependent or water-related component and provided further that the use/development:

   a. Is located in pre-existing disturbed areas, areas with low habitat value or within the 'active use' area prescribed in subsection 6.3.4; and

   b. Will not impact a geologically hazardous area; and

   c. Uses low impact development techniques to minimize adverse ~~effects~~impacts on water quality and habitat; and

   ~~d. Provides compensatory mitigation to offset any unavoidable impacts on shoreline vegetation, functions or processes; and~~

   ~~e.~~d. Complies with all other requirements of the Program.

4. To ensure consistency with subsection 3.7.2.3 above, the County shall determine whether and how much water-dependent or water-related recreational development to allow in the buffer on a case-by-case basis by considering all of the following factors:

   a. The type and intensity of the proposed recreational use; and

   b. The size and configuration of the parcel and the ability to locate structures and other facilities outside the buffer without significantly diminishing the recreational experience; and

   c. The amount of native vegetation that would be cleared/removed; and

   ~~d.~~ The sensitivity of the aquatic habitat to the disturbances caused by the proposed use.~~; and~~

DRAFT

~~e.~~d. ~~The ability of the proponent to offset unavoidable impacts through compensatory mitigation on-site or at an appropriate off-site location.~~

5. Where appropriate, recreational development proposals shall include provisions for non-motorized access to the shoreline from both the uplands and the water (e.g., pedestrian paths, bike paths, and boat launches/landings).

6. Recreational use of motor vehicles including unlicensed, off-road vehicles may be permitted only on roads or trails specifically designated for such use. Recreational motor vehicle use on beaches is prohibited. Recreational motor vehicles may not be used in wetlands, streams or other aquatic areas below the ordinary high water ~~line~~mark. This regulation does not apply to motorized watercraft.

7. Recreational facilities with more than seven thousand (7,000) square feet of clearing and grading or two thousand (2,000) square feet or more of impervious surface shall incorporate measures to prevent erosion, control the amount of runoff, and prevent harmful concentrations of chemicals and sediments from entering water bodies in accordance with the clearing, grading and filling (Section 5.2) and water quality (Section 5.4) regulations of this Program.

8. Recreational facilities shall use signs, fences and vegetative screens to protect adjacent private properties and natural areas from trespass, overflow and other possible adverse impacts.

9. Signs indicating the public's right to access public shoreline recreation areas/facilities shall be installed and maintained in conspicuous locations at points of access and entry.

10. When a public recreation site abuts private property/tidelands, signs and other similar markers shall indicate geographic limits of public access to minimize conflicts with adjacent use/development.

11. Proposals for recreational development shall include adequate facilities for water supply, sewage and garbage disposal, and recycling commensurate with the intensity of the proposed use.

12. Private recreational facilities accessory to a residential use such as swimming pools and ball courts shall be prohibited in wetlands and ~~may~~shall not be approved via a shoreline conditional use permit or shoreline variance.

13. Primitive campsites associated with public marine or water trails that contain no utilities are permitted within the shoreline jurisdiction and may be located in allowed shoreline buffer active use areas consistent with Chapter 6 of this Program.

14. Pursuant to to RCW 90.58.100 (4), applications providing for wilderness beaches, ecological study areas, and other recreational uses for the public on state-owned shorelines shall be considered a preferred use.

15. Construction of publicly owned trails on public lands, and public trail-related facilities, such as picnic tables, benches, interpretive centers and signs, pedestrian bridges and viewing platforms, may be permitted subject to the following standards:

    a. The trail is constructed in the outer fifty percent (50%) of the shoreline and critical area buffers as indicated in Tables 6-1 and 6-2 to the maximum extent possible. This standard does not apply to trail corridors along existing roads or converted prior railroad or road right-of-way. The Administrator may allow the trail to be located within the inner fifty

**Comment [SG58]:** The correct terminology is ordinary high water "mark" not "line".

**Comment [SG59]:** Revision proposed in response to Planning Commission request to clarify requirements for marine trails and campsites. See also related provisions in Table 2-2, Use Table.

**Comment [SG60]:** Revision proposed in response to Planning Commission request to address more specific support of recreational use on public lands. See also added Policy 3.7.1.(2) above.

**Comment [SG61]:** This added regulation (#15) incorporates the text highlighted in orange from Section 3.11.2.(18) transportation regulations in response to state parks comments to clarify SMP provisions related to recreational trails versus transportation facilities.

The added language highlighted in green was also based on state park comments and Planning Commission support of such comments. See also related changes and comments in Section 3.11.

DRAFT

percent (50%) of the shoreline buffer if there is strong evidence that the later location would require less clearing, grading and damage to the shoreline ecology, provided that the trail is at least 30 feet landward of the ordinary high water mark except for trail connections and linkages providing direct access to beaches and the water.

b. Trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or other previously disturbed areas.

c. Trails and related facilities shall be planned and aligned to minimize removal of trees, shrubs, snags and important wildlife habitat and critical area functions such that the disturbed area shall be a maximum of sixteen (16) feet wide.

d. Viewing platforms, interpretive centers, picnic areas, benches and their associated access shall be designed and located to minimize disturbance of shoreline habitat.

e. Trails shall be limited to non-motorized use, except for emergency vehicles and authorized vehicles for trail maintenance and repair.

f. Trail surfacing shall be composed of natural materials, including but not limited to gravel, rock, bark, untreated wood decking eighteen (18) inches or lower in height; except that regional public trails may have up to twelve (12) feet of permanent surfacing materials. Any construction materials shall not significantly alter the existing drainage or negatively affect the critical area.

**Comment [SG62]:** See previous comment related to above revisions.

### 3.7.3 Application Requirements

1. Applications for recreational use/development shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required to demonstrate the use/development is water-dependent and any information that may be required pursuant to the critical areas regulations in Chapter 7 of the Program.

## 3.8 Residential Development

### 3.8.0 Applicability

Residential development and uses and improvements that are accessory to residential development, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations.

### 3.8.1 Policies

1. The goal of accommodating single-family residential development along shorelines should be balanced with the need to protect ecological functions and processes.

2. New residential use and development should be planned, designed, and located to minimize significant adverse impacts on fish and wildlife species and habitat, vegetation, and water quality; to maintain slope and soil stability; and to preserve views of the shoreline from nearby upland vantage points.

~~3. Construction of new residential developments in areas subject to flooding, channel migration, marine bluff recession, erosion, landslides and other natural hazards is discouraged. Property owners who elect to build in identified hazard areas should not assume that their properties~~

~~will be protected in the future if doing so would cause unmitigated adverse effects on shoreline functions and processes.~~

~~4.~~3. Low impact development practices and cluster development ~~clustering of dwelling units and accessory structures~~ should be implemented as appropriate to preserve natural shoreline features, minimize stormwater runoff, and reduce utility and road construction and maintenance costs.

**Comment [SG63]:** Recommended clarification of policy intent.

~~5.~~4. Creation of new residential lots through land division should be designed, configured and developed to minimize impacts to ecological functions and processes, even when all lots are fully built out.

~~6.~~5. The County should review proposals for new residential developments to determine if any such development would thwart or substantially compromise planned restoration actions in the vicinity of the project. The County should work with the proponents of each project to resolve likely conflicts between residential development and planned restoration.

### 3.8.2 Regulations – General

1. New single-family residential use and development on existing lots of record shall be permitted in all designations except the Aquatic designation through a statement of exemption or conditional use permit consistent with Table 2-1.

2. New multi-family residential use and development may be permitted as a conditional use in the Marine Waterfront and Shoreline Residential–Intensive designations when consistent with the Program. New multi-family residential use and development shall be prohibited in the Natural, Resource Conservancy, and Shoreline Residential –Conservancy designations consistent with Table 2-1.

3. To avoid significant adverse impacts on Archeological, Historical and Cultural Resources, residential use and development shall comply with the applicable provisions of Section 5.5 of this Program.

4. To avoid significant adverse impacts on shoreline ecological functions and processes and protect residential properties from hazards, residential use and development shall comply with:

   a. The shoreline buffer and vegetation requirements of Chapter 6; and

   b. The critical area requirements of Chapter 7, including critical area buffer requirements prescribed therein; and

   c. The mitigation and no net loss requirements of Chapter 8; and

   d. The clearing, grading and filling requirements of Section 5.2; and

   e. The water quality requirements of Section 5.4.

~~5. New residential development and accessory uses shall occur outside of (landward of) the shoreline buffer as indicated in Tables 6-1 and 6-2 of this Program. The buffer and vegetation requirements of Section 6.3 of this Program shall apply to all residential development regardless of environment designation, except that docks, piers floats, and lifts which are water-dependent and accessory to residential use may be permitted to encroach into the buffer in accordance with the applicable provisions of this Program. Residential uses/development~~

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~~may also be subject to additional buffer requirements when other critical areas such as wetlands, aquatic habitat conservation areas, wildlife habitat conservation areas, and/or landslide hazard areas and/or their buffers are present on the property as prescribed in Chapter 7.~~

~~6. New residential use and development shall be located outside of mapped channel migration zones on all existing lots where there is a buildable area outside of the channel migration zone, regardless of the environment designation. If a buildable area does not exist outside of the channel migration zone, new residential use and development shall be located as far landward within the channel migration zone is as feasible, and shall, at a minimum, meet the buffer requirements in Section 6.3, and Tables 6-1 and 6-2.~~

~~7.~~5. Residential dwelling units, including accessory dwelling units, shall not be constructed in, over, or on the water or below the ordinary high water mark of any shoreline of the state.

~~8.~~6. In-water, overwater or floating residences or accessory dwelling units are prohibited.

~~9. New residential development, including accessory structures, shall be sufficiently set back from steep slopes and other erosion or flood-prone areas so that structural measures such as concrete walls, levees and/or bulkheads are not required to protect such structures during their expected life. The buffer requirements of this Program are intended to ensure that residential developments are located and designed to avoid the need for structural stabilization and flood control structures for the expected life of the structure, which is assumed to be a minimum of 75 years. This shall not be interpreted to prohibit bulkheads in existing subdivisions and other partially developed high-density residential developments where the lot depth precludes conformance with the required buffers and setbacks. In all areas, soft shoreline armoring (bioengineered) stabilization measures shall be preferred over structural measures.~~

~~10.~~7. New residential development on low bank marine shorelines that are designated Shoreline Residential - Intensive shall be designed to minimize damage from storm surges and coastal flooding. Structures shall be designed to incorporate freeboard above the required elevation of the lowest floor or bottom of the lowest horizontal member consistent with the FEMA Coastal Construction Manual, Fourth Edition (FEMA P-55). This regulation is intended to protect property and prevent the need for future flood control/erosion control structures.

~~11.~~8. To preserve shoreline views, the maximum height above average grade level of any residential structure shall not exceed thirty-five (35) feet.

~~12.~~9. New residential developments shall comply with the utility provisions in Sections 3.12.2, 3.12.10 and 3.12.12 of this Program.

~~13.~~10. Access to new residential developments shall comply with the applicable transportation provisions in Section 3.11.2 of this Program.

~~14.~~11. Home businesses that are located entirely within an existing single-family dwelling and clearly subordinate and incidental to the residential use of the dwelling may be permitted as an accessory use subject to the following provisions:

a. The home business must be entirely contained within the existing dwelling and shall not occupy greater than twenty-five percent or 500 square feet of the dwelling gross floor area, whichever is less. Any business to be conducted in a separate, detached outbuilding in the shoreline jurisdiction is subject to compliance with commercial and industrial provisions under Section 3.3 of this Program.

**Comment [SG64]:** Recommended delete sub-part (5), since long paragraph and standards addressed in other locations of SMP. For example, compliance with shoreline and critical area buffers already referenced in 3.8.2.(4) above. Regulations for docks, piers and floats accessory to residential development addressed in Section 4.2.5.

**Comment [SG65]:** Planning Commission requested changes to location of development in channel migration zones (CMZ) and required buffers.

CMZ standards for PC consideration are now incorporated under Section 7.14.11. The provision to locate outside of the CMZ noted here is incorporated in the new section. *See also changes and comments to Table 6-2 related to CMZ development and buffers.*

b. The home business shall comply with all other provisions of this Program.

c. The home business must also a permitted use and consistent with home-based business standards of the Clallam County Zoning Code, Title 33 CCC. Where there is a conflict with this Program, the most restrictive standards shall apply.

12. Transient lodging (e.g., bed & breakfast, vacation rental) located entirely within a single-family residence and consistent with county zoning and building codes as an appropriate use within a single-family residence shall be considered under this section. Other types of transient lodging shall be considered a commercial use under Section 3.3 of this Program. New transient lodging within a single-family residence shall be subject to shoreline substantial development permit.

~~15.~~13. Domestic wells serving single-family developments, including a pump and appropriately sized pump house and storage tank, may be permitted in the shoreline or critical area buffer provided there is no alternative location outside of the buffer and the well is located and designed to minimize significant adverse impacts on shoreline functions.

**Comment [SG66]:** Revision proposed in response to Planning Commission to specifically address regulation of transient use (e.g., Bed & Breakfasts, vacation rentals) of a single-family residence.

The requirement of a shoreline substantial development permit for such use of a single-family residence is the same as what is required under the current SMP.

### 3.8.3 Regulations – Accessory Structures

1. A shoreline substantial development permit or conditional use permit shall be required for any structures that are not considered necessary for the full use and enjoyment of the main residential use, not typically associated with the main use, or otherwise subordinate to or incidental to the main use of a parcel, including the utilities necessary to serve the accessory use.

2. Structures that are accessory to residential developments may be permitted when the primary residential use is permitted pursuant to, and only when, other provisions of this Program are met.

3. Accessory dwelling units may be permitted through a substantial development permit in the Marine Waterfront, Shoreline Residential–Intensive, and Shoreline Residential-Conservancy designations when consistent with the Program. Accessory dwelling units shall be prohibited in the Resource Conservancy and Natural designation consistent with Table 2-1. All accessory housing shall also comply with the Clallam County Zoning Code, Title 31 CCC.

~~4. Accessory dwelling units shall be prohibited in wetlands and channel migration zones.~~

**Comment [SG67]:** Recommended delete as already addressed by general regulation requirement under Section 3.8.2. Wetland and channel migration zone regulations are addressed in Chapter 7 of the Draft SMP.

### 3.8.4 Regulations – Land Divisions

1. Land division to create new residential lots shall be prohibited in the Natural designation.

2. Land division to create new residential lots may be permitted in the Marine Waterfront, Shoreline Residential– Intensive, and Shoreline Residential – Conservancy designations through a substantial development permit as indicated in Table 2-1 when consistent with the regulations of this Section (3.8.4) and this Program.

3. Land division to create new residential lots may be permitted in the Resource Conservancy designation through a conditional use permit as indicated in ~~Table 2-2~~Table 2-1 when consistent with the regulations of this Section (3.8.4) and this Program.

4. When permitted, land divisions shall comply with all of the following:

a. New lots shall be consistent with lot size and configuration requirements established by Clallam County Code Title 33, Zoning, as applicable, provided that new lots comply with the critical area requirements in Chapter 7 of this Program and provided further that new lots in the Shoreline Residential – Conservancy and Resource Conservancy designations have a minimum lot width of at least one-hundred fifty (150) feet and maximum width to depth ratio shall be 1:4.

b. Proposals for new lots for development within shoreline jurisdiction shall demonstrate an adequate building envelope (including access and utilities) exists after applicable shoreline and critical area buffers, setbacks, easements and other restrictions are taken into account.

c. Proposals for new lots created within mapped channel migration zones shall require a geotechnical evaluation to ensure that all new lots provide adequately sized building envelope/sites (including access and utilities) outside of the established channel migration zone.

d. Structural shore armoring or flood control structures will not be required to create the lots; and

e. The new lots will not require structural shoreline stabilization or flood control measures during the useful life of the planned development or seventy-five (75) years, whichever is greater.

f. No structures are proposed within the required shoreline buffer or critical area buffer, unless the regulations in Chapters 6 and 7 specifically allow them in the buffer.

g. The shoreline buffer areas prescribed in Tables 6-1 and 6-2 shall be placed in a dedicated open space tract, easement or covenant protecting the buffer into perpetuity. Such dedication or easement shall be recorded together with the land division and shown on the final plat.

h. Adequate sewer, water, access, and utilities can be provided at the time of final plat or short plat approval subject to the requirements of Clallam County Code Title 29 Subdivisions.

i. The intensity and type of development is consistent with the Clallam County Comprehensive Plan and the associated development regulations set forth in Clallam County Code Title 33.

j. Potential significant adverse environmental impacts shall be avoided and unavoidable impacts can be offset through compensatory mitigation to achieve no net loss of ecological functions.

k. New residential subdivisions of more than four (4) units or lots shall include a restriction on the face of the plat prohibiting individual beach access structures. Shared access structures may be permitted in these subdivisions when consistent with the provisions of this Program.

l. Land below the ordinary high water mark shall not be permitted for use in calculating minimum lot area for the proposed lots.

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### 3.8.5 Application Requirements

1. Applications for residential use/development shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of this Program.

2. For new residential development within designated floodplains in the Puget Sound basin, the Administrator may require additional information as needed to demonstrate that the proposal development is consistent with the National Oceanic and Atmospheric Administration's (NOAA) recommendations in the 2008 Biological Opinion on the Federal Flood Insurance Program to avoid impacts on Endangered Species Act-listed Puget Sound Chinook salmon, Puget Sound steelhead, Hood Canal summer-run chum salmon, and Southern Resident killer whales, and/or designated critical habitat for those species.

## 3.9 Restoration

### 3.9.0 Applicability

Restoration, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations.

### 3.9.1 Policies

1. Restoration should be used to complement and not take the place of the shoreline protection strategies required by this Program to achieve the greatest overall ecological benefit.

2. Clallam County should support voluntary and cooperative restoration efforts between local, state, and federal public agencies, Tribes, non-profit organizations, and landowners to improve shorelines with impaired ecological functions and/or processes.

3. Restoration actions should improve shoreline ecological functions and processes as well as shoreline features and should promote sustainability of sensitive and/or regionally important plant, fish, and/or wildlife species and their habitats.

4. Restoration should be integrated with and should support other natural resource management efforts in Clallam County and in the greater Puget Sound region.

5. The County should minimize policy and regulatory barriers to ecological restoration and where feasible provide incentives to encourage voluntary restoration projects.

6. Restoration efforts should take into account potential implications of climate change to ensure the resiliency and sustainability of the restored habitats over time.

7. The County should actively implement the Shoreline Restoration Plan to achieve the following goals:

    a. Protect and restore ecosystem health.

    b. Maintain and improve ecosystem functions that provide for economic prosperity and human health.

    c. Promote the collection and use of scientific information.

    d. Increase public awareness, education, and involvement.

DRAFT

e. Encourage cooperation and coordination for implementation.

### 3.9.2 Regulations

1. Restoration may be permitted in all environment designations through a substantial development permit or statement of exemption as indicated in Table 2-2 when consistent with this Program.

2. Restoration shall be carried out in accordance with a County or resource agency-approved restoration plan and in accordance with the policies and regulations of this Program.

3. Restoration projects shall be monitored and maintained to ensure they achieve their intended restoration goals. The project proponent shall assess and document each restoration project according to the requirements prescribed by the applicable authorizing or funding agency. The project proponent shall be responsible for implementing corrective actions as needed to ensure the project's ecological benefits are sustainable over time.

4. The Administrator shall track and document shoreline restoration efforts and their expected and actual contribution to shoreline ecological functions on a regular and ongoing basis as part of demonstrating whether no net loss is being achieved.

5. The Administrator, at his/her discretion, may waive review requirements fees for shoreline restoration projects that meet either of the following criteria:

   a. Sponsored Projects: Restoration projects sponsored, co-sponsored or otherwise supported by Clallam County, Washington Department of Fish and Wildlife, Clallam Conservation District, Natural Resources Conservation Service, U.S. Fish and Wildlife Service, Washington Department of Natural Resources, or other public agency approved by the Administrator which are consistent with the County Comprehensive Plan, Sequim Bay Watershed Management Plan, Dungeness Watershed Area Management Plan, Port Angeles Watershed Management Plan, Sequim-Dungeness Groundwater Protection Strategy, County floodplain management plans, and other plans adopted by the County Board of Commissioners.

   b. Vegetation Planting/Removal: Planting of native vegetation or removal of non-native species to improve the functions of a shoreline buffer or designated critical area; provided that such activities performed are limited to the area being enhanced; provided further that watering of newly planted vegetation is provided to ensure plant establishment. Vegetation planting and removal on landslide hazard areas shall require approval of a mitigation plan in accordance with Section 8.3 of this Program.

6. Fish Habitat or Passage Improvement Projects: The expedited permit process set forth by Second Substitute House Bill 2879 (Chapter 249, Laws of 1998) for fish habitat or passage improvement projects, including stabilization and relocation proposals that qualify as fish habitat or passage improvement projects, is hereby adopted by Clallam County. This process sets forth a requirement that the applicant notify Clallam County of the request for a permit waiver of a certificate of compliance or other permit approval and any associated permit fees for those projects which qualify for this waiver. The request shall be in the form of a Joint Aquatic Resources Permit Application (JARPA). Qualified projects must meet the criteria set forth by the legislation which shall include any County-sponsored projects.

   a. Clallam County shall use the JARPA form as an alternative shoreline exemption permit application form for fish habitat or passage improvement projects.

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b. Upon receipt of an application deemed to be qualified by Washington State Department of Fish and Wildlife, the Administrator shall provide comments within fifteen (15) days to the Department of Fish and Wildlife and also the applicant. These comments shall include whether or not the proposal is consistent with this Program and adopted watershed plans, flood management or reduction plans, and other applicable plans, as they apply.

c. Any fish enhancement or passage improvement project that is constructed or completed without obtaining comments from the Administrator in accordance with Chapter 249, Laws of 1998, shall be deemed a violation of this Program and Chapter 35.01 Clallam County Code. Such projects are subject to violation and enforcement procedures set forth by said regulations.

### 3.9.3 Application Requirements

1. Applications for restoration projects shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of this Program.

## 3.10 Signs

### 3.10.0 Applicability

Signs, including on-premises and off-premises signs, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations.

### 3.10.1 Policies

1. Signs should be located, designed, and maintained to be visually compatible with local shoreline scenery as seen from both land and water, especially on shorelines of statewide significance.

2. Sign location and design should not significantly impair shoreline views.

3. Signs of a commercial or industrial nature should be limited to those areas or premises to which the sign message refers.

4. Billboards and other off-premise signs should not be located on shorelines except for approved community gateway or directional signs.

### 3.10.2 Regulations

1. Signs may be permitted in any environment designation consistent with the policies and regulations of this Section and Program.

2. Sign development is prohibited in the Natural designation, except for trail marking, hazard warnings, or interpretive scientific or education purposes. Such allowed signs shall be limited in size and number to those required to affect their purpose.

3. New signs must comply with the Clallam County Zoning Code, Title 33 CCC, sign regulations.

4. Signs shall comply with the applicable provisions of Chapters: 6, Shoreline Buffers and Vegetation Conservation; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the

applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

5. Signs shall be located and designed to avoid significant adverse impact on shoreline functions and processes. This shall include locating signs outside of shoreline buffers, critical areas or other areas that require substantial vegetation removal, grading or filling.

6. The following types of signs may be permitted in shoreline jurisdiction, subject to the provisions contained within this Program:

   a. Water navigation signs and highway and railroad signs necessary for operation, safety, and direction;

   b. Public information/interpretive signs directly relating to a shoreline resource, use, or activity;

   c. Off-premise, ~~free~~ signs for community identification, information, or directional purposes;

   d. Signs with changing message, provided that the information displayed is limited to time, temperature, date, or public non-commercial messages;

   e. National, state, or institutional flags or temporary decorations customary for special holidays and similar events of a public nature; ~~and~~

   f. Temporary directional signs to public or quasi-public events if removed within ten (10) days following the event~~.~~; and

   ~~f.~~g. Temporary campaign signs indicating support or opposition for a ballot proposition or candidate if removed within 10 days after the election the sign relates to.

7. The following types of signs shall be prohibited in shoreline jurisdiction:

   a. Signs that impair visual access through view corridors;

   b. Off-premises, detached outdoor advertising signs;

   c. Overwater signs or signs on floats or pilings shall be prohibited, except when related to navigation or a water-dependent use;

   d. Signs that incorporate spinners, streams, pennants, flashing or blinking lights and moving devices, except for public highway and railroad signs;

   e. Animated outdoor advertising signs consisting of devices that move and/or fluctuate in lighting or position;

   f. Signs placed on trees or other natural features; and

   g. Commercial signs for products, services, or facilities located off-site.

### 3.10.3 Application Requirements

1. Applications for sign development shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of this Program.

**Comment [SG68]:** The word "free" not needed. Likely was intended to be worded as "free-standing".

**Comment [SG69]:** Recommended to specifically address temporary campaign signs under this provision.

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## 3.11 Transportation

### 3.11.0 Applicability

Transportation uses and developments, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations.

### 3.11.1 Policies

1. New roads and railroads should be located outside of the shoreline jurisdiction whenever feasible. ~~Trails may be located in shoreline jurisdiction provided they are located and designed to minimize significant adverse impacts of shoreline functions and processes.~~

2. Support completion and expansion of the Clallam County portion of the Olympic Discovery Trail (ODT) and connections of other trail linkages to the ODT as an important regional multi-use transportation facility and to increase public access and recreational use of the shoreline.

3. Transportation system plans and transportation projects within shorelines should provide safe shoulders and/or trail space for non-motorized traffic such as pedestrians and bicyclists. Space for such uses should be required along public roads on shorelines, where appropriate, and should be considered when rights-of-way are being vacated or abandoned.

4. Public access should be provided to shorelines where safe and compatible with the primary and adjacent use, or should be replaced where transportation development substantially impairs lawful public access. Viewpoints, parking, trails and similar improvements should be considered for public transportation system projects in shoreline areas, especially where a need has been identified in county or state plans.

~~2.~~5. Maintenance and repair of existing transportation facilities in shoreline jurisdiction should use all reasonable methods to minimize significant adverse impacts on nearby shorelines.

~~3.~~6. New transportation facility locations should be planned to fit the topographical characteristics of the shoreline to minimize alterations to natural shoreline conditions.

~~4.~~7. New transportation facilities should be designed and located to minimize the need for the following:

   a. Structural shoreline protection measures;

   b. Modifications to natural drainage systems; and

   c. Waterway crossings.

~~5.~~8. The location and design of new transportation uses/developments including replacement of existing roads and other infrastructure should take into account implications of sea level rise and other climate change effects.

~~6.~~9. When transportation corridors are necessary within shoreline jurisdiction, joint-use corridors are preferred and encouraged for roads and other forms of motorized transportation/circulation.

~~7.~~10. The County should review proposals for new transportation facilities to determine if any such development would thwart or substantially compromise planned restoration actions in the

**Comment [SG70]:** Revision proposed in response to Planning Commission direction to address state park comments to clarify related trail policies and regulations in relation to both recreation and transportation uses.

The deleted policy language highlighted in Policy 1 and added in Policies 2, 3 and 4 are recommended to address this issue and request.

*See also related changes and comments to Section 3.7.2.(15) and Section 3.11..2.(18).*

vicinity of the project. The County should work with the proponents of each project to resolve likely conflicts between the proposed facility and planned restoration.

### 3.11.2 Regulations – Design and Operation

1. Transportation development may be permitted in certain environment designations through a substantial development permit or conditional use permit as indicated in Table 2-2 when otherwise consistent with this Program.

2. Transportation facilities, including trails, shall comply with the applicable provisions of Chapters: 6, Shoreline Buffers and Vegetation Conservation; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

3. Transportation facilities shall be designed to generally follow natural topography, to minimize cuts and/or fills, to avoid significant adverse impacts to shoreline ecological functions and processes.

4. Transportation facilities shall be required to make joint use of rights-of-way and to consolidate crossings of water bodies to avoid significant adverse impact to the shoreline.

5. Public transportation facilities may be permitted to cross wetlands, streams and/or their buffers when no feasible alternative alignment is available and the facility is designed and constructed to minimize physical, hydrologic and ecological impacts to the wetland or stream. Alternative access shall be pursued to the maximum extent feasible, including through the provisions of RCW 8.24. Exceptions or deviations from technical standards for width or other dimensions, and specific construction standards to minimize impacts, may be specified, including placement on elevated structures as an alternative to fill, if feasible. Proponents of such wetland or stream crossings must demonstrate that all of the following criteria are met:

   a. There is no other feasible alternative route with less impact on shorelines or critical areas.

   b. The crossing minimizes interruption of natural processes such as channel migration, the downstream movement of wood and gravel, and the movement of all fish and wildlife. Bridges are preferred for all stream crossings and should be designed to maintain the existing stream substrate and gradient, provide adequate horizontal clearance on each side of the ordinary high water mark, and provide adequate vertical clearance above the ordinary high water mark.

   c. Culverts, if needed, shall be designed according to applicable state and federal guidance criteria for fish passage as identified in Fish Passage Design at Road Culverts, Washington Department of Fish and Wildlife, 2013, and/or the National Marine Fisheries Service Guidelines for Salmonid Passage at Stream Crossings, 2000 (and subsequent revisions) and in accordance with a state Hydraulic Project Approval. The Administrator may require that existing culverts be replaced or modified as a condition of approval if the culvert is detrimental to fish passage or water quality, and a feasible alternative exists.

   d. Crossings shall be limited to the minimum width necessary.

6. Private road access to private development sites may be permitted to cross wetlands, streams and/or their buffers if there are no feasible alternative alignments. Alternative access shall be pursued to the maximum extent feasible, including through the provisions of RCW 8.24.

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Exceptions or deviations from technical standards for width or other dimensions, and specific construction standards to minimize impacts, may be specified, including placement on elevated structures as an alternative to fill, if feasible. Proponents of such wetland or stream crossings must demonstrate that all of the following criteria are met:

a. There is no other feasible alternative route with less impact on critical areas.

b. The crossing minimizes interruption of natural processes such as channel migration, the downstream movement of wood and gravel, and the movement of all fish and wildlife. Bridges are preferred for all stream crossings and should be designed to maintain the existing stream substrate and gradient, provide adequate horizontal clearance on each side of the ordinary high water mark, and provide adequate vertical clearance above the ordinary high water mark.

c. Culverts, if needed, shall be designed according to applicable state and federal guidance criteria for fish passage as identified in Fish Passage Design at Road Culverts, Washington Department of Fish and Wildlife, 2013, and/or the National Marine Fisheries Service Guidelines for Salmonid Passage at Stream Crossings, 2000 (and subsequent revisions) and in accordance with a state Hydraulic Project Approval. The Administrator may require that existing culverts be replaced or modified as a condition of approval if the culvert is detrimental to fish passage or water quality, and a feasible alternative exists.

d. Crossings shall be limited to the minimum width necessary. Common crossings are the preferred approach where multiple properties can be accessed by one crossing.

7. In instances where water crossing is required, the shortest, most direct route shall be used unless such route would cause more damage to the environment. Bridges shall be required when crossing streams that support salmonids unless the proponent demonstrates there are other feasible alternatives that do not cause significant impacts to fish habitat including fish passage.

8. Bridge supports and abutments shall be designed and spaced so they do not act as walls baffling or blocking flood waters, or interrupting stream channel processes or littoral drift.

9. Arterial roads and railroads shall be built outside the floodway except for necessary stream crossings. If built in the floodway fringe, such routes should be aligned generally parallel to outside stream bends so they will also act as setback levees.

10. Transportation facilities shall be designed so that no significant loss of flood capacity nor measurable increase in predictable flood levels will result. Such facilities shall avoid placing structures within the channel migration zone or any dynamic, shifting channel area unless demonstrated no feasible location outside of these areas exists and compliance with Chapter 8, Mitigation and No Net Loss.

**Comment [SG71]:** Recommended addition, since it may not be possible to avoid placing all new transportation facilities outside of channel migration zones.

11. Expansion or new construction of any private or public road within shoreline jurisdiction shall only be permitted when adverse impacts to shoreline functions and processes have been avoided and when unavoidable impacts have been minimized and/or offset through compensatory mitigation in accordance with Section 8.3 of this Program.

12. Road and street repair projects shall be designed to be the minimum necessary to provide safe roads and streets.

13. Transportation facilities shall be constructed of materials that will not adversely affect water quality or aquatic plants and animals over the long term. Elements within or over water shall be constructed of materials approved by applicable state agencies for use in water for both submerged portions and other components to avoid discharge of pollutants from splash, rain or runoff. Wood or pilings treated with creosote, pentachlorophenol or other similarly toxic materials are prohibited. Preferred materials are concrete and steel.

14. Transportation development shall be carried out in a manner that maintains or improves state water quality standards for affected waters.

15. Low impact development techniques shall be used to manage stormwater runoff from roads where feasible and where soil and geologic conditions are appropriate and conducive to such techniques.

16. Non-emergency construction and repair work shall be scheduled for that time of year when seasonal conditions (weather, stream flow) permit optimum feasible protection of shoreline ecological functions and processes.

17. Roads and railroads shall be located to minimize the need for routing surface waters into and through culverts.

18. Extensions and connections to the Olympic Discovery Trail shall be a preferred transportation, public access and recreational use within the shoreline jurisdiction consistent with the policies and regulations of this Program. ~~Construction of publicly owned trails on public lands, and public trail-related facilities, such as picnic tables, benches, interpretive centers and signs, pedestrian bridges and viewing platforms, may be permitted subject to the following standards:~~

    ~~a. The trail is constructed in the outer fifty percent (50%) of the shoreline buffers as indicated in Tables 6-1 and 6-2. The Administrator may allow the trail to be located within the inner fifty percent (50%) of the shoreline buffer if there is strong evidence that the later location would require less clearing, grading and damage to the shoreline ecology, provided that the trail is at least 30 feet landward of the ordinary high water mark.~~

    ~~b. Trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or other previously disturbed areas.~~

    ~~c. Trails and related facilities shall be planned and aligned to minimize removal of trees, shrubs, snags and important wildlife habitat and critical area functions such that the disturbed area shall be a maximum of sixteen (16) feet wide.~~

    ~~d. Viewing platforms, interpretive centers, picnic areas, benches and their associated access shall be designed and located to minimize disturbance of shoreline habitat.~~

    ~~e. Trails shall be limited to non-motorized use.~~

    ~~f.~~a. ~~Trail surfacing shall be composed of natural materials, including but not limited to gravel, rock, bark, untreated wood decking eighteen (18) inches or lower in height; except that regional public trails may have up to twelve (12) feet of permanent surfacing materials. Any construction materials shall not significantly alter the existing drainage or negatively affect the critical area.~~

**Comment [SG72]:** Revision proposed in response to Planning Commission request to clarify trail facilities in regards to recreation and transportation uses.

The proposed added regulation language highlighted in green is to specifically note that the Olympic Discovery Trail is both a recreation trail and a transportation corridor.

The deleted trail design standards highlighted in orange were moved to the recreation section under Section 3.7.2.(15).

*See also revisions and comments under 3.11.1(1-4).*

### 3.11.3 Application Requirements

1. Applications for transportation development shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of this Program.

## 3.12 Utilities

### 3.12.0 Applicability

Utilities including distribution lines and related facilities, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations.

### 3.12.1 Policies

1. New public or private utilities should be located inland from water bodies, preferably outside of the shoreline jurisdiction, unless:
   a. The utility requires a location adjacent to the water;
   b. Water crossings are unavoidable;
   c. Alternative locations are infeasible; or
   d. Utilities are required for authorized shoreline uses consistent with this Program.
2. Utility facilities and corridors should be planned, designed and located so as not to obstruct or degrade scenic views. This may include locating utility infrastructure below ground, providing vegetative screening, or taking other measures to reduce visual impacts.
3. Utilities should be located and designed to avoid public recreation and public access areas and significant historic, archaeological, cultural, scientific or educational resources.
4. Utilities should be designed and sited to avoid crossing aquatic areas. If a water crossing is unavoidable, it should be located in an area that will cause the least adverse ecological impact, be installed using methods that minimize adverse impacts, and be the shortest length feasible. Perpendicular crossings are preferred.
5. Utility lines should be located and constructed within existing utility corridors and other rights-of-way presently dedicated to public use.
6. New utility installations should be planned, designed and located to eliminate the need for structural shoreline armoring or flood protection measures.
7. All utility development should be consistent with and coordinated with all local government and state planning, including comprehensive plans and single-purpose plans, to meet the needs of future populations in areas planned to accommodate growth. Site planning and rights-of-way for utility development should provide for compatible multiple uses such as shore access, trails, and recreation or other appropriate use whenever possible; utility right-of-way acquisition should also be coordinated with transportation and recreation planning.
8. To the extent commensurate with public safety, public utility-owned or controlled property should be accessible to the public and enable access to, and along, shorelines.

DRAFT

9. Solid or Hazardous Waste Disposal Facilities: Solid or hazardous waste disposal, discharge, storage, or recycling facilities, including but not limited to moderate risk facilities, underground injection wells, solid waste and recycling transfer sites, landfills, junk yards, salvage yards, auto wrecking yards, shall demonstrate that such facilities will not significantly impact groundwater resources.

10. The County should review proposals for new utility developments to determine if any such development would thwart or substantially compromise planned restoration actions in the vicinity of the project. The County should work with the proponents of each project to resolve likely conflicts between the utility development and planned restoration.

11. Proponents of hydroelectric generation projects should protect and preserve natural and cultural resources. Dams and hydroelectric facilities, including small-scale hydroelectric facilities, should be located so as not to adversely impact sites having historic, cultural, scientific or educational value as identified by the appropriate authorities.

12. Proposals for new hydroelectric utilities should be carefully considered to ensure that the benefits outweigh the potential impacts on shoreline functions and processes. Projects that impact fish, wildlife, water quality, critical areas, erosion and accretion areas or processes and/or natural scenic vistas should be discouraged.

13. The expansion of existing hydroelectric facilities or the integration of hydroelectric facilities within existing flood control, irrigation, or water supply facilities should be encouraged over the development of new facilities. When new sites are considered, sufficient evidence should be presented by the project proponent to demonstrate that existing facilities are fully utilized or are not practicably available. All non-water-dependent facilities such as staging and storage areas, switching yards, utility transmission lines and in many cases powerhouses, should be located outside of the shoreline wherever feasible.

14. In determining the appropriateness of a stream or river for hydroelectric development, the recommendations and conclusions of the Northwest Power and Conservation Council or equivalent state-adopted site ranking study should be considered.

15. Hydroelectric facilities should provide public access in accordance with constitutional or other legal limitations unless such improvements are demonstrated to be infeasible or present hazards to life and property.

16. Powerhouses and related structures should be designed, located and constructed so as to avoid extensive alteration of topography and to preserve the natural features of the shoreline.

17. Dam and hydroelectric facilities should be constructed in such a manner that minimizes erosion and sedimentation during construction.

### 3.12.2 Regulations – General

1. Permitted, conditional and prohibited utility uses and developments within each shoreline environmental designation are to be based on Section 2.9, Table 2-2, and as further prescribed by the policies and regulations of this Section and Program. All utilities must also be a permitted use under the Clallam County Zoning Code, Title 33 CCC.

2. New utilities may be permitted in certain environment designations through a conditional use permit as indicated in Table 2-2 when otherwise consistent with this Program.

DRAFT

3. Utility developments shall comply with the applicable provisions of Chapters: 6, Shoreline Buffers and Vegetative Conservation; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

4. All underwater pipelines transporting liquids intrinsically harmful to aquatic life or potentially injurious to water quality are prohibited, except in situations where no other feasible alternative exists. Automatic shut-off valves shall be provided by the project proponent on both sides of the water body, and pipe sleeves shall be used to facilitate repair without future encroachment on surface waters and wetlands, unless more feasible or technically superior alternatives exist that provide equivalent protection, as deemed by the Administrator.

5. The construction, operation and maintenance of utilities shall not cause a net loss of shoreline ecological functions or processes or adversely impact other shoreline resources and values. The proponent shall provide compensatory mitigation for any unavoidable impacts to the shoreline environment in accordance with Section 8.3 of this Program.

6. Utilities that are not water-dependent shall be located outside shoreline buffers unless it is demonstrated that alternative locations and alternative technology are infeasible.

7. When feasible, utility lines shall use existing rights-of-way, corridors and/or bridge crossings and shall avoid duplication and construction of new or parallel corridors in all shoreline areas.

8. Utility facilities shall be constructed using techniques that minimize the need for shoreline fill. When crossing water bodies, pipelines and other utility facilities shall use pier or open pile construction.

9. New utility corridors shall be aligned when possible to avoid cutting trees greater than twelve (12) inches in diameter measured at four and one-half (4.5) feet height on the uphill side.

10. Vegetation clearing during utility installation or maintenance shall be minimized. Upon completion of installation/maintenance or as soon thereafter as possible due to seasonal growing constraints, disturbed areas shall be restored to pre-project configuration, replanted with native species at pre-construction densities or greater and maintained until the newly planted vegetation is established. Plantings shall be native species and similar to vegetation in the surrounding area.

11. Placement of utilities within wetlands, landslide hazard areas, aquatic habitat conservation areas, frequently-flooded areas and their associated buffers may be permitted subject to all of the following standards:

    a. There no other feasible location and the utility is located, constructed, and maintained in a manner that minimizes adverse ~~effects~~impacts on these critical areas and their buffers.

    b. New utilities shall use existing utility corridors whenever possible.

    c. The utility line is located as far from the wetland edge as possible and in a manner that minimizes disturbance of soils and vegetation.

    d. New utility corridors shall be aligned when possible to avoid cutting trees greater than twelve (12) inches in diameter measured at four and one-half (4.5) feet height on the uphill side.

DRAFT

e. Clearing, grading, and excavation activities are limited to the minimum necessary to install the utility line and the area is restored following utility installation.

f. Buried utility lines shall be constructed in a manner that prevents significant adverse impacts to subsurface drainage. This may include the use of trench plugs or other devices as needed to maintain hydrology.

### 3.12.3 Regulations – Dams and Hydroelectric Generating Facilities

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

2. The design of all dams and the suitability of the proposed site for dam construction shall be certified by a professional engineer licensed in the State of Washington. The professional design shall include a maintenance schedule.

3. For all dams that are not regulated by either the Federal Energy Regulatory Commission licensing procedures, or the State Department of Ecology reservoir permit requirements, a maintenance agreement and construction bond for one hundred-fifty percent (150%) of the cost of the structure shall be filed with the Administrator prior to construction. The maintenance agreement shall specify who is responsible for maintenance, shall incorporate the maintenance schedule specified by the design engineer, shall require annual inspections by a Civil Engineer licensed in the State of Washington, and shall stipulate abandonment procedures which shall include, where appropriate, provisions for site restoration.

4. Dams and associated power generating facilities shall not be permitted except in the rare instance where there is clear evidence that the benefits to County residents outweigh any potential adverse ecological impacts. The criteria for approving such facilities will depend on the specific location including its particular physical, cultural, and ecological conditions.

5. Hydroelectric generating facilities which provide or generate more than one (1) megawatt of electrical power annually or are located on public land shall provide public access/open space. The County may alter the recommended megawatt threshold per constitutional limits or waive this requirement if public access is infeasible due to incompatible uses, safety, impacts to shoreline ecology or legal limitations. Public access provisions shall include, but not be limited to, any combination of trails, vistas, parking, and any necessary sanitation facilities.

6. Construction material staging areas shall be located more than two hundred (200) feet from ordinary high water, except this shall not apply during construction and assembly periods.

7. Service roads shall be a size which is minimally necessary to safely accomplish maintenance and repair of the facility.

8. The following standards shall apply to powerhouses/penstocks:

   a. These shall be designed, located and constructed in such a manner as to avoid extensive removal of riparian vegetation and topographical alteration.

   b. Penstocks shall be designed, located and constructed to present as low a profile as possible.

DRAFT

c. Powerhouses shall be located a minimum of twenty five (25) feet from ordinary high water, provided that this setback does not apply to raceways.

### 3.12.4 Regulations – Electrical Energy and Communication Systems

1. Systems components (including substations, towers, and transmission and distribution lines) that are not water-dependent shall not be located in shoreline jurisdiction unless alternatives are infeasible.

2. Underground placement of lines shall be required for new or replacement lines that are parallel to the shoreline and do not cross water bodies. New or replacement lines that cross water or critical areas may be required to be placed underground depending on impacts on ecological functions and processes and visual impacts. Poles or supports treated with creosote or other wood preservatives that may be mobile in water shall not be used along shorelines or associated wetlands.

### 3.12.5 Regulations – Essential Public Facilities

1. Essential public facilities shall be located, developed, managed, and maintained in a manner that protects shoreline ecological functions and processes.

2. Essential public facilities shall be designed to enhance shoreline public access and aesthetics.

3. Essential public facilities shall be located outside of shoreline jurisdiction unless they require a waterfront location or unless there is no other feasible alternative.

### 3.12.6 Regulations – Off-shore Wind /Tidal Energy Systems

1. At wind energy system sites, the design of the associated structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the wind energy system to the natural setting and the existing environment.

2. No wind energy system shall be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority.

3. The wind/tidal energy system shall not interfere with established navigation routes.

4. The wind/tidal energy system shall be designed, constructed and operated in a manner that minimizes adverse ~~effects~~impacts on shoreline ecological functions and processes.

5. The County shall take the following into account in its review of wind/tidal energy system applications:

   a. The potential hydrological effects (including physical effects at the site and adjacent coastline through changes to wave patterns, tidal streams, sediment transport, etc.);

   b. Interference with other marine activities;

   c. Potential risk to fish and other marine life, including mammals, from contaminants, noise and vibration;

   d. The effects of increased turbidity and potential for smothering/burial of benthic flora and fauna; and

DRAFT

e. Other adverse implications on marine habitats and/or species.

### 3.12.7 Regulations – Oil, Gas, and Natural Gas Transmission

1. Because of the unique shoreline environmental resources of the County, development of petrochemical plants and energy facilities such as crude petroleum transfer facilities and tank farms, petroleum refineries, nuclear power plants, nuclear processing plants, and liquid natural gas and liquid petroleum gas facilities, as defined in RCW 80.50.020, will not be permitted unless it is demonstrated, giving due consideration to the statewide interest, that local economic, social and environmental resources and conditions will be adequately protected from ~~substantial~~significant adverse ~~effects~~impacts.

2. Oil, gas and natural gas transmission and distribution pipelines shall not be located in shoreline areas unless alternatives are demonstrated to be infeasible.

3. Local natural gas service lines shall not be located in shoreline areas unless serving approved shoreline uses. Crossings of shorelines shall not be approved unless alternatives are demonstrated to be infeasible.

4. Developers and operators of pipelines and related facilities for gas and oil shall be required to demonstrate adequate provisions for preventing spills or leaks, as well as established procedures for mitigating damages from spills or other malfunctions and shall demonstrate that periodic maintenance will not disrupt shoreline ecological functions.

5. To the extent feasible, public access shall be incorporated with major transmission line rights-of-way for public access to and along water bodies as required in Section 5.3. The County may waive this requirement if public access is infeasible due to incompatible uses, safety, impacts to shoreline ecology or legal limitations.

### 3.12.8 Regulations – Municipal / Public Sewage Systems

1. Outfall pipelines and diffusers associated with municipal/public ~~are~~and water-dependent ~~but~~ shall be located to ~~minimize adverse effects on shoreline~~ avoid a net loss of ecological functions ~~and processes or significant adverse impacts upon shoreline resources and values~~.

2. New outfalls and modifications to existing outfalls shall be designed and constructed by the project proponent to avoid impacts to existing native aquatic vegetation attached to or rooted in substrate. Diffusers or discharge points must be located offshore at a distance beyond the nearshore area to avoid impacts to those habitats.

3. Septic tanks and drain fields are prohibited where public sewer is readily available.

### 3.12.9 Regulations – Solid Waste Facilities

1. Facilities for processing, storage and disposal of solid waste are not normally water-dependent. Components that are not water-dependent shall not be permitted on shorelines.

2. Disposal of solid waste on shorelines or in water bodies has potential for severe adverse ~~effects~~impacts upon ecological processes and functions, property values, public health, natural resources, and local aesthetic values, and shall not be permitted.

3. Temporary storage of solid waste in suitable receptacles is permitted as accessory to a permitted primary use or for litter control.

DRAFT

### 3.12.10 Regulations – Stormwater Facilities

1. Stormwater management facilities, limited to detention/ retention/ treatment ponds, media filtration facilities, and lagoons or infiltration basins, shall be permitted within shoreline and /or critical area buffers only when the following provisions are met:

   a. Construction of the stormwater facility does not displace or impact a critical area;

   b. There is no other feasible location for the stormwater facility and the facility is located, constructed, and maintained in a manner that minimizes adverse ~~effects~~impacts to shoreline ecological functions;

   c. The stormwater facility meets applicable stormwater management standards (see Section 5.2 and 5.4 of this Program) and the discharge water meets state water quality standards including total maximum daily load (TMDL) standards;

   d. The width of the buffer between the stormwater facility and the shoreline or critical area is at least seventy-five percent (75%) of the standard width per Tables 6-1 and 6-2, or thirty-five (35) feet, whichever is greater;

   e. There is no other feasible location for the stormwater facility and the facility is located, constructed, and maintained in a manner that minimizes adverse ~~effects~~impacts on the buffer and adjacent critical areas; and

   f. Low impact development approaches have been considered and implemented to the maximum extent feasible.

2. Proposals for all new stormwater facilities shall include landscaping plans that enhance the aesthetic quality of the shoreline, utilize native vegetation, and provide for maintenance care until newly planted vegetation is established.

3. Stormwater conveyance or discharge facilities such as dispersion trenches, level spreaders, and outfalls may be permitted within a critical area or shoreline buffer on a case-by-case basis when all of the following criteria are met:

   a. Due to topographic or other physical constraints, there are no feasible locations for these facilities in the outer buffer area or outside the buffer.

   b. The discharge is located in a manner that minimizes disturbance of soils and vegetation.

   c. The discharge outlet is designed to prevent erosion and promote infiltration.

### 3.12.11 Regulations – Public Water Systems

1. Components of water systems that are not water-dependent shall be located away from the shoreline. Private and public intake facilities should be located where there will be no net loss in ecological functions or significant adverse impacts upon shoreline resources, values, natural features, or other uses.

2. Desalinization facilities shall be located outside of critical areas and landward of shoreline buffers, except for water-dependent components such as water intakes.

**Comment [SG73]:** Recommended change to reference related requirements under Section 5.2 (Clearing, Grading and Filling) and Section 5.4 (Water Quality and Water Management).

DRAFT

### 3.12.12 Application Requirements

1. Applications for utility development shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of this Program. In addition, the following information shall be provided by the project proponent for a utility proposal:

   a. A description of the proposed facilities; and

   b. The rationale and justification for siting the proposed facility within shoreline jurisdiction; and

   c. A discussion of alternative locations considered and reasons for their elimination; and

   d. A description of the location of other utility facilities in the vicinity of the proposed project and any plans to include facilities or other types of utilities in the project; and

   e. A plan for the reclamation of areas disturbed both during construction and following decommissioning and/or completion of the useful life of the facility; and

   f. A plan for the control of erosion and turbidity during construction and operation; and

   g. An analysis of alternative technologies; and

   h. Documentation that utilities avoid public recreation areas and significant natural, historic or archaeological or cultural sites, or that no alternative is feasible and that all feasible measures to reduce harm have been incorporated into the proposal.

DRAFT

# Chapter 4 Policies and Regulations for Shoreline Modifications

## 4.1 Beach Access Structures

### 4.1.0 Applicability

Beach Access Structures, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations.

### 4.1.1 Policies

1. Efforts to enable pedestrian access to beach areas must be balanced with the need to protect shoreline ecological functions and ensure public safety.

2. Beach access structures should be located, designed, and maintained in a manner that minimizes adverse ~~effects~~impacts on shoreline ecology. Proposals for ~~new or expanded~~ beach access structures should consider existing topography, shoreline aesthetics, and minimize clearing and grading to the maximum extent feasible.

3. Neighboring property owners are encouraged to combine resources to collectively propose beach access structures in appropriate locations for shared use.

4. Beach access structures should not be permitted until and unless their adverse ~~effects~~impacts on stream, lake or marine shoreline functions and processes, including any adverse ~~effects~~impacts on adjoining lands and properties, are fully evaluated and mitigated.

5. Beach access structures may not be appropriate in some areas because of safety hazards or sensitive ecological conditions. These structures should not be permitted in areas where there are expected risks to human health and safety or adverse ~~effects~~impacts on shoreline functions and processes. Some properties will have view-only access to the adjoining waters.

6. Beach access structures should not be permitted if there is a reasonable likelihood that they will require erosion control structures or armoring in the future.

### 4.1.2 Regulations

1. Beach access structures may be permitted in all environment designations, except the Natural designation, through a substantial development permit or conditional use permit as indicated in Section 2,9, Tables 2-1 and 2-2 when they are consistent with this Program. Beach access structures shall be prohibited in the Natural designation.

2. New beach access structures shall comply shall comply with the applicable provisions of Chapters: 6, Buffers; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

3. When consistent with this Program, private beach access structures may be located within a shoreline buffer, provided that:

   a. No more than one beach access structure is allowed on an individual private lot; and

DRAFT

~~a.~~b. The width of any walkway, staircase, tower or tram shall not exceed six (6) feet; and

~~b.~~c. The structure shall not extend more than twelve (12) vertical feet above the bank or slope; and

~~c.~~d. There is no other available public beach access within five hundred (500) feet of the proposed access site; and

~~d.~~e. Compensatory mitigation is provided to offset significant adverse impacts on shoreline process and/or functions. The mitigation shall include enhancement of the buffer vegetation through planting and/or other appropriate measures needed to achieve no net loss.

4. No portion of a beach access structure shall be constructed in a wetland or wetland buffer or waterward of the ordinary high water mark of any waterbody unless there is no other feasible alternative.

5. When in-water or over-water construction is permitted in accordance with this section it shall be limited to a small pier or pile-supported pedestrian landing platform of twenty-five (25) square feet or less that is otherwise consistent with the provisions of this Program.

6. Existing lawfully constructed beach access structures may be repaired or replaced in-kind consistent with other provisions of this Program.

7. New land divisions shall include provisions for joint-use of beach access structures. Single use structures shall be prohibited in new subdivisions. All necessary access easements shall be recorded at the time of permitting.

8. Beach access structures, including any stairway, tram, stair tower, platform and/or elevated walkway anchored to the ground surface by structural means, are prohibited within areas mapped as Feeder Bluff, Feeder Bluff Talus, and Feeder Bluff Exceptional.

**Comment [SG74]:** This added regulation is same as requirement from Section 4.1.3.(2)(d). Since more a standard than an application requirement, the Planning Commission supported moving it under Section 4.1.2.

*See related comment on 4.1.3.(2) below.*

### 4.1.3 Application Requirements

1. Applications for beach access structures shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of this Program.

2. Before approving a permit for a new beach access structure on a steep slope, marine bluff or other landslide or erosion hazard area, the County ~~may~~shall require a report prepared by a state licensed geotechnical engineer or engineering geologist and/or a qualified biologist demonstrating that all of the following conditions are met:

   a. The structure is located in the least environmentally damaging location on the subject parcel; and

   b. The structure is designed to minimize the amount of clearing, grading, and excavation; and

   c. Construction or use of the structure will not destabilize slopes or increase landslide or erosion hazards; and

d. The structure is located outside of areas mapped as Feeder Bluff, Feeder Bluff – Talus, or Exceptional Feeder Bluff. Beach access structures (including any stairway, tram, stair tower, platform and/or elevated walkway anchored to the ground surface by structural means) are prohibited within areas mapped as Feeder Bluff, Feeder Bluff – Talus or Exceptional Feeder Bluff; and

**Comment [SG75]:** PC recommended this requirement be moved to beach access regulations. See added 4.1.2.(8) added to regulations. Given the other standards of this provision, the requirement was also left here.

e. The structure will not substantially interfere with natural erosion and accretion processes; and

f. The placement of the structure is likely not to require structural shoreline stabilization in the foreseeable future; and

g. Unavoidable significant adverse impacts on shoreline processes and ecological functions are mitigated to achieve no net loss.

## 4.2 Boating Facilities and Moorage

### 4.2.0 Applicability

Boating Facilities and Moorage, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations.

### 4.2.1 Policies

1. Boating and moorage facilities should be located, designed, constructed, and operated to avoid adverse ~~effects~~impacts on shoreline functions and processes and to prevent conflicts with other permitted uses.

2. Boating facilities should not be located or expanded where they would:

   a. Substantially interfere with net-shoreline drift.

   b. Cause adverse ~~effects~~impacts on aquatic habitat, water quality, aesthetics, navigation, and/or neighboring uses.

3. Boating facilities and moorage associated with commercial, industrial, and port uses should include public access in accordance with Section 5.3 of this Program.

4. Boating facilities and moorage should be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.

5. New marinas and other public boating facilities should be co-located with other compatible water-dependent uses where feasible. The Administrator should seek comment from public recreation providers, adjacent cities/counties, port districts, Washington State Parks, affected Native American Tribes, and the Washington State Departments of Ecology, Fish and Wildlife, Health, and Natural Resources, to ensure that local as well as regional recreation needs are addressed.

6. The County should review proposals for boating facilities and moorage to determine if any such development would thwart or substantially compromise planned restoration actions in the vicinity of the project. The County should work with the proponents of each project to resolve likely conflicts between the proposed development and planned restoration.

DRAFT

### 4.2.2 Regulations – Marinas

1. New marinas may be permitted in all environment designations, except the Resource Conservancy and Natural designations where they are prohibited, through a substantial development permit or conditional use permit as indicated in Section 2.9, Table 2-2, when they are consistent with this Program and when the proponent demonstrates that all of the following conditions are met:

    a. The marina is located in the least environmentally damaging location; and

    b. The proposed location will not require dredging or excavation/filling of wetlands; and

    c. The proposed location does not restrict the use of commercial and recreational shellfish beds; and

    d. The marina complies with the Washington Department of Health Environmental Health Guidelines for Marina Development and Operation; and

    e. Suitable public infrastructure is available or can be made available to support the marina; and

    f. The area has adequate water circulation and flushing action to prevent water quality degradation; and

    g. Unavoidable adverse impacts on ecological processes and functions are mitigated to achieve no net loss.

2. New marinas and expansions of existing marinas shall be designed, constructed, and operated according to the following:

    a. Open pile or floating breakwater designs shall be used unless the proponent demonstrates that there are specific safety considerations that warrant alternative approaches or unless riprap or other solid construction is shown to have fewer impacts on shoreline ecology over the short and long term.

    b. Structural shoreline stabilization/armoring shall be limited to the minimum necessary to protect marina infrastructure and shall consist of soft-shore bioengineered stabilization unless soft stabilization is demonstrated by a geotechnical analysis to be infeasible or inadequate to protect the site.

    c. Floating structures shall be designed to prevent grounding on tidelands. Floats shall only be used where there is sufficient water depth to prevent grounding at low tide.

    d. Piers and other structures shall be located, sized, and designed to minimize shading of aquatic habitats and species.

    e. Solid structures shall be designed to provide fish passage through and along the shallow water fringe.

    f. Floating piers shall be required in rivers unless the proponent can demonstrate that fixed piers will cause substantially less impact on geohydraulic processes.

3. New marinas and expansions of existing marinas shall with the applicable provisions of Chapters: 6, Shoreline Buffers and Vegetation Conservation; 7, Critical Areas; 8, Mitigation

DRAFT

and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

4. Every marina shall have appropriate equipment and operational procedures on hand to store fuels and related chemicals, prevent accidental spills, and facilitate containment and collection of chemicals should spillage occur.

5. New marinas shall include public access amenities. Consistent with Section 5.3 of this Program, public access siting and design shall be determined based on what is appropriate to a given location and the needs/desires of the surrounding community.

6. Live-aboard vessels may occupy up to twenty (20) percent of the slips at a marina. Marinas that accommodate live-aboards shall provide and maintain adequate facilities and programs to address waste disposal and sanitary disposal.

7. New or expanded marinas may include fill waterward of the ordinary high water mark only when necessary for the water-dependent portions of the marina facility. Filling for the creation of marina parking areas shall be prohibited.

8. If new or expanded marina facilities adversely affect net sediment transport or other coastal processes to the detriment of nearby beaches or habitats, the marina operator shall be required to periodically replenish the substrate in these areas to offset adverse impacts.

9. New or expanded development accessory to marinas including parking, open air storage, waste storage and treatment, stormwater management facilities, and utilities shall be designed and constructed to avoid significant adverse impacts on shoreline functions and processes. The following standards shall apply to new or expanded development accessory to marinas:

   a. Accessory structures and facilities shall be clustered and located so as to reduce clearing and grading impacts.

   b. Water-oriented accessory uses reasonably related to marina operation may be located over water or near the water's edge by conditional use permit if an overwater or water's-edge location is essential to the operation of the use and if public access is provided.

   c. Parking shall be located away from the water's edge and landward of shoreline buffers prescribed by this Program.

   d. Pump-out, holding, and/or waste treatment facilities and services shall be provided at all marinas. Pump-out facilities shall be conveniently located and sited to ensure easy access, prevent lengthy queues, and allow full compliance with waste disposal regulations. Vessel-mounted pump-out services and hard-plumbed stations at each slip shall be preferred over portable pump-out equipment.

   e. Marinas shall provide adequate restroom and sewage disposal facilities in compliance with applicable health regulations. Restrooms shall be available twenty-four (24) hours a day for use by any patron of the marina facility; the need for restrooms shall be determined based on the number of slips and percentage of live-aboard vessels within the marina.

   f. Garbage and recycling receptacles shall be provided and maintained by the marina operator at several locations convenient to users.

DRAFT

g. Marina operators shall post all regulations pertaining to handling and disposal of waste, sewage, fuel, and oil or toxic materials where all users may easily read them.

h. Boat washing facilities shall be provided to minimize transfer of invasive aquatic species between water bodies.

### 4.2.3 Regulations – Boat Launches

1. Public boat launches may be permitted in all environment designations through a substantial development permit or conditional use permit as indicated in Section 2.9, Table 2-2, when they are consistent with this Program and when the proponent demonstrates that the boat launch:

   a. Is located in areas where there is adequate water mixing and flushing action to prevent water quality impacts; and

   b. Is designed so as not to retard or reduce natural shoreline flushing characteristics; and

   c. Is constructed using methods/technology that have been recognized and approved by state and federal resource agencies as the best currently available; and

   d. Will not block or interfere with existing or potential public access along beaches or otherwise impair public use of public surface waters; and

   e. Incorporates mitigation to offset unavoidable adverse impacts and achieve no net loss.

2. New boat launches shall comply with the applicable provisions of Chapters: 6, Shoreline Buffers and Vegetation Conservation; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

3. No more than one private boat launch facility or structure shall be permitted on a single parcel or residential lot.

4. Public boat launches shall include adequate restroom and sewage and solid waste disposal facilities in compliance with applicable health regulations.

5. When overwater development is proposed in association with a public boat launch facility, it may be permitted only where such use requires direct water access, and/or where such facilities will substantially increase public opportunities for water access.

6. Public boat launches shall be located and designed to prevent traffic hazards and minimize traffic impacts on nearby access streets.

7. Public boat launch sites shall include parking spaces for boat trailers commensurate with projected demand.

### 4.2.4 Regulations – Piers, Docks, and Floats, Non-residential

1. Docks, piers, and floats associated with commercial, industrial, port, or public or private recreational developments may be permitted in all environment designations through a substantial development permit or conditional use permit as indicated in Section 2.9, Table 2-2 when they are consistent with this Program and when the proponent demonstrates that:

DRAFT

a. The dock/pier/float is required to accommodate a water-dependent use; and

b. The dock/pier/float is designed to avoid or, if that is not possible, to minimize the impacts to nearshore habitats and processes.

2. ~~New boat launches~~Non-residential piers, docks and floats shall comply with the applicable provisions of Chapters: 6, Buffers; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

3. Joint-use piers shall be preferred for commercial and industrial developments which are in close proximity to one another.

4. Covered moorage associated with non-residential docks, piers, and floats shall be prohibited.

5. New and substantially expanded non-residential docks, piers and floats shall be constructed of materials that will not adversely affect water quality or aquatic plants and animals over the long term. Materials for any portions of the dock, pier, float, framing, or decking that come in contact with water shall be approved by Washington Department of Fish and Wildlife (WDFW) and Ecology for use in water.

6. To minimize adverse ~~effects~~impacts on nearshore habitats and species caused by overwater structures that reduce ambient light levels, the length, width and height of non-residential docks, piers and floats shall be no greater than that required for safety and practicality for the primary use. The Administrator shall defer to the dimensional ~~requirements~~ limits imposed in the project-specific permit conditions issued by the U.S. Army Corps of Engineers and Washington Department of Fish and Wildlife and shall require adherence to the following:

   a. New and replacement pier/fixed-piling that exceed 4 feet in width ~~Materials~~shall have a minimal of 30% functional grating that will allow light to pass through the deck ~~may~~shall ~~be required where width exceeds four (4) feet; and~~.

   b. New and replacement ramps, walkways, or gangplanks shall be fully grated within 60% open area ~~Grating~~ to allow light passage ~~or reflective panels to increase light refraction shall be used on walkways or gangplanks in nearshore areas~~.

   c. New and replacement floating sections shall have a minimum of 50% functional grating to allow light to pass through the deck. For individual docks less than or equal to 4 feet wide, a minimum of 30% functional grating is required.

7. Commercial, industrial, port or public recreational docks, piers and floats shall be spaced and oriented to shoreline in a manner that avoids or minimizes:

   a. Hazards and obstructions to navigation, fishing, swimming and pleasure boating; and

   b. Shading of beach substrate below; and

   c. Impediments to alongshore sediment transport and/or movement of fish and other aquatic species.

8. Fill waterward of the ordinary high water mark shall be limited to the minimum necessary to match the upland with the elevation of the non-residential dock or pier.

**Comment [SG76]:** Recommended correction. The word should be "limits."

**Comment [SG77]:** Proposed revisions to sub-parts (a-c) are to specify or reference minimum standards for light transmission.

The Planning Commission requested such clarification to same standard under Section 4.2.5.(8) for docks, piers, and floats accessory to a residential development.

*See also Section 4.2.5.(8) revisions.*

DRAFT

9. Dredging shall be limited to the minimum necessary to allow boat access to a non-residential dock or pier.

### 4.2.5 Regulations – Piers, Docks, Floats, and Lifts, Accessory to Residential Development

1. Docks, piers, floats and lifts accessory to residential development/use may be permitted in all environment designations, except the Natural designation where they are prohibited, through a substantial development permit or conditional use permit as indicated in Section 2.9, Table 2-1, when they are consistent with this Program and when the proponent demonstrates that they are:

   a. Designed and constructed to avoid or, if that is not possible, to minimize shading and other impacts on nearshore habitats and processes.

   b. Constructed of materials that will not adversely affect water quality ,or aquatic plants and animals, over the long-term. Materials for portions of the dock, pier, float, framing and decking in contact with water shall be approved by applicable state agencies for use in water.

   c. Spaced and oriented to the shoreline in a manner that minimizes hazards and obstructions to navigation, fishing, swimming, and pleasure boating.

   d. Designed to avoid the need for maintenance dredging. The moorage of a boat larger than provided for in original moorage design shall not be grounds for approval of dredging.

   e. Designed to avoid impediments to alongshore, sediment transport and/or movement of fish and other aquatic species.

2. New residential piers, docks and floats shall comply with the applicable provisions of Chapters: 6, Shoreline Buffers and Vegetation Conservation; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

3. If permitted under this Program, no more than one (1) dock/pier and one (1) float and one (1) watercraft lift may be permitted on a single lot owned for residential use or private recreational use.

4. In-water fixed platform structures supported by piles that do not abut the shoreline shall be prohibited.

5. Floats accessory to residential use shall not exceed two hundred (200) square feet in area or three (3) feet in height as measured from mean lower low water.

6. Floats shall only be used where there is sufficient water depth to prevent grounding at low tide. The County may require the use of stoppers or other measures to ensure compliance with this standard.

7. Private single-family residential piers and docks shall not extend over water farther than fifty (50) feet as measured perpendicular from the ~~shoreline~~ ordinary high water mark or, in tidal waters, shall not extend more than fifteen (15) feet from the minus six (6.0) foot mark as

**Comment [SG78]:** Recommended change clarifies the point of shoreline measurement to be the ordinary high water mark.

referenced from mean lower low water . Shared residential piers and docks may extend an additional ten (10) feet for each single-family residence sharing the pier.

8. To avoid and minimize adverse ~~effects~~impacts on nearshore habitats and species caused by overwater structures, the length, width and height of residential docks, piers and floats shall be no greater than that required for safety and practicality for the primary use. The Administrator shall defer to the dimensional ~~requirements~~limits imposed in the project-specific permit conditions issued by the U.S. Army Corps of Engineers and Washington Department of Fish and Wildlife and shall require adherence to the following:

   a. New and replacement pier/fixed-piling that exceed 4 feet in width shall have a minimal of 30% functional grating ~~Materials~~ that will allow light to pass through the deck ~~shall be required where width exceeds four (4) feet; and~~.

   b. New and replacement ramps, walkways, or gangplanks shall be ~~Grating~~fully grated with 60% open area to allow light passage ~~or reflective panels to increase light refraction shall be used on walkways or gangplanks in nearshore areas~~.

   c. New and replacement floating sections shall have a minimum of 50% functional grating to allow light to pass through the deck. For individual docks less than or equal to 4 feet wide, a minimum of 30% functional grating is required.

9. Residential developments creating four (4) or more new lots or new dwelling units may be granted permits for community docks to be shared by two or more lot owners or dwelling units. No more than one (1) dock/pier or float may be permitted for each three (3) adjoining waterfront lots, with necessary access easements to be recorded at the time of permitting. Single-user docks, piers and floats for individual residential lots may be permitted in subdivisions existing prior to June 16, 1992, only where a shared facility has not already been developed.

10. Single-user moorage for private float planes may be permitted as a conditional use in certain environment designations as indicated in Table 2-1where construction of such moorage:

    a. Is limited to the smallest size necessary to accommodate the float plane; and

    b. Will not adversely affect shoreline functions or processes, including wildlife use; and

    c. Includes mitigation to compensate for the greater intensity of use associated with the float plane moorage.

11. Covered moorage associated with single-family residential development shall be prohibited, except that the County may allow a small covered area up to one hundred (100) square feet in size, maximum height of ten (10) feet, and with vertical walls on up to three (3) sides on the overland portion of a dock/pier only.

12. Single-user docks/piers/floats may not be located within sideyard setbacks for residential development (both onshore and offshore); a shared dock/pier may be located adjacent to or upon a shared side property line upon filing of an agreement by the affected property owners.

13. Fill waterward of the ordinary high water mark shall be limited to the minimum necessary to match the upland with the elevation of the residential dock or pier.

**Comment [SG79]:** Recommended correction. The word should be "limits."

**Comment [SG80]:** See related comment for Section 4.2.4.(6) above related to the proposed changes in sub-parts (a-c) of this regulation.

DRAFT

14. Dredging for construction or maintenance of docks, piers and floats accessory to residential use shall be prohibited waterward of the ordinary high water mark.

15. Boating facilities shall be marked with reflectors, or otherwise identified to prevent unnecessarily hazardous conditions for water surface users during day or night. Exterior finish shall be non-reflective.

16. No dock, pier, float, or watercraft moored thereto shall be used as a residence.

17. Docks, piers and floats shall be prohibited in wetlands.

18. Piers and docks should be limited to the areas in front of their ownership unless there is a written agreement with the parties affected, including the subtidal property owner that will allow for said encroachment. The configuration of a pier and dock should not limit the adjacent upland owner's ability to access the aquatic area immediately in front of their ownership. (RCW 79.105.430 and 460)

### 4.2.6 Regulations – Mooring Buoys

1. Mooring buoys may be permitted in all environment designations through a substantial development permit or conditional use permit as indicated in Section 2.9, Tables 2-1 and 2-2, when they are consistent with this Program and when the proponent demonstrates that the buoy:

   a. Will be located to avoid significant adverse impacts to eelgrass beds and other valuable aquatic and nearshore habitat areas; and

   b. Will not impede the ability of other landowners to access private property; and

   c. Will not pose a hazard to or obstruct navigation or fishing; and

   d. Will not adversely impact water quality; and

   e. Will not pose a threat to shellfish beds or an existing aquaculture operation.

2. The installation and use of mooring buoys in marine waters shall be consistent with all applicable state and federal laws and permit requirements, including standards of the state Departments of Natural Resources, Health, and Fish and Wildlife and the U.S. Army Corps of Engineers.

3. Recreational mooring buoys on state-owned aquatic lands shall not be used for permanent residential (living on the boat) or commercial purposes; limitations shall not interfere with use of mooring buoys for scientific research purposes.

4. Wherever appropriate, mooring buoys shall use neutral buoyancy rope, mid-line float, helical anchors, or other Washington Department of Natural Resources (WDNR)-approved designs that have minimal adverse ~~effects~~impacts on aquatic ecosystems and fish; where specific WDNR-designs are inappropriate or ineffective given the proposed mooring buoy location, reasonable and effective designs shall be used that minimize adverse ~~effects~~impacts on aquatic ecosystems and fish.

5. Mooring buoys shall be clearly marked and labeled with the owner's name and contact information and permit number(s).

6. Placement and number of mooring buoys within bays and other areas shall not exceed a density of four (4) buoys per acre.

7. During the installation of the mooring buoy, the location of the mooring buoy may be adjusted to minimize impacts to sensitive habitat areas (i.e. eelgrass beds), provided that revised location complies with all rules and regulations. If the location of the mooring buoy is significantly modified, an amended site map with the amended longitude and latitude shall be submitted to the County for review and approval.

8. Mooring buoys should be generally limited to the areas in front of their ownership, unless there is a written agreement with the parties affected, including the subtidal property owner that will allow for said encroachment. If it is determined that the location of the proposed mooring buoy interferes with a proposal for a mooring buoy by the adjacent landowners, the mooring buoy of the non-adjacent shall be located further away from the shore in compliance with all rules and regulations. (SEE RCW 79.105.430(3)).

9. Mooring buoys shall be located no closer than 100 feet from another mooring buoy, dock, pier, float, or other fixed navigational obstruction, unless there is a written agreement with the parties affected, including the subtidal property owner that will allow for said encroachment. If it is determined that the proposed mooring buoy interferes legally established buoys, moored boats, or private tidelands it shall be removed or moved to a location that complies with all rules and regulations.

10. No more than two (2) boats shall be secured by a mooring buoy. Mooring buoys that are placed by exemption shall not be rented or leased.

11. Boats that are occupied shall not be permitted to moor at private docks, piers, and floats longer than three (3) days unless pump-out facilities are available in the immediate vicinity.

### 4.2.7 Application Requirements

1. Applications for boating and moorage facilities shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of this Program.

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

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

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

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

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

e. An analysis of fish and shellfish resources which may be affected.

f. An assessment of existing water-dependent uses in the vicinity, including but not limited to navigation, fishing, shellfish production and harvest, swimming, beach walking, and picnicking and shall document potential impacts and mitigating measures.

3. An assessment or assessments necessary to ensure the proposed new or expanded marina is consistent with Section 4.2.2 of this Program, including documentation that all unavoidable adverse impacts on ecological processes and functions are mitigated as part of the proposal in order to achieve no net loss.

## 4.3 Dredging and Dredge Material Disposal

### 4.3.0 Applicability

Dredging and Dredge Material Disposal, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations.

### 4.3.1 Policies

1. Dredging should be permitted only when alternatives are infeasible and when the dredging/dredge disposal is necessary to support an existing legal use, an approved water-dependent use, an essential public facility, or an approved restoration project.

2. When permitted, dredging and disposal operations should be planned, timed, and implemented to minimize:

   a. Adverse impacts to shoreline ecology; and

   b. Adverse impacts to in-water and adjacent upland uses; and

   c. Interference with navigation.

3. The County should review proposals for new dredging activities to determine if any such activity would thwart or substantially compromise planned restoration actions in the vicinity of the project. The County should work with the proponents of each project to resolve likely conflicts between the proposed dredging and planned restoration

### 4.3.2 Regulations – Dredging

1. Dredging may be permitted in all environmental designations, except the Natural designation where it is prohibited, through a conditional use permit as indicated in Section 2.9, Table 2-2, only when the activity is consistent with this Program and when there are no feasible alternatives to dredging.

2. Dredging shall only be permitted when necessary to support the following uses and developments; dredging for other purposes is prohibited:

   a. Approved harbors, marinas, ports, and water-dependent industries;

   b. Development or maintenance of essential public infrastructure and facilities;

   c. Environmental cleanup activities required under the Model Toxics Control Act or Comprehensive Environmental Response, Compensation, and Liability Act;

d. Trenches required for underground utility installation when boring, directional drilling, and other installation methods are not feasible;

e. Maintenance dredging for the purpose of restoring a lawfully established use or development, except for a residential dock;

f. Maintenance dredging for the purpose of restoring previously permitted or authorized hydraulic capacity of a stream or river;

g. Maintenance of existing legal irrigation reservoirs, drains, canals, or ditches;

h. Establishing, expanding, relocating, or reconfiguring navigation channels and basins where necessary to assure the safety and efficiency of existing navigation uses;

i. Ecological restoration and enhancement projects benefitting water quality and/or fish and wildlife habitat;

j. Approved beach nourishment projects; or

k. Public access and public water-oriented recreational developments/uses, including construction of public piers and docks that benefit substantial numbers of people.

3. Maintenance dredging of established navigation channels and basins shall be restricted to maintaining previously dredged and/or existing authorized location, depth, and width.

4. Dredging for flood management purposes shall be permitted only when the project proponent demonstrates that:

   a. The dredging is a required component of a County-approved comprehensive flood management plan; or

   b. The dredging has a long-term benefit to public health and safety and will not cause a net loss of ecological functions and processes.

5. Dredging waterward of the ordinary high water mark for the primary purpose of obtaining fill material shall not be allowed unless it is for the purpose listed in 4.3.2.2 above.

**Comment [SG81]:** Recommended regulation to add specific provision to clarify dredging for the primary purpose of obtaining fill in relation to the requirement under 4.3.2.(2) above.

### 4.3.3 Regulations – Dredge Material Disposal

1. Dredge disposal may be permitted in all environmental designations, except the Natural designation where it is prohibited, through a conditional use permit as indicated in Section 2.9, Table 2-2, only when the activity is consistent with this Program.

2. All unconfined, open water dredge disposal activities in the Strait of Juan de Fuca shall comply with Washington's Dredged Disposal Management Program criteria and guidelines and other applicable local, state, and federal regulations.

3. Dredge disposal activities shall comply with the applicable provisions of Chapters: 6, Shoreline Buffers and Vegetation Conservation; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

DRAFT

4. When clean dredge material is deposited on land, it shall be considered fill and subject to all applicable fill regulations in Section 5.2 of this Program.

5. When consistent with this Program, disposal of clean dredged materials in water areas other than Puget Sound Dredged Disposal Analysis sites may be permitted only for the following reasons:

   a. To restore or enhance habitat; or

   b. To reestablish substrates for fish and shellfish resources; or

   c. To nourish beaches that are starved for sediment; or

   d. To remediate contaminated sediments.

### 4.3.4 Application Requirements

1. Applications for dredging and dredge disposal shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of this Program.

2. When reviewing dredging proposals, the County shall first consider how the proposed activity has been regulated by other agencies, note same as a reference, and then establish whether additional review or regulation is needed. The Administrator may require information to ensure:

   a. The project is designed, located, and timed to mitigate impacts on legally established neighboring uses and developments; and

   b. Appropriate measures are taken to ensure the activity will not interfere with fishing or shellfishing; and

   c. Appropriate measures are taken to minimize adverse ~~effects~~impacts on recreation, public access, and navigation; and

   d. The activity shall not adversely impact natural processes such as channel migration, marine bluff erosion, and/or net-shoreline drift; and

   e. Appropriate best management practices are employed to prevent water quality impacts or other forms of environmental degradation; and

   f. Upstream and upgradient sediment sources that create the need for dredging have been investigated and where feasible, mitigated; and

   g. Appropriate measures are employed to protect public safety and prevent significant adverse impacts on other approved shoreline uses; and

   h. The proposed activity complies with applicable federal, state, and other local regulations.

3. When reviewing proposals for dredge disposal, the Administrator shall first consider how the proposed activity has been regulated by other agencies, note same as a reference, and then establish whether additional review or regulation is needed. The Administrator may require information to ensure:

DRAFT

a. The proposed action will not cause significant and/or ongoing damage to water quality, fish, shellfish, and/or other biological resources; and

b. The proposed action will not adversely alter natural drainage, water circulation, sediment transport, currents, or tidal flows or significantly reduce floodwater storage capacities; and

c. The proposed action includes all feasible mitigation measures to protect marine, estuarine, freshwater, and terrestrial species and habitat.

## 4.4 Flood Hazard Management and Flood Control Structures

### 4.4.0 Applicability

Flood Hazard Management and Flood Control structures, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations.

### 4.4.1 Policies

1. When managing floodplains, the County should balance the need to protect life and property with the need to maintain fish and wildlife habitat and other floodplain functions.

2. The need for new flood control structures should be avoided by limiting new development and new uses, including subdivision of land, in flood-prone areas.

3. Structures built within floodplains should be designed in accordance with the Frequently Flooded Areas regulations in Sections 7.15 and 7.16 of the Program and should not obstruct the passage of water, inadvertently cause a stream to be diverted to a new channel, or otherwise adversely impact fish habitat or floodplain functions.

4. Information about flood hazards should be made readily available to existing and prospective shoreline property owners so they are informed about the risks of living in areas that are prone to flooding, erosion, channel migration, and other hazards.

5. New flood control structures should be permitted only where there is a documented need to protect an existing structure and where appropriate measures are implemented to minimize impacts on floodplain functions including fish and wildlife.

6. New flood control structures should not unduly interfere with navigation, water-related recreation or public access to public waters.

7. When evaluating the need for flood control structures such as levees and/or dams, opportunities to remove or relocate existing developments and structures out of flood-prone areas should be pursued as a first course of action. Alternative measures, such as overflow corridors and setback levees, that may have less adverse impact on shoreline and floodplain functions and processes should be implemented before structural flood control measures are approved.

8. Non-regulatory methods to protect, enhance, and/or restore shoreline ecological functions and processes should be encouraged as an alternative to flood control structures. Non-regulatory methods may include acquisition of land or easements; education; voluntary protection and enhancement projects; and incentive programs.

9. Long-term, comprehensive flood hazard management plans should be developed and implemented in cooperation with other applicable agencies and persons to prevent flood



DRAFT

damage, maintain the natural hydraulic capacity of streams and floodplains, and conserve or restore valuable, limited resources such as fish, water, soil, and recreation and scenic areas.

10. Planning and design of flood control structures within the Puget Sound basin should be consistent with the National Oceanic and Atmospheric Administration's (NOAA) recommendations in the 2008 Biological Opinion on the Federal Flood Insurance Program, or any successor thereto and should incorporate elements from adopted watershed management plans, restoration plans and/or surface water management plans.

11. Voluntary relocation of existing developments that are located in flood-prone or other hazardous areas is encouraged when doing so will substantially reduce human health and safety hazards and improve ecological conditions.

12. The County should review proposals for floodplain management plans and food control structures to determine if any such development would thwart or substantially compromise planned restoration actions in the vicinity of the project. The County should work with the proponents of each project to resolve likely conflicts between the proposed activities and planned restoration.

### 4.4.2 Regulations

1. Flood control structures may be permitted through a conditional use permit as indicated in Section 2.9, Table 2-2, when consistent with Sections 7.15 (Frequently Flooded Area Designation and Mapping) and 7.16 (Frequently Flooded Area Protection Standards), and other applicable provisions of this Program and when there is credible engineering and scientific evidence that:

    a. They are necessary to protect existing, lawfully established development; and

    b. They are consistent with Clallam County Code Title 32 and the County Comprehensive Plan; and

    c. Non-structural flood hazard reduction measures are infeasible; and

    d. Impacts on Endangered Species Act-listed Puget Sound Chinook salmon, Puget Sound steelhead, Hood Canal summer-run chum salmon, and Southern Resident killer whales, and/or designated critical habitat for those species can be effectively mitigated consistent with NOAA's 2008 Biological Opinion, or any successor thereto, on the Federal Flood Insurance Program; and

    e. Proposed measures are consistent with an adopted comprehensive flood hazard management plan if available.

2. Flood hazard management and flood control structures shall comply with the applicable provisions of Chapters: 6, Shoreline Buffers and Vegetation Conservation; 7, Critical Areas; 8, Mitigation and No Net Loss; and with the applicable sections: 5.2, Clearing, Grading and Filling; 5.3, Public Access; 5.4, Water Quality/Water Management and 5.5, Archeological, Historical and Cultural Resources.

3. When permitted, flood control structures shall be:

DRAFT

a. Constructed and maintained in a manner that provides the highest degree of protection to shoreline ecological functions or processes and does not degrade the quality of affected waters or the habitat value associated with the aquatic and riparian area; and

b. Placed landward of the ordinary high water mark except for weirs, current deflectors and similar structures whose primary purpose is to protect public bridges, roads, and other public infrastructure; and

c. Placed landward of associated wetlands and channel migration zones except for structures whose primary purpose is to improve ecological functions; and

d. Designed to allow for normal groundwater movement and surface runoff. Natural features such as snags, uprooted trees, or stumps should be left in place unless they are actually causing bank erosion or higher flood stages; and

e. Designed to allow maintenance of bars and associated aquatic habitat through normal accretion. Flood control structures on streams shall not disrupt the normal meander progression nor lessen the stream's natural storage capacity.

4. When permitted, flood control structures shall be limited to the height required to protect adjacent lands from the predictable annual flood unless it can be demonstrated through hydraulic modeling that a greater height is needed and will not adversely impact shoreline ecological functions and processes.

5. Solid waste such as motor vehicles, derelict vessels, appliances, or demolition debris shall not be used as part of any flood control structure.

6. Flood control structures shall be professionally engineered and designed by a state licensed engineer prior to final approval. The design shall be consistent with the Department of Fish and Wildlife Aquatic Habitat Guidelines and other applicable guidance and regulatory requirements.

7. No flood control structure shall be installed or constructed without the developer having obtained all applicable federal, state, and local permits and approvals, including but not limited to a Hydraulic Project Approval (HPA) from the Department of Fish and Wildlife.

### 4.4.3 Application Requirements

1. Applications for flood control structures shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of this Program.

2. To determine that the provisions of this section are fully addressed, the Administrator may require one or more technical studies/reports at the time of permit application for flood control structures unless the Administrator determines that issues are adequately addressed via another regulatory review process. Technical reports required pursuant to this section may include any of the following:

   a. An analysis of the flood frequency, duration and severity and expected health and safety risks as a rationale and justification for the proposed structure.

   b. A hydraulic analysis prepared by a licensed professional engineer that describes anticipated effects of the project on stream hydraulics, including potential increases in

base flood elevation, changes in stream velocity, and the potential for redirection of the normal flow of the affected stream.

c. A biological resource inventory and analysis prepared by a qualified professional biologist that describes the anticipated effects of the project on fish and wildlife resources, include species and habitats protected by the federal Endangered Species Act.

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

e. A description of proposed plans to remove vegetation and revegetate the site following construction.

3. To ensure compliance with the no net loss provisions of this Program, the Administrator ~~may~~shall require the proponent to prepare a mitigation plan consistent with Section 8.3 of this Program that describes measures for protecting shoreline and in-stream resources during construction and operation of a flood control structure. The required mitigation shall be commensurate with the value and type of resource or system lost. Mitigation activities shall be monitored by the proponent to determine the effectiveness of the mitigation plan. In instances where the existing mitigation measures are found to be ineffective, the proponent shall take corrective action that satisfies the objectives of the mitigation plan.

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## 4.5 In-stream and In-water Structures

### 4.5.0 Applicability

In-stream and In-water structures, as defined in Chapter 11, shall be consistent with the following policies and shall conform to the following regulations. In-stream/in-water structures associated with boating facilities/moorage are covered in Section 4.2 of this Program. In-stream/in-water structures associated with large utilities such as hydroelectric or wind/tidal power generation are covered in Section 3.12 of this Program.

### 4.5.1 Policies

1. Recognizing the large number of physical variables to be considered in properly locating and designing in-stream and in-water structures, and the high probability that poorly located and inadequately designed structures will fail and/or adversely affect properties and shore features, such structures should be sited and designed by the project proponent consistent with appropriate engineering principles and guidelines of the Natural Resources Conservation Service, the U.S. Army Corps of Engineers, and the Washington Department of Fish and Wildlife.

2. Project proponents shall give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species when locating and planning in-stream and in-water structures.

3. In-stream structures should be planned and designed to be compatible with navigation and recreation, especially in shorelines of statewide significance, provided that public safety and ecological protection are fully addressed.

4. Proposals for new in-stream and in-water structures should be evaluated by the Administrator for their potential adverse ~~effects~~impacts on the physical, hydrological, and biological

characteristics as well as effects on species that inhabit the shoreline, riparian area, or nearshore area.

5. The County should review proposals for new in-stream/in-water developments to determine if any such development would thwart or substantially compromise planned restoration actions in the vicinity of the project. The County should work with the proponents of each project to resolve likely conflicts between residential development and planned restoration.

### 4.5.2 Regulations

1. In-stream and in-water structures may be permitted in all environmental designations, except the Natural designation where they are prohibited, through a substantial development or conditional use permit as indicated in Section 2.9, Table 2-2, when consistent with this Program and when associated with and necessary for an ecological restoration project, a fish passage project, or a permitted shoreline use/development such as a transportation facility.

2. In-stream and in-water structures shall not impede upstream or downstream migration of anadromous fish. All new and replacement structures, including culverts, must be made fish passable in accordance with the most recent Washington State Department of Fish and Wildlife requirements or with the National Marine Fisheries Service guidelines for Endangered Species Act-listed species.

3. All in-water diversion structures shall be designed to permit the natural transport of bedload materials. All debris, overburden, and other waste materials from construction shall be disposed of in such a manner that prevents their entry into a water body.

4. All in-stream and in-water structures shall be designed and installed by a licensed, professional engineer.

5. In-stream and in-water structures shall be constructed and maintained in a manner that does not degrade the quality of affected waters.

6. In-stream structures and their support facilities shall be located and designed to avoid and minimize the need for structural shoreline stabilization.

7. In-stream and in-water structures shall be located and designed to preserve or enhance aquatic habitat and to minimize impacts on the visual and aesthetic quality of the shoreline.

8. During construction in-stream and in-water, all heavy construction equipment and fuel storage, repair, and construction material staging areas shall be located as far landward as necessary to avoid and minimize impacts to shoreline functions.

9. Natural in-stream and in-water features such as snags, uprooted trees, or stumps should be left in place unless it can be demonstrated that they are not enhancing shoreline function or are a threat to public safety.

10. In-stream structures such as, but not limited to, high-flow bypasses, dams, and weirs, may be permitted in Type S, F, Np, Ns Waters when they are part of a watershed restoration project or identified in watershed planning documents prepared and adopted under Chapter 90.82 RCW, the salmonid recovery plan or Salmon Recovery Board Habitat Project List, and the County's shoreline restoration plan and upon acquisition of any required state or federal permits. The structure shall be designed to avoid adverse ~~effects~~ impacts on stream flow, water quality, or other habitat functions and values.

### 4.5.3 Application Requirements

1. Applications for in-stream/in-water structures shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of this Program.

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

   a. A description and analysis of alternative sites, and a thorough discussion of the environmental impacts of each; and

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

   c. A biological resource inventory and analysis prepared by a qualified professional biologist that describes the anticipated effects of the project on fish and wildlife resources; and

   d. A cultural resources assessment if there are known or suspected cultural, archeological or historic resources in the vicinity of the site; and

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

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

   g. A description of any plans to remove vegetation and/or revegetate the site following construction; and a proposed mitigation plan that describes, in detail, provisions for protecting in-stream resources during construction and operation, and measures to compensate for impacts that cannot be avoided; and

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

   i. Long-term management plans which describe, in sufficient detail, provision for protection of in-stream resources during construction and operation. The plan shall include means for monitoring its success.

DRAFT

## 4.6 Shoreline Stabilization

### 4.6.0 Applicability

Shoreline erosion—including erosion caused by currents, flood, and wind or wave action—is natural phenomenon associated with property functioning shoreline environments. However, erosion can put existing structures and uses at risk. In some cases, shoreline stabilization is necessary to protect existing uses and development from naturally occurring erosion. Shoreline stabilization includes actions taken to address erosion impacts to property and dwellings, businesses, or structures. These actions ~~including~~include structural and non-structural stabilization~~, as defined in Chapter 11,~~methods.

**Comment [SG82]:** The recommended additions to Section 4.6.0 highlighted in blue are to provide additional background and clarification related to the policies and regulations that follow.

Nonstructural methods include building setbacks, relocation of the structure to be protected, groundwater management, enhancing vegetation, managing drainage and runoff, groundwater management, and other measures to avoid the need for structural stabilization.

**Comment [SG83]:** Moved and incorporated from former section 4.6.4(4), second sentence.

This section establishes policies and regulations for structural shoreline stabilization measures. Structural shoreline stabilization measures can be "hard" or "soft." "Hard" structural stabilization measures refers to those with solid, hard surfaces, such as concrete bulkheads, while "soft" structural measures rely on less rigid materials, such as bioengineered vegetation measures or beach enhancement.

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

Shoreline stabilization measures and methods shall be consistent with the following policies and shall conform to the following regulations.

**Comment [SG84]:** The recommended additions to Section 4.6.0 highlighted in blue above are to provide additional background and clarification related to the policies and regulations that follow.

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### 4.6.1 Policies

1. The County should take active measures to preserve unarmored shorelines and prevent the future proliferation of bulkheads and other forms of structural shoreline stabilization.

2. The need to protect shorelines from the effects of erosion should be balanced with the need to protect fish and wildlife habitats and maintain sediment delivery and transport processes, which sustain healthy river and marine nearshore ecosystems.

3. Information about shoreline erosion hazards should be made readily available to existing and prospective shoreline property owners so they are informed about the risks of living in areas that are prone to erosion, channel migration, landslides and other hazards.

4. New development should be located and designed to avoid the need for future shoreline stabilization to the extent feasible. ~~Land subdivisions should be designed to assure that the created lots will not require shoreline stabilization in order for reasonable development to occur. New development on steep slopes or bluffs shall be set back sufficiently to ensure that structural shoreline stabilization will not be needed to protect structures during their design life, as demonstrated by a geotechnical analysis. New development that would require shoreline stabilization which causes significant adverse impacts to adjacent or down-current properties and shoreline areas should not be allowed.~~

5. Unarmored shorelines should be preserved to prevent the future proliferation of bulkheads and other forms of structural shoreline stabilization.

6. Over time, the amount of existing armoring on Clallam County's shores should be reduced in accordance with the targets established by the Puget Sound Partnership. The total amount of armoring removed should be greater than the total amount of new armoring. Feeder bluffs should be a priority for removal of existing armoring and avoidance of new armoring.

7. Non-structural shoreline stabilization measures should be encouraged as a means of protecting structures from erosion. Non-structural shoreline stabilization measures include relocating structures away from the water, enhancing vegetation, managing drainage and runoff, and other measures.

8. New structural shoreline stabilization should be permitted only when necessary to protect existing primary structures, single-family residence, public infrastructure, and/or for essential public facilities when other alternatives are infeasible.

9. New structural and non-structural shoreline stabilization measures should be located, designed, and maintained in a manner that minimizes adverse ~~effects~~impacts on shoreline ecology, including effects on the project site, adjacent properties, and down-drift or downstream areas.

10. Stabilization structures should be designed based on an understanding of long-term physical shoreline processes. Structural and non-structural shoreline stabilization structures should fit the physical character and hydraulic energy of a specific shoreline reach, which may differ substantially from adjacent reaches.

11. Structural shoreline stabilization should not interfere with existing or future public access to public shorelines nor with other preferred shoreline uses.

12. Voluntary relocation of existing developments that are located in erosion-prone or other hazardous areas should be encouraged when doing so will substantially reduce human health and safety hazards and improve ecological conditions.

13. Reduce the adverse effects of shoreline modifications and, as much as possible, limit shoreline modifications in number and extent.

14. Assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological functions. This is to be achieved by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions and requiring mitigation of identified impacts resulting from shoreline modifications.

~~13.~~15. The County should review proposals for new shoreline stabilization to determine if any such development would thwart or substantially compromise planned restoration actions in the vicinity of the project. The County should work with the proponents of each project to resolve likely conflicts between the proposed stabilization and planned restoration.

DRAFT

## 4.6.2 Regulations – General

1. New uses and developments that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas should not be allowed.

2. Soft shoreline stabilization measures shall be utilized unless demonstrated through a geotechnical report and analysis not to be sufficient to protect primary structures, dwellings and businesses. Alternatives for shoreline stabilization shall be based on the following order and preference:

   a. No action or non-structural measures (e.g., increase building setbacks, or relocate structures;

   b. Soft shoreline stabilization constructed of natural materials including bioengineering, beach nourishment, protective berms, or vegetation stabilization;

   c. Hybrid shoreline stabilization, usually constructed of a mix of rock, logs, and vegetation; and

   d. Hard shoreline stabilization constructed of materials such as rock, riprap or concrete.

**Comment [SG85]:** Recommended additional policy to support intent of regulations that follow in Section 4.6.2 through 4.6.8.

**Comment [SG86]:** Recommended additional policy to support intent of regulations that follow in Section 4.6.2 through 4.6.8.

**Comment [SG87]:** The Planning Commission based on comments by Ecology requested adding a General Regulation for shoreline stabilization.

General regulations highlighted in green below are recommended by staff to include under general regulations to implement the applicability and policy sections above.

General regulations highlighted in orange are moved from regulations in Section 4.6 and consolidated here under general regulation.

**Comment [SG88]:** Intent moved from 4.6.4(4). Intent is also addressed under Policy 4.6.1.(7).

**Comment [SG89]:** Preference based on other provisions—*see also revised 4.6.5.(4) (b).*

3. Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high water mark.

4. When hard shoreline stabilization measures are demonstrated to be necessary, they must:

   a. Limit the size of stabilization measures to the minimum necessary.

   b. Assure no net loss of shoreline ecological functions.

5. Shoreline stabilization measures for the sole purpose of leveling or extending property or creating or preserving residential lawns, yards, or landscaping shall be prohibited.

6. Placement of shoreline stabilization methods shall follow the natural contour of the existing shoreline, be parallel to and at or above the ordinary high water mark except as otherwise authorized by this Program.

7. Shoreline stabilization projects shall be designed and constructed to avoid or minimize impacts to sediment transport.

8. Shoreline stabilization shall be designed and constructed with gravel backfill and weep holes so that natural downward movement of surface or groundwater may continue without ponding or saturation that could compromise the surrounding soil stability.

9. Shoreline stabilization structures shall not be constructed with waste materials such as demolition debris, derelict vessels, tires, concrete or any other materials which might have adverse toxic or visual impacts on shoreline areas.

10. Gabions are prohibited as a means of stabilizing shorelines because of their limited durability and the potential hazard to shoreline users and the shoreline environment.

11. Publicly financed or subsidized shoreline erosion control measures shall be designed to not restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions. Where feasible, incorporate ecological restoration and public access improvements into the stabilization project.

12. Shoreline stabilization must be designed be a geotechnical engineer, engineering geologist, and/or professional engineer licensed in the State of Washington with demonstrated experience in hydraulic activities of shorelines. Alternatively, soft shoreline stabilization may be designed by a habitat biologist or a qualified professional with demonstrated expertise in designing soft shoreline stabilization structures.

13. The effects of the stabilization to upstream and downstream properties must be clearly disclosed and taken into consideration during the design of the shoreline stabilization structure.

14. Shoreline stabilization shall be designed to take into account sea level rise and storm surges.

15. Shoreline stabilization must comply with all applicable U.S Army Corps of Engineers and Washington State Department of Fish and Wildlife requirements.

16. Shoreline stabilization, as applied in Section 4.6, is generally distinguished from shoreline restoration activities. However, specific shoreline stabilization elements of restoration activities shall be guided by this section.

**Comment [SG90]:** Moved from former 4.6.5.(4).

**Comment [SG91]:** Moved from former 4.6.5.(6).

**Comment [SG92]:** Moved from former 4.6.5.(7).

**Comment [SG93]:** Moved from former 4.6.5.(5).

**Comment [SG94]:** First sentence moved and adapted from former 4.6.5.(1).

Second sentence was added and recommended by staff based on preference for soft stabilization and that often such projects are designed as part of habitat restoration. In some cases, both a biologist and engineer team would be needed from habitat and engineering aspect.

**Comment [SG95]:** Moved and edited from former 4.6.5.(3).

**Comment [SG96]:** Moved and edited from second part of former 4.6.5.(1).

17. Shoreline stabilization projects shall be designed to avoid and reduce significant adverse impacts to ecological functions as demonstrated by a mitigation plan pursuant to Chapter 8 of this Program.

### ~~4.6.2~~4.6.3 Additional Regulations – Existing Structural Shoreline Armoring

1. Existing structural shoreline armoring may be replaced ~~in kind~~with a similar structure, pursuant to a statement of exemption, if there is a demonstrated need to protect primary uses or structures including residences, public transportation infrastructure, or essential public facilities from erosion caused by currents, tidal action, or waves and all of the following apply:

   a. The existing structure no longer adequately serves its purpose and ~~T~~the replacement structure performs the same stabilization function of the existing structure and does not require additions to or increases in size. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

   b. The replacement structure shall not encroach waterward of the ordinary high water mark or the existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.

   c. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.

   d. Nonstructural measures, such as planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

   e. Alternative or soft stabilization approaches shall be considered prior to in-kind replacement.

   f. The replacement structure is designed, located, sized, and constructed to minimize effects on shoreline processes and fish and wildlife habitat, and will not result in a net loss of shoreline functions.

   g. Where possible or as an element of mitigation sequencing, failing, harmful, unnecessary, or ineffective structures should be removed, and shoreline ecological functions and processes should be restored using non-structural or soft stabilization measures.

   h. The need for a replacement structure and consistency with the above standards and other applicable provisions of Section 4.6 is demonstrated through a geotechnical report.

2. Removal of older structures shall be required as replacement structures are put in place if leaving the existing structure in place would cause a net loss of ecological functions. Exceptions may be made by the County in cases where removal would cause more ecological disturbance to critical saltwater or critical freshwater habitats than leaving the remnant structure in place.

~~3. For those shoreline protection structures common to existing single-family residences that qualify as a shoreline exemption, the Administrator shall allow for up to a ten percent (10%) increase for any fill placement or removal for the purposes of maintenance for a period of one (1) year from the date of approval of the request; provided that the project complies with Chapter 43.21C RCW, State Environmental Policy Act and all other applicable regulations.~~

**Comment [SG97]:** See also related application requirement under Section 4.6.9.(2)

**Comment [SG98]:** The adding of "additional" is for clarification with the addition of Section 4.6.2, General Regulations above.

**Comment [SG99]:** The proposed revisions to sub-part (1) highlighted in green above are in response to Planning Commission direction to address Ecology comments to provide more specific requirements related to the design, location, and size of replacement structures.

~~4.~~3. Bank stabilization may be permitted on Type S, F, Np, Ns Waters for the purpose of retarding erosion and protecting legally placed, existing residential structures or essential public facilities/infrastructure which cannot be moved, subject to all of the following criteria:

a. The bank stabilization shall be designed by a civil engineer licensed in the State of Washington with sufficient expertise in hydraulics, hydrology, and/or geomorphology, along with a biologist to assess habitat impacts; and

b. The civil engineer shall consider and implement bioengineered stabilization measures unless hydraulic analysis indicates that hard structural stabilization is necessary due to the site conditions; and

c. Avoidance or relocation of the structure or improvement that needs protection has been reviewed and is not feasible or practical; and

d. Stabilization activities shall minimize any potential negative impacts to the natural functions and processes of the stream; and

e. The effects of the stabilization to upstream and downstream properties are clearly disclosed and taken into consideration during the design of the structure; and

f. The materials used in or near surface waters shall not contain petroleum-based treatments or preservatives, including creosote, copper and arsenic.

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### ~~4.6.3~~4.6.4 Additional Regulations – Subdivisions and Existing Lots without Structures

1. Land subdivisions shall be designed to assure that structural shoreline armoring will not be required to allow reasonable development or use of the established lots to occur in the foreseeable future.

2. Use of a bulkhead, revetment or similar shoreline armoring to protect a platted lot where no primary use or structure presently exists shall be prohibited.

~~3. Structural shoreline stabilization for the sole purpose of leveling or extending property or creating or preserving residential lawns, yards, or landscaping shall be prohibited.~~

~~4. Non-structural shoreline stabilization measures shall be the preferred means of protecting structures from erosion. Non-structural shoreline stabilization measures include relocating structures away from the water, enhancing vegetation, managing drainage and runoff, and other measures.~~

### ~~4.6.4~~4.6.5 Additional Regulations – New or Expanded Shoreline Stabilization

1. New or expanded structural shoreline stabilization including bulkheads, revetments, seawalls, breakwaters, and jetties may be permitted in all environment designations, except the Natural designation where they are prohibited, through a statement of exemption, substantial development permit, or conditional use permit as indicated in Section 2.9, Tables 2-1 and 2-2 when consistent with this Section and Program ~~and when necessary to protect any one of the following:~~.

**Comment [SG100]:** The adding of "additional" is for clarification with the addition of Section 4.6.2, General Regulations above

**Comment [SG101]:** Moved to new Section 4.6.2, Regulations-General, under 4.6.2.(5).

**Comment [SG102]:** Intent of first sentence moved and integrated under Section 4.6.2, Regulations-General, under 4.6.2.(2a). Intent is also addressed under Policy 4.6.1.(7). Second sentence is more a general statement. It was moved and incorporated under Section 4.6.0, Applicability.

**Comment [SG103]:** The adding of "Additional" is for clarification with the addition of Section 4.6.2, General Regulations above.

**Comment [SG104]:** Proposed revision to Planning Commission direction to make more understandable and break-up complex long sentences. Staff addressed this by this change and adding a new sub-part (2) as noted below.

2. New or expanded structural stabilization are prohibited except in the following situations:

a. ~~A~~ To protect projects whose primary purpose is enhancing or restoring ecological functions or ~~remediating~~ hazardous substance~~s~~ remediation projects pursuant to RCW 70.105 when all of the conditions below apply:

i. Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

ii. The erosion control structure will not result in a net loss of shoreline ecological functions.

~~i.~~iii. The need for structural stabilization measures is demonstrated through a geotechnical report.

b. In support of ~~A~~ water-dependent development when all of the conditions below apply:

i. ~~when t~~The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage;

ii. ~~when n~~Nonstructural measures, such as planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient~~; and when~~.

iii. ~~t~~The erosion control structure will not result in a net loss of shoreline ecological functions.

iv. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical analysis.

c. ~~An~~ To protect an existing primary structure, including a single-family residence and appurtenant structures pursuant to RCW 90.58.100 (6), when all of the conditions below apply:

i. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.

ii. Nonstructural measures, such as placing the proposed use or development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

iii. The erosion control structure will not result in a net loss of shoreline ecological functions.

~~ii.~~iv. There is conclusive evidence, documented by a geotechnical report ~~analysis~~ that the structure is in danger from shoreline erosion caused by tidal action, currents, or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization.

**Comment [SG105]:** Proposed revisions to sub-part (2) highlighted in green above are intended to clarify intent and review criteria.

See also previous related comment.

~~2.~~3. Structural shoreline armoring, including new armoring and expansions of existing armoring, is prohibited on shorelines mapped as feeder bluffs~~, feeder bluff- talus and exceptional feeder bluff~~. ~~Proponents of new development in mapped feeder bluffs, feeder bluff- talus and exceptional feeder bluffs must sign a statement acknowledging the structural armoring is prohibited for the life of the structure and the presence of the feeder bluff must be recorded on title pursuant to Section 7.3 of this Program.~~

~~3.~~4. When any new or expanded structural shoreline stabilization measures are demonstrated to be necessary, pursuant to above provisions all of the following shall apply:

a. The size of stabilization measures shall be limited to the minimum necessary.

b. Soft shoreline stabilization approaches shall be used to assure no net loss of shoreline ecological functions, unless such approaches are demonstrated to be inadequate to protect primary structures, dwellings, and businesses.

c. Adverse ~~effects~~impacts of new stabilization structures, including replacement structures, on critical habitat for Endangered Species Act-listed species or other shoreline processes or functions shall be avoided and, if that is not possible, minimized to the maximum extent possible. Compensatory mitigation shall be required for impacts that are unavoidable consistent with Section 8.3 of this Program.

~~4.~~5. Proponents of new or expanded structural shoreline stabilization may be required to provide an assessment of on-site drainage and vegetation characteristics and their effects on slope stability to ensure the requirements of this section are met.

DRAFT

### ~~4.6.5 Regulations – Design Standards for New or Expanded Shoreline Stabilization~~

~~1. New or expanded shoreline stabilization shall be designed by a state licensed professional geotechnical engineer and/or engineering geologist and constructed according to applicable U.S. Army Corps of Engineers requirements and/or state Department of Fish and Wildlife Aquatic Habitat Guidelines.~~

~~2. The size of structural shoreline stabilization shall be limited to the minimum necessary to protect the primary use or structure that it is intended to protect.~~

~~3. Shoreline stabilization shall be designed to take into account sea level rise, storm surges and other climate induced effects.~~

~~4. Shoreline stabilization shall be designed and constructed with gravel backfill and weep holes so that natural downward movement of surface or groundwater may continue without ponding or saturation that could compromise the surrounding soil stability.~~

~~5. Publicly financed or subsidized shoreline erosion control measures shall be designed to not restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions. Where feasible, ecological restoration and public access improvements shall be incorporated into the stabilization project.~~

~~6. Shoreline stabilization structures shall not be constructed with waste materials such as demolition debris, derelict vessels, tires, concrete or any other materials which might have adverse toxic or visual impacts on shoreline areas.~~

~~7. Gabions are prohibited as a means of stabilizing shorelines because of their limited durability and the potential hazard to shoreline users and the shoreline environment.~~

**Comment [SG106]:** Recommended clarification.

**Comment [SG107]:** Also added this standard under new Section 4.6.2, Regulations-General, under 4.6.2.(4a). PC supported addressing Ecology recommendation to add this type of standard as a general shoreline stabilization measure.

**Comment [SG108]:** Use of soft shoreline stabilization as a preferred alternative was also added under new Section 4.6.2, Regulations-General, under 4.6.2.(2). PC supported addressing Ecology recommendation to add this type of standard as a general shoreline stabilization measure.

**Comment [SG109]:** Section is recommended to be deleted and standards moved to and incorporated into the new Section 4.6.2, General Regulation. This creation of a general regulation section was supported by the Planning Commission. See also comments related to Section 4.6.2 above.

**Comment [SG110]:** Moved to new Section 4.6.2, Regulations-General, under 4.6.2(12,15) with edits.

**Comment [SG111]:** Moved to new Section 4.6.2, Regulation-General, and integrated under 4.6.2.(4).

**Comment [SG112]:** Moved to new Section 4.6.2, Regulation-General, and integrated under 4.6.2.(14) with edits. Edits deleted the last part of the sentence "…and other climate induced effect" similar to other changes made by Planning Commission related to general use of "climate change". Sea level rise and storm surges effects were retained in the move of this provision, since they are shoreline specific.

**Comment [SG113]:** Moved to new Section 4.6.2, Regulation-General, under 4.6.2.(8).

**Comment [SG114]:** Moved to new Section 4.6.2, Regulation-General, under 4.6.2.(11).

**Comment [SG115]:** Moved to new Section 4.6.2, Regulation-General, under 4.6.2.(9).

**Comment [SG116]:** Moved to new Section 4.6.2, Regulation-General, under 4.6.2.(10)

### 4.6.6 Additional Regulations – Bulkheads

~~1. Where permitted, bulkheads shall meet all of the following criteria in addition to the other regulations in this section:~~

~~2.~~1. ~~They~~ Bulkheads shall be located generally parallel to the shoreline. Adequate bank toe protection shall be provided to ensure bulkhead stability without relying on additional riprap.~~; and~~

~~3.~~2. ~~They~~ Bulkheads shall be located so as to tie in flush with existing bulkheads on adjoining properties, except when adjoining bulkheads do not comply with the design or location requirements set forth in this Program.

### 4.6.7 Additional Regulations – Revetments

~~1. Where permitted, revetments shall meet all of the following criteria in addition to the other regulations in this section:~~

~~2.~~1. ~~They~~Revetments shall be placed landward of associated wetlands; and

~~3.~~2. ~~They~~ Revetments shall be located sufficiently landward of the stream channel to allow streams to maintain point bars and associated aquatic habitat through normal accretion; and

~~4.~~3. ~~They~~ Revetments shall be prohibited on estuarine shores, in wetlands, on point and channel bars, and in channel migration zones.

~~5.~~4. When requesting a permit for a revetment along a stream or river, the proponent shall provide a geotechnical analysis of stream geomorphology both upstream and downstream of the proposed revetment site to assess the physical character and hydraulic energy potential of the specific stream reach and adjacent upstream or downstream reaches. The purpose of such analysis is to assure that the physical integrity of the stream corridor is maintained, that stream processes including channel migration are not adversely affected, and that the revetment would not cause significant damage to other properties or shoreline functions and processes.

### 4.6.8 Additional Regulations – Breakwaters, Jetties, and Seawalls

1. Breakwaters, jetties, and seawalls shall meet all of the following criteria ~~be permitted when consistent~~ in addition ~~with~~to the other applicable regulations of Section 4.6 and this Program ~~and they meet all of the following~~:

   a. They are shown to be necessary for purposes of navigation or habitat enhancement.

   b. They are required to protect from strong wave action against existing public water-dependent uses such as a harbor, marina, or port that are located seaward of the ~~existing shoreline~~ordinary high water mark.

   c. Adverse impacts on water circulation, sediment transport, fish and wildlife migration, shellfish, and aquatic vegetation can be effectively mitigated.

2. Open-pile, floating, portable, or submerged breakwaters, or several smaller discontinuous structures that are anchored in place, shall be preferred over fixed breakwaters.

**Comment [SG117]:** The adding of "additional" is for clarification with the addition of Section 4.6.2, General Regulations above.

The other recommended changes highlight in green are to clarify that these are additional regulations for bulkheads.

**Comment [SG118]:** .The adding of "additional" is for clarification with the addition of Section 4.6.2, General Regulations above.

The other recommended changes highlight in green are to clarify that these are additional regulations for revetments.

**Comment [SG119]:** The adding of "additional" is for clarification with the addition of Section 4.6.2, General Regulations above.

The other recommended changes highlight in green are to clarify that these are additional regulations for breakwaters, jetties, and seawalls.

**Comment [SG120]:** Recommended change clarifies the point of shoreline measurement to be the ordinary high water mark

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### 4.6.9 Application Requirements

1. Applications for shoreline stabilization shall provide all of the information required in Section 10.3.0 of this Program plus any additional information that may be required pursuant to the critical areas regulations in Chapter 7 of this Program.

2. Proposals for new or expanded structural or non-structural shoreline stabilization must provide documentation that demonstrates all of the following:

    a. The erosion is not being caused by upland conditions, such as the loss of vegetation or poor drainage; and

    b. The erosion is not due to landslides, sloughing or other forms of shoreline erosion unrelated to water action at the toe of the slope; and

    c. Alternatives to structural shoreline armoring are determined to be infeasible or insufficient; and

    d. The structural shoreline stabilization design is the least environmentally damaging alternative; and

    e. Unavoidable adverse impacts are mitigated according to the prescribed mitigation sequence such that there is no net loss of shoreline ecological functions or processes.

3. Geotechnical reports pursuant to this section shall demonstrate the need for shoreline stabilization by estimating time frames and rates of erosion and describing the urgency associated with the specific situation. As a general matter, hard armoring solutions shall not be authorized except when a report confirms that there is a significant possibility that such a structure will be damaged within three (3) years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on ecological functions. Thus, where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three (3) years, the report may still be used to justify more immediate authorization to protect against erosion using soft measures.

4. To verify that the provisions of this section are fully addressed, the Administrator may require information to support a permit application for any type of shoreline stabilization. The Administrator shall consult with the appropriate state and federal natural resources agencies to determine the type and level of information that should be provided. Application information required pursuant to this section shall address the urgency and risks associated with the specific site characteristics and shall include:

    a. A scaled site plan showing: (1) existing site topography, and (2) the location of existing and proposed shoreline stabilization structures, and any fill including dimensions indicating distances to the ordinary high water mark; and

    b. A description of the processes affecting the site and surrounding areas, including but not limited to tidal action and/or waves; slope instability or mass wasting; littoral drift; channel migration; and soil erosion, deposition, or accretion; and

    c. A description of alternatives to structural approaches, and a thorough discussion of the environmental impacts of each alternative; and

DRAFT

d. A description of any proposed vegetation removal and a plan to revegetate the site following construction; and

e. A hydraulic analysis prepared by a qualified hydrologist, professional engineer, geotechnical engineer or engineering geologist that describes anticipated effects of the project on water and wave elevations and velocities; and

f. A biological resource inventory and analysis prepared by a qualified professional biologist that describes the anticipated effects of the project on fish and wildlife resources; and

g. A cultural resources assessment if there are known or suspected cultural, archeological or historic resources in the vicinity of the site; and

h. A description of opportunities for providing public access to and along the affected shoreline, as well as any proposed on-site recreational features, if applicable; and

i. A description of any waste and debris disposal sites for materials generated during construction; and

j. Any other information that may be required by the Administrator to demonstrate compliance with the review criteria referenced in this section.

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# Chapter 5 General Policies and Regulations

***Note to Users**: The policies and regulations in this chapter apply to all uses and developments in all shoreline environment designations. The policies and regulations are not listed in order of priority.*

## 5.1 Existing (Grandfathered) Uses and Developments

### 5.1.0 Applicability

1. Consistent with RCW 90.58.620 and WAC 173-27-080, shoreline uses and developments that were legally established prior to the effective date of this Program, but do not conform to the regulations of this Program, enjoy certain limited rights of continuation, maintenance, and expansion. Single-family residences and accessory structures, located landward of the ordinary high water mark, that were legally established prior to the effective date of this Program but do not conform to the regulations of this Program, are considered conforming structures and uses for the purposes of this Program. For the purposes of this section, accessory structures do not include shoreline modifications or over-water structures.

2. Nonconfoming Lot: An undeveloped, lot of record located landward of the ordinary high water mark that was legally-created or established, but which does not conform to present lot size standards, may be developed as so long as such development conforms to all other applicable requirements of this Program and complies with all other applicable County land use regulations including the Clallam County Zoning Code (Title 33, CCC).

~~1.~~3. This Section applies to ~~E~~existing uses and developments that were lawfully established prior to the effective date of this Program ~~shall comply with the applicable policies and regulations of this Program~~ but do not conform to the regulations of this Program.

### 5.1.1 Policies

1. Existing uses and developments that were lawfully established should continue to exist along shorelines regardless of whether the use/development fully conforms to the standards set forth in this Program. If use~~/~~ or development is located in a hazardous area or is creating a serious environmental impact, the County should encourage and ensure timely permitting of the relocation or reconstruction of the use/development to ameliorate the hazard/impact.

### 5.1.2 Regulations – Existing Uses

1. Lawfully established uses existing or occurring prior to or as of the effective date of this Program ~~shall be considered grandfathered (conforming to this Program~~, with the exception of existing over-water residences and existing non-water-oriented commercial or industrial uses, ~~which~~ shall be considered ~~nonconforming~~grandfathered as that term is defined in Chapter 11 of this Program.

2. All grandfathered~~lawfully established~~ uses~~, both conforming and nonconforming, may continue and~~ may be repaired, maintained, expanded or modified consistent with this Program. Uses whose existence predates the effective date of this Program but do not hold the status of 'grandfathered' may continue and may be repaired and maintained in a manner consistent with this Program.

3. Changing an Existing Grandfathered Use:

**Comment [SG121]:** Recommended to add to further clarify intent of the applicability of this section.

**Comment [SG122]:** Recommended to add this provision. 2014 Draft contained a definition of "non-conforming lot" (see Chapter 11), but did not specifically address such situation in Section 5.1.

**Comment [SG123]:** Recommend specifically use more formal "or" for clarity.

**Comment [SG124]:** Recommend revision for added clarity of intent and to add reference to definition of "grandfathered" in Chapter 11. Also, see related added provision under 5.1.0.(1) above.

**Comment [SG125]:** Recommended revision for clarity of intent for uses that are non-conforming uses, but not considered "grandfathered" as noted in sub-part 5.1.2.(1) above.

a. A grandfathered structure that is being or has been used for a use that does not conform to this Program may be used for a different non-conforming use only upon the approval of a conditional use permit in accordance with Section 10.2.2. Conditions may be imposed to assure that the use will not become a nuisance or a hazard, and to assure that the use will not result in a net loss of the ecological function of the shoreline. In addition, all the following criteria shall be met:

i. The configuration and/or location of property would not support a conforming use;

ii. The proposed use will be at least as consistent with RCW 90.58 and this Program and as compatible with the uses in the area as the preexisting use;

iii. The use or activity is enlarged, intensified, increased or altered only to the minimum amount necessary to achieve the intended functional purpose;

iv. The structure(s) associated shall not be expanded in a manner that increases the encroachment into buffers established by this Program, or other areas where new structures, development or use would not be allowed;

v. The change in use or the enlargement, intensification, increase or alteration of the existing use ~~, remodel or expansion~~ will ~~not create adverse impacts to~~result in no net loss of shoreline ecological functions and/or processes; and

vi. Commercial or mixed-use developments may be expanded or enlarged within the existing building footprint as a conditional use.

4. If a use is discontinued for ~~twelve~~eighteen consecutive months or for ~~twelve~~eighteen months during any two-year period, any subsequent use, if allowed, shall comply with this Program.

### 5.1.3 Regulations – Existing Structures

1. Legally established ~~buildings,~~ structures ~~and/~~or lots of record existing prior to or as of the effective date of this Program that do not meet the specific standards of this Program ~~are~~shall be considered ~~legal,~~ "grandfathered" ~~(conforming) uses/developments~~ as that term is defined in Chapter 11 of this Program. Grandfathered structures are classified as follows:

a. Existing, Permitted, or Vested: The building, structure, or lot was existing on the effective date of initial adoption of the Program (August 5, 1976), or any subsequent amendment thereto, or was authorized under a permit or approval issued, or is otherwise vested to the Program; or

b. Variance: A structure for which a variance has been issued; or

c. Conditional: The ~~existing~~ structure existed prior to the adoption of this Program or the adoption of an applicable amendment hereto, ~~is~~would be designated as a conditional use under this Program and ~~existed prior to the adoption of this Program or the adoption of an applicable amendment hereto and which~~ has not obtained a conditional use permit.

2. Grandfathered structures may continue as long as they remain otherwise lawful, and meet all of the requirements of this section.

3. Except for single-family residential developments, any grandfathered structures that are expanded, enlarged or relocated, must obtain a variance or be brought into conformance with this Program and RCW 90.58. Any grandfathered structure that is moved any distance must be moved to comply with the bulk and dimensional requirements of this Program.

**Comment [SG126]:** Recommended change to clarify intent and consistency of terminology.

**Comment [SG127]:** Recommend revisions for added clarity of intent and to add reference to definition of "grandfathered" in Chapter 11

**Comment [SG128]:** Recommended revisions to clarify intent.

DRAFT

4. ~~If a legal, grandfathered structure is abandoned for a period of more than eighteen (18) months, the~~Any grandfathered rights shall expire and any subsequent use of the structure shall be conforming if the structure is abandoned as that term is defined in Chapter 11 of this Program.

5. Normal maintenance and repair of a grandfathered structure may be allowed in accordance with this chapter, other provisions of this Program, and Clallam County Code Chapter 33.43. For structures within floodplains, if the normal repair/routine maintenance exceeds fifty percent (50%) of the fair market value of the structure it shall be considered substantial improvement and subject to the standards for new floodplain development in Section 7.16.

6. Rebuilding After Damage: If a grandfathered residential structure or accessory structure sustains structural damage due to fire, flood or other natural casualty the structure may be reconstructed upon its original site and to the configuration existing immediately prior to the damage, provided that:

   a. The structure is located outside of geologically hazardous areas as defined in this Program. If the structure is within a geologically hazardous area, the Administrator may allow the reconstruction if the proponent provides a geotechnical or geological evaluation by a qualified professional which indicates the structure will be safe for a period of 75 years. The geotechnical/geological study shall conform to the applicable provisions in Section 7.14;

   b. The structure is located outside the floodway. If a structure located within the floodway sustains major damage whereby the cost of restoring the structure to its "before damaged" condition would equal or exceed 50 percent of the market value of the structure before the damage occurred, it shall be reconstructed outside the floodway according to the floodplain regulations in Section 7.16 and other applicable National Flood Insurance Program requirements. Improvements and repairs must be protected against occurrence of the one percent annual chance flood through elevation or other measures. Structures located within the floodway shall not be rebuilt within the floodway;

   c. The structure may not be expanded, horizontally or vertically, except ~~that the Administrator may allow vertical expansion for commercial and recreational developments up to 40 feet in exchange for a ten percent (10%) reduction in the structure footprint~~ as otherwise allowed by this Section and Program;

   d. No degree of relocation will occur, except that move of the structure further landward from the ordinary high water mark is allowed and encouraged;

   e. The submittal of applications for permits necessary to restore the development is begun within six (6) months of the damage. The Administrator may waive this requirement in situations with extenuating circumstances such as resolution of an estate, or widespread economic or natural disaster; and

   f. The reconstruction is commenced within two (2) years of the issuance of permits. Administrator may allow a one (1) year extension.

7. Expansion/Enlargement ~~without a Conditional Use Permit or Shoreline Variance~~ of Single-family ~~Residential~~Residence or Accessory Structure:

   a. Administrative Approval: The Administrator may allow a one-time enlargement, expansion or addition to a grandfathered, single-family residence or accessory structure

**Comment [SG129]:** The current text could be interpreted to mean that there are two 18-month periods, first to get to the status of abandonment, which takes 18 months per the definition in Chapter 11 and then it has to be in that abandoned status for an additional 18 months, or some 36 months in all. The recommended revision is to clarify intent and link to definition of "abandon" in Chapter 11.

**Comment [SG130]:** The proposed revision to sub-part (7) highlighted in green are in response to the Planning Commission request to revisit and clarify the relationship of regulations 5.1.3.(7,8, 9,10), including considering combining/consolidating these requirement as the pertain to expansion of single-family residences. Also, ask to revisit the use of phrase "may allow".

The recommended revisions consolidate regulations5.1.3.(7 – 10) , as highlighted in green on this page and the next, under sub-part 7.

It is also recommended to replace the prior % expansion standard to a specific square footage (400 sf) of the addition or expansion. This treats everyone the same versus larger homes getting more ability to expand. The 400 sf threshold prior to a conditional use or variance allows for a minor or modest expansion.

The phrase "may allow" was not recommended to be revised. See definition of "may" in Chapter 11.

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that would not otherwise be allowed under this Program, ~~increases the total footprint of an existing grandfathered residence and/or accessory structure(s) by up to ten percent (10%) as long as~~if all of the following criteria are met:

i. The enlargement or addition does not expand the total footprint of the existing structure by more than 400 square feet.

~~i.~~ii. The expansion or addition does not adversely affect critical areas or significantly impair the ability of a substantial number of people to view the shoreline.~~; and~~

~~ii.~~iii. The structure is located landward of the ordinary high water mark. ~~; and~~

iv. No waterward enlargement or expansion beyond the existing structure's foundation walls will occur.

~~8. A one-time enlargement, expansion or addition that increase the total footprint of an existing grandfathered residence or accessory structure(s) more than ten percent (10%) but no more than twenty-five percent (25%) or increase the structure height up to the limits allowed by this Program shall be allowed provided that:~~

~~a. The expansion or addition does not adversely affect critical areas or significantly impair the ability of a substantial number of people to view the shoreline; and~~

~~b. The structure is located landward of the ordinary high water mark; and~~

~~c. No waterward enlargement or expansion beyond the existing structure's foundation walls will occur; and~~

~~i.~~v. An equivalent area of shoreline buffer is enhanced through planting of native vegetation. The Administrator shall require a planting plan to ensure this standard is implemented.

~~9. Expansion/Enlargement with a Conditional Use Permit – Single-family Residential:~~

~~a.~~b. Conditional Use Approval Required: Enlargements, expansions or additions that ~~increase the total footprint of an existing grandfathered residence or accessory structure(s) more than twenty-five percent (25%),~~ do not meet all of the criteria in part "(a)" above ~~or an~~and where expansion/enlargement occurs laterally or landward, but not waterward, ~~may be allowed as a conditional use if the~~ shall require a conditional use permit criteria ~~are met~~ pursuant to Chapter 10 of this Program.

~~10. Expansion/Enlargement with a Shoreline Variance – Single-family Residential:~~

~~a.~~c. Variance Approval Required: Enlargement or expansion of a single-family residence~~s~~ or accessory structure that do not meet all of the criteria in part "(a)" above that would extend~~s~~ waterward beyond the existing ~~residential~~ foundation walls, further into a shoreline buffer or critical area, or that increases the structure height above the limits established by this Program shall require a variance pursuant to Chapter 10 of this Program.

**Comment [SG131]:** Refer to previous comment for the revisions highlighted in green above.

~~11.~~8. Expansion/Enlargement within Floodplains:

a. Substantial expansion, enlargement, or improvements of existing residential structures defined as more that 50 percent of the present fair market value of the structure within the

one percent annual chance floodplain must have the lowest floor, including basement, elevated to or above the one percent annual chance flood level.

b. Substantial expansion, enlargement, or improvements of existing non-residential structures as defined in part "(a)" above shall have the option of elevating the lowest floor, including basement, to be at least one foot above the one percent annual chance flood level, or together with accessory utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

**Comment [SG132]:** Planning Commission requested clarify what "substantial expansion" means in the context of sub-part (b).

### 5.1.4 Regulations – ~~Conservation of~~ Existing Vegetation

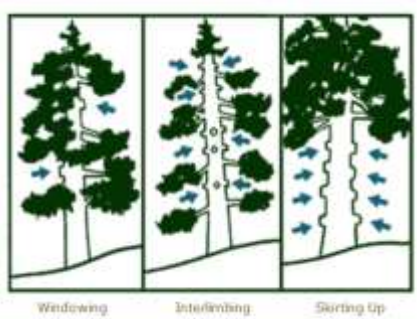
1. ~~A lawfully established development shall be allowed to maintain the vegetation conditions that existed on the lot at the time the development was proposed.~~ Vegetation conservation standards of this Program shall not apply retroactively to existing uses and developments, except where otherwise required as mitigation for new and expanded uses and development. Existing views may be maintained.

~~1.~~2. Existing areas of ~~R~~residential landscaping, lawns and gardens, may be maintained ~~in their current condition~~, but not expanded. These areas do not require replanting with native vegetation, but such restoration is encouraged consistent with this Program. ~~The following vegetation conservation regulations shall apply to existing uses/developments:~~

~~2.~~3. ~~Mowing lawns and n~~Non-destructive limbing and/or pruning of trees ~~and shrubs~~, using the techniques depicted in Figure 5-1, shall be allowed. Shrubs may be trimmed and pruned. ~~Such mowing, limbing and/or pruning, in and of itself, is not considered development according to RCW 90.58.030(3)(a) and shall not require a substantial development permit.~~

~~3.~~4. New clearing, thinning, and limbing of existing vegetation other than listed above is subject to compliance with the shoreline and critical area buffer regulations in Chapters 6 and 7 of the Program. ~~If the exterior dimensions of the existing use/development are expanded or enlarged, the buffer and vegetation conservation provisions of Section 6.3 shall apply and the County shall require enhancement of the buffer to achieve the vegetation cover and density thresholds set forth therein.~~

Figure 5-1. Preferred techniques for non-destructive thinning and pruning to maintain shoreline views



## 5.2 Clearing, Grading and Filling

*This section contains stormwater management and clearing and grading regulations that would apply to any/all development within shoreline jurisdiction.*

### 5.2.0 Applicability

All new uses and developments shall comply with the applicable policies and regulations for clearing and grading as defined in Chapter 11.

### 5.2.1 Policies

1. Clearing, grading and filling activities within shoreline jurisdiction should be proactively controlled to address the problem of stormwater pollution.

2. Clearing, grading and filling should only occur in conjunction with an allowed use or development, unless otherwise allowed in this Program.

3. When allowed, clearing, grading and filling should be conducted so that water quality, habitat, hydrology, natural erosion rates, and runoff/drainage patterns are not adversely affected.

### 5.2.2 Regulations

1. Clearing, grading and filling shall only be allowed as part of an approved shoreline use/development and shall be subject to the requirements of the primary use/development.

2. When allowed, clearing and/or grading shall be located, designed, and carried out in a manner that:

   a. Minimizes land disturbance to the minimum necessary for the intended development; and

   b. Utilizes mulch, vegetation, or other best management practices to minimize erosion from exposed soils during construction: and

   c. Includes plans to revegetate or otherwise stabilize areas of exposed soil following construction; and

   d. Blends in physically and visually with natural topography, so as not to interfere with appropriate use, impede public access, or degrade the aesthetic qualities of the shoreline; and

   e. Does not impede net shore-drift toward sensitive marine environments such as spits, estuaries, and river deltas; and

   f. Does not require shoreline armoring or stabilization to protect materials placed unless it is part of an approved shoreline restoration project and shoreline armoring or stabilization measures are needed to keep the material in place.

3. Fill materials placed within shoreline jurisdiction shall be from an approved source and shall consist of clean sand, gravel, soil, rock or similar material. The use of contaminated material or construction debris shall be prohibited.

DRAFT

4. Fill placed waterward of the ordinary high water mark of any water body shall only be permitted when alternatives are infeasible and when the filling/excavation is necessary to support one or more of the following activities:

    a. Approved marinas, ports, and other water-dependent industries where upland alternatives or structural solutions including pile or pier supports are infeasible.

    b. Development or maintenance of essential public infrastructure and facilities.

    c. Federally mandated environmental cleanup activities required by the Model Toxics Control Act or the Comprehensive Environmental Response, Compensation, and Liability Act.

    d. Maintenance of a lawfully established use or development.

    e. Ecological restoration and enhancement projects benefitting water quality and/or fish and wildlife habitat.

    f. Public access and public water-oriented recreation projects benefitting substantial numbers of people.

    g. Part of an approved shoreline stabilization, flood control, or in-stream structure project when consistent with this Program.

5. Excavation below the ordinary high water mark shall be considered dredging and shall be subject to the regulations in Section 4.3 of this Program.

6. The following information shall be required for all proposals involving fill unless the Administrator determines that issues are adequately addressed via another regulatory review process:

    a. A description of the proposed use of the fill area; and

    b. A description of the fill material, including its source and characteristics; and

    c. A description of the method of placement and compaction; and

    d. A description of the location of the fill relative to natural and/or existing drainage patterns; and

    e. A description and map of the fill area and depth relative to the ordinary high water mark; and

    f. A description of proposed means to control surface runoff; and

    g. A temporary erosion and sediment control (TESC) plan.

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## 5.3 Public Access

*This section describes the policies and regulations for providing public access to public shorelines.*

### 5.3.0 Applicability

Public access includes the ability of the general public to reach and enjoy the water's edge, to travel on the waters of the state, and to view water and the shoreline from adjacent locations. Physical public access means having the ability to physically touch or reach the water. Visual public access means having the ability to view the shoreline or water, but does not necessarily include physical access to the water's edge.

### 5.3.1 Policies

1. The goal of providing public access should be balanced with the need to protect ecological functions and preserve the rights of private property owners.

2. Existing physical and visual access sites/areas should be maintained to ensure the public's continued ability to enjoy the recreational and aesthetic qualities of the shoreline, unless the maintenance of such existing sites is inconsistent with the policies and regulations of this Program.

3. The County should work with State Parks, and other appropriate agencies and individuals to acquire lands that can provide physical and visual access to public waters for public use and to provide, promote and accommodate public access on parks and other state owned land, where no access currently exists.

4. Public entities and private landowners should not be required to provide public access when such access is shown to be inappropriate due to reasons of safety, security, or adverse impacts to shoreline functions and processes.

5. Pursue opportunities to implement the Clallam County Park and Recreation MasterPlan, as amended, to increase and improve public access and enjoyment of County shorelines.

6. Support and promote the development of public access to the Washington State Parks and Recreation Lands where non-existent or limited such as state park lands located on both sides of the Sol Duc River near Mary Clark Road.

7. Support retention and improvements of existing developed public access points and related facilities (e.g., parking, restrooms, trails) to maintain public access to shorelines including those access points associated with restoration of publically-owned shorelands such as the access to Elwha River at the end of Lake Aldwell Road.

**Comment [SG133]:** Addresses Planning Commission direction to add a policy to promote development of public access on state park lands in Clallam County.

**Comment [SG134]:** Addresses Planning Commission direction to add a policy to support retention of existing public access and parking.

### 5.3.2 Regulations

1. Single family residential developments and developments of ~~nine (9)~~four (4) or fewer lots shall not be required to provide public access to the shoreline.

2. Subdivisions of more than ~~nine (9)~~four (4) lots shall include physical and/or visual public access to public waters unless:

   ~~a. There is existing physical public access within a 5 mile radius of the property;~~

   ~~b.~~a. There are unavoidable public health or safety hazards on the property that cannot be prevented through reasonable means;

~~c.~~b. The public access is likely to cause unacceptable environmental impacts that cannot be mitigated; or

~~d.~~c. The access would create significant, undue, and unavoidable conflicts with adjacent uses that cannot be mitigated.

3. Commercial and industrial development and development by public entities, such as local governments, port districts, state agencies, and public utility districts, shall include physical and/or visual public access to public waters unless:

   a. Unavoidable public health or safety hazards exist and cannot be prevented through reasonable means;

   b. The use/development has inherent security needs that cannot be mitigated through reasonable design measures or other solutions;

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

   d. The public access will cause unacceptable environmental impacts that cannot be mitigated; or

   e. The access would create significant, undue, and unavoidable conflicts with adjacent uses that cannot be mitigated.

4. To be exempt from the public access requirements in this section, the project proponent must demonstrate that all feasible alternatives have been considered, including:

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

   b. Separating uses and activities (using fences, hedges, landscaping, etc).

5. Public shoreline access provided by public road ends, public roads rights-of-way, public utilities and rights-of-way shall not be diminished by the County or neighboring property owners in accordance with RCW ~~Chapter~~ 36.87.130~~.~~(4).

**Comment [SG135]:** Reference correction. Needs further correction. The correct reference is RCW 36.87.130. There is no sub-part (4)

DRAFT

## 5.4 Water Quality and Water Management

### 5.4.0 Applicability

Water quality means the physical, chemical, and biological characteristics of water. Water quality is a measure of the condition of water relative to the requirements of humans and other species. Water quality is typically assessed in terms of specific standards for drinking water, shellfish harvest, recreation, fish production, and other beneficial uses.

Water management refers to the set of practices that are required to ensure there is adequate water to maintain stream flows and support domestic uses.

### 5.4.1 Policies

1. Shoreline uses and developments should incorporate best management practices, low impact development techniques, shoreline and critical area buffers, vegetation conservation, and other appropriate measures to achieve all of the following:

   a. Prevent the direct discharge of pollutants to surface and ground waters, including stormwater ditches.

   b. Meet water quality standards and designated beneficial uses of surface waters.

   ~~c. Improve the quality of stormwater runoff, and thereby minimize impacts to surface and groundwater, protect human health, improve salmonid and other aquatic habitat, and reopen shellfish beds to harvest.~~

   ~~d. Reduce the speed and volume of stormwater flows to reduce flooding, prevent erosion, and maintain groundwater recharge.~~

   ~~e.~~c. Implement stormwater standards to mimic the natural hydrology as much as possible and reduce high flows resulting from future development/redevelopment.

   ~~f.~~d. Operate and maintain stormwater ditches, culverts, and ponds in a manner that ensures their longevity and effectiveness.

   ~~g.~~e. Raise public awareness of the societal value of water resources to encourage behavior that improves water quality.

   ~~h.~~f. Encourage removal of wood structures treated with creosote, copper, chromium arsenate or other hazardous substances.

2. Shoreline use and development should be designed to minimize the long-term need for chemical fertilizers, pesticides, herbicides, or other similar chemical treatments that could contaminate surface or groundwater or cause adverse ~~effects~~impacts on shoreline ecological functions and values.

### 5.4.2 Regulations

1. All shoreline uses and developments shall use effective temporary erosion and sediment control (TESC) methods during project construction. Project proponents shall submit a TESC plan for Administrator review and approval prior if they meet any of the following criteria:

   a. Disturb seven thousand (7,000) square feet or more of land;

   b. Result in slopes over twenty five percent (25%) and greater than five (5) feet in height;

   c. Impound water exceeding a volume of one (1) acre-foot;

   d. Result in the diversion of existing drainage courses; or

   e. Involve clearing and grading in an erosion hazard area or on slopes steeper than twenty five percent (25%).

2. To protect water quality, shoreline uses and developments shall comply with the following standards based on the type and scale of the proposed development:

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a. Tier 1 Developments – Residential development with up to two thousand (2,000) square feet of new or replaced impervious surface:

   i. All new, replaced, and disturbed topsoil must be amended with organic matter, which shall not include biosolids (industrial, human, and/or hospital wastes) and shall be from a source approved by the Administrator.

   ii. Roof runoff must be routed to a drywell or, if a dry well is not appropriate for site conditions, runoff must be dispersed to a vegetated area, a rain garden or bioswale, an infiltration system or permeable pavement.

   iii. Project proponents must submit a one page drainage plan showing how stormwater runoff will be controlled and design standards implemented.

b. Tier 2 Developments – Single-family residential development with more than 2,000 square feet of new or replaced impervious surface, other residential development which disturbs more than seven thousand (7,000) square feet of land or generates two thousand (2,000) to five thousand (5,000) square feet of impervious surface, and all commercial development smaller than five thousand (5,000) square feet in size that do not use hazardous substances:

   i. All Tier 2 developments shall provide for on-site stormwater management controls, in accordance with best management practices identified by the County and/or Washington Department of Ecology Stormwater Management Manual for Western Washington, as amended.

   ii. In addition to other requirements, all new, replaced, and disturbed topsoil must be amended with organic matter, which shall not include biosolids (industrial, human, and/or hospital wastes) and shall be from a source approved by the Administrator.

c. Tier 3 Developments - All industrial development; commercial and residential development which generates more new or replaced impervious surface than is allowed in Tier 2, converts three-quarters acre or more of native vegetation to lawn or landscaped areas, or converts 2.5 acres or more of native vegetation to pasture; and all commercial projects that use hazardous materials~~substances~~:

   i. A stormwater management site plan prepared by a licensed engineer must be prepared in accordance with the most current edition of the Ecology Stormwater Management Manual for Western Washington, as amended.

   ii. In addition to other requirements, all new, replaced, and disturbed topsoil must be amended with organic matter, which shall not include biosolids (industrial, human, and/or hospital wastes) and shall be from a source approved by the Administrator.

3. To avoid water quality degradation by malfunctioning or failing septic systems located within shoreline jurisdiction, on-site sewage systems shall be located and designed to meet all applicable water quality, utility, and health standards. On-site sewage systems shall comply with the shoreline and critical area buffer requirements of this Program, and shall be a minimum of 100 feet landward of the ordinary high water mark and any waterbody. On shorelines which, according to the state's water quality assessment, exceed allowances for nitrogen contamination, the County shall require new septic systems to provide denitrification.

4. All building materials that may come in contact with surface waters shall be composed of non-toxic materials, such as wood, concrete, approved plastic composites, or steel that will not adversely affect water quality or aquatic plants or animals. Materials used for docks or similar

**Comment [SG136]:** Revision is to clarify Ecology stormwater document being referenced similar to sub-part (c)(i) below.

**Comment [SG137]:** Recommended revision, since the state manual is amended periodically.

DRAFT

structures shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote, copper chromium arsenate, or pentachlorophenol is prohibited in shoreline water bodies.

5. Solid and liquid wastes and untreated effluents shall not be allowed to enter any groundwater or surface water or to be discharged onto land. The release of oil, chemicals, genetically modified organisms, or hazardous materials onto land or into the water is prohibited.

6. Illicit non-stormwater discharges to the stormwater system are prohibited. This includes direct discharges of wastewater (e.g., from sinks, washing machines) to stormwater conveyance systems such as drainage ditches, and discharge of wastes from incidental sources such as spills from road accidents into stormwater drainage.

## 5.5 Archaeological, Historical, and Cultural Resources

### 5.5.0 Applicability

1. All new uses and developments shall comply with the applicable policies and regulations for protection of archaeological, historical, and cultural resources as defined in Chapter 11.

### 5.5.1 Policies

1. Sites and resources having known or suspected archaeological, historic, or cultural value should be protected. These sites/resources are important, non-renewable resources and many are in danger of being damaged or lost because of ongoing development. Wherever possible, sites should be permanently preserved for scientific study and/or public observation consistent with 36 CFR 800 and RCW 27.53. If the presence of an archeological site is unknown then a survey should be conducted by an archeologist.

2. Proposed development on or adjacent to an identified archaeological, historic, or cultural site should be designed and operated to be compatible with continued protection of the archaeological, historic, or cultural site.

3. The location of historic, cultural, and/or archaeological sites/resources should not be disclosed to the general public unless adequate provisions can be put in place to ensure long-term protection and preservation of such sites/resources.

### 5.5.2 Regulations

1. All shoreline use and development proposals shall be reviewed to determine if they have the potential to impact historic, cultural, and/or archaeological sites/resources. The Administrator shall consult with the Washington State Department of Archeological and Historic Preservation and if there is evidence that the proposed project is located within five hundred (500) feet of such a site/resource or if the site has not been surveyed or evaluated for presence/absence of cultural resources, the Administrator shall:

   a. Notify and inform potential affected Tribes and the Washington State Department of Archaeology and Historic Preservation of the proposed activity including timing, location, scope, and resources affected; and

   b. Require the proponent to provide a Cultural Resource Site Assessment prior to development to determine the presence/absence of archaeological, historic, or cultural resources. The Assessment shall include a survey to determine presence/absence of

DRAFT

cultural resources. The Administrator can waive this requirement if the proposed development activities do not include any ground disturbance and will not impact a known archaeological, historic, or cultural site/resource.

2. When a Cultural Resource Site Assessment required by this section identifies the presence of archaeological, historic, or cultural resources, a Cultural Resource Management Plan shall be required. The plan shall assess the archaeological, historic, or cultural site/resource; analyze potential adverse impacts caused by the proposed activity; and recommend measures to prevent adverse impacts.

3. Cultural Resource Site Assessments and Cultural Resource Management Plans required by this section shall be prepared by a professional archaeologist or historic preservation professional, as applicable. The project proponent shall be responsible for any professional service fees associated with the assessment or plan.

4. The Administrator may reject or request revision of the conclusions reached in a Cultural Resource Site Assessment or Cultural Resource Management Plan when it can demonstrate that the assessment is inaccurate or does not fully achieve the polices of this section.

5. Excavation for archaeological investigations or data recovery may be permitted when conducted by a professional archaeologist or qualified historic preservation professional in accordance with applicable state laws.

6. Where public access is provided to any private or publicly owned building or structure of archaeological, historic, or cultural significance, a Public Access Management Plan shall be developed in consultation with the Washington State Department of Archaeology and Historic Preservation and affected Tribes. The project proponent shall be responsible for any professional service fees associated with the access plan.

7. If any site/object of possible archaeological, historic, or cultural interest is inadvertently discovered during any new shoreline use or development, the project proponent shall immediately stop work and comply with all of the following measures:

    a. Notify the County Community Development Department and the Washington State Department of Archaeology and Historic Preservation; and

    b. Prepare a Cultural Resource Site Assessment to determine the significance of the discovery and the extent of damage to the resource; and

    c. Distribute the Cultural Resource Site Assessment to the Washington State Department of Archaeology and Historic Preservation and affected Tribes for a 30-day review to determine the significance of the discovery; and

    d. Maintain the work stoppage until the Administrator and above-listed agencies or governments have reviewed the site assessment and determined that work can proceed; and

    e. Prepare a Cultural Resource Management Plan pursuant to this section if the Administrator determines that the site is significant; and

    f. If an archeological resource is damaged, an archeological damage assessment shall be completed pursuant to WAC 25-48-043 and the National Park Service Technical Brief 20.

DRAFT

8. Upon inadvertent discovery of human remains, the project proponent must immediately notify the County Sheriff, Coroner, and Washington State Department of Archaeology and Historic Preservation.

9. In the event that unforeseen factors constituting an emergency, as defined in RCW 90.58.030, necessitate rapid action to retrieve or preserve archaeological, historic, or cultural resources, the Administrator shall notify the State Department of Ecology, the State Attorney General's Office, potentially affected Tribes, and the State Department of Archaeology and Historic Preservation within 10 days of such action.

DRAFT

# Chapter 6 Shoreline Buffers and Vegetation Conservation

## 6.1 Applicability

Shoreline buffers, as defined in Chapter 11, help protect people and property from natural hazards that are present on some shorelines. Shoreline buffers also protect and provide shoreline habitat, ~~and~~ water quality, and other ecological functions from the adverse ~~effects~~impacts of adjacent land use and development. Retention and restoration of buffers and the functions they provide, especially native vegetation buffers, helps to stabilize coastal areas and streambanks and achieve no net loss of shoreline ecological functions. As a result, this chapter establishes policies and regulations for shoreline buffer widths and the allowed alterations and uses of such buffers. In addition, this chapter and other provisions of this Program also promote vegetation conservation within buffers and the shoreline jurisdiction including restrictions on clearing and grading, vegetation restoration and enhancement, and control of invasive weeds and non-native species.

Unless otherwise stated, buffer and vegetation conservation regulations of this Program do not apply to those activities covered under the Washington State Forest Practices Act, except for conversion of forest uses to other uses and those other forest practices over which the County has authority. Like other Program provisions (see Section 5.1 of this Program), buffer and vegetation conservation standards do not apply retroactively to legally-established existing uses and structures.

All new shoreline uses and developments shall comply with the shoreline buffer and vegetation conservation policies and regulations in this section. New uses and developments may also be subject to additional buffers and vegetation conservation standards prescribed in Chapter 7 of this Program due to the presence of critical areas such as wetlands, streams, habitat conservation areas (e.g., endangered or threatened species habitats), geologically hazardous areas (e.g., landslide hazard areas, channel migration zones), and other critical areas located within the shoreline jurisdiction.

**Comment [SG138]:** Section 6.1 recommended revisions highlighted in blue are intended to further clarify intent and also relationship to grandfathered uses and critical area buffers.

## 6.2 General Shoreline Buffer and Vegetation Policies

1. Buffers should be established and maintained along all marine and freshwater shoreline waterbodies to~~:~~

   ~~a. P~~protect people and property from risks associated with flooding, bank erosion, channel migration, bluff recession, landslides, storm surges, sea level rise, tsunamis and other hazards~~;~~

   ~~b. Maintain feeder bluffs, which feed beaches and sustain nearshore habitats;~~

   ~~c. Allow rivers to migrate freely within floodplains and natural channel migration zones;~~

   ~~d.~~a. ~~Preserve riparian vegetation, which is essential for maintaining the hydrologic integrity, habitat and water quality of adjacent shoreline water bodies~~.

2. To protect the ecological and aesthetic qualities of the shoreline environment and minimize adverse impacts associated with shoreline development, new shoreline uses and developments should be separated and set back from the edge of the shoreline waterbody. The area between the waterbody and the development should be retained in a well-vegetated and mostly undisturbed condition.

3. A buffer zone of natural vegetation should be established and maintained along all shoreline waterbodies so that shorelines can erode and aggrade naturally without posing a risk to the adjacent structures and prompting the need for structural armoring.

~~4. Along rivers where there is a documented risk of channel migration, new development should not be allowed to occur within 150 feet of the ordinary high water mark.~~

~~5.~~4. Buffers composed of predominantly ~~woody~~ native vegetation should be established and/or preserved along all shorelines to:

a. Protect the health and sustainability of the many fish and wildlife species that depend on the County's lakes, rivers, and marine waters for food, cover, breeding, resting, rearing, and other essential life functions.

b. Provide clean water for recreation, fishing, shellfish production, and other beneficial uses.

c. Protect people and property from hazards associated with floods, storm surges, landslides, erosion, migrating river channels, tsunamis, and other natural processes or events.

d. Minimize the costs that the public would have to bear to protect properties in hazardous areas or to repair damages associated with floods and other hazards.

e. Maintain the aesthetic values that natural and scenic shorelines provide.

f. Ensure no net loss of shoreline ecological functions.

~~6.~~5. Shoreline buffers should be preserved in a predominantly natural and undisturbed state except that reasonable accommodation should be made for views, pedestrian access, and water-related use/development when it is otherwise consistent with this Program.

~~7.~~6. Development proposals that involve extensive vegetation removal to create views or expansive lawns should not be allowed. Property owners should not assume that an unobstructed view of the water is guaranteed.

~~8.~~7. The goals of preserving and restoring vegetation along shorelines should be balanced with the need to accommodate preferred shoreline uses and developments and provide views of the shoreline.

8. New developments and uses should be designed to minimize tree removal and vegetation clearing. Existing trees and shrub cover should be preserved, and where feasible, restored, to provide wildlife habitat, maintain water quality, and ensure soil and slope stability.

## 6.3 Regulations – General Shoreline Buffer and Vegetation Requirements

1. Shoreline Buffer Width: The area bordering all shoreline waterbodies shall be designated as the shoreline buffer. New uses and developments shall be located landward of the shoreline buffers shown in Table~~s~~ 6-1~~ and 6-2~~ unless this Program specifically allows the use/development to occur within the shoreline buffer (see Figures 6-2 through 6-6 for example buffer scenarios for each designation—figures do not show all possible buffer scenarios). Shoreline buffers shall be measured in all directions from the ordinary high water mark. New uses and development may also be subject to additional buffers prescribed in Chapter 7 of this Program due to the presence of critical areas.

**Comment [SG139]:** Recommend delete this policy. The Planning Commission requested a clarification of "what documented risk of channel migration" means in this policy.

The PC also requested to replace the 150-foot standard buffer recommended in the 2014 draft to require a channel migration assessment for new development in mapped CMZs.

*See related changes to Table 6-2, Section 7.13 (Geologic Hazard Buffers), and new consolidated CMZ protection standards under 7.14.11.*

**Comment [SG140]:** Revisions recommended for clarification of intent.

DRAFT

2. Minor and Major Shoreline Buffer Width: To determine the standard shoreline buffer width shown in Table 6-1, the Administrator shall evaluate each development proposal to determine if it qualifies as major new development or minor new development according to the following criteria:

   a. Minor New Development: Applies only to single-family development or low intensity, water-dependent recreational use/development on existing lots of record, unless the lots are part of a subdivision where specific development standards or buffers were required as part of the plat. Divisions of land creating new lots for residential or other developments are not considered minor development because they intensify development pressures along the shoreline. Minor new development must meet all of the following criteria:

      i. The amount of total clearing/land disturbance within shoreline jurisdiction must be the lesser of fifteen percent (15%) of parcel area or twenty thousand (20,000) square feet, provided that a minimum of two thousand five hundred (2,500) square feet shall be allowed; and

      ii. The amount of impervious area (including structures) within shoreline jurisdiction must be the lesser of five percent (5%) of the total parcel area or six thousand five hundred (6,500) square feet, provided that a minimum of two thousand (2,000) square feet shall be allowed; and

      iii. The cumulative footprint of all structures on the parcels must be less than four thousand (<4,000) square feet; and

      iv. The vegetation within the standard shoreline buffer must meet the cover and/or density standards in Section 6.3.4. If the buffer vegetation does not meet the cover and/or density thresholds established in Section 6.3.4 the applicant shall be required to enhance and improve the buffer by planting trees and/or shrubs to achieve the required plant density and cover. The number, spacing and species to be planted shall be adequate to create a functioning buffer similar to what would be found on a relatively undisturbed site. The vegetation shall be nurtured and maintained to preserve the cover and density characteristics and ensure continuation of a healthy and functioning buffer over time.

   b. Major New Development: Any development that does not qualify as minor new development; any new subdivision or division of land creating new lots for development.

3. Critical Area Buffers: Shoreline jurisdiction also extends to all lands necessary for buffers to protect critical areas and buffers that are overlapping or otherwise coincident with the shoreline jurisdiction pursuant to RCW 90.58.030(2)(d)(ii). Table 6-2 summarizes minimum critical area buffer requirements. Chapter 7 of this Program contains policies and standards for protection of critical areas within the shoreline jurisdiction including critical area buffer requirements. ~~To determine the buffer width, the Administrator shall also evaluate each development site to determine if there are hazards present that warrant additional buffer widths to provide safety. Safety buffers shall be applied as follows:~~

   ~~a. For parcels located along the Strait of Juan de Fuca marine bluffs, the safety buffer shown in Table 6-1 shall be added to the standard buffer and measured from the top of the bluff. All new development on the bluff shall be at least 50 feet landward of the top edge of the bluff. If the bluff is mapped as a feeder bluff or feeder bluff talus, the development shall be at least 100 feet landward of the top of the bluff. If the bluff is mapped as a feeder bluff exceptional the development shall be at least 150 feet landward of the top edge of the bluff. These widths shall apply regardless of the shoreline environment designation~~

**Comment [SG141]:** Recommended change to add sub-header and reference to relevant buffer table.

**Comment [SG142]:** Recommended revisions to sub-part (3) highlighted in blue are to specifically note and reference additional critical area buffer requirements.

**Comment [SG143]:** Safety buffer widths related to marine bluffs and channel migration zones were moved and consolidated under Section 7.13, Geologically Hazardous Area Buffers. They are also summarized in the revised Table 6-2 showing critical area buffers.

DRAFT

~~or the standard buffer. The Administrator can increase the width of the safety buffer if they have credible evidence that the annual rate of erosion exceeds 1 foot per year.~~

~~b. For parcels along rivers with a mapped channel migration zone the safety buffer shown in Table 6-2 shall be added to the outer (landward) edge of the standard buffer. All new development shall be located at least 150 feet landward of the channel migration zone if there is sufficient, buildable area to accommodate the development. If there is no mapped channel migration zone, no additional safety buffer shall apply.~~

4. Shoreline Buffer Condition: Shoreline buffers shall be retained in a natural condition or may be improved to enhance buffer functions and values. The area within the shoreline buffer shall be maintained in a predominantly well vegetated and undisturbed condition defined as an average density of at least one hundred fifty (150) trees and/or shrubs per acre or fifty five percent (55 %) areal cover of trees and/or shrubs, whichever is greater. The Administrator may allow exceptions when existing buffer vegetation does not meet this tree/shrub requirement for sites that are otherwise predominantly characterized by native vegetation. The vegetated areas shall comprise at least eighty percent (80%) of the buffer area. The remaining twenty percent (20%), or at least fifteen (15) linear feet of the water frontage, whichever is greater, may be retained as lawn for active use. Low growing species that preserve views of the shoreline shall be allowed. Native vegetation is preferred but non-native ornamental trees and shrubs may be allowed as long as they provide similar habitat functions to native trees and shrubs. Invasive or noxious weed species shall not count toward the density or cover thresholds.

5. Tree and Shrub Buffer Retention: There shall be no grading or removal of trees or shrubs greater than three (3) inches in diameter within the shoreline buffer unless the grading or tree removal is required to accommodate an approved shoreline use/development and is otherwise specifically allowed by this Program. This requirement shall not pertain to hazard tree removal authorized by this Program or to routine mowing.

6. Lake Sutherland Standard Buffer: The shoreline buffer on Lake Sutherland shall be 35 feet measured in all directions from the ordinary high water mark. Residences and other structures shall be located at least thirty-five (35) feet landward from the ordinary high water mark unless this Program specifically allows a lesser distance.

~~7. The shoreline buffer on the Dungeness River shall be equivalent to the width of the mapped channel migration zone, or at least one hundred fifty (150) feet landward from the ordinary high water mark, whichever is greater. Residences and other structures shall be located outside (landward of) the channel migration zone or at least one hundred fifty (150) feet landward of the ordinary high water mark unless this Program specifically allows a lesser distance. The edge of the channel migration zone shall be located in the field by scaling the distance off of available maps, provided that the Administrator shall require the edge of the migration zone to be field-located by a qualified professional if the mapped channel migration zone boundaries are not readily discernible in the field.~~

**Comment [SG144]:** Marine bluff buffers were removed from Table 6-1 and consolidated under Section 7.13, Geologically Hazardous Area Buffers, and summarized in the revised Table 6-2 showing critical area buffers. No change to the standard width of buffers were made.

**Comment [SG145]:** Deleted language in sub-part 3(b) highlighted in green addresses Planning Commission direction to replace the standard 150-foot safety buffer width (measured from the ordinary high water mark) recommended in the 2014 Draft SMP for development within channel migration zones to require a channel migration assessment for new development in mapped CMZs. *See related changes to Table 6-2, Section 7.13 (Geologic Hazard Buffers), and new consolidated CMZ protection standards under 7.14.11.*

**Comment [SG146]:** Recommend add first sentence om sub-part (4) to clarify intent of buffer requirements.

**Comment [SG147]:** Recommend add this provision in sub-part (4) for consistency with similar exception recommended by the Planning Commission for other wetland buffer condition in Section 7.5.

**Comment [SG148]:** Recommend add intro header and other change for clarification to sub-part (5)

**Comment [SG149]:** Recommend add intro header for clarification.

**Comment [SG150]:** Deleted language in sub-part 7 highlighted in green addresses Planning Commission direction to replace the standard 150-foot safety buffer width (measured from the ordinary high water mark) recommended in the 2014 Draft SMP for development within channel migration zones to require a channel migration assessment for new development in mapped CMZs.

*See related changes to Table 6-2, Section 7.13 (Geologic Hazard Buffers), and new consolidated CMZ protection standards under 7.14.11.*

DRAFT

**~~Table 6-1. Shoreline Buffer Widths (in feet) by Environment Designation - Marine Waterfront Parcels Only[1] (see Figures 6-2 through 6-6)~~**

| | ~~Standard Buffer based Upon Type of Development and Lot Dimension~~<br><br>~~(Measured from the ordinary high water mark of the shoreline waterbody)~~ | | | ~~Additional Buffer for Safety~~<br><br>~~(Measured from the top of the marine bluff)~~ | | |
|---|---|---|---|---|---|---|
| ~~Shoreline Environment Designation~~ | ~~Minor New Development on existing lots with < 200 ft of depth from OHWM to rear lot line~~ | ~~Minor New Development on existing lots with ≥ 200 ft of depth from OHWM to rear lot line~~ | ~~Major New Development, including all Land Divisions~~ | ~~For proposed development located on a marine bluff that is not mapped as feeder bluff, feeder bluff talus, or feeder bluff talus~~ | ~~For proposed development located in an area mapped as feeder bluff or feeder bluff talus~~ | ~~For proposed development located in an area mapped as feeder bluff exceptional~~ |
| | | | | ~~Minimum distance from the top edge of the bluff – regardless of the standard buffer~~ | ~~Minimum distance from the top edge of the bluff – regardless of the standard buffer~~ | ~~Minimum distance from the top edge of the bluff – regardless of the standard buffer~~ |
| ~~Marine Waterfront~~ | ~~50~~ | ~~75~~ | ~~100~~ | ~~No additional buffer beyond the standard buffer requirements shown to the left~~ | | |
| ~~Shoreline Residential – Intensive~~ | ~~50~~ | ~~75~~ | ~~100~~ | ~~No additional buffer beyond the standard buffer requirements shown to the left~~ | | |
| ~~Shoreline Residential – Conservancy~~ | ~~100~~ | ~~125~~ | ~~150~~ | ~~50~~ | ~~100~~ | ~~150~~ |
| ~~Resource Conservancy~~ | ~~150~~ | ~~150~~ | ~~150~~ | ~~50~~ | ~~100~~ | ~~150~~ |
| ~~Natural~~ | ~~175~~ | ~~175~~ | ~~175~~ | ~~50~~ | ~~100~~ | ~~150~~ |

~~[1]**Critical Area buffers:** Uses/development may also be subject to additional buffers due to presence of wetlands, Type F, Np and Ns streams, habitats for federally listed threatened or endangered species, or other critical areas as described in Chapter 7. These buffers would be measured from the edge of the critical area and not necessarily added to the shoreline buffers unless the critical area was adjacent to/contiguous with the shoreline waterbody.~~

**Comment [SG151]:** Standard Buffers for marine shorelines in the left half of the table were moved to the revised and consolidated Table 6-1 that applies to both marine and freshwater shorelines. The merge was made to simplify the table.

***NO CHANGE TO STANDARD BUFFER WIDTHS FROM THE ORDINARY HIGH WATER MARK WERE MADE AS PART OF THE MOVE AND CONSOLIDATION SHOWN IN THIS TABLE.***

The additional buffers for safety shown in right half of the table were summarized in revised Table 6-2, Critical Area Buffers (see below), with the specific marine bluff buffer width and related standards consolidated under Section 7.13, Geologically Hazardous Buffers.

***NO CHANGE TO THE STANDARD "SAFETY" BUFFER WIDTHS FROM MARINE BLUFFS WERE MADE AS PART OF THE MOVE AND CONSOLIDATION SHOWN IN THIS TABLE***

**Comment [SG152]:** Intent of footnote moved and adapted under footnote 1 of the revised Tables 6-1 and 6-2 below.

**~~Table 6-2. Shoreline Buffer Widths (in feet) by Environment Designation – River and Lake Waterfront Parcels Only[1, 2, 3] (see Figures 6-2 through 6-6)~~**

| ~~Shoreline Environment Designation~~ | ~~Standard Buffer based Upon Type of Development and Lot Dimension (Measured from the ordinary high water mark)~~ | | |
|---|---|---|---|
| | ~~Minor New Development on existing lots with < 200 ft of depth from OHWM to rear lot line~~ | ~~Minor New Development on existing lots with ≥ 200 ft of depth from OHWM to rear lot line~~ | ~~Major New Development, including all Land Divisions~~ |
| | | | |
| ~~Shoreline Residential - Intensive~~ | ~~50~~ | ~~75~~ | ~~100~~ |
| ~~Shoreline Residential - Conservancy~~ | ~~100~~ | ~~125~~ | ~~150~~ |
| ~~Resource Conservancy~~ | ~~150~~ | ~~150~~ | ~~150~~ |
| ~~Natural~~ | ~~175~~ | ~~175~~ | ~~175~~ |
| ~~Additional Buffer For Safety for Development Located in an Area Mapped as Channel Migration Zone – Add the following width to the outermost (landward) edge of the standard buffer shown above (new development must be located landward of the channel migration zone if buildable area exists – see Section 3.8.2)~~ | | | |
| ~~Shoreline Residential - Intensive~~ | ~~100~~ | ~~75~~ | ~~50~~ |
| ~~Shoreline Residential - Conservancy~~ | ~~50~~ | ~~25~~ | ~~0~~ |
| ~~Resource Conservancy~~ | ~~NO additional buffer beyond the standard buffer requirements shown above~~ | | |
| ~~Natural~~ | ~~NO additional buffer beyond the standard buffer requirements shown above~~ | | |
| ~~[1]**Dungeness River** – New development shall be located landward of the mapped channel migration zone or at least 150 feet landward from Ordinary High Water Mark (OHWM), whichever is greater, regardless of the Shoreline Designation or lot size.~~ | | | |
| ~~[2]**Lake Sutherland** – New development shall be at least 35 feet landward of the OHWM regardless of lot size or Shoreline Designation.~~ | | | |
| ~~[3]**Critical Area buffers:** Uses/development may also be subject to additional buffers due to presence of wetlands, Type F, Np and Ns streams, habitats for federally listed threatened or endangered species, or other critical areas as described in Chapter 7. These buffers would be measured from the edge of the critical area and not necessarily added to the shoreline buffers unless the critical area was adjacent to/contiguous with the shoreline waterbody.~~ | | | |

**Comment [SG153]:** Standard Buffers for freshwater shorelines were moved to the revised and consolidated Table 6-1 that now applies to both marine and freshwater shorelines. The merge was made to simply the table.

***NO CHANGE TO STANDARD BUFFER WIDTHS FROM THE ORDINARY HIGH WATER MARK WERE MADE AS PART OF THE MOVE AND CONSOLIDATION SHOWN IN THIS TABLE.***

**Comment [SG154]:** Deleted language in Table 6-2 highlighted in green addresses Planning Commission direction to replace the standard 150-foot safety buffer width (measured from the ordinary high water mark) recommended in the 2014 Draft SMP for development within channel migration zones to require a channel migration assessment for new development in mapped CMZs.

*See related changes to Table 6-2, Section 7.13 (Geologic Hazard Buffers), and new consolidated CMZ protection standards under 7.14.11*

**Comment [SG155]:** Footnote 2 for the 35-foot buffer width for Lk. Sutherland moved to Footnote 2 of the revised Table 6-1 below.

**Comment [SG156]:** Intent of footnote moved and adapted under footnote 1 of the revised Tables 6-1 and 6-2 below.

**Table 6-1. Shoreline Buffer Widths (in feet) by Environment Designation1,2 (See examples in Figures 6-2 through 6-6)**

| Shoreline Environment Designation | Standard Shoreline Buffer Width (feet) based Upon Type of Development and Lot Dimension (Measured from the ordinary high water mark--OHWM) | | |
|---|---|---|---|
| | Minor New Development on existing lots with < 200 ft of depth from OHWM to rear lot line | Minor New Development on existing lots with ≥ 200 ft of depth from OHWM to rear lot line | Major New Development, including all Land Divisions |
| **Marine Waterfront** | 50 feet | 75 feet | 100 feet |
| **Shoreline Residential - Intensive** | 50 feet | 75 feet | 100 feet |
| **Shoreline Residential - Conservancy** | 100 feet | 125 feet | 150 feet |
| **Resource Conservancy** | 150 feet | 150 feet | 150 feet |
| **Natural** | 175 feet | 175 feet | 175 feet |

[1]In the event that buffers for any shorelines and/or critical areas area contiguous or overlapping, the landward-most edge of all such buffers shall apply.
[2]Lake Sutherland—New developments and uses shall be at least 35 feet landward of the OHWM regardless of lot size or Shoreline Designation.

**Table 6-2. Critical Area Buffers [1] (See examples in Figures 6-2 through 6-6)**

| Critical Area | Minimum Standard Buffer Width (feet) | More Standards |
|---|---|---|
| **Wetlands** | 25 to 300 (depending on wetland category and characteristics) | Sections 7.4-7.6 |
| **Other streams in shoreline jurisdiction** | 50 to 100 feet (depending on water type) | Section 7.7-7.9 |
| **Terrestrial Habitat Conservation Areas** | Per Habitat Management Plan (if required)[2] | Sections 7.10-7.11 |
| **Landslide Hazard Area** | | |
| • *Marine Bluff—Feeder Bluff Exceptional* | 150 feet | Section 7.12-7.14 |
| • *Marine Bluff—Feeder Bluff or Feeder Bluff Talus* | 100 feet | Section 7.12-7.14 |
| • *Other Landslide Hazard Area* | 50 feet | Section 7.12-7.14 |
| • *Channel Migration Zone* | Based on Channel Migration Zone Assessment[3] | Section 7.12-7.14 |

[1] Shoreline jurisdiction also extends to all lands necessary for buffers to protect critical areas and buffers that are overlapping or otherwise coincident with the shoreline jurisdiction pursuant to RCW 90.58.030(2)(d)(ii).
[2]The shoreline and critical area buffers in Tables 6-1 and 6-2 incorporate wildlife habitat and corridor protection areas, except where a larger buffer is required per a habitat management plan.
[3]Buffer not required if new development/use located outside of mapped potential channel migration zone.

**Comment [SG157]:** Recommended revised Table 6-1 that merges marine and freshwater standard shoreline buffers measured from the OHWM.

***NO CHANGE TO STANDARD BUFFER WIDTHS FOR THE MARINE AND FRESHWATER SHORELINES IN DELETED TABLES 6-1 TO 6-2 WERE MADE AS PART OF THE MOVE AND CONSOLIDATION SHOWN IN THIS REVISED TABLE 6-1***

**Comment [SG158]:** The recommended Revised Table 6-2 is intended to summarize critical area buffer widths that may be contiguous or overlapping with the shoreline buffers shown in revised Table 6-1 above. The table also provides a reference to Chapter 7, Critical Areas, to where the specific buffer and related standards can be found regarding these critical areas.

**Comment [SG159]:** See Section 7.5 and related comments for updates to Wetland Buffers.

**Comment [SG160]:** No changes to standard buffer widths for other streams (e.g., tributaries) that overlap with marine and freshwater shoreline jurisdiction subject to the SMP. See Section 7.8 and related comments for aquatic buffers.

**Comment [SG161]:** No change to when a buffer may be needed for upland critical area habitats. This simply summarizes and references the requirements in Sections 7.10 and 7.11. See also footnote 2.

**Comment [SG162]:** The standard safety buffers of 150 feet (Feeder Bluff Exceptional), 100 feet (Other Feeder Bluffs), and 50 feet (other landslides). As noted above, the channel migration zone safety buffer of a 150-feet was replaced by a new approach. See Sections 7.13 and 7.14.11 and related comments.

~~8.~~7. Interrupted Buffer: The shoreline buffers shown in Table~~s~~ 6-1~~ and 6-2~~ shall apply to all parcels within shoreline jurisdiction provided that where there is a legally established, public or private (does not include driveways)~~ paved~~ roadway present, the buffer will end on the waterward side of the road and will not extend to the areas landward of the road. Likewise, in an existing subdivision where there is legally established residence on a developed lot waterward of an undeveloped lot, the buffer shall ~~lot~~not extend onto the undeveloped lot.

~~9.~~8. Multiple Buffers: ~~In addition to adhering to the shoreline buffers shown in Tables 6-1 and 6-2, uses/ development may also be subject to additional buffer requirements prescribed in Chapter 7 of this Program if other critical areas such as wetlands or habitat conservation areas are present on the property. When such critical areas are present, new uses and developments shall be located outside of any and all buffers.~~ In the event that buffers for any shorelines and/or critical areas are contiguous or overlapping, the landward-most edge of all such buffer shall apply unless this Program specifically allows the use/development to encroach into the buffer zone.

~~10. The shoreline buffer regulations in this section shall not apply to the following uses in accordance with WAC 173-26-241(3) (a) and (e):~~

~~a. Commercial forest practices when such activities are conducted according to the Washington State Forest Practices Act (RCW 76.09). When forest practices are associated with a conversion of forest lands to non-forestry uses, the buffer requirements shall apply.~~

~~b. Existing and ongoing agricultural activities occurring on agricultural lands. New agricultural activities proposed on land not currently in agricultural use must comply with the buffer regulations.~~

## 6.4 Regulations – Shoreline Buffer Averaging

1. The Administrator may approve, without a shoreline variance, a reduction in the shoreline buffer widths through buffer averaging. The averaging shall only be allowed when necessary to accommodate a single-family residential development or a water-dependent or water-related development in those limited instances when adherence to the standard buffer is infeasible or presents a substantial hardship because of site conditions, lot configuration or other circumstances. To ensure no net loss of buffer area, the buffer width may be reduced in one location and increased in another location to maintain the same overall buffer area. Residential subdivisions and non-water-dependent/non-water-related developments shall not be eligible for buffer averaging except through a shoreline variance. Proposals for buffer averaging shall not require a shoreline variance or compensatory mitigation if all of the following conditions are met:

   a. Total area of buffer area remains the same and the buffer meets the stem density and/or percent cover targets defined in Section 6.3.4. The Administrator shall require planting or enhancement of the buffer to meet the stated density and/or cover targets if the existing vegetation conditions of the buffer do not meet the density and/or cover targets~~:~~.

   b. The width of the reduced portion of the buffer shall be at least seventy-five percent (75%) as wide as the required buffer (in other words, if the required buffer width required in Table 6-1 is one hundred [100] feet wide, the reduced portion must be at least seventy-five [75] feet wide).

**Comment [SG163]:** Recommended updates to sub-part (7) to add a sub-header for added clarity, amend table reference, and clarify that road that interrupts buffer can be public or private and not required to be paved.

**Comment [SG164]:** Recommended updates to sub-part (8) to add a sub-header for added clarity and streamline wording.

**Comment [SG165]:** Deleted sub-part 10a moved into Section 6.1, Applicability Section.

Deleted sub-part 10b already addressed by Section 3.1.2.(4).

**Comment [SG166]:** Moved from former 6.4.2(a) below and consolidated under sub-part 1.

~~b.~~c. The reduced portion of the buffer cannot exceed forty percent (40 %) of the buffer length (water frontage). ~~(in~~ In other words, the buffer width along 60% of the buffer length must remain un-reduced. For example, in a one hundred [100] foot long segment of water frontage, ~~the~~a reduced buffer ~~area could be up~~width may be applied to forty [40] feet ~~long)~~of length~~;~~.

~~c.~~d. The proposed development incorporates stormwater management best management practices to address drainage, runoff and other slope stability issues~~; and~~.

e. ~~The~~ All other requirements of this Program, including the critical area requirements of Chapter 7, are met.

~~2. To maintain buffer functions, the maximum amount of buffer reduction allowed through buffer averaging shall be as follows:~~

~~a. The width of the reduced portion of the buffer shall be at least seventy-five percent (75%) as wide as the required buffer (in other words, if the required buffer width required in Table 6-1 or 6-2 is one hundred [100] feet wide, the reduced portion must be at least seventy-five [75] feet wide); or~~

~~b. On the marine shoreline bluff - The width of the reduced portion of the buffer must be equivalent to the estimated annual rate of erosion times seventy-five (75) (plus any allowance for bank recession equal to largest documented landslide in the vicinity); or~~

~~3.~~2. Buffer Reduction Requiring a Variance: Shoreline use and development proposals that do not meet the minimum shoreline buffer width requirements identified in Section 6.3.~~1 and 6.3.2~~ or buffer averaging requirements of this section (6.5) shall require a shoreline variance in accordance with Chapter 10 of this Program.

~~4. Prior to approving a proposal to reduce the buffer on a marine shoreline bluff to the limits allowed in this section, the Administrator shall require a report prepared by a licensed Engineering Geologist containing all of the following information:~~

~~a. Medium and long-term quantitative erosion rates and description of the methods used to quantify the erosion rate (past erosion rates over a minimum of 40 years or as far back as earliest available aerial photos, and a projection of future rates over the next several decades).~~

~~b. A drainage plan that shows that upland drainage (i.e., runoff) will be properly managed so as not to exacerbate slope instability.~~

~~c. Review of Washington Coastal Atlas and Washington Department of Natural Resources landslide hazard maps concerning stability of the site and land adjacent to the site.~~

~~d. Analysis of slope stability and mechanisms for slope failure in the vicinity, including discussion of types, likely instigating factors, and general sizes of past landslides in the area.~~

~~e. Evidence of landslide activity such as: a mid-slope bench or low bank in an area of high banks, a slight seaward bow in an otherwise straight shoreline, a seaward bow of the cobble/boulder beach lag, lateral elevation changes (uplift) on the beach or subtidal, tilted silt or peat beds exposed among beach gravels, benches on which the vegetation is of a uniform age, areas with jack-strawed trees, groups of trees with kinked trunks.~~

**Comment [SG167]:** Addresses clarification change directed by Planning Commission for update of similar provision for wetland buffer averaging. *See related change and comment under 7.5.6(c).*

**Comment [SG168]:** Deleted sub-part 2a moved to sub-part 1 above.

**Comment [SG169]:** Deleted sub-part 2b was moved and consolidated with landslide hazard buffer averaging standards. *See Section 7.13.4(e).*

**Comment [SG170]:** Deleted sub-part 4 (a-h) were moved and consolidated with the geotechnical report requirements for landslide hazard areas. *See Section 7.14.7.*

~~particularly conifers, a bowl-shaped indentation in the bluff edge or hummocky topography on the bluff face.~~

~~f. Location of the intersection of the projected failure plane and the bluff top.~~

~~g. Angle of repose of the upper bluff and distance for bluff to "lay back" without threatening the residence.~~

~~h. Geologist's estimate of when the residence would be undermined (to include allowance for bank recession equal to largest documented landslide in the vicinity).~~

~~5. Prior to approving a proposal to reduce the buffer on a freshwater shoreline with a mapped channel migration zone, the Administrator shall require a report prepared by an experienced geologist, hydrologist or licensed civil engineer with at least five (5) years experience with fluvial systems of the Pacific Northwest, that:~~

~~a. The parcel on which the development is proposed is effectively protected (disconnected) from channel movement due to the existence of permanent levees or infrastructure such as roads and bridges constructed and maintained by public agencies; not all roads will be considered disconnection points; or~~

~~b. There is minimal risk of channel migration during the next seventy-five (75) years as indicated by the existing channel type, intact land cover (and low likelihood of future alterations in land cover); stable surficial geology, with low soil erosion potential; lack of evidence of likely avulsion pathways (include area upstream of, but proximate to, the site); and low inundation frequency(ies). The assessment shall include review of all available data regarding historical channel locations at the site; identification of the site within a broader area.~~

~~6. Preexisting lots or land divisions regulated by Title 29, Clallam County Land Division Code, for which geotechnical plans were previously prepared may be considered to have already complied with the requirements of this section unless new information such as recent geologic activity warrants a new report to be required; provided that any new stormwater best management practices that were not previously included as a part of the geotechnical report shall be incorporated.~~

## 6.5 Regulations – Shoreline Buffer Clearing

1. General Requirements: When approving a new use/development, the Administrator may allow limited clearing, grading, thinning, and/or pruning in a shoreline buffer ~~for the purposes outlined in~~ consistent with this section (6.5). Such allowances shall not require compensatory mitigation provided that the amount and extent of buffer modification is the minimum necessary to accommodate the allowed use, the modification is located within pre-existing disturbed areas, areas with low ~~habitat~~ecological function value or within the 'active use' area prescribed in Section 6.3.4 and all other requirements of the Program are met. This requirement is meant to ensure that impacts are avoided and minimized to the extent possible.

2. Clearing for Views or Access: The Administrator may allow limited and selective tree removal, pruning, and/or limbing in the buffer to create a view of the shoreline or accommodate access to the water when otherwise consistent with this Program and the following:

   a. The location and size of the view corridor shall be clearly defined on the site plan.

**Comment [SG171]:** See previous comment related to the deleted language highlighted in orange above.

**Comment [SG172]:** Deleted language in sub-part 5(a-b) highlighted in green addresses Planning Commission direction to replace the standard 150-foot safety buffer width (measured from the ordinary high water mark) recommended in the 2014 Draft SMP for development within channel migration zones to require a channel migration assessment for new development in mapped CMZs.

*See related changes to Table 6-2, Section 7.13 (Geologic Hazard Buffers), and new consolidated CMZ protection standards under 7.14.11.*

**Comment [SG173]:** Deleted language in sub-part (6) is related to geologic hazardous areas. It is recommended to be deleted here and consolidated under geologic hazard standards under 7.14.7(e). It is also recommended to add a specific time period of five years. *See related comment in 7.14.7(e).*

**Comment [SG174]:** Addresses Planning Commission request to clarify what is meant by "low habitat value." The recommended revision is to replace habitat with "ecological function", which is defined in Chapter 11.

b. Approval of selective vegetation clearing shall require preparation of a vegetation management plan prepared by a qualified arborist, forester or landscape architect when the vegetation clearing involves removal of trees greater than 3 inches in diameter and use of ground-disturbing equipment such that soils or topography are materially altered; and/or the buffer condition following selective clearing does not meet the stem density and/or percent cover targets defined in 6.3.4.

c. The vegetation management plan shall identify and describe the location and extent of the proposed tree removal, pruning, and limbing and shall include measures to mitigate the adverse impacts of vegetation removal, including but not limited to planting replacement trees or shrubs which do not diminish views but which provide beneficial functions such as stabilizing soils and providing shade, cover and/or food resources for wildlife. The species to be planted shall be adequate to create a functioning buffer similar to what would be found on a relatively undisturbed site. Trees shall be replaced at a ratio of 3 to 1 (planted:removed).

d. For properties within designated landslide or erosion hazard areas, the Administrator may require review of the vegetation management plan by an engineering geologist or geotechnical engineer to ensure that the proposed removal, pruning, and/or limbing will not cause or exacerbate hazards associated with soil or slope instability.

e. For properties in or adjacent to wetlands or other sensitive habitats, the Administrator may require review of the vegetation management plan by a qualified biologist to ensure that the proposed removal, pruning, and/or limbing will not cause significant harm to species or habitats.

f. A vegetation management plan is not required if the clearing can be accomplished using the pruning/limbing using the preferred techniques shown in Figure 5-1 and without removing trees greater than three (3) inches in diameter; no ground-disturbing equipment is required; soils or topography are not materially altered; and the buffer condition following selective pruning/limbing conforms to the stem density and/or percent cover targets defined in Section 6.3.4.

3. Hazard Tree Removal: Removal of a hazard tree may be allowed in the buffer when trimming is not sufficient to address the hazard. Where the hazard is not immediately apparent to the Administrator, the hazard tree determination shall be made after Administrator review of a report prepared by a qualified arborist or forester. Any tree removal should be the minimum necessary to balance protection of the shoreline and its buffer with protection of life and property. To mitigate impacts of tree removal, the Administrator may require planting of tree(s) or other vegetation, and may require leaving hazard trees taken down in buffer areas for habitat and/or woody debris recruitment along riparian corridors.

**Comment [SG175]:** The first part of the recommended added language is consistent with the current standard in the County's critical areas code. It provides a specific mitigation measure versus relying on Chapter 8 of the SMP in terms of hazard trees.

The last part to allow a condition to require leaving hazard trees in buffers areas for habitat along riparian corridors is recommended. Neither the current critical areas code of Draft SMP address disposition of hazard trees. These trees can provide important riparian habitat. The "may" allows for Administrative discretion if leaving the hazard tree in the buffer would not be appropriate from a safety standpoint.

4. Invasive Species Management: Removing invasive, non-native shoreline vegetation listed on the Clallam County Noxious Weed List may be allowed in the buffer when otherwise consistent with this Program. The disturbed areas must be promptly revegetated using species native to western Washington. If the area of invasive removal exceeds 0.25 acre, the Administrator shall require a vegetation management plan prepared by a qualified ecologist, forester, arborist, or landscape architect. The vegetation management plan shall identify and describe the location and extent of vegetation management. The vegetation management plan shall describe the means of invasive species control. Use of herbicides within buffer areas, shall be limited to 'fish and wildlife friendly' herbicides approved by the Washington State Department of Fish and Wildlife; any proposed herbicide use must be detailed in a vegetation



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management plan. For properties within designated landslide or erosion hazard areas, the Administrator may require review of the vegetation management plan by an engineering geologist or geotechnical engineer to ensure that the vegetation management will not cause or exacerbate hazards associated with soil or slope instability. The location and size of the invasive species management area shall be clearly defined on the site plan.

5. Private Pathways: Private pathways which provide pedestrian access to the shoreline may be allowed within the shoreline buffer provided they are constructed of pervious material, are less than or equal to six (6) feet wide, and follow a route that minimizes erosion and gullying (e.g., a winding but direct path). Pathways may include a maximum of one private picnic/view platform, patio or landing within each lot; the picnic/view platform, patio or landing shall be a maximum of 100 square feet in size and may be covered by a roof structure no more than 10 feet in height above the floor elevation of the structure. Pathways shall be located within view corridors and/or the active use zone, as indicated in Section 6.3.4, to the maximum extent practicable in order to minimize buffer disturbance. For properties within designated landslide or erosion hazard areas, the Administrator may require review by an engineering geologist or geotechnical engineer to ensure that the pathway will not cause or exacerbate hazards associated with soil or slope instability.

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## 6.6 Regulations – Developments Allowed in the Buffer

1. The Administrator may allow limited clearing, grading, thinning, and/or pruning and limited development of structures in a shoreline buffer to accommodate boat launches, docks, piers, and floats accessory to an approved single-family residential development when they are consistent with the policies and regulations in this Program. The Administrator also may allow limited clearing, grading, thinning, and/or pruning and limited development of structures in a shoreline buffer to accommodate other water-dependent and water-related shoreline uses or modifications in Sections 3.2 (Aquaculture), 3.3 (Commercial and Industrial Development), 3.5 (Mining), 3.7 (Recreation), 3.9 (Restoration), 4.2 (Boating Facilities and Moorage), 4.3 (Dredging), 4.4 (Flood Control Structures), 4.5 (In-stream and In-water Structures), and 4.6 (Shoreline Stabilization), that meet all of the requirements of this Program. Such uses/ modifications require a location in, on or immediately adjacent to the water but may have adverse impacts on shoreline functions and processes. The Administrator may allow such uses so long as compensatory mitigation is provided to offset adverse impacts and achieve no net loss in accordance with the applicable provisions of Section 8.3. Compensatory mitigation shall be required for all of the following:

   a. Pedestrian beach access structures that are accessory to an approved single-family residential development when they are consistent with the policies and regulations specified in Section 4.1.

   b. Public trails and public access improvements when they are consistent with the policies and regulations in Sections 3.7 and 4.1.

   c. Certain utilities and essential public facilities that meet the definition of water-dependent or water-related when they are consistent with the policies and regulations specified in Section 3.12.

   d. Any other water-dependent or water-related use/modification that has significant unavoidable adverse impacts on shoreline functions or processes.

## 6.7 Regulations – View Protection Common Line ~~Setback~~Buffer

1. Common Line ~~Setback~~Buffer: To ensure that new single-family residential developments within the Shoreline Residential – Intensive and Marine Waterfront designations have views of the shoreline that are similar, ~~but not necessarily~~and generally equivalent, to adjacent residences, the following regulations shall apply, as shown in Figures 6-6a and 6-6b:

   a. For a new residence on a vacant lot with legally established residences ~~within fifty (50) feet of the proposed structure~~ on ~~each side~~both sides, the proposed residence shall be set back from the ordinary high water mark of the shoreline to a common line drawn between the nearest corners of each adjacent residence.

   b. For a new residence on a vacant lot with a legally established residence ~~within fifty (50) feet~~ on one side of the proposed structure, the proposed residence shall be set back from the ordinary high water mark of the shoreline to a line drawn between the nearest corner of the existing adjacent residence and the nearest applicable setback for the adjacent vacant parcel.

   c. Where there are two adjacent residences on a shoreline which forms a cove or peninsula, the setback line shall be determined by averaging the setback lines of the two adjacent residences or the buffer and setback specified elsewhere in this Program, whichever is greater.

   d. Where there are no adjacent established residences on either side, the shoreline setback line shall comply with the standard minimum shoreline buffer width of this Program.

2. Parcels located in mapped channel migration zones or landslide hazard areas shall not be eligible for the common line buffer option. The common line ~~setback~~buffer option shall not be used to deviate from any wetland buffers required by this Program.

3. The low bank shoreline reaches along the Strait of Juan de Fuca and inner bays within the Shoreline Residential-Intensive and Marine Waterfront designations are subject to beach erosion and accretion that can result in significant changes over-time to the location of the ordinary high water mark. In such areas, new single-family residential development shall not be located waterward of the closest pre-existing, legal residence within the shoreline reach.

4. The common line buffer may be administratively waived where an elevation survey demonstrates that due to a difference in topography or a vegetation survey demonstrates that due to the presence of significant view blocking vegetation on or adjacent to the common border of two parcels, the proposed residence will not result in any view blockage to adjacent residences. In such cases, the buffers specified elsewhere in this program shall apply.

**Comment [SG176]:** The recommended amendments to Section 6.7 highlighted in green are proposed to address the Planning Commission direction related to the common line setback application along County shorelines, particularly in low bank areas subject to potential shifting locations of the ordinary high water mark such as the shoreline residential areas west of the mouth of the Elwha River.

The changes also clarify that the common line setback is also a buffer (i.e., not just a building setback.) and is intended also for view protection purposes.

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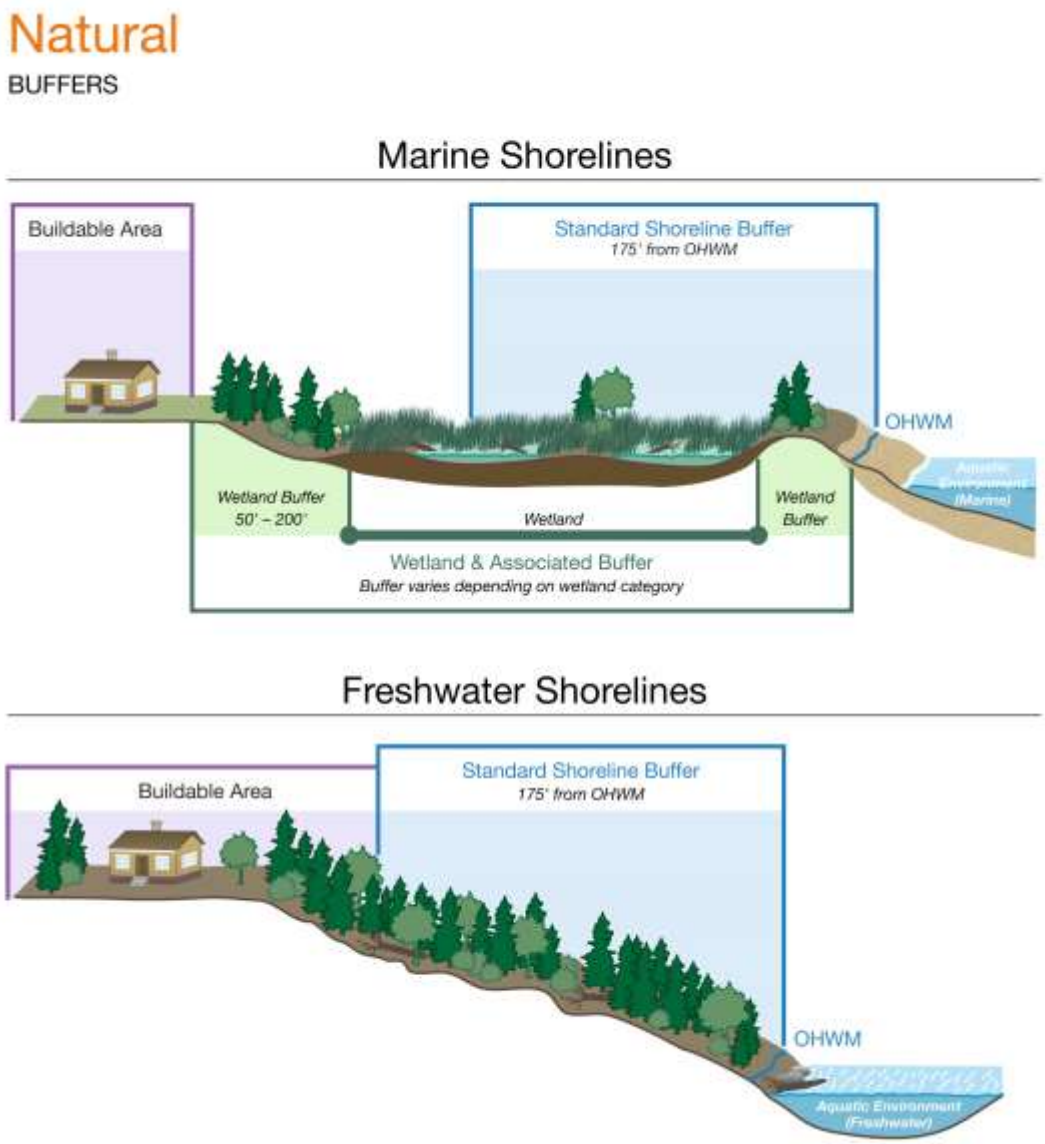
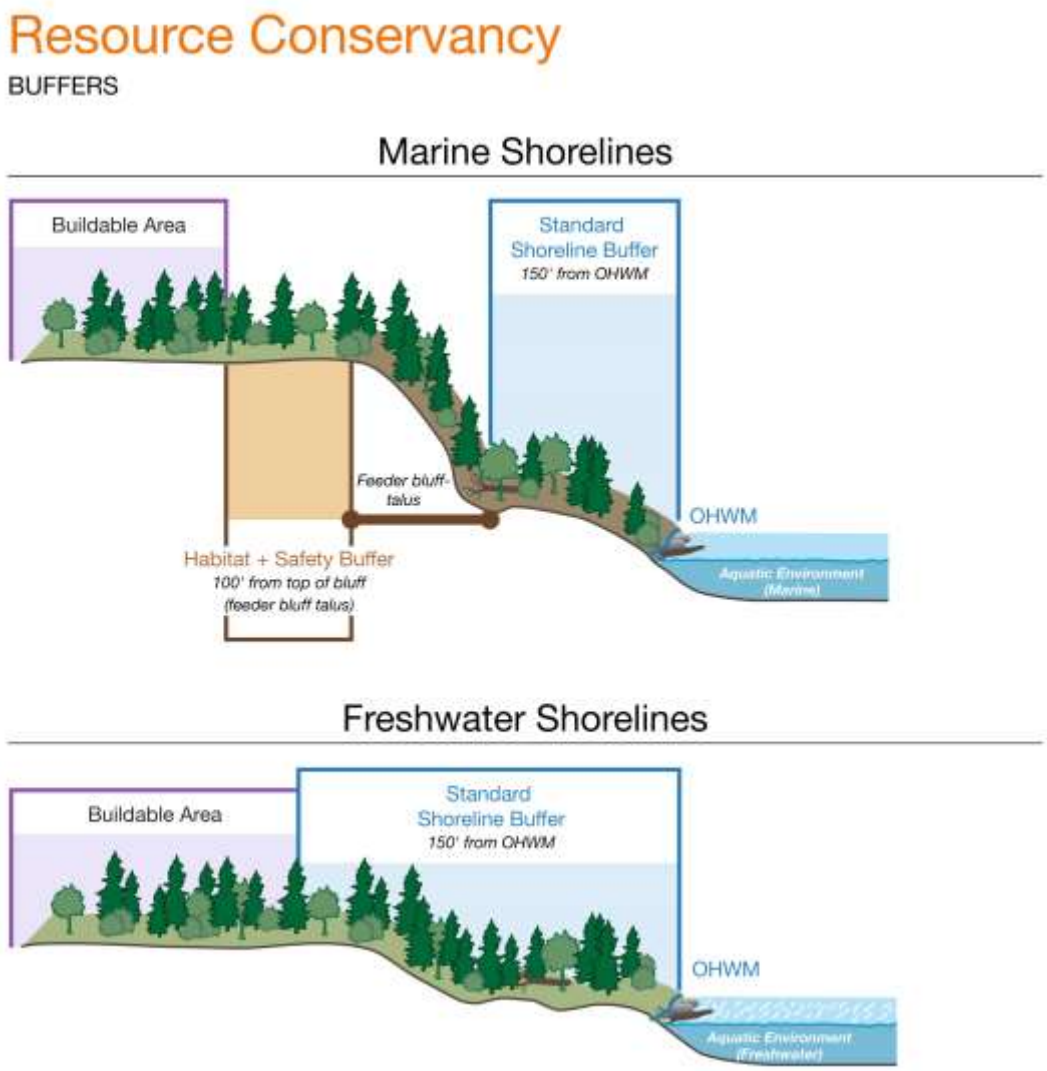
**Figure 6-1. Buffer widths for the Natural Designation**



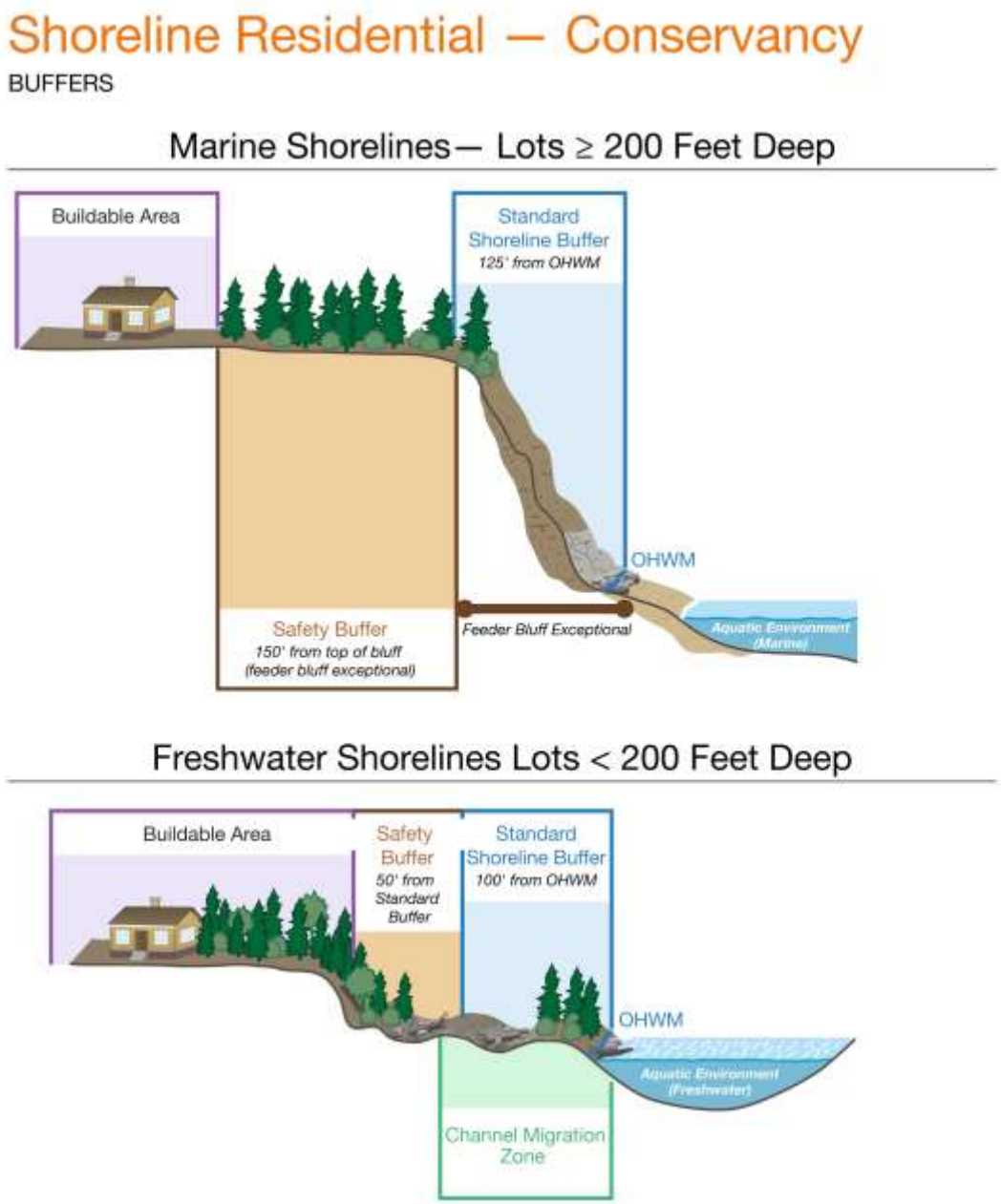

**Additional requirements may apply in addition to those shown in Figure. Refer to Table 2-1 and 2-2 for which uses are allowed, prohibited or conditional. Refer to Chapters 3 and 4 for additional regulations pertaining to specific uses, developments and modifications. Uses/development may also be subject to additional buffers due to presence of wetlands, small streams, habitats for federally-listed threatened or endangered species, landslide hazard areas, erosion hazard areas or other features. Refer to Chapter 7 for additional information.**

**Figure 6-2. Buffer widths for the Resource Conservancy designation**



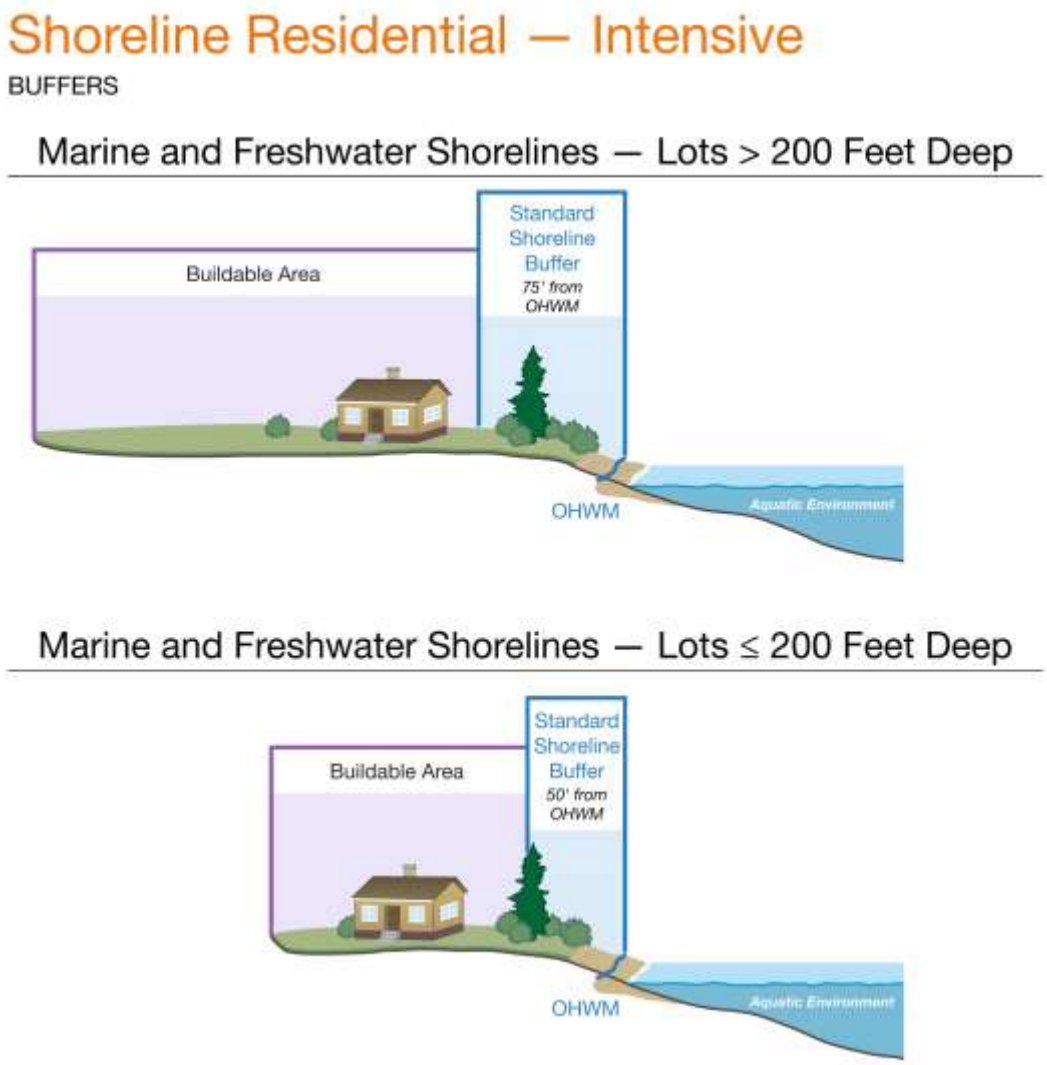

**Additional requirements may apply in addition to those shown in Figure. Refer to Table 2-1 and 2-2 for which uses are allowed, prohibited or conditional. Refer to Chapters 3 and 4 for additional regulations pertaining to specific uses, developments and modifications. Uses/development may also be subject to additional buffers due to presence of wetlands, small streams, habitats for federally-listed threatened or endangered species, landslide hazard areas, erosion hazard areas or other features. Refer to Chapter 7 for additional information.**

**Figure 6-3. Buffer widths for the Shoreline Residential - Conservancy designation**



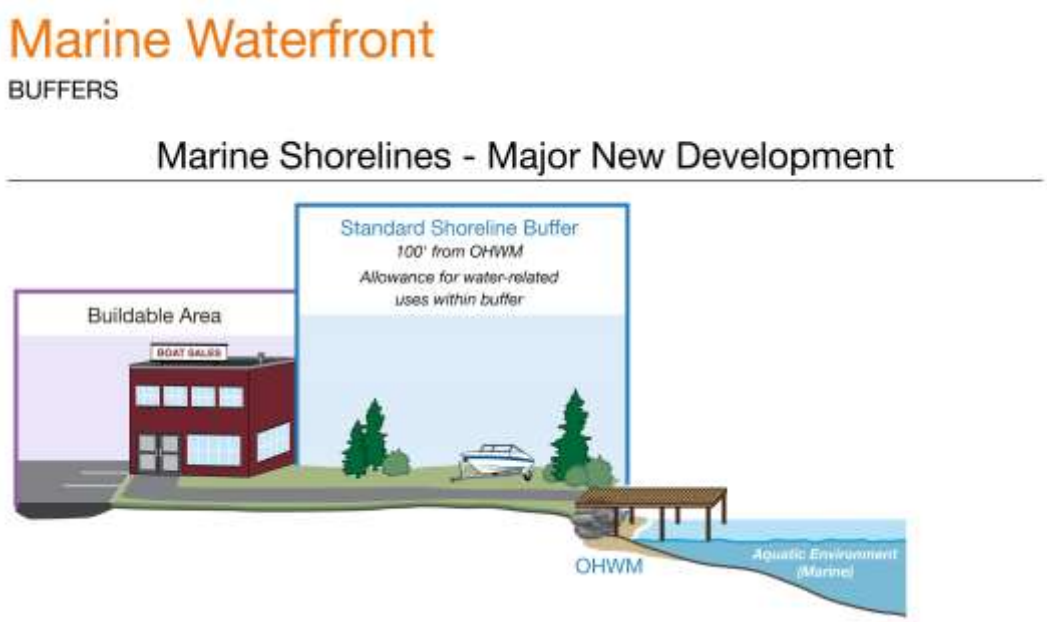

**Additional requirements may apply in addition to those shown in Figure. Refer to Table 2-1 and 2-2 for which uses are allowed, prohibited or conditional. Refer to Chapters 3 and 4 for additional regulations pertaining to specific uses, developments and modifications. Uses/development may also be subject to additional buffers due to presence of wetlands, small streams, habitats for federally-listed threatened or endangered species, landslide hazard areas, erosion hazard areas or other features. Refer to Chapter 7 for additional information.**

**Figure 6-4. Buffer widths for the Shoreline Residential - Intensive designation (Note: Figure needs updating to correct 200 feet reference)**




**Additional requirements may apply in addition to those shown in Figure. Refer to Table 2-1 and 2-2 for which uses are allowed, prohibited or conditional. Refer to Chapters 3 and 4 for additional regulations pertaining to specific uses, developments and modifications. Uses/development may also be subject to additional buffers due to presence of wetlands, small streams, habitats for federally-listed threatened or endangered species, landslide hazard areas, erosion hazard areas or other features. Refer to Chapter 7 for additional information.**

**Figure 6-5. Buffer widths for the Marine Waterfront designation**




**Additional requirements may apply in addition to those shown in Figure. Refer to Table 2-1 and 2-2 for which uses are allowed, prohibited or conditional. Refer to Chapters 3 and 4 for additional regulations pertaining to specific uses, developments and modifications. Uses/development may also be subject to additional buffers due to presence of wetlands, small streams, habitats for federally-listed threatened or endangered species, landslide hazard areas, erosion hazard areas or other features. Refer to Chapter 7 for additional information.**

**Figures 6-6 a and b. Common Line setbacks within shoreline jurisdiction. (Figure Needs Updating)**

**Figure 6-6a**

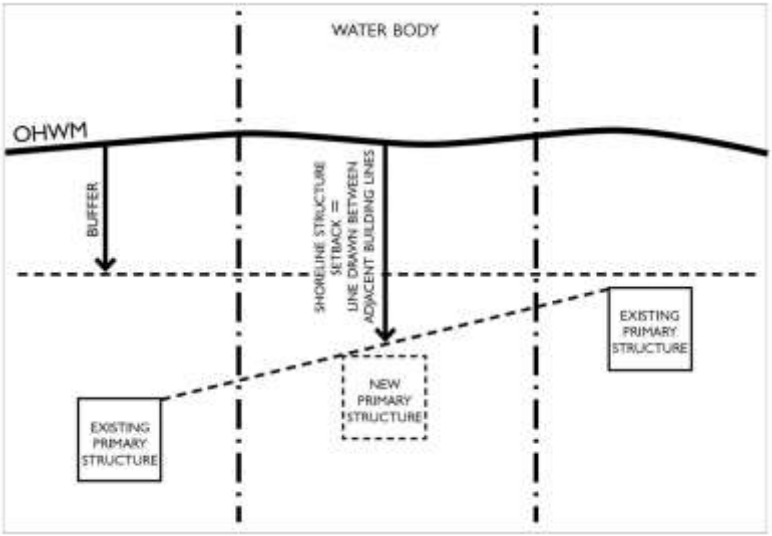
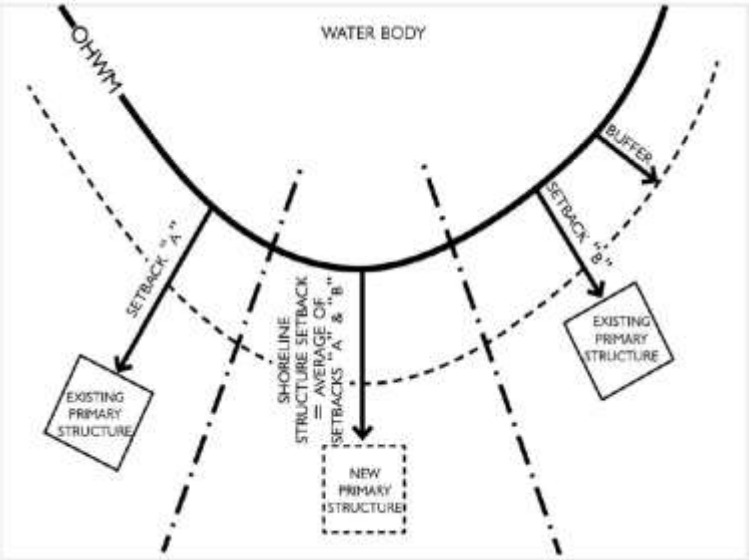



**Figure 6-6b**



# Chapter 7 Critical Areas within Shoreline Jurisdiction

***Note to Users**: This section provides protection for critical areas, including critical saltwater and critical freshwater habitats, located within the jurisdictional limits of the Shoreline Management Act. In accordance with RCW 36.70A.480(4 ) critical areas within shoreline jurisdiction must be protected such that there is no net loss of shoreline ecological functions. The County's existing critical areas ordinance, in CCC 27.12, applies to critical areas outside of shoreline jurisdiction.*

## 7.1 Applicability

**Comment [SG177]:** Recommended additions to Section 7.1 are intended to clarify applicability of Chapter 7, Critical Areas within Shoreline Jurisdiction.

All new uses and developments shall comply with the applicable policies and regulations for protection of critical areas including critical saltwater and critical freshwater habitats, as classified and designated in this Chapter and defined in Chapter 11. Alterations and land disturbing activities within and adjacent to critical areas within the shoreline jurisdiction shall comply with the provisions of this Chapter and Program.

Critical areas, including critical saltwater and critical freshwater habitats, within shoreline jurisdiction shall be regulated according to this Program and not Chapter 27.12 of Clallam County Code. Critical areas outside of shoreline jurisdiction shall be regulated by Chapter 27.12 of Clallam County Code and not this Program. Pursuant to Section 1.8 of this Program, the shoreline jurisdiction extends to include all lands necessary for buffers to protect critical areas that are overlapping or otherwise coincident with the shoreline jurisdiction.

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## 7.2 General Policies for all Critical Areas

1. The beneficial functions of critical areas, including critical saltwater and critical freshwater habitats, within shoreline jurisdiction should be protected, and potential dangers or public costs associated with the inappropriate use of such areas should be minimized by reasonable regulation of uses/developments within, adjacent to, or directly affecting such areas.

2. To implement the policy stated above, it is the intent of this section to accomplish the following:

    a. Classify, designate, and regulate critical areas according to the Growth Management Act requirements in RCW 36.70A.

    b. Preserve, protect, manage, or regulate critical areas that have a direct or indirect effect on conserving fish, wildlife, other natural resources and values.

    c. Conserve and protect the environmental attributes of Clallam County that contribute to the quality of life for residents of both Clallam County and the State of Washington.

    d. Protect critical areas, including critical saltwater and critical freshwater habitats, and their functions by regulating use and development within these areas and on adjacent lands.

    e. Guide development proposals to the most environmentally suitable and naturally stable portion of a development site.

    f. Protect people and property from hazards associated with floods, storm surges, rising sea levels, landslides, erosion, migrating river channels, tsunamis, and other natural processes or events.

g. Minimize the costs that the public has to bear to protect properties in hazardous areas or to repair damages associated with floods and other hazards.

h. Reduce cumulative adverse environmental impacts to water availability, water quality, wetlands, aquatic and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas.

i. Promote harmonious co-existence between the critical areas and the ongoing use of pre-existing developments in and around critical areas.

j. Maintain and protect both acreage and functions of regulated wetlands in Clallam County through general protection standards, enhancement, restoration, and creation.

k. Protect water quality by controlling erosion, providing guidance in the siting of land uses and activities to prevent or reduce the release of chemical or bacterial pollutants into waters of the State, and maintaining stream flows and habitat quality for fish and marine shellfish.

l. Conserve drainage features that function together or independently to collect, store, purify, discharge, and/or convey waters of the State.

m. Maintain groundwater recharge and prevent the contamination of groundwater resources to ensure water quality and quantity for public and private uses and critical area functions.

n. Promote the restoration of degraded critical areas and their buffers in order to regain lost ecological functions and values and improve the economic health and stability of Clallam County.

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## 7.3 Regulations – General Regulations for all Critical Areas

1. This section and Program apply only to critical areas, including critical saltwater and critical freshwater habitats, within shoreline jurisdiction. Critical areas outside of shoreline jurisdiction shall be regulated by Chapter 27.12 of Clallam County Code and not this section or Program.

2. This Program and this ~~section~~Chapter apply to activities that are exempt from the requirement to obtain a shoreline permit per RCW 90.58.030(3)(e) and activities listed as exempt in Clallam County Code 27.12.035.

**Comment [SG178]:** Clarifies that general regulations apply to Chapter 7 not just Section 7.3.

3. Any land, water, or vegetation that meets the critical area designation criteria under this ~~section~~Chapter shall be subject to the provisions of this Program. The location and extent of critical areas within shoreline jurisdiction shall be identified based upon physical evidence and other available information from credible sources and qualified professionals as outlines in this chapter. The location and extent of special flood hazard areas shall be based on mapping provided by the Federal Emergency Management Agency (FEMA)

4. Clallam County shall make available to the public maps or other databases, as appropriate, which show the general location, extent, and classification of regulated critical areas. This information shall be advisory and used by the Administrator in determining the applicability of the standards of this section to a particular location or development site, except that the location and extent of special flood hazard areas shall be based on mapping provided by the Federal Emergency Management Agency (FEMA). When additional information is required as to the location or extent of a critical area that may be affected by a proposed shoreline use

or development, the Administrator may require additional information or may hire a qualified professional to gather the pertinent information at the proponent's expense.

~~5. Notice on Title: Any property on which a development proposal is submitted shall have filed with the Clallam County Auditor:~~

~~a. A notice on title of the presence of the critical area and/or buffer;~~

~~b. A statement as to the applicability of this Program to the property; and~~

~~c.~~a. ~~A statement describing possible limitations on actions in or affecting critical areas or buffers as approved by the Administrator. Clallam County shall record such documents and will provide a copy of the recorded notice to the property owner of record. Development proposals which are also defined as normal repair and maintenance of existing structures or developments, including but not limited to roof repair, interior remodeling, wood stove permits, etc., and on-site sewage disposal systems repairs or replacement, are exempt from this requirement.~~

~~6.~~5. Temporary or Permanent Field Identification: Clallam County shall require temporary or permanent field markers delineating the critical area boundary and associated buffer prior to issuance of required permits for any development located within the jurisdiction of a regulated wetland, aquatic habitat conservation area, and landslide hazard area. The type of field markers to be used will be agreed to by the project proponent and the Administrator depending on site conditions and inspection requirements. Field markers shall be spaced at a minimum of every fifty (50) feet, unless alternative placement or spacing is authorized by the Administrator. The location of field stakes must be shown on all site plans and final plats associated with the development proposal. Field stakes shall remain in place until any required final inspections are completed and approved. Field markers may be waived by the Administrator if an alternative to field staking achieves the same objective and is proposed and approved, or if the development/use activity is located at a sufficient distance so that impacts to the critical area or buffer are unlikely to occur.

**Comment [SG179]:** Recommended clarifications.

~~7.~~6. Construction Fencing: When construction is proposed adjacent to a critical area or buffer, the buffers shall be temporarily protected with a highly visible and durable protective barrier, such as orange construction fencing, during construction to prevent access and protect the critical area and buffer, except where access into/or through the critical area or buffer is expressly allowed by this Program. This requirement may be waived by the Administrator if an alternative to fencing which achieves the same objective is proposed and approved.

~~8.~~7. Signs: For major new development, t~~T~~he Administrator shall require that the common boundary between a regulated wetland, aquatic habitat conservation area, landslide hazard area or ~~other critical area and~~or associated buffer be identified using permanent signs as approved by the Administrator. In lieu of signs, alternative methods of identification may be approved when such methods are determined by the Administrator to provide adequate protection to the critical area and buffer. Signs may be waived by the Administrator if the proposed development/use is located at a sufficient distance so that impacts to the critical area or buffer are unlikely to occur.

**Comment [SG180]:** Recommended revisions. Signs are not required for all critical areas (e.g., seismic hazards) in the current critical areas code.

The last sentence provides for Administrator discretion on whether a sign is needed.

~~9.~~8. Land Divisions: Land divisions in critical areas and/or buffers shall meet all of the following conditions and the policies and regulations in Section 3.8 (Residential) of this Program:

a. Proposals to create new lots for development shall demonstrate an adequate building envelope (including access and utilities) that is suitable for development and is not within

a wetland, aquatic habitat conservation area, floodplain, or landslide hazard area or their buffers.

~~b. A new lot or parcel may be created in a seismic hazard area as long as there is a note on the face of the plat which indicates the presence of a potential hazard and encourages the builder to have any structure designed by a civil engineer to withstand potential seismic activity.~~

~~c.~~b. All lots meet lot minimum lot area requirements specified by this Program and Clallam County Code Title 33, Zoning Code and other applicable provisions herein.

~~d.~~c. Regulated wetlands and wetland buffers may be included in the calculation of minimum lot area for proposed lots provided that other standards of this Program are met. Only fifty percent (50%) of the permanent open water area of regulated wetlands shall be used in calculating minimum lot area as required by Clallam County Code Title 33, Zoning, for the proposed lots. This provision shall not apply to the calculation of maximum residential density.

~~e.~~d. Land below the ordinary high water mark of Type S, F, Np, Ns Waters shall not be permitted for use in calculating minimum lot area for the proposed lots.

~~f.~~e. The building envelope, critical areas, and buffers shall be shown on the face of the final plat and/or site plan.

~~g.~~f. New land divisions shall be surveyed by a professional land surveyor.

## 7.4 Regulations – Wetland Designation, Delineation, Mapping, and Classification

1. Designation: Regulated wetlands are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Regulated wetlands generally include, but are not limited to, swamps, marshes, bogs, ponds, including their submerged aquatic beds and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990 (adoption date of Chapter 36.70A RCW, Growth Management Act) that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands created as mitigation and wetlands modified for approved land use activities shall be considered as regulated wetlands.

2. Mapping: The approximate location and extent of wetlands are shown on the County's critical area maps. These maps are advisory. Definitive information about wetland size or presence requires a field inspection by a qualified professional. The County shall update the maps as new wetlands are identified and as new information from credible sources becomes available.

3. Delineation: In accordance with RCW 90.58.380, wetlands shall be identified in accordance with the requirements of WAC 173-22-035. Unless otherwise provided for in this Program, all areas within the County meeting the criteria in the manual are hereby designated critical areas and are subject to the provisions of this section. The wetland boundary shall be identified and delineated by a biologist with wetlands ecology expertise within the North Olympic Peninsula

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Region, and who has professional experience in this occupation demonstrated by a minimum of two years' practical experience or is certified as a Professional Wetland Scientist by the Society of Wetland Scientists. This person shall field stake the wetland boundary and this line shall be surveyed by a professional land surveyor if the delineation is required for a land division pursuant to Clallam County Code Title 29.

4. Classification and Rating: Wetlands shall be rated based on categories that reflect the functions and values of each wetland. Wetland categories shall be based on the criteria provided in the Washington State Wetland Rating System for Western Washington (Ecology Publication No. ~~04-06-025~~14-06-029, and revised editions), as determined using the appropriate rating forms contained in that publication. These categories are generally defined as follows:

   a. Category I Wetlands: Category I wetlands are those wetlands of exceptional value in terms of protecting water quality, storing flood and storm water, and/or providing habitat for wildlife as indicated by a rating system score of between ~~70 –~~ 23 and 27 points ~~or more~~ on the Ecology rating forms. These are wetland communities of infrequent occurrence that often provide documented habitat for sensitive, threatened or endangered species, and/or have other attributes that are very difficult or impossible to replace if altered.

   b. Category II Wetlands: Category II wetlands have significant value based on their function as indicated by a rating system score of between ~~51 and 69~~20 and 22 points on the Ecology rating forms. They do not meet the criteria for Category I rating but occur infrequently and have qualities that are difficult to replace if altered.

   c. Category III Wetlands: Category III wetlands have important resource value as indicated by a rating system score of between ~~30 and 50~~16 and 19 points on the Ecology rating forms. These wetlands are relatively common.

   d. Category IV Wetlands: Category IV wetlands are wetlands of limited resource value as indicated by a rating system score of less than ~~30~~16 points on the Ecology rating forms. They typically have vegetation of similar age and class, lack special habitat features, and/or are isolated or disconnected from other aquatic systems or high-quality upland habitats.

## 7.5 Regulations – Wetland Buffers

1. Buffer Widths: Buffers shall be established and maintained to protect all regulated wetlands. The standard minimum wetland buffer width shall be determined according to the regulated wetland classification and category (Section 7.4), wetland characteristics, and the level of impact ~~as outlined in~~ (Table 7-1) ~~below~~from proposed change in land use. ~~The buffer shall not be altered except as authorized by this Program; provided that such alterations meet all other standards for the protection of regulated wetlands.~~ The resulting buffers are shown in Tables 7-2, 7-3 and 7-4 for low, moderate and high impact land uses, respectively. ~~All buffers~~Buffer widths ~~are~~shall be measured ~~from~~ along a horizontal line perpendicular to the delineated regulated wetland edge (Section 7.4) as marked in the field. ~~When a wetland borders a shoreline waterbody, either above or below the ordinary high water mark, the wetland buffer shall be added together with the shoreline buffer in Section 6.3 buffer to determine the full set back distance.~~

**Comment [SG181]:** These revisions are based on current Ecology wetland rating system. *See also related revisions and comments in Section 6.5 below for determining standard wetland buffer widths.*

**Comment [SG182]:** Standard buffers are the minimum buffers unless buffer averaging or reduction is approved. Public comment at 6-21-17 meeting expressed concern over the addition of term "minimum" with critical area buffers. The addition of term "minimum" could be removed without changing application of the standard if determined adds confusion without changing intent of the standard buffer regulation.

**Comment [SG183]:** The amendments shown in green to 7.5.1 and Tables 7-1 thru 7-4 addresses Planning Commission direction to incorporate Ecology's Alternative 3 wetland standard buffer width and related methodology.

**~~Table 7-1. Wetland Buffers for Wetlands in Shoreline Jurisdiction~~**

| ~~Wetland Category~~ | ~~Standard Buffer Width~~ |
|---|---|
| ~~Category I~~ | ~~200 feet~~ |
| ~~Category II~~ | ~~150 feet~~ |
| ~~Category III~~ | ~~75 feet~~ |
| ~~Category IV~~ | ~~50 feet~~ |

**Table 7-1. Categories of Proposed Land Uses**

Comment [SG184]: See previous comment related to this Table.

| Level of impact from Proposed Change in Land Use | Land Use Types |
|---|---|
| High | • Commercial, industrial, and institutional uses<br>• Multi-family residential<br>• Residential (More than 1 unit per acre)<br>• Conversion to high-intensity agriculture (e.g., dairies, nurseries, greenhouses, animal and livestock, and growing and harvesting crops requiring annual tilling.)<br>• High-intensity recreation (golf courses, sport fields, playgrounds, etc.)<br>• Other uses not listed in the moderate or low impact category, or similar expected level of impacts to such uses |
| Moderate | • Single-family Residential (parcel size 1-acre or greater)<br>• Moderate-intensity recreational open spaces (e.g., parks with biking, jogging, etc.)<br>• Conversion to moderate-intensity agriculture (orchards, hay fields, etc.)<br>• Paved trails<br>• Building of logging roads<br>• Utility corridor right-of-way shared by several utilities and including access/maintenance road |
| Low | • Forest management<br>• Single-family residential on existing lots of record on parcels five acres (or 1/128 of a standard section) or greater in size meeting the criteria for minor new development in Section 6.3.2 of this Program<br>• Low intensity recreational open spaces (e.g., hiking) with no or minimal vegetation clearing and management<br>• Unpaved trails<br>• Utility corridor without a maintenance road and little or no vegetation management |

**Table 7-2. Wetland Buffers for Low Impact Land Uses**

Comment [SG185]: See previous comment related to Section 7.5.1.

| Wetland Category | Wetland Characteristics<br>• Habitat (H) | Standard Buffer Width |
|---|---|---|
| **Category I ((**Total of scores for all functions is 23 points or having "special characteristics" identified in the rating form) | High level of habitat function (H score 8 – 9 points)<br>Bogs or High Conservation Value<br>Estuarine & Coastal Lagoons<br>Moderate level of habitat function (H score 5-7 points)<br>Not meeting any of above characteristics | 150 feet<br>125 feet<br>100 feet<br>75 feet<br>50 feet |
| **Category II** (Total of scores for all functions is 20 – 22 points or having "special characteristics" identified in the rating form) | High level of habitat function (H score 8 – 9 points)<br>Estuarine<br>Moderate level of habitat function (H score 5-7 points)<br>Not meeting any of above characteristics | 150 feet<br>75 feet<br>75 feet<br>50 feet |
| **Category III** (Total of scores for all functions is 16 – 19 points) | Moderate level of habitat function (H score 5-7 points)<br>Low habitat function (H score 3-4 points) | 75 feet<br>40 feet |
| **Category IV** (Total of scores for all functions is less than 16 points) | Score for all basic functions is less than 16 points | 25 feet |

**Table 7-3. Wetland Buffers for Moderate Impact Land Uses**

Comment [SG186]: See previous comment related to Section 7.5.1.

| Wetland Category | Wetland Characteristics<br>• Habitat (H) | Standard Buffer Width |
|---|---|---|
| **Category I ((**Total of scores for all functions is 23 points or having "special characteristics" identified in the rating form) | High level of habitat function (H score 8 – 9 points)<br>Bogs or High Conservation Value<br>Estuarine & Coastal Lagoons<br>Moderate level of habitat function (H score 5-7 points)<br>Not meeting any of above characteristics | 225 feet<br>190 feet<br>150 feet<br>110 feet<br>75 feet |
| **Category II** (Total of scores for all functions is 20 – 22 points or having "special characteristics" identified in the rating form) | High level of habitat function (H score 8 – 9 points)<br>Estuarine<br>Moderate level of habitat function (H score 5-7 points)<br>Not meeting any of above characteristics | 225 feet<br>110 feet<br>110 feet<br>75 feet |
| **Category III** (Total of scores for all functions is 16 – 19 points) | Moderate level of habitat function (H score 5-7 points)<br>Low habitat function (H score 3-4 points) | 110 feet<br>60 feet |
| **Category IV** (Total of scores for all functions is less than 16 points) | Score for all basic functions is less than 16 points | 40 feet |

**Table 7-4 Wetland Buffers for High Impact Land Uses**

| Wetland Category | Wetland Characteristics<br>• Habitat (H) | Standard Buffer Width |
|---|---|---|
| **Category I (**(Total of scores for all functions is 23 points or having "special characteristics" identified in the rating form) | High level of habitat function (H score 8 – 9 points)<br>Bogs or High Conservation Value<br>Estuarine & Coastal Lagoons<br>Moderate level of habitat function (H score 5-7 points)<br>Not meeting any of above characteristics | 300 feet<br>250 feet<br>200 feet<br>150 feet<br>100 feet |
| **Category II** (Total of scores for all functions is 20 – 22 points or having "special characteristics" identified in the rating form) | High level of habitat function (H score 8 – 9 points)<br>Estuarine<br>Moderate level of habitat function (H score 5-7 points)<br>Not meeting any of above characteristics | 300 feet<br>150 feet<br>150 feet<br>100 feet |
| **Category III** (Total of scores for all functions is 16 – 19 points) | Moderate level of habitat function (H score 5-7 points)<br>Low habitat function (H score 3-4 points) | 150 feet<br>80 feet |
| **Category IV** (Total of scores for all functions is less than 16 points) | Score for all basic functions is less than 16 points | 50 feet |

2. Reduction of High Impact Land Use Buffer Widths: Wetland buffer widths for new high impact land uses (Table 7-4) may be reduced to those required for moderate impact land uses (Table 7-3) under the following conditions:

   a. For wetlands that score moderate or high for habitat (5 points or more for the habitat functions), the width of buffer can be reduced if both of the following conditions are met:

      i. A vegetated corridor at least 100-feet wide is protected between the wetland and any Priority Habitats (see definition) identified on maps by the Washington Department of Fish and Wildlife available to the public. The corridor must be protected for the entire distance between the wetland and the Priority Habitat by some type of legal protection such as a conservation easement.

      ii. The measures in Table 7-5 are implemented, where applicable, to minimize the the impacts of adjacent land uses.

   b. For wetlands that score less than 5 points for habitat, the buffer width can be reduced to that required for moderate impact land uses by implementing the measures in Table 7-5, where applicable, to minimize the impacts of the proposed land uses.

~~2.~~3. Wetland Buffer Condition: Wetland buffers shall be retained in a natural condition or may be improved to enhance buffer functions and values. Buffers shall be maintained in a predominantly well-vegetated and undisturbed condition defined as an average density of at least one-hundred fifty (150) trees and/or shrubs per acre or fifty five percent (55 %) areal cover of woody vegetation~~, unless this Program specifically allows alteration of the wetland buffer~~whichever is greater. The Administrator may allow exceptions when existing buffer vegetation does not meet this tree/shrub requirement for sites that are otherwise predominantly characterized by native vegetation. The vegetated area shall comprise at least 80% of the

**Comment [SG187]:** See previous comment related to Section 7.5.1.

**Comment [SG188]:** The amendments shown in green to 7.5.2 and related Table 7-5 addresses Planning Commission direction to incorporate Ecology's Alternative 3 wetland standard buffer width and related methodology.

**Comment [SG189]:** Recommend add first sentence to clarify intent of buffer requirements.

The revisions highlighted in green are to address Planning Commission request to add a clause to allow exceptions to the 150/55% requirement when existing buffer vegetation is less than that but deemed adequate in natural state to maintain shoreline functions. Similar provisions and revisions also for aquatic buffers (see Section 7.8.2) and shoreline buffer conditions (see 6.3.4).

buffer area. Native vegetation is preferred but existing non-native trees and shrubs may be allowed as long as they provide similar habitat functions to native trees and shrubs. Invasive or noxious weed species shall not count toward the density or cover thresholds. Alterations to buffers that are not associated with an allowed use or development shall be prohibited.

~~3.~~4. Multiple Buffers: In the event that buffers for any shorelines and/or critical areas are contiguous or overlapping, the landward-most edge of all such buffers shall apply.

**Table 7-5 Required Measures to Minimize Impacts**

**Comment [SG190]:** See comment related to 7.5.2 above.

| Disturbance | Required Measures to Minimize Impacts |
|---|---|
| Lights | • Direct lights away from wetland |
| Noise | • Locate activity that generates noise away from wetland<br>• If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source<br>• For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer |
| Toxic runoff | • Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered<br>• Establish covenants limiting use of pesticides within 150 ft of wetland<br>• Apply integrated pest management |
| Stormwater runoff | • Retrofit stormwater detention and treatment for roads and existing adjacent development<br>• Prevent channelized flow from lawns that directly enters the buffer<br>• Use Low Intensity Development techniques (for more information refer to the drainage ordinance and manual) |
| Change in water regime | • Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns |
| Pets and human disturbance | • Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion<br>• Place wetland and its buffer in a separate tract or protect with a conservation easement |
| Dust | • Use best management practices to control dust |

5. Interrupted Buffer: When a wetland buffer contains an existing legally established public or private (does not include driveways) road, the County may allow development on the landward side of the road provided that the development will not have a detrimental impact to the wetland. Likewise, in an existing subdivision where there is a legally established residence on a developed lot between the wetland and the proposed lot for development, the buffer shall not extend onto the undeveloped lot. The County shall consider the hydrologic, geologic, and/or biological habitat connection potential and the extent and permanence of the buffer interruption.

6. Buffer Averaging: The Administrator may allow averaging of the standard ~~W~~wetland buffer widths shown in ~~Table 7-1~~Tables 7-2 through 7-4~~ may be reduced by the Administrator though buffer averaging~~. The averaging shall only be allowed when necessary to accommodate a single-family residential development or a water-dependent or water-related development in those limited instances when adherence to the standard buffer is infeasible or presents a substantial hardship because of site conditions, lot configuration or other circumstances. To ensure no net loss of buffer area, the buffer width may be reduced in one location and increased in another location to maintain the same overall buffer area. Residential subdivisions and non-water-dependent non-water-related developments shall not be eligible for wetland buffer averaging except through a shoreline variance. Proposals for buffer averaging shall not require a shoreline variance or compensatory mitigation if all of the following conditions are met:

   a. The minimum width of the buffer at any given point is at least seventy-five percent (75%) of the standard width per Tables ~~7-1~~ 7-2 through 7-4, or thirty-five (35) feet, whichever is greater.~~; and~~

   b. The net buffer area (acreage) after averaging is the same as the standard buffer area without averaging~~;~~.

   c. The reduced portion of the buffer cannot exceed forty percent (40 %) of the buffer length. ~~(in~~In other words, the buffer width along 60% of the buffer length must remain un-reduced. For example, in a one hundred [100] foot long segment of wetland buffer, ~~the~~ a reduced buffer width ~~area~~ may be applied to no more than~~could be up~~ ~~to~~ forty [40] feet of length.~~ long); and~~

   d. The area that is added to the buffer to offset the reduction is well-vegetated as defined in Section ~~7.5.2~~7.5.3 above. The Administrator shall require planting or enhancement of the buffer to meet the stated density and/or cover targets if the existing vegetation conditions of the buffer do not meet the density and/or cover targets.

~~4.~~7. Mitigation for Buffer Averaging: Prior to approving a request for wetland buffer averaging, the Administrator shall ensure the development and uses adjacent to the reduced buffer is designed to separate and screen the wetland from impacts such as noise, glare, vegetation trampling, etc. The site design shall consider the varying degrees of impacts of different land uses. For example, parking lots, store entrances, and roads generally have higher noise and glare impacts than the rear of the store. Site screening should take advantage of natural topography or existing vegetation, wherever possible. Where natural screening is not available, berms, landscaping, and structural screens should be implemented (e.g., orient buildings to screen parking lots and store entrances from critical areas). ~~Landscaping shall be consistent with Chapter 33.53 Clallam County Code~~.

**Comment [SG191]:** Recommended add provisions for "interrupted buffers" similar to standard for shoreline buffers in Section 6.3. *See also Section 6.3.7 and related comments.*

**Comment [SG192]:** Recommended revision highlighted in blue in sub-part (6) are for clarification and amending references to the correct tables and sections.

**Comment [SG193]:** Addresses clarification changes directed by Planning Commission.

**Comment [SG194]:** Reference correction.

**Comment [SG195]:** Recommend to add to for clarification of intent of this standard.

**Comment [SG196]:** Recommend delete reference to zoning landscape standards. Current zoning prescriptive landscape standards were not developed for buffering to mitigate impacts to wetlands.

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8. Buffer Reduction: Alterations of the buffer that do not meet the minimum standard buffer requirements or buffer averaging requirements of this Section shall require a shoreline variance in accordance with Chapter 10 of the Program.

9. Hazard Tree Removal: Removal of a hazard tree may be allowed in the wetland or buffer when trimming is not sufficient to address the hazard. Where the hazard is not immediately apparent to the Administrator, the hazard tree determination report shall be made after the Administrator review of a report prepared by a qualified arborist or forester. Any tree removal should be the minimum necessary to balance protection of the critical area and its buffer with protection of life and property. To mitigate impacts of tree removal, the Administrator may require planting of tree(s) or other vegetation, and may require leaving hazard trees taken down in buffer areas for habitat and/or woody debris recruitment along riparian corridors.

~~5.~~10. Increased Wetland Buffers: The Administrator may increase wetland buffer zone widths, not to exceed three hundred (300) feet, for a development project on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values. Such determination shall be based on site-specific and project-related conditions which include, but are not limited to:

a. Wetland sites with known locations of endangered or threatened species for which a habitat management plan indicates a larger buffer is necessary to protect habitat values for such species; ~~or~~

b. The adjacent land is susceptible to severe erosion, and erosion control best management practices will not effectively prevent adverse wetland impacts~~.~~; and/or

~~b.~~c. The buffer condition is significantly degraded (e.g., minimal vegetation, lack of native vegetation).

~~6.~~11. Buffer for Wetland Mitigation Sites: Any wetland that is created, restored, or enhanced as compensation for an approved wetland alteration shall have the standard buffer required for the category of the created, restored, or enhanced wetland.

## 7.6 Regulations – Wetland Protection Standards

1. New shoreline uses and developments shall be located, designed, constructed, and maintained to avoid wetland areas and their buffers. Impacts to wetlands and their buffers shall be prohibited except when all of the following conditions are met:

   a. The use or development is specifically allowed by this Program; and

   b. All reasonable measures have been taken to avoid adverse ~~effects~~impacts on wetland functions and values as demonstrated through a mitigation plan; and

   c. Compensatory mitigation for acreage and function is provided, in accordance with Section 8.3 through 8.4 of this Program, for all adverse impacts that cannot be avoided; and

   d. The amount and degree of alteration are limited to the minimum needed to accomplish the project purpose.

2. The Administrator may impose conditions on new shoreline use and developments as needed to preserve or, if feasible, increase the acreage, quality, function, and/or values of regulated wetlands within Clallam County. Specific conditions shall include, but not be limited to, reducing the number, size or scale of buildings, driveways and other features; altering the

**Comment [SG197]:** Recommend add to specifically note that variance is required if do not meet standard wetland buffer width or buffer averaging. This is not a new requirement. It is noted in the buffer averaging standard under sub-part (6) above.

**Comment [SG198]:** Recommend adding a hazard tree removal provision for wetlands and associated buffers. A standard for hazard trees is in the current critical areas code. This addition incorporates hazard tree provisions for shoreline buffers in Section 6.5 of this Draft SMP and critical area code requirements. *See also related revisions and comments for regulation 6.5.3.*

**Comment [SG199]:** Recommended sub-part (c) addition is to recognize the fact that the standard wetland buffer widths in Tables 7-2 thru 7-4 are based on the assumption that the buffer vegetation is not significantly degraded. *See also regulation 7.5.2 for the desired buffer condition.*

**Comment [SG200]:** Recommended revision for how compliance would be evaluated.

The addition to sub-part (c) is to update related references.

*See Chapter 8 for more information related to mitigation policies and requirements.*

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configuration or layout of the proposed development; using environmentally favorable construction materials; foregoing construction of accessory structures; directing lights away from the wetland; preserving native vegetation; and other reasonable measures needed to maintain the following wetland functions and values:

a. Drinking Water: Ability of a wetland to recharge, maintain, and/or enhance surface or groundwater resources that yield potable water in sufficient quantities to be economically useful.

b. Floodflow Desynchronization: Ability of a wetland to retain/detain floodwaters in the upper watershed, reducing the severity of flooding.

c. Groundwater Recharge: This wetland function is significant but not in the context that wetlands act as the major locations of groundwater recharge to aquifers. Although some wetlands do provide a significant amount of groundwater recharge, the large areas of river alluvium and unconsolidated glacial deposits and, in the Sequim-Dungeness Valley, the irrigation network are much more regionally significant. Rather, groundwater recharge is significant because wetlands in contact with the aquifer are most susceptible to carrying pollutants to the aquifer. Conversely, if managed properly, such wetlands could assist in the treatment of pollutants already carried in the drinking water aquifer.

d. Nutrient Removal/Transformation: Ability of a wetland to retain or transform inorganic phosphorus and/or nitrogen into their organic forms, or transform nitrogen into its gaseous form, on either a net annual basis or during the growing season. This can reduce excess nutrients and algal blooms in downstream surface waters.

e. Sediment/Toxicant/Bacterial Retention: Ability of a wetland to retain suspended solids and chemical contaminants such as pesticides, pathogens, and heavy metals absorbed to them, on a net annual basis.

f. ~~Seawater~~Salt Water Intrusion Prevention: Wetlands can act as the boundary between the unconfined aquifer and the marine environment. Loss of water supply or drainage of wetlands will likely increase ~~seawater~~salt water intrusion to unconfined aquifers supplying drinking water to coastal inhabitants.

**Comment [SG201]:** Revision is recommended for consistent use of terminology. The term "salt water intrusion" is defined in Chapter 11.

g. Streamflow/Channel Maintenance: Wetlands that provide detention or groundwater discharge can supply a significant proportion of streamflow during summer and fall. These areas regulate the amount and timing of stream energy and therefore are crucial to defining the shape of stream channels.

h. Temperature Maintenance: Wetlands can provide thermal refuges during winter and summer months due to influence from springs or contact with the unconfined aquifer. During summer months, wetlands with this function are important as fish habitat for salmonids; during winter months, these wetlands provide waterfowl habitat by maintaining ice-free conditions.

i. Water/Food Availability: The ability of a wetland to provide surface water and foraging resources for migratory and resident species.

j. Habitat: The quality and availability of areas for breeding, nesting, feeding, and resting for wetland-dependent and wetland-associated species.

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3. New development and land disturbing activities shall not significantly change wetland hydrology or hydroperiod (i.e., seasonal period and duration of water saturation or inundation).

## 7.7 Regulations – Aquatic Habitat Conservation Area Designation and Mapping

*This section pertains to the subset of Fish and Wildlife Habitat Conservations Areas that are aquatic areas including Type S, F, Np, and Ns Waters. These stream types correspond to the current water typing system used in the state Forest Practices Act~~, which is different from the typing system in the County's critical areas code~~. The Type "S" Waters (Shorelines) are those streams (or segments of) and waterbodies that are designated "shorelines of the state" under this Program. Type "F" Waters (Fish) are those streams (or segments of) and waterbodies that are known to be used by fish, or meet the physical criteria to be potentially used by fish. Fish streams may or may not have flowing water all year; they may be perennial or seasonal. Type "Np" Waters (Non-Fish) are those streams (or segments of) that have flow year round and may have spatially intermittent dry reaches downstream of perennial flow, but do not meet the physical criteria of a Type "F" Water. Type "Ns" Waters (Non-Fish Seasonal) are those streams (or stream segments) that do not have surface flow during at least some portion of the year, and do not meet the physical criteria of a Type F stream. The current versus the historic water type classifications are Type "S" Waters (formerly Type 1), Type "F" Waters (formerly Type 2 and 3), Type Np Waters (formerly Type 4) and Type Ns Waters (formerly Type 5). The SMP in its entirety constitutes the policies and regulations for Type S Waters, which by definition are shorelines of the state.*

1. Designation and Classification: Aquatic habitat conservation areas include:

   a. Those streams and lakes which meet the criteria for Type S, F, Np and Ns waters, as defined in the water type classifications in the forest practices rules in WAC 222-16.

   b. Aquatic habitats recognized by federal or state agencies for federal and/or state listed endangered, threatened and sensitive species documented in maps or databases available to Clallam County and its citizens and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.

2. Mapping: The approximate location and extent of aquatic habitat conservation areas are shown on the County's critical area maps. These maps are to be used as a guide and do not provide definitive information about aquatic habitat conservation areas size or presence. The County shall update the maps as new aquatic habitat conservation areas are identified and as new information becomes available.

## 7.8 Regulations – Aquatic Habitat Conservation Area Buffers

1. Buffer Widths: Buffers shall be established and maintained to protect regulated aquatic habitat conservation areas as shown in Table ~~7-2~~7-6 below. The buffer shall not be altered except as authorized by this Program. Buffer distances shall be measured from the ordinary high water mark (OHWM) or from the top of the bank where the OHWM cannot be identified unless otherwise specified by this Program. The standard width of the buffer zone for shorelines of the state (Type S Waters) ~~shall be as~~are shown in Table~~s~~ 6-1~~ and 6.2~~ and the requirements for shoreline buffers and vegetation conservation are found in Chapter 6 of this Program.

**Comment [SG202]:** Recommended added provision to reflect current critical area standard that "stormwater runoff from new development shall not significantly change the rate of flow, hydroperiod which is the seasonal period and duration of water saturation or inundation, nor decrease the water quality of wetland." CCC 27.12.215(13(b).

**Comment [SG203]:** Revisions address Planning Commission request to provide a brief summary explanation of the differences between Type S, Type F, Type Np and Type Ns Waters.

**Comment [SG204]:** Revisions to correct references and clarify intent.

**Table ~~7-1~~7-6. Aquatic Habitat Conservation Area Buffers for Type S, F, Np, and Ns Waters**

| Aquatic Habitat Conservation Area | Standard Buffer Width |
|---|---|
| Type S Waters | See ~~Table 2-3~~Table 6-1 |
| Type F Waters | 100 feet |
| Type Np Waters | 80 feet |
| Type Ns Waters | 50 feet |

2. Buffer Condition: Aquatic habitat conservation area buffers shall be retained in a natural condition or may be improved to enhance buffer functions and values. Buffers shall be maintained in a predominantly well-vegetated and undisturbed condition defined as an average density of at least 150 trees and shrubs per acre or ~~fifty five percent~~ (55 %~~)~~ areal cover of ~~trees and shrubs~~woody vegetation, whichever is greater~~, unless this Program specifically allows alteration of the buffer~~. The Administrator may allow exceptions when existing buffer vegetation does not meet this tree/shrub requirement for sites that are otherwise predominantly characterized by native vegetation. The vegetated area shall comprise at least 80% of the buffer area. Native vegetation is preferred but existing non-native trees and shrubs may be allowed as long as they provide similar habitat functions to native trees and shrubs. Invasive or noxious weed species shall not count toward the density or cover thresholds. Alterations to buffers that are not associated with an allowed use or development shall be prohibited. Buffer conditions for shorelines of the state (Type S waters) shall be consistent with Section 6.3 of this Program.

3. Multiple Buffers: In the event that buffers for any shorelines and/or critical areas are contiguous or overlapping, the landward-most edge of all such buffers and setbacks shall apply.

4. Interrupted Buffer: When an aquatic habitat conservation buffer contains an existing legally established public or private (does not include driveways) road, the County may allow development on the landward side of the road provided that the development will not have a detrimental impact to the wetland. Likewise, in an existing subdivision where there is a legally established residence on a developed lot between the aquatic habitat and the proposed lot for development, the buffer shall not extend onto the undeveloped lot. The County shall consider the hydrologic, geologic, and/or biological habitat connection potential and the extent and permanence of the buffer interruption.

~~4.~~5. Buffer Averaging: Buffer Widths for Type S waters may be reduced through averaging in accordance with Section 6.4 of this Program. Buffer widths for Type F, Np, and Ns Waters may be reduced by the Administrator ~~though~~through buffer averaging in accordance with this section. The buffer averaging shall only be allowed when necessary to accommodate a single-family residential development or a water-dependent or water-related development in those limited instances when adherence to the standard buffer is infeasible or presents a substantial hardship because of site conditions, lot configuration or other circumstances. To ensure no net loss of buffer area, the buffer width may be reduced in one location and increased in another location to maintain the same overall buffer area. Residential subdivisions and non-water-dependent non-water-related developments shall not be eligible for buffer averaging except

**Comment [SG205]:** Recommend revisions in blue are to clarify intent of buffer requirements.

The revisions highlighted in green are to address Planning Commission similar request to add a clause to allow exceptions to the 150/55% requirement when existing wetland buffer vegetation is less than that but deemed adequate in natural state to maintain shoreline functions.

*See also 7.5.3 (wetland buffer condition) and Section 7.8.2 (shoreline buffer condition).*

**Comment [SG206]:** Recommended add provisions for "interrupted buffers" similar to standard for shoreline buffers in Section 6.3. *See also Section 6.3.7 and related comments.*

through a shoreline variance. Proposals for buffer averaging shall not require a shoreline variance or compensatory mitigation if all of the following conditions are met:

a. The minimum width of the buffer at any given point is at least seventy-five percent (75%) of the standard width per Table 7-2, or thirty-five (35) feet, whichever is greater~~; and~~.

b. The net buffer area (acreage) after averaging is the same as the standard buffer area without averaging~~; and~~.

c. The reduced portion of the buffer cannot exceed forty percent (40 %) of the buffer length ~~(in~~In other words, the buffer width along 60% of the buffer length must remain un-reduced. For example, in a one hundred [100] foot long segment of stream/lake, ~~the~~ a reduced buffer width ~~area could be up~~ may be applied to no more than forty [40] feet ~~long~~of length.~~); and~~

d. The area that is added to the buffer to offset the reduction is well-vegetated and meets the density and/or cover targets in Section 7.8.2. The Administrator shall require planting or enhancement of the buffer to meet the stated density and/or cover targets if the existing vegetation conditions of the buffer do not meet the density and/or cover targets.

6. Buffer Reduction: Alterations of the buffer that do not meet the minimum standard buffer requirements or buffer averaging requirements of this Section shall require a shoreline variance in accordance with Chapter 10 of the Program.

7. Hazard Tree Removal: Removal of a hazard tree may be allowed in the aquatic habitat buffer when trimming is not sufficient to address the hazard. Where the hazard is not immediately apparent to the Administrator, the hazard tree determination shall be made after Administrator review of a report prepared by a qualified arborist or forester. Any tree removal should be the minimum necessary to balance protection of the critical area and its buffer with protection of life and property. To mitigate impacts of tree removal, the Administrator may require planting of tree(s) or other vegetation, and may require leaving hazard trees taken down in buffer areas for habitat and/or woody debris recruitment along riparian corridors.

~~5.~~8. Mitigation for Stream Buffer Averaging or Reduction: Prior to approving a request for buffer averaging, the Administrator shall ensure the development is designed to separate and screen the wetland from impacts such as noise, glare, vegetation trampling, etc. The site design shall consider the varying degrees of impacts of different land uses. For example, parking lots, store entrances, and roads generally have higher noise and glare impacts than the rear of the store. Site screening should take advantage of natural topography or existing vegetation, wherever possible. Where natural screening is not available, berms, landscaping, and structural screens should be implemented (e.g., orient buildings to screen parking lots and store entrances from critical areas). Landscaping shall be consistent with Chapter 33.53 Clallam County Code.

~~6.~~9. Increased Buffers: The Administrator may increase buffer widths for Type F, Np and Ns Waters, not to exceed three hundred (300) feet, for a development project on a case-by-case basis when:

a. The site has known locations of endangered or threatened species for which a habitat management plan indicates a larger buffer is necessary to protect habitat values for such species; ~~or~~

**Comment [SG207]:** Addresses clarification change directed by Planning Commission for update of similar provision for wetland buffer averaging. *See related change and comment under 7.5.6(c).*

**Comment [SG208]:** Recommend add to specifically note that variance is required if do not meet standard aquatic buffer width or buffer averaging. This is not a new requirement. It is noted in the buffer averaging standard under sub-part (5) above.

**Comment [SG209]:** Recommend adding a hazard tree removal provision for aquatic habitat areas and associated buffers. A standard for hazard trees is in the current critical areas code. This addition incorporates hazard tree provisions for shoreline buffers in Section 6.5 of this Draft SMP and critical area code requirements. *See also related revisions and comments for regulation 6.5.3.*

b. The site is located within landslide or erosion hazard area and there are atypical conditions which indicate that the standard buffer may not adequately protect the aquatic habitat conservation area~~.~~; and/or

~~b.~~c. The buffer condition is significantly degraded (e.g., minimal vegetation, lack of native vegetation).

~~7.~~10. Buffer for Aquatic Habitat Conservation Area Mitigation Sites: Any Type F, Np, or Ns Water that is created, restored, or enhanced as compensation for an approved alteration shall have the standard buffer required for the category of the created, restored, or enhanced aquatic habitat conservation area.

**Comment [SG210]:** Recommended sub-part (c) addition is to recognize the fact that the standard aquatic habitat buffer widths in Tables 7-2 thru 7-4 are based on the assumption that the buffer vegetation is not significantly degraded. *See also regulation 7.5.2 for the desired buffer condition.*

## 7.9 Regulations – Aquatic Habitat Conservation Area Protection Standards

1. The Program in its entirety shall constitute the protection standards for Type S Aquatic Habitat Conservation Areas.

2. New shoreline uses and developments shall be located, designed, constructed, and maintained to avoid impacts on Type F, Np and Ns Waters and their buffers. Impact avoidance measures shall include, but not be limited to, reducing the number, size or scale of buildings, driveways and other features; altering the configuration or layout of the proposed development; using environmentally favorable construction materials; foregoing construction of accessory structures; directing lights away from the water body; preserving native vegetation; and other reasonable measures.

3. New uses and developments may be allowed in Type F, Np and Ns Waters and/or their buffers, as specified in this Program, when all reasonable measures have been taken to avoid adverse ~~effects~~impacts on species and habitats; when compensatory mitigation is provided, in accordance with Section 8.3 of this Program, for all adverse impacts that cannot be avoided; and the amount and degree of the alteration are limited to the minimum needed to accomplish the project purpose.

4. The Administrator may impose conditions on any new shoreline uses and developments in Type F, Np and Ns Waters and their buffers as needed to:

   a. Preserve natural flood control, stormwater storage, and drainage or stream flow patterns;

   b. Control siltation, protect nutrient reserves, and maintain stream flows and stream quality for fish and marine shellfish;

   c. Prevent turbidity and pollution of streams and fish or shellfish bearing waters; or

   d. Preserve and protect habitat adequate to support viable populations of native wildlife in Clallam County.

## 7.10 Regulations – Class I and II Terrestrial Habitat Conservation Areas Designation and Mapping

1. Designation: Class I Terrestrial Habitat Conservation Areas shall include the following:

   a. Critical and priority ~~H~~habitats for species classified as Endangered, Threatened, Sensitive or Candidate under state or federal law which, if altered, may reduce the likelihood that

**Comment [SG211]:** Recommended additions are to clarify types of habitats based on available maps. Critical and priority habitats are defined in Chapter 11.

the species will maintain and reproduce over the long term. These species/habitats are documented in maps or databases available to Clallam County and its citizens.

b. Critical saltwater habitats.

**Comment [SG212]:** Addition was added to clarify how "critical saltwater habitats" are designated under Chapter 7 which are referenced under Section 7.1, Applicability. Critical saltwater habitats (e.g., kelp and eelgrass) are defined in Chapter 11.

***Correction Needed:* This should be moved to under Section 7.7.1 designation criteria for aquatic habitats not here under terrestrial habitats.**

2. Designation: Class II Terrestrial Habitat Conservation Areas shall include the following:

   a. Priority species not classified as Endangered, Threatened, Sensitive or Candidate under federal or state law; and

   b. Priority habitats with unique or significant value to a diverse assemblage of species as designated by Washington Department of Fish and Wildlife. A priority habitat may consist of a unique vegetation type or dominant plant species, a successional stage (e.g., old-growth forest), or a specific habitat feature (e.g., cliffs); and those land and water areas identified as significant habitat corridors under the Clallam County Comprehensive Plan, Clallam County Code Title 31.

3. Mapping: The approximate location and extent of Class I and II terrestrial habitat conservation areas are shown on the County's critical area maps. These maps are to be used as a guide and do not provide a definitive critical area designation. The County shall update the maps as new terrestrial habitat conservation areas are identified and as new information becomes available.

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## 7.11 Regulations – Class I and II Terrestrial Habitat Conservation Areas Protection Standards

1. Class I Terrestrial Habitat Conservation Areas: All development within the jurisdiction of designated Class I terrestrial habitat conservation areas shall adhere to the following standards:

   a. New uses and development on sites with known locations of Class I terrestrial habitat conservation areas or sites adjacent to known locations of Class I terrestrial habitat conservation areas shall require a habitat management plan (HMP). The HMP shall meet all of the following requirements:

      i. The HMP shall identify how the development impacts Class I or II terrestrial habitat conservation areas. In the case of bald eagles, a bald eagle management plan approved by the Washington Department of Fish and Wildlife and meeting the requirements and guidelines of the bald eagle protection rules (WAC 232-12-292), as now or hereafter amended, shall satisfy the requirements for an HMP.

      ii. The HMP shall contain a map prepared at a readable scale showing: the location of the proposed development site; the relationship of the site to surrounding topographic, water features, and existing and/or proposed building locations and arrangements; and a legend which includes a complete legal description, acreage of the parcel, scale, north arrows, and date of map revision.

      iii. The HMP shall describe the nature and intensity of the proposed development; analyze the effect of the proposed development, activity or land use change upon the wildlife species and habitat identified for protection; and provide a plan which identifies how the applicant proposes to avoid, minimize and/or compensate for any adverse impacts to wildlife habitats created by the proposed development.

iv. The HMP shall be prepared by a qualified professional who has been educated in the field of wildlife biology or a closely related field, and has professional experience as a wildlife biologist.

b. Buffers set forth by other critical area standards in this section have incorporated wildlife habitat and corridor protection measures and shall be considered the minimum to protect Class I terrestrial habitat conservation areas, except when a habitat management plan sets forth additional measures; provided that buffer requirements or related standards set forth by federal or state laws shall prevail over the requirements in this section.

2. Class II Terrestrial Habitat Conservation Areas: All major new development within Class II terrestrial habitat conservation areas may require a HMP meeting the requirements specified in Section 7.11.1 above. The requirement for an HMP shall be determined during the SEPA threshold determination on the project and/or by the Administrator.

**Comment [SG213]:** Sub-header added for consistency with part (1) above.

## 7.12 Regulations – Geologically Hazardous Areas Designation, Classification, and Mapping

1. Designation: Lands classified as landslide, erosion or seismic hazards are hereby designated as geologically hazardous areas and are subject to the procedures and standards of this ~~section~~Chapter and Program.

**Comment [SG214]:** Recommended clarifications in sub-part (1) and (2).

2. Classification - Landslide Hazard Areas: Lands potentially subject to mass movement because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology,or other factors. The following classifications shall be designated as landslide hazards ~~and are subject to the requirements of this section~~:

   a. Areas of historic failures, such as:

      i. Those areas delineated by the United States Department of Agriculture Natural Resources Conservation Service as having a significant limitation for building site development;

      ii. Those coastal areas mapped as class u (unstable), uos (unstable old slides), and urs (unstable recent slides) in the Department of Ecology Washington coastal atlas; or

      iii. Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the United States Geological Survey or Washington department of natural resources.

   b. Areas with all three of the following characteristics:

      i. Slopes steeper than fifteen percent;

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

      iii. Springs or groundwater seepage.

   c. Areas that have shown movement during the holocene epoch (from ten thousand years ago to the present) or which are underlain or covered by mass wastage debris of this epoch.~~;~~

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

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e. Slopes having gradients steeper than eighty percent subject to rockfall during seismic shaking.~~;~~

f. Feeder bluffs, feeder bluff exceptional, and feeder bluff talus described and mapped in the Clallam County Shoreline Inventory and Characterization Report or in the Washington Department of Ecology Washington Coastal Atlas.

~~f.~~g. Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action, including stream channel migration zones. Channel migration zones are areas within which the stream channel can reasonably be expected to migrate over time as a result of normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings. Such hazards are characterized by abandoned channels, ongoing sediment deposition and erosion, topographic position, and changes in the plant community, age, structure and composition. These areas do not include areas protected from channel movement due to the existence of permanent levees or infrastructure improvements such as roads and bridges constructed and maintained by public agencies. The County maintains a set of maps showing the approximate location and extent of known channel migration zones as determined by the Department of Ecology, or in the case of the Dungeness River, by the Jamestown S'Klallam Tribe.

~~g.~~h. Areas that show evidence of, or are at risk from snow avalanches.~~;~~

~~h.~~i. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding~~; and~~.

~~i.~~j. Any area with a slope of forty percent or steeper and with a vertical relief of ten or more feet except areas composed of exposed bedrock outcrop at the surface. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten feet of vertical relief.

3. Classification - Erosion Hazard Areas: Areas likely to become unstable, such as bluffs, steep slopes, and areas with unconsolidated soils. Erosion hazard areas may also include coastal and riverine erosion areas. Lands meeting the following classifications shall be designated as erosion hazard areas:

a. Areas containing evidence of significant erosion activity caused either by natural or human-made factors that threatens public health, safety and welfare.

b. ~~These~~ Shoreline erosion hazard areas potentially subject to land regression or retreat due to a combination of geologic, seismic, tidally influenced, and/or hydrologic or human-made factors. Shoreline erosion hazard areas can be identified by the presence of any of the following indicators:

i. Areas with active bluff retreat that exhibit continuing sloughing or calving of bluff sediments, resulting in vertical or steep bluff face with little or no vegetation. These areas include ~~areas~~unstable slopes and feeder bluffs ~~are~~ mapped in the Clallam County Shoreline Inventory and Characterization Report (ICR) and Washington state coastal atlas available from the Department of Ecology.

ii. Areas with active land retreat as a result of wave action.

**Comment [SG215]:** Addresses Planning Commission request to clarify terms of marine feeder bluffs in terms of landslide hazard designations. *See also amended definition of "feeder bluff" and added definition of "Feeder Bluff Exceptional" and "Feeder Bluff Talus" in Chapter 11.*

**Comment [SG216]:** Recommended revision to clarify intent of exception.

**Comment [SG217]:** Recommended revision to also specify river erosion areas (e.g., bank erosion, channel migration).

**Comment [SG218]:** Recommended additions under sub-part 3a is copied, as amended, from erosion hazard definition. See related definition and comment in Chapter 11 (Def. 109).

**Comment [SG219]:** Recommended additions to clarify coastal erosion hazard area designations.

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c. Riverine erosion areas subject to lateral erosion related to moving water, including the channel migration zone and the potential slope/bank failures resulting from river channel movement.

d. Slopes 40% or steeper with a vertical relief of 10 or more feet, except areas composed of exposed bedrock outcrop at the surface.

e. Soil erosion hazard areas are identified by the presence or absence of natural vegetation cover, soil texture condition, slope, and rainfall patterns, or human-induced changes to such characteristics that create site conditions which are vulnerable to erosion of the upper soil horizon. Soil erosion hazard areas include those areas with slopes of 15% or steeper and that are classified as having severe or very severe erosion potential by the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS) in the most recent Soil Survey of Clallam County or the NRCS Web Soil Survey.

4. Classification - Seismic Hazard Areas: Areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, surface faulting, or tsunamis. Lands meeting the following classifications shall be designated as seismic hazard areas~~and are subject to the requirements of this section~~:

   a. Landslide hazard areas and materials.

   b. Artificial fills especially on soils listed in Section 7.12.4.c below and areas with perched water tables.

   c. Soil types described within the Clallam County Soil Survey as beaches, Mukilteo muck, Lummi silt loam, Sequim-McKenna-Mukilteo complex, and Tealwhit silt loam.

   d. Other areas as determined by the Clallam County Building Official pursuant to the Building and Construction Code, Chapter 21.01 CCC.

5. Mapping: Geologically hazardous areas shall be mapped whenever possible. These maps shall be advisory and used by the Administrator to provide guidance in determining applicability of the standards to a property. These maps shall be updated periodically as new information becomes available.

## 7.13 Regulations – Geologically Hazardous Area Buffers

1. Landslide Hazard Areas (non-channel migration zone): ~~Development on marine bluffs located along the Strait of Juan de Fuca and development within channel migration zones shall conform to the shoreline buffer requirements in Chapter 6 of this Program. The buffer shall not be altered unless the alteration is specifically allowed by the Program. On all other landslide hazard areas, n~~New uses and developments shall maintain ~~a~~ minimum buffer s ~~of fifty (50) feet~~ from the top, toe and all edges of ~~all other~~ landslide hazard areas as shown in Table 7-3 below. The buffer shall not be altered except as authorized by this Program.

**Comment [SG220]:** Recommended to add "riverine" erosion areas to the erosion hazard classification similar to coastal erosion areas already addressed.

**Comment [SG221]:** Recommended additions under sub-part 3d is copied, as amended, from erosion hazard definition. See related definition and comment in Chapter 11 (Def. 109).

**Comment [SG222]:** Recommended additions under sub-part 3d is copied, as amended, from erosion hazard definition. See related definition in Chapter 11 (Def. 109).

**Comment [SG223]:** Recommended revision to incorporate same language from WAC 365-190-120(7) for classification of seismic hazard areas.

**Comment [SG224]:** Addresses Planning Commission direction to consolidate landslide hazard area buffers.

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**Table 7-7. Landslide Hazard Areas Minimum Standard Buffers**

| Landslide Hazard Area | Minimum Standard Buffer Width* (feet)[1] |
|---|---|
| Marine Bluff – Feeder Bluff Exceptional | 150 feet |
| Marine Bluff—Feeder Bluff or Feeder Bluff Talus | 100 feet |
| Marine Bluff | 50 feet |
| Other Landslide Hazard Areas (Non-channel migration zone) | 50 feet |
| [1]Measured from the top, toe and all edges of the landslide hazard areas. | |

2. Buffer Condition: Buffers from landslide hazard areas shall be maintained in a predominantly well-vegetated and undisturbed condition. Alterations to the buffer that are not associated with an allowed use or development shall be prohibited.

3. Multiple Buffers: In the event that buffers for any shorelines and/or critical areas are contiguous or overlapping, the landward-most edge of all such buffers shall apply.

~~1.~~4. Buffer Averaging: The Administrator may approve, without a shoreline variance, a reduction in the landslide hazard area buffer through buffer averaging contingent upon all of the following:

a. Total area of buffer remains the same and the buffer has at least one hundred fifty (150) trees and shrubs per acre or fifty-five percent (55%) aerial cover of trees and shrubs. The Administrator shall require planting or enhancement of the buffer to meet the stated density and/or cover targets if the existing vegetation conditions of the buffer do not meet the density and/or cover targets;

b. The reduced portion of the buffer cannot exceed forty percent (40 %) of the buffer length;

c. The reduced portion of the buffer must be at least thirty-five (35) feet wide;

d. A ~~geological~~geotechnical report prepared by a qualified professional indicates that the development site will be stable for the life of the development, assumed to be at least seventy-five (75) years, even if the buffer is reduced;

e. For marine bluffs (includes Feeder Bluffs), the width of the reduced portion of the buffer must be equivalent to the estimated annual rate of erosion times seventy-five (75) (plus any allowance for bank recession equal to largest documented landslide in the vicinity) as determined by a qualified profession pursuant to a geotechnical report;

~~e.~~f. The proposed development incorporates stormwater management best management practices to address drainage, runoff and other slope stability issues; and

~~f.~~g. ~~The~~All other requirements of this Program, including the critical area requirements of Chapter 7, are met.

**Comment [SG225]:** Table 7-7 consolidates all landslide hazard area standard buffers in one table. The marine bluff buffers in Table 7-7 were moved from former Table 6-1 and are the same as in revised Table 6-2 of the SMP.

**Comment [SG226]:** Recommended addition of sub-part (2) is to clarify intent of buffer requirements.

**Comment [SG227]:** Recommended addition of sub-part (3) is to clarify that landslide hazard buffers may overlap with shoreline (Chap. 6) or other critical area buffers.

**Comment [SG228]:** This language was moved from former Section 6.4.2(b) standard to consolidate all landslide buffer averaging in this section.

**Comment [SG229]:** Recommended clarification.

5. Buffer Reduction: Alterations of the buffer that do not meet the minimum standard buffer requirements or buffer averaging requirements of this Section shall require a shoreline variance in accordance with Chapter 10 of the Program.

6. Hazard Tree Removal: Removal of a hazard tree may be allowed in the landslide hazard area or buffer when trimming is not sufficient to address the hazard. Where the hazard is not immediately apparent to the Administrator, the hazard tree determination report shall be made after Administrator review of a report prepared by a qualified arborist or forester. Any tree removal should be the minimum necessary to balance protection of the hazard area and its buffer with protection of life and property. To mitigate impacts of tree removal, the Administrator may require planting of tree(s) or other vegetation, and may require leaving hazard trees taken down in buffer areas for habitat and/or woody debris recruitment along marine bluffs and riparian corridors.

7. Increasing Buffer Widths (Feeder Bluffs, Feeder Bluff-Exceptional and Feeder Bluff-Talus): The Administrator shall require a geotechnical report for all new development and uses within 200 feet of all top and toe of feeder bluffs to assess and determine the need for increased buffers beyond the standard buffer widths in Table 7-3. Any increase of buffer shall be based on the findings of a geotechnical report.

8. Increasing Buffer Widths (Other Landslide Hazard Areas): The Administrator may require a geotechnical report for all new development within 200 feet of a landslide hazard area to assess and determine the need for increased buffers. Any increase of buffer shall be based on the findings in the geotechnical report. This determination shall be made when the Administrator demonstrates any one of the following through appropriate documentation:

   a. The landslide area is unstable and active;

   b. The adjacent land is susceptible to severe landslide or erosion, and erosion control measures will not effectively protect t1he proposed project form the risks posed by the landslide hazard area; or

   c. The buffer condition is significantly degraded (e.g., minimal vegetation).

~~2. Erosion Hazard Areas: Development within erosion hazard areas shall require a temporary erosion and sediment control plan and permanent drainage plan, consistent with the Section 5.4 of this Program. This requirement may be waived by the Administrator upon determination that the proposal will not affect the erosion hazard area.~~

## 7.14 Regulations – Geologically Hazardous Areas Protection Standards

1. New shoreline uses and developments shall be located, designed, constructed, and maintained to avoid impacts to geologically hazardous areas and their buffers. Impact avoidance measures shall include, but not be limited to, reducing the number, size or scale of buildings, driveways and other features; altering the configuration or layout of the proposed development; using environmentally favorable construction materials; implementing special drainage or runoff management practices; foregoing construction of accessory structures; preserving native vegetation; and other reasonable measures.

**Comment [SG230]:** Recommend add sub-part (5) to specifically note that variance is required if do not meet standard landslide hazard buffer width or buffer averaging. This is not a new requirement. It is noted in the buffer averaging standard under sub-part (4) above.

**Comment [SG231]:** Recommend add sub-part (7) to include a hazard tree removal provision for landslide hazard areas and associated buffers. A standard for hazard trees is in the current critical areas code. This addition incorporates hazard tree provisions for shoreline buffers in Section 6.5 of this Draft SMP and critical area code requirements. *See also related revisions and comments for regulation 6.5.3.*

**Comment [SG232]:** Sub-part (7) revisions are proposed to address Planning Commission direction to include standards and criteria for increasing landslide hazard buffers. The current critical areas code has a provision to increase buffer widths.

***Additional Review Consideration:*** ***May want to consider only applying this added standard for new development within 200 feet of Feeder Bluff – Exceptional, which are generally the highest risk concern to major slope failures.***

**Comment [SG233]:** Sub-part (8) revisions are proposed to address Planning Commission direction to include standards and criteria for increasing landslide hazard buffers. The current critical areas code has a provision to increase buffer widths.

**Comment [SG234]:** This erosion hazard standard was incorporated under 7.14.5, since it is a drainage standard and not a buffer standard.

2. New uses and developments may be allowed in geologically hazardous areas and/or their buffers only when specifically allowed by this Program and when all reasonable measures have been taken to avoid adverse ~~effects~~ impacts on slope stability and protect human health and safety.

3. Critical facilities shall be prohibited in geologically hazardous areas and/or their buffers. Where linear critical facilities must cross geologically hazardous areas and/or their buffers, reasonable and practicable alternative alignments which minimize geologic hazard shall be considered and preferred; any necessary crossing for linear critical facilities shall be sited to minimize hazard and ecological impacts, and otherwise designed and maintained to minimize hazards based on a geotechnical report.

4. No clearing, grading, filling, or other land disturbing activities will be permitted in landslide hazard areas, buffers, or adjacent to such areas during the typically wet winter months. When such activities are proposed between October 1 and April 30, additional technical analysis shall be provided to ensure that no environmental harm, threat to adjacent properties, or safety issues would result, and include recommendations and plans for temporary erosion control and mitigation measures. The technical analysis shall be addressed in a geotechnical report.

5. Development and alterations within erosion and landslide hazard areas (including channel migration zones) and any required buffers shall require a temporary erosion and sediment control plan and permanent drainage plan, consistent with the Section 5.4 of this Program.

6. Surface drainage shall not be directed across the face of a marine bluff, feeder bluff, or other landslide hazard area. The applicant must demonstrate that the stormwater discharge cannot be accommodated on site or upland by evidence of a geotechnical report. If there is not alternative to discharge across a landslide hazard area, storm water runoff shall be collected above the face of the landslide hazard area and directed across the hazard area by tight line drain and provided with energy dissipating device at the outlet, above the OHWM.

~~4.~~7. Geotechnical Report (non-channel migration zone): The Administrator's approval of a new use, ~~or~~ development, or land division creating a new lot for development in a g~~eologically hazardous~~landslide hazard area, ~~or~~ buffer, or adjacent to (i.e., within 200-feet) from the top or toe of a landslide hazard area shall be contingent upon the findings of a geotechnical report prepared by either an engineering geologist, a geotechnical engineer, or a civil engineer licensed in the State of Washington, who is knowledgeable of regional geologic conditions and who has professional experience in landslide ~~and/or seismic~~ hazard evaluation. The geotechnical report shall certify that the proposed development will not adversely affect slope stability, be subject to risk of landslide, or impact adjacent properties or resources. Such certification shall be supported by clear documentation of all of the following:

   a. Site Plan: A site plan and/or engineered drawings drawn to an appropriate scale to clearly depict existing conditions and proposed development including:

      i. The type and extent of geologic hazard areas, any other critical areas, and buffers on, adjacent to, or that are likely to impact or influence the proposal or be influenced by the proposal, including properties and critical areas upslope and downslope of the subject site;

      ii. The location of existing and proposed structures, fill, access roads, storage of materials, drainage facilities, sewage facilities and other improvements;

      iii. The existing site topography and land cover; and

**Comment [SG235]:** Recommended addition to sub-part (3), since it may not be possible to avoid placing all new critical facilities such as a regional highway outside of all geologic hazardous areas.

**Comment [SG236]:** Recommended to add sub-part (4) standard for landslide hazard areas.

**Comment [SG237]:** Sub-part (5) is moved and adapted from deleted erosion hazard regulation under Section 7.14. It is also recommended to apply to landslide hazard areas and buffers. A erosion/sediment control plan and drainage plan is currently required for alterations and development on or within 200-feet of erosion hazard and landslide hazard areas under the current critical areas code.

**Comment [SG238]:** Sub-part (6) is a current requirement in the critical areas code. It should be included in the SMP for equivalent protection.

iv. Proposed clearing and grading limits.

b. Contents: The report shall include a description and analysis of:

i. Geologic conditions, soils, hydrology, vegetation, topography, and critical areas in the vicinity of the site~~;~~.

ii. ~~The expected rate of erosion as determined through a robust erosion rate study;~~An analysis of bluff and slope erosion and recession rates shall be presented in those cases where stability is impacted or influenced by wave cutting, stream meandering, or other forces acting on the slope. For marine bluffs (including all feeder bluffs), this analysis shall include the medium and long-term quantitative erosion rates and description of the methods used to quantify the erosion rate (past erosion rates over a minimum of 40 years or as far back as earliest available aerial photos, and a projection of future rates over the next several decades).

iii. Physical evidence of past erosion or landslide activity in the vicinity of the proposed development~~;~~.

iv. Available information and mapping related to the hazard areas including, but not limited to, the Clallam County Shoreline Inventory and Characterization Reports, Washington Coastal Atlas, and Washington Department of Natural Resources landslide hazard maps concerning stability of the site and land adjacent to the site.

v. Analysis of slope stability for both the existing and developed condition and mechanisms for slope failure in the vicinity, including discussion of types, likely instigating factors, and general sizes of past landslides in the area. For marine bluffs (including all feeder bluffs), this analysis shall also include:

A. Evidence of landslide activity such as: a mid-slope bench or low bank in an area of high banks, a slight seaward bow in an otherwise straight shoreline, a seaward bow of the cobble/boulder beach lag, lateral elevation changes (uplift) on the beach or subtidal, tilted silt or peat beds exposed among beach gravels, benches on which the vegetation is of a uniform age, areas with jack-strawed trees, groups of trees with kinked trunks-particularly conifers, a bowl-shaped indentation in the bluff edge or hummocky topography on the bluff face.

B. Location of the intersection of the projected failure plane and the bluff top.

C. Angle of repose of the upper bluff and distance for bluff to "lay back" without threatening the residence.

D. Estimate of when the proposed new development (e.g., residence) or use would be undermined (to include allowance for bank recession equal to largest documented landslide in the vicinity).

vi. The potential for long-term slope stability impacts during the next one hundred (100) or more years~~;~~.

~~iv.~~ Description of the run-out hazard of landslide debris to the proposed development that starts upslope (whether part of the subject property or on a neighboring property) and/or the impacts of landslide run-out on downslope properties and critical areas.

~~v.~~vii. The development will not significantly increase surface water discharge or sedimentation to adjacent properties beyond predevelopment conditions;~~-~~.

**Comment [SG239]:** Revisions in sub-part (7) and (7a) highlighted in blue above are recommended to specify baseline site plan contents.

**Comment [SG240]:** Recommended additions to clarify intent of information needed.

**Comment [SG241]:** First part of sub-part ii recommended to clarify the intent of information needed.

**Comment [SG242]:** Second part of sub-part ii related to marine bluff was moved from deleted provision 6.4.4.(a) to consolidate geotechnical report requirements for landslide hazard areas.

**Comment [SG243]:** Moved from deleted provision 6.4.4.(c) to consolidate geotechnical report requirements for landslide hazard areas.

**Comment [SG244]:** Moved from deleted provision 6.4.4.(e) to consolidate geotechnical report requirements for landslide hazard areas.

**Comment [SG245]:** Moved from deleted provision 6.4.4.(f) to consolidate geotechnical report requirements for landslide hazard areas.

**Comment [SG246]:** Moved from deleted provision 6.4.4.(g) to consolidate geotechnical report requirements for landslide hazard areas.

**Comment [SG247]:** Moved from deleted provision 6.4.4.(h) to consolidate geotechnical report requirements for landslide hazard areas.

**Comment [SG248]:** Addresses Planning Commission direction to also consider suspected risk to landslide run-out (i.e., impact of a slide to areas not immediately adjacent to the toe of hazard area.

~~vi.~~viii. Conclusions regarding the effect of the proposed development on soil and geologic conditions~~; and~~.

c. Recommendations and Conclusions:

i. Recommendations on how to adequately protect the proposed development/use and minimize risk of erosion or landslides.

ii. Methods and practices that avoid and/or reduce slope and shore impacts such as upland and slope drainage control, groundwater control, site vegetation retention and management, revegetation; clearing and grading limitations, and erosion control.

iii. Identifying minimum buffer and building setback areas at the top or toe of slope based on geotechnical site constraints and the impacts of proposed construction methods on the erosion and landslide potential of the slope.

iv. There is not significant risk of run-out hazard of landslide debris to the proposed development that starts upslope (whether part of the subject property or on a neighboring property) and/or the impacts of landslide run-out on downslope properties and critical areas.

v. All newly created building sites will have a suitable building envelope and will be stable under normal geologic and hydrogeologic conditions.

vi. Recommendations and conclusions on whether further analysis is necessary such as subsurface exploration and testing, additional slope stability or coastal process analysis, additional engineering design analysis, or other testing or analysis.

d. Inspection: The County shall require a final inspection report stating that construction has or has not implemented the design recommendations of the geotechnical report, and evaluating of any deviation from the design recommendations. If the final inspection report is done by someone other than the qualified professional that prepared the geotechnical report, it must be done by a qualified professional. The Administrator may waive this requirement if the results of the geotechnical report concluded that there is no geologic hazard present on the site, nor will the project affect or be affected by any potential geologic hazards.

e. Effectiveness of Geotechnical Report: A geotechnical report for a specific site may be valid for a period of up to five years when the proposed land use activity and site conditions affecting the site are unchanged. However, if any surface and subsurface conditions associated with the site change during the five-year period, the applicant may be required to submit an amendment to the geological assessment.

f. Revisions to Geotechnical Report: Further recommendations shall be provided by the engineer of record should there be additions or exceptions to the original recommendations based on the plans, site conditions, or other supporting data. If the qualified professional who revises the plans and specifications is not the same engineer who prepared the geotechnical report, the new engineer shall, in a letter to the County, express his or her agreement or disagreement with the recommendations in the geotechnical report and state whether the plans and specifications conform to his or her recommendations.

**Comment [SG249]:** Recommended requirement to add to geotechnical report. Consulted other County SMP and Critical Area Codes.

**Comment [SG250]:** Recommended requirement to add to geotechnical report. Consulted other County SMP and Critical Area Codes

**Comment [SG251]:** Addresses Planning Commission direction to also consider suspected risk to landslide run-out (i.e., impact of a slide to areas not immediately adjacent to the toe of hazard area

**Comment [SG252]:** Recommended requirement to add to geotechnical report. Consulted other County SMP and Critical Area Codes

**Comment [SG253]:** Recommended requirement to add to geotechnical report. Consulted other County SMP and Critical Area Codes.

**Comment [SG254]:** Recommended requirement to add to geotechnical report. Consulted other County SMP and Critical Area Codes

**Comment [SG255]:** Recommended requirement to add to geotechnical report. Consulted other County SMP and Critical Area Codes

**Comment [SG256]:** Recommended requirement to add to geotechnical report. Consulted other County SMP and Critical Area Codes

8. Marine Bluffs: Where a geotechnical report is required for a marine bluff (including all feeder bluffs), the project application shall not be approved by the Administrator unless the report demonstrates that the proposed use or development site has minimal risk of significant adverse impact from landslide and slope failure during the next one hundred (100) years. The Administrator may waive this requirement for proposed uses/development of a temporary nature (e.g., recreational vehicles) or that can be easily moved based on design (e.g., mobile homes) that are otherwise consistent with this Program and such use and placement is supported by the analysis, conclusions, and recommendations of the geotechnical report.

~~5.~~9. The Administrator may impose conditions on any new shoreline use and developments in geologically hazardous areas and their buffers as needed to:

a. Protect slope stability and minimize erosion, seismic, and/or landslide hazard risks;

b. Maintain natural sediment and erosion processes that are integral to the health and sustainability of freshwater and marine nearshore ecosystems;

c. Minimize the potential for property damage related to seismic events, erosion and/or landslides;

d. Protect human health and safety; and

e. Reduce public liabilities for damages associated with seismic events, erosion and/or landslides.

10. Seismic Hazard Protection Standards: Development may be allowed in seismic hazard areas when all of the following apply:

a. Structures in seismic hazard areas shall conform to applicable analysis and design criteria of the Clallam County Building and Construction Code, Title 21 CCC.

b. Public roads, bridges, and utilities shall be allowed when there is no feasible alternative locations and geotechnical analysis and design by a qualified professional are provided that ensure the roadway, bridge and utility structures and facilities will not be susceptible to damage from seismically induced ground deformation. Mitigation measures shall be designed in accordance with the most recent version of the American Association of State Highway and Transportation Officials (AASHTO) Manual or other appropriate document.

c. Construction of commercial, industrial or any publicly owned buildings within a seismic hazard area shall require a geotechnical report by a qualified geotechnical engineer or engineering geologist licensed in the State of Washington in accordance with Section 7.14 of this Program. The results or conclusions of the evaluation shall be considered a condition of development approval.

11. Channel Migration Zone Protection Standards: If County maps indicate that a potential channel migration hazard exists on or adjacent to a proposed use or development site, the applicant shall either:

a. Locate the proposal landward of the potential channel migration hazard area as indicated on the map which already includes an erosion hazard buffer; or

b. Submit a channel migration zone study, prepared by a geologist, engineering geologist, or professional engineer licensed in the state of Washington with at least 5 years of

**Comment [SG257]:** ***Additional Review Consideration:*** ***May want to consider only applying this added standard for new development within 200 feet of Feeder Bluff – Exceptional, which are generally the highest risk concern to major slope failures***

**Comment [SG258]:** Recommended additional regulations. Sub-part 10a references seismic hazard construction under the building code. Sub-part 10b is recommended given the impact of failure of such facilities.

**Comment [SG259]:** This new sub-part 11 is intended to address the Planning Commission direction to replace the standard 150-foot safety buffer width (measured from the ordinary high water mark) recommended in the 2014 Draft SMP (see Chapter 6) for development within channel migration zones to require a channel migration assessment for new development in mapped CMZs. *See related changes to Table 6-2.*

DRAFT

experience in analyzing channel response in the fluvial systems of the Pacific Northwest, that demonstrates the following:

i. The parcel on which the development or use is proposed is effectively protected (disconnected) from the channel movement due to the existence of permanent levees maintained by public agencies (not all roads and levees will be considered disconnection points); or

ii. The proposed use or development site has minimal risk of channel migration during the next one hundred (100) years as indicated by the existing channel type, land cover (and low likelihood of future alterations in land cover); surficial geology, low soil erosion potential; lack of evidence of likely avulsion pathways (including areas upstream of, but proximate to, the site); low inundation frequency(ies). The assessment shall include a review of available data regarding historical channel locations at the site; identification of the site within a broader geomorphic reach of the river system, and the general characteristics of that reach; description of existing channel type, existing channel alterations and likelihood of future alterations with changes in land cover; surficial geology, soils and erosion potential; and geotechnical setbacks relating to erosion at the toe of adjacent slope(s). The approach to assessing local migration shall be generally equivalent to the methods detailed in "A Framework for Delineating Channel Migration Zones" (Ecology Publication # 03-06-027), or similar method approved or sanctioned by Ecology.

~~f.~~c. Based on the results of the channel migration zone assessment, the Administrator may prohibit or limit use or development within a channel migration zone and/or require a buffer of undisturbed natural vegetation from the edge of the channel migration zone to retain both a safety and habitat buffer if and when the channel migrates to the channel migration zone edge.

**Comment [SG260]:** Moved from deleted Section 6.4.5(a).

Additional Change Needed: Need to add after permanent levees: *"…or infrastructure such as roads and bridges…"* This was left out when moved.

## 7.15 Regulations – Frequently Flooded Area Designation and Mapping

1. Designation and Mapping: All lands classified as floodway, floodplain or special flood hazard areas in the Federal Emergency Management Agency report titled "The Flood Insurance Study for Clallam County" dated February 23, 2001, as now or hereafter amended, with accompanying Flood Insurance Rate and Boundary Maps, are designated as frequently flooded areas. The study and maps are on file at Clallam County. When base flood elevation data has not been provided in the Flood Insurance Study, the Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from the Federal Emergency Management Agency, Washington State Department of Ecology, or other qualified source. Where base flood elevation data and floodway delineation are not available either through the Flood Insurance Study or from a qualified source, historical data, high water marks, photographs of past flooding, etc., shall be used to determine base flood elevations. Special Flood Hazard Areas shall be delineated by engineering studies that meet the specifications 44 CFR § 65 and approved by FEMA and then adopted by Clallam County. The only method to alter data or maps related to special flood hazard areas is through an officially processed map change, through a physical map revision, a county-wide remapping, or a Letter of Map Change (LOMC) submitted to FEMA and approved. Qualified professionals may submit these studies to FEMA to alter the location of the Special Flood

Hazard Areas through the Letter of Map Change (LOMC) process, with the concurrence of the Administrator.

## 7.16 Regulations – Frequently Flooded Area Protection Standards

1. The standards of this Program, including this section, shall be implemented along with the International Building Code and Clallam County Code 21.01.040 to protect frequently flooded areas because the jurisdiction of the shoreline master program covers the full extent of the floodplain and is therefore coincident with the frequently flooded areas.

2. The standards of this section and other applicable provisions of this Program shall apply to all new uses and developments occurring within the floodway, floodplain or special flood hazard areas, including flood control structures regulated in Section 4.4 of this Program.

3. Critical facilities shall be prohibited within areas designated as frequently flooded. ~~Critical facilities include all facilities for which even a slight chance of flooding would be too great. Critical facilities include, but are not limited to: schools, hospitals, police, fire, emergency response installation, nursing homes, installations which produce, use or store hazardous materials or hazardous waste, pipelines which transmit oil and gas, municipal water and sewer facilities, and regional transportation facilities, such as airports, ports, railroads and major highways.~~ Where linear critical facilities must cross frequently flooded areas, reasonable and practicable alternative alignments which minimize flood hazard shall be considered and preferred; any necessary crossing for linear critical facilities shall be elevated and/or flood-proofed, sited to minimize hazard and ecological impacts, and otherwise designed and maintained to minimize flood hazards.

**Comment [SG261]:** The deleted text highlighted in blue was moved to Chapter 11, Definitions, to add a definition of critical facilities. This was done because the term "critical facilities" is used in a number of SMP regulations. *See Chapter 11 (Definition 82).*

4. Where base flood elevation data pertaining to a proposed development site is not available from an authoritative source, it shall be generated through studies provided by the development proponent in order to assess and mitigate flood risks.

5. Land Divisions – New land divisions containing frequently flooded areas shall be consistent with the requirement to minimize flood damage; shall have utilities and common facilities located and constructed to minimize flood damage; shall have adequate drainage provided to reduce exposure to flood damage.

6. Land Disturbing Activities within Floodways: Land disturbing activities are prohibited within floodways unless certification by a civil engineer licensed in the State of Washington is provided demonstrating that such activities shall not result in any increase in flood levels during the occurrence of the base flood discharge. In the designated frequently flooded area, the cumulative effect of any land disturbing activity, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood at any point. Certification by a civil engineer licensed in the State of Washington who is qualified for flood assessment is required unless the Administrator determines that sufficient information is available to determine compliance.

7. Recreational Vehicles – Recreational vehicles placed within the frequently flooded areas area shall comply with all of the following conditions:

   a. The recreational vehicle shall be located on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use, be on its wheels or jacking system, be not obstructed (i.e., no blocking or skirting), be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions.

b. Any structures temporarily attached to recreational vehicles must comply with applicable provisions of this chapter.

c. Recreational vehicles shall not be located within shoreline or critical area buffers required pursuant to this Program.

8. Protection Standards for Structures in Frequently Flooded Areas – In addition to the shoreline and critical area buffer requirements and other applicable protection standards of this Program and the standards set forth in Chapter 21.01 CCC, Clallam County Code, as amended, the following conditions shall apply to structures constructed within designated frequently flooded areas.

a. Floodways – Consistent with RCW 86.16.061(2)(a), as it applies, construction or reconstruction of residential structures is prohibited within designated floodways, except for: (i) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (ii) repairs, reconstruction, or improvements to a structure, the cost of which does not exceed fifty (50) percent of the market value of the structure either, (i) before the repair, or reconstruction is started, or (ii) if the structure has been damaged, and is being restored before the damage occurred. Work done on structures to comply with existing health, sanitary, or safety codes or to structures identified as historic places shall not be included in the fifty (50) percent.

b. Residential, commercial and/or industrial buildings. Buildings are prohibited within frequently flooded areas unless constructed or placed on lots or parcels of land platted by a final plat approved and recorded prior to December 10, 1980, for the Dungeness and Elwha Rivers and the effective date (June 16, 1992) of the Clallam County Critical Areas Code, Chapter 27.12 CCC, for all other frequently flooded areas. If a portion of the pre-existing lot lies outside the frequently flooded area, building shall be directed to the nonhazard portion to the maximum extent feasible.

## 7.17 Regulations – Critical Aquifer Recharge Areas Designation, Mapping, and Classification

1. Designation: Critical aquifer recharge areas are geographical areas which contain hydrogeologic conditions that provide recharge to one or more aquifers that are a current or potential potable water source and, due to their geological properties, are highly susceptible to the introduction of pollutants, or because of special circumstances, have been designated by Clallam County as a critical aquifer recharge area in accordance with WAC 365-190-080. All lands and shorelands classified as having high aquifer recharge potential and aquifer susceptibility are hereby designated as areas with a critical recharging effect on aquifers used for potable water. Critical aquifer recharge areas may be designated due to special circumstances, including areas with a high level of susceptibility or vulnerability to contamination, or known wellhead protection areas for Class A water systems. A wellhead protection area is the surface and subsurface area surrounding a well or wellfield that supplies a public water system through which contaminants are likely to pass and eventually reach the water well(s) as designated under the Federal Safe Drinking Water Act.

2. Mapping: Critical aquifer recharge areas shall be delineated on maps available at the Clallam County Department of Community Development.

3. Classification: All Clallam County lands and shorelands shall be classified as having either a high, moderate, or low aquifer recharge potential. At a minimum, classification shall be based

on soil permeability and recharge potential as described within the Soil Survey of Clallam County. Where adequate information is available, aquifer recharge potential shall be further classified based on the recharge potential of surficial geologic materials, presence or absence of restrictive layers, surface and groundwater monitoring data, wellhead protection areas, depth to groundwater, topography (i.e., slopes), and locally adopted groundwater protection plans and studies. Lands classified as having a high, moderate, or low aquifer recharge potential shall also be classified as having a high, moderate, or low susceptibility to contamination of an underlying aquifer, respectively. Based on these criteria, the potential for recharging aquifers or transmitting contaminants to the underlying aquifer is greatest where the aquifer is close to the ground surface, where ground surface slopes are minimal, and where the recharge potential of the soils and/or surficial geologic material is greatest.

## 7.18 Regulations – Critical Aquifer Recharge Area Protection Standards

1. Protection standards for critical aquifer recharge areas have been incorporated into the water quality regulations in Section 5.4 of this Program and into the provisions for specific shoreline uses in Chapter 3. Such standards shall be considered the minimum necessary to protect critical aquifer recharge areas.

2. Aboveground/underground storage tanks or vaults for the storage of hazardous substances, animal wastes, sewage sludge, fertilizers, or other chemical or biological hazards or dangerous wastes as defined in Chapter 173-303 WAC, or any other substances, solids or liquids in quantities identified by the Clallam County Environmental Health Division, consistent with WAC 173-303, as a risk to groundwater quality, shall be designed and constructed so as to:

   a. Prevent the release of such substances to the ground, groundwaters, or surface waters;

   b. Be contained or enclosed by an impervious containment area with a volume greater than the volume of the storage tank or vault to avoid an overflow of the containment area;

   c. Provide for release detection;

   d. Provide written spill response and spill notification procedures to the local fire district;

   e. Use material in the construction or lining of the storage containment area which is compatible with the substance to be stored to protect against corrosion or leakage, or otherwise designed in a manner to prevent the release or threatened release of any stored substance; and

   f. Comply with Chapters 173-303 and 173-360 WAC.

3. The Administrator may grant a waiver from one or more of the requirements in Section 7.18.2 upon a finding that the aboveground storage activity would not create a significant risk to groundwater quality. Aboveground or underground storage facilities designed and maintained according to an approved plan from the Natural Resources Conservation Service or Clallam Conservation District are exempt from these requirements but remain under the jurisdiction of the County to ensure compliance with the protective features of this section and for enforcement purposes.

4. The use of fertilizers, herbicides, pesticides or other chemicals for vegetation management within critical aquifer recharge areas shall adhere to best management practices to prevent

impacts to water quality and water supply. Where the application of such chemicals covers five (5) or more acres, a mitigation plan shall be required pursuant to Section 8.3 of this Program.

5. Land divisions in critical aquifer recharge areas shall be evaluated for their impact on groundwater quality. The following measures may be required by the Administrator as a part of the review of the proposed land division based on site conditions after consideration of available data:

   a. An analysis of the potential nitrate loading to the groundwater shall be required to assess the impact on groundwater quality.

   b. Alternative site designs, alternative sewage disposal system design (e.g., denitrification), phased development and/or groundwater quality monitoring shall be required to reduce contaminant loading where site conditions indicate that the proposed action will measurably degrade groundwater quality.

   c. Open spaces shall be required on development proposals overlying areas highly susceptible to groundwater contamination.

   d. Community/public water systems and community drainfields shall be required where site conditions indicate a high degree of potential contamination to individual wells from on-site or off-site sources.

   e. Site work to create the lots does not create significant erosion or landslide hazard or reduce slope stability.

6. In designated critical aquifer recharge areas, utility facilities which carry oil, gas or any other hazardous substance as defined in Chapter 173-303 WAC shall provide hydrologic information in addition to spill prevention measures and an emergency spill management plan.

7. New sewage and sludge disposal, except on-site sewage ~~disposal~~ systems releasing less than fourteen thousand (14,000) gallons per day and approved consistent with Chapter 246-272 WAC and local health codes, shall be prohibited in critical aquifer recharge areas within the shoreline jurisdiction. This standard does not apply to individual, on-site sewage ~~disposal~~ systems sited consistent with this Program and compliant with all local and state health regulations and maintenance requirements.

DRAFT

# Chapter 8 Mitigation and No Net Loss

*Note: The policies and regulations in this section provide a framework for ensuring that impacts of shoreline use and development are mitigated to achieve no net loss. State rules in WAC 173-26-186(8) state: "Local master programs shall include regulations and mitigation standards ensuring that each permitted development* ***will not cause a net loss*** *of ecological functions of the shoreline… local government shall design and implement such regulations and mitigation standards in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property." It is important to note that the policies and regulations of the Program as a whole are structured to help achieve the no net loss requirement. This section outlines actions that apply to individual development projects. The County has prepared a draft shoreline restoration plan that will also help improve ecological functions such that there is a net gain overall. The County has also prepared a draft approach and strategy (see Exhibit B) to track the effects of shoreline development on a programmatic scale to ensure that the no net loss requirement is met.*

## 8.1 Applicability

No net loss means the maintenance of the aggregate total of the County's shoreline ecological functions over time. The no net loss standard requires that the impacts of shoreline use and/or development, whether permitted or exempt from permit requirements, be identified and mitigated on a project-by-project basis, so that as development occurs shoreline functions stay the same. No net loss also requires that the County and other entities implement restoration projects to improve ecological functions and processes since there may be some development impacts that cannot be fully mitigated.

Mitigation means measures taken to avoid, minimize, lessen, and/or compensate for adverse impacts of a development project. Mitigation, as defined in Chapter 11, includes the following steps in order of preference: (1) avoiding an impact altogether by not developing a project or parts of a project; (2) minimizing impacts by limiting the extent or magnitude of a project; (3) rectifying impacts by repairing, rehabilitating, or restoring the affected environment; (4) reducing or eliminating an impact over time by preservation and maintenance operations during the life of the project; (5) compensating for an impact by replacing or providing substitute resources or habitats; and (6) monitoring the mitigation and taking remedial action when necessary.

## 8.2 Policies

1. This Program should be implemented in a manner that achieves no net loss of shoreline ecological functions. In assessing the potential for new uses and developments to contribute to net loss of ecological functions, all of the following factors shall be taken into account:

    a. The functions and processes at risk at each proposed development site; and

    b. The effects that development could likely have on downstream, down-gradient, or down-drift resources; and

    c. The cumulative effects that development would have when added to other past, present, and reasonably foreseeable future development; and

    d. The likely effectiveness of proposed compensatory mitigation measures designed to offset adverse impacts of a given development action and/or use; and

e. The ability of any unmitigated development impacts to be offset through voluntary restoration actions.

2. Development proponents should seek the least environmentally damaging, practicable alternatives for site design, construction, and maintenance. ~~Uses and developments that cause the future ecological condition to become worse than the current condition should be discouraged.~~

3. The County should work cooperatively with shoreline property owners and with other local, state, federal, and Tribal resource management agencies to monitor the effects of development and track gains and losses in ecological functions using a set of specific environmental indicators. Specific indicators that should be measured on frequent and regular basis at least once every five years and compared to 2012 baseline levels include:

   a. Percent of mapped feeder bluffs with armoring (percent classified as modified);

   b. Status of salmon stocks;

   c. Status of shellfish beds (frequency of closures);

   d. Length of stream bordered by/confined by levees, excluding setback levees;

   e. Number of overwater structures per mile of shore and number of overwater structures per mile of sediment transport zone;

   f. Number of tidal barriers;

   g. Percent of aquatic area supporting submerged aquatic vegetation (e.g., kelp, eelgrass);

   h. Percent closed canopy forest within two hundred (200) feet of the ordinary high water ~~line~~mark;

   i. Percent impervious surface within two hundred (200) feet of the ordinary high water mark; and

   j. Area of undeveloped floodplains/channel migration zone.

4. The County should use the checklist in Exhibit B to track new development proposals against the list of indicators in Section 8.2.3. Changes in indicators should be tracked and monitored at the shoreline reach and watershed scales.

5. The County should work with other local, state, and federal regulatory agencies and resource management agencies to ensure that efforts to mitigate adverse impacts and restore degraded areas are successful and achieve beneficial ecological outcomes. This includes assisting applicants/proponents in planning, designing, and implementing projects to be consistent with the Program and working cooperatively with stakeholders to implement restoration projects that improve conditions overall.

## 8.3 Regulations – General Mitigation Requirements

1. Proponents of new shoreline use and development~~, including preferred uses and uses that are exempt from permit requirements,~~ shall employ ~~all reasonable~~ measures to mitigate unavoidable adverse impacts ~~on~~ to ensure no net loss of shoreline ecological functions and to sustain shoreline ecosystem processes. ~~Impacts can be mitigated if mitigation measures would~~



DRAFT

~~not result in an extraordinary hardship and denial of reasonable use of the property.~~Required mitigation shall not exceed a level necessary to assure that proposed uses or development will result in a no net loss of shoreline ecological functions.

2. Mitigation shall include the following actions in order of priority (referred to as the mitigation sequence):

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

   b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by adhering to the dimensional requirements, performance standards and design criteria in this Program and using other technologies or steps, as needed, to avoid or reduce impacts;

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

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

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

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

3. The Administrator shall first determine whether identified impacts have been avoided and secondly minimized. Unless otherwise stated, development proposals that do not fully conform to the dimensional requirements, performance standards, and/or design criteria in this Program shall require compensatory mitigation to ensure no net loss at the project scale. The Administrator shall require compensatory mitigation for development proposals that:

   a. Do not fully conform to one or more of the dimensional requirements, performance standards, and/or design criteria in this Program; or

   ~~b. Require a variance or conditional use permit; or~~

   ~~c.~~b. Result in measureable damage, loss and/or displacement of a wetland, aquatic habitat conservation area, terrestrial habitat conservation area, flood storage or conveyance area, or critical aquifer recharge area; or

   ~~d.~~c. Result in measureable damage, loss and/or displacement of kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sand lance; subsistence, commercial and recreational shellfish beds; mudflats; intertidal habitats with vascular plants; and areas with which priority species have a primary association.

4. Compensatory mitigation measures shall occur in the vicinity of the impact or at an alternative location within the same watershed or appropriate section of marine shoreline (e.g., reach or drift cell) that provides greater and more sustainable ecological benefits. When determining whether offsite mitigation provides greater and more sustainable benefits, the Administrator shall consider limiting factors, critical habitat needs, and other factors identified by the locally adopted shoreline restoration plan [insert date of adoption or resolution number], or an approved watershed or comprehensive resource management plan. The Administrator may also approve use of alternative mitigation practices such as in-lieu fee programs, mitigation

DRAFT

banks, and other similar approaches provided they have been approved and sanctioned by the appropriate state, federal, and tribal authorities.

5. To prevent cumulative impacts that could lead to a net loss of ecological functions, the Administrator shall consider the following factors when assessing whether individual development proposals are consistent with this Program:

    a. Current ecological functions and human factors influencing shoreline natural processes; and

    b. Reasonably foreseeable future use and development of the shoreline; and

    c. Beneficial effects of any established regulatory programs under other local, state, and federal laws; and

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

6. The Administrator shall prohibit any use or development that will result in unmitigated cumulative impacts.

7. When compensatory mitigation is required pursuant to this Program, all of the following shall apply:

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

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

    c. The mitigation shall be informed by pertinent scientific and technical studies, including but not limited to the Shoreline Inventory and Characterization Report, the Shoreline Restoration Plan, and other background studies prepared in support of this Program; and

    d. The mitigation shall replace the functions as quickly as possible following the impacts; and

    e. Mitigation activity shall be monitored and maintained to ensure that it achieves its intended functions and values; and

    f. The mitigation site will be protected through a conservation easement or similar mechanism to ensure that it is maintained and protected in perpetuity; and

    g. The Administrator shall require the applicant/proponent to post a bond or provide other financial surety equal to one hundred and fifty percent (150%) of the estimated cost of the mitigation to ensure the mitigation is carried out successfully. The bond/surety shall be refunded to the applicant/proponent upon completion of the mitigation activity and any required monitoring.

8. Compensatory mitigation plans shall be prepared by qualified professionals with education, training and experience in the applicable field:

    a. Wetland mitigation plans shall be prepared by a qualified professional who is educated/trained in wetland biology or a closely related field, and has demonstrated

DRAFT

experience in mitigation plan design, implementation, and monitoring. The overall goal of any such mitigation plan shall be no net loss of wetland functions, acreage, and values.

b. Mitigation plans for impacts to aquatic and wildlife habitat conservation areas shall be prepared by a qualified professional with education/training in wildlife biology or a closely related field, and professional experience in habitat mitigation plan design, implementation, and monitoring. Where this plan is required for the protection of eagle habitat, the eagle habitat management plan shall normally be prepared by the Washington State Department of Fish and Wildlife, as required under the Bald Eagle Management Rules. The Washington Department of Fish and Wildlife Priority Habitat and Species Management Recommendations, dated May 1991 or as thereafter amended, may serve as guidance for preparing mitigation plans to protect wildlife habitat conservation areas.

c. Mitigation plans for geologically hazardous areas shall be prepared by a qualified professional who is either a geologist and a geotechnical engineer, a geotechnical engineer, or a civil engineer licensed in the State of Washington, who is knowledgeable of regional geologic conditions and who has professional experience in landslide and/or seismic hazard evaluation, mitigation plan design, implementation, and monitoring.

d. Mitigation plans for development within frequently flooded areas shall be prepared by a civil engineer licensed in the State of Washington.

e. Mitigation plans for impacts to critical aquifer recharge areas shall be prepared by a person(s) with professional experience in mitigation plan design, implementation, and monitoring, hydrogeologic assessment, and professional experience in hydrogeology or a related field. The person(s) shall also be knowledgeable in the effect of the proposed development on groundwater quality and quantity.

9. The applicant shall pay for or reimburse the County for the costs incurred in the review of a mitigation plan and for any costs incurred by the County to engage technical consultants or staff for review and interpretation of data and findings submitted by or on behalf of the proponent. Mitigation plan review and technical assistance fees are required under Chapter 5.100 Clallam County Code, as now or hereafter amended.

10. When there is a conflict between the findings of a special report and the findings of the Administrator in review of the special report, the applicant or affected party may appeal such decisions of the Administrator pursuant to the procedures in this section and Chapter 26.10 Clallam County Consolidated Development Permit Process Code.

## 8.4 Regulations – Compensatory Mitigation Plan Contents

1. Compensatory mitigation plans required by this Program shall include the following information:

   a. Baseline Information: A written assessment and accompanying maps of the following:

      i. Impacted critical area including, at a minimum, existing wetland/stream acreage; vegetative, fauna and hydrologic characteristics; soil and substrate conditions; and topographic elevations.

DRAFT

ii. Mitigation site, if different from the impacted site, including at a minimum: existing acreage; vegetative, faunal and hydrologic conditions; relationship within watershed and to existing water bodies; soil and substrate conditions; topographic elevations; existing and proposed adjacent site conditions; buffers; and ownership.

b. Environmental Goals and Objectives: The mitigation plan shall identify goals and objectives and include:

i. The purposes of the compensation measures including a description of site selection criteria, identification of compensation goals, identification of target evaluation species and resource functions, dates for beginning and completion, and a complete description of the structure and functional relationships sought. The goals and objectives shall be related to the functions and values of the original critical area or, if out-of-kind, the type of critical area to be emulated.

ii. A review of the available literature and/or experience to date in restoring or creating the type of critical area proposed. An analysis of the likelihood of success of the compensation project at duplicating the original resource shall be provided based on the experiences of comparable projects, if any. An analysis of the likelihood of persistence of the created or restored resources shall be provided based on such factors as surface and groundwater supply and flow patterns, dynamics of the ecosystem, sediment or pollutant influx and/or erosion, periodic flooding and drought, presence of invasive flora or fauna, potential human or animal disturbance, and previous comparable projects, if any.

c. Performance Standards: Specific and measureable criteria shall be provided for evaluating whether or not the goals and objectives of the mitigation plan are being achieved at various stages in the project and for beginning remedial action or contingency measures. Such criteria may include water quality standards, survival rates of planted vegetation, in-stream habitat conditions, species abundance and diversity targets, habitat diversity indices, or other ecological, geological, or hydrological criteria.

d. Detailed Construction Plans: Written specifications and descriptions of compensation techniques shall be provided, including the proposed construction sequence; grading and excavation details; erosion and sediment control features needed for construction and long-term operation; a planting plan specifying plant species, quantities, locations, size, spacing, and density; source of plant materials, propagules, or seeds; water and nutrient requirements for planting; where appropriate, measures to protect plants from predation; substrate stockpiling techniques and planting instructions; descriptions of water control structures and water-level maintenance practices needed to achieve the necessary hydroperiod characteristics; etc. These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome. The plan shall provide for elevations which are appropriate for the desired habitat type(s) and which provide sufficient tidal prism and circulation data.

e. Monitoring Program: A program outlining the approach for monitoring construction of the compensation project and for assessing a completed project shall be provided. Monitoring may include, but is not limited to:

i. Establishing vegetation plots to track plant establishment/survival, and changes in plant species composition and density over time;

DRAFT

ii. Using photo stations to evaluate vegetation community response;

iii. Measuring physical parameters such as wetland size, stream dimensions, channel characteristics, buffer width;

iv. Monitoring shallow groundwater levels to document hydrologic regimes/hydroperiods;

v. Sampling surface and subsurface waters to determine pollutant loading and changes from the natural variability of background conditions (pH, nutrients, heavy metals);

vi. Measuring base flow rates and stormwater runoff to model and evaluate water quality predictions, if appropriate;

vii. Measuring sedimentation rates, if applicable; and

viii. Sampling fish and wildlife populations to determine habitat utilization, species abundance and diversity.

f. Monitoring and Reporting: Following construction, a monitoring report shall be submitted annually, at a minimum, documenting milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than three (3) years. Mitigation projects that are intended to establish forested conditions (e.g., forested wetland or forested riparian area) shall be monitored for up to fifteen (15) years with a minimum of seven (7) years.

g. Contingency Plan: Identification of potential courses of action, and any corrective measures, to be taken when monitoring or evaluation indicates project performance standards are not being met.

h. Performance Bonds and Demonstration of Competence: A demonstration of financial resources, administrative, supervisory, and technical competence and scientific expertise of sufficient standing to successfully execute the compensation project shall be provided. A compensation project manager shall be named, and the qualifications of each team member involved in preparing the mitigation plan and implementing and supervising the project shall be provided, including educational background and areas of expertise, training and experience with comparable projects. In addition, bonds ensuring fulfillment of the compensation project, monitoring program, and any contingency measures shall be posted in the amount of one hundred and fifty percent (150%) of the expected cost of compensation. The bond shall be held until monitoring indicates that the performance standards have been achieved and the site is fulfilling its intended goals as defined in the mitigation plan. The Administrator may release portions of the bond at specific performance milestones provided the site is meeting the milestone objectives. Administration costs incurred by Clallam County that are associated with bond administration and/or enforcement shall be paid for by the applicant.

i. Additional information as specified in Sections 8.5 through 8.8, as applicable.

## 8.5 Regulations – Wetland Mitigation Plans

1. The overall goal of a wetland mitigation plan shall be no net loss of wetland functions, acreage, and values.

DRAFT

2. To achieve no net loss, wetland impacts shall be replaced according to the minimum area ratios shown in Table 8-1. The Administrator may increase the ratios by twenty-five percent (25%) when there is a high likelihood that the proposed mitigation will be unsuccessful in fully replacing the wetland functions and values lost at the impact site. The Administrator shall solicit input from the Department of Ecology and the U.S. Army Corps of Engineers when assessing the likelihood of mitigation success.

**Table 8-1. Wetland Mitigation Ratios**

**Comment [SG262]:** The revisions to Table 8-1 address Planning Commission direction to incorporate Ecology's recommended wetland ratios in Table 8-C, Mitigation Ratios for Projects in Western Washington, found in Appendix 8-C, Guidance on Widths of Buffers and Ratios for Compensatory Mitigation for Use with the Western Washington Wetland Rating System, October 2014. Staff coordinated with Ecology wetland staff to further refine based on wetland types in Clallam County.

| ~~Type of Mitigation Activity~~ | ~~Minimum Replacement Ratio (area of replacement to area of impact)~~ |
|---|---|
| ~~Wetland restoration~~ | ~~1.5:1~~ |
| ~~Wetland creation~~ | ~~2:1~~ |
| ~~Wetland enhancement~~ | ~~3:1~~ |
| ~~Wetland preservation~~ | ~~8:1~~ |

| Category & Type of Wetland Impacts | Re-establishment or Creation | Rehabilitation Only[1] | Enhancement Only[1] |
|---|---|---|---|
| All Category IV | 1.5:1 | 3:1 | 6:1 |
| All Category III | 2:1 | 4:1 | 8:1 |
| Category II Estuarine | Case-by-case | 4:1 | Case-by-case |
| All Other Category II | 3:1 | 6:1 | 12:1 |
| Category I Forested | 6:1 | 12:1 | 24:1 |
| Category I Based on Score for Functions | 4:1 | 8:1 | 16:1 |
| Category I Natural Heritage Site | Not considered possible[2] | 6:1 | Case-by-case |
| Category I Coastal Lagoon | Not considered possible[2] | 6:1 | Case-by-case |
| Category I Bog | Not considered possible[2] | 6:1 | Case-by-case |
| Category I Estuarine | Case-by-case | 6:1 | Case-by-case |

[1] These ratios are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective actions may result in higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement.

[2] Natural heritage sites, coastal lagoons, and bogs are considered irreplaceable wetlands because they perform some functions that cannot be replaced through compensatory mitigation. Impacts to such wetlands would therefore result in a net loss of some functions no matter what kind of compensation is proposed. These ratios are based on the assumption that the rehabilitation or enhancement actions implemented represent the average.

3. Those persons proposing or required to compensate for wetland impacts shall show that the compensation project is associated with an activity or development otherwise permitted and that the restored, created, or enhanced wetland will be preserved in perpetuity by accomplishing the following:

    a. Demonstrate sufficient scientific expertise, supervisory capability, and financial resources to carry out the project;

    b. Demonstrate the capability for monitoring the site and to make corrections during this period if the project fails to meet projected goals; and

    c. Protect and manage or provide for the protection and management of the compensation area to avoid further development or degradation.

## 8.6 Regulations – Aquatic and Wildlife Habitat Conservation Areas Mitigation Plans

1. Mitigation plans for impacts to terrestrial habitat conservation areas shall be addressed in a habitat management plan pursuant to Section 7.11.

2. Mitigation plans for impacts to aquatic habitat conservation areas shall include the following information in addition to the information listed in Section 8.4:

    a. Description of buffer zones needed to protect the species/habitat;

    b. Measures for preserving and/or restoring critically important habitat elements including plants and other features;

    c. Limits on access to habitat areas, if needed;

    d. Seasonal restrictions on construction activities;

    e. Establishment of phased development requirements and/or a timetable for periodic review of the plan; and

    f. Other information the Administrator determines is necessary to address the expected impacts of development.

## 8.7 Regulations – Frequently Flooded Areas Mitigation Plans

1. Mitigation plans for development within frequently flooded areas shall include the following information in addition to the information listed in Section 8.4:

    a. Potential that materials may be swept during flooding onto other lands to the detriment of others;

    b. Actual danger to life and property if flooding or erosion occurs;

    c. Susceptibility of the proposed development and its contents to flood damage;

    d. Availability of alternative locations for the proposed use which are not subject to flood or erosion damage;

DRAFT

e. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

f. Safety of access to the property in times of flood for ordinary and emergency vehicles;

g. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action at the site;

h. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities;

i. Location and extent of storage area for floodwater which will be displaced by the proposed development; and

j. The risk to public and private property and public health, safety and welfare due to rising of water levels, shifting of stream channels (including related erosion) as well as costs to individuals and the general public for items which are not insured such as loss of productivity due to closed roads, risk to emergency response workers, loss of uninsured property (cars, landscaping, etc.) and habitat damage as a result of loss of riparian zones and floodplain function.

## 8.8 Regulations – Critical Aquifer Recharge Areas Mitigation Plans

1. Mitigation plans for impacts to critical aquifer recharge areas shall include the following information in addition to the information listed in Section 8.4:

   a. Geologic setting and soils information for the site and surrounding area;

   b. Water quality data, including pH, temperature, dissolved oxygen, conductivity, nitrates, salinity, and bacteria;

   c. Location and depth of perched water tables;

   d. Recharge potential of facility site (permeability/transmissivity);

   e. Hydrologic budget;

   f. Local groundwater flow, direction and gradient;

   g. Location, depth, and other water quality data on the three shallowest wells or springs located within one thousand (1,000) feet of the site;

   h. Impacts on wellhead protection areas located within the development proposal;

   i. Surface water locations within one thousand (1,000) feet of the site;

   j. Discussion of the effects of the proposed project on groundwater quality and quantity;

   k. Recommendations on appropriate mitigation, if any, to assure that there shall be no measurable exceedence of minimum state groundwater quality standards or measurable reduction in available quantity of groundwater;

   l. Emergency management plan; and

   m. Contaminant release detection.



DRAFT

# Chapter 9 Shorelines of Statewide Significance

*Note: The Washington State Legislature designated certain shorelines as "Shorelines of Statewide Significance" from which all of the people of the state derive benefit, and that these shorelines should, therefore, be managed with the interest of all of the people in mind.*

**Comment [SG263]:** Recommended addition to provide background to the subject matter of this Section.

## 9.1 Adoption of Policy

1. In accordance with RCW 90.58.020, the County shall manage shorelines of statewide significance in accordance with this section and in accordance with the Program as a whole. Preference shall be given to uses that are consistent with the statewide interest in such shorelines. Uses that are not consistent with this section or do not comply with other applicable policies and regulations of this Program shall not be permitted on shorelines of statewide significance.

2. In managing shorelines of statewide significance consistent with the policy contained in RCW 90.58.020, ~~Clallam~~ the County in developing, amending, and administering this Program, shall give preference to uses in the following order of preference which:

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

   b. Preserve the natural character of the shoreline;

   c. Seek long-term benefits over short-term benefits;

   d. Protect the resources and ecology of the shoreline;

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

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

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

**Comment [SG264]:** Recommended clarification. Sub-parts 2(a-g) are based on RCW 90.58.020.

DRAFT

## 9.2 Designation of Shorelines of Statewide Significance

1. In accordance with RCW 90.58.030(2)(f), the following Clallam County shorelines are designated shorelines of statewide significance:

   a. Those areas of the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying seaward from the line of extreme low tide; and

   b. The area between the ordinary high water mark and the western boundary of the state including harbors, bays, estuaries, and inlets; and

   c. Shorelines of natural rivers or segments thereof, including portions of the Bogachiel, Calawah, Elwha, Quillayute, and Sol Duc Rivers, downstream from a point where the mean annual flow equals 1,000 cubic feet per second or more.

## 9.3 ~~Use Preference~~Additional Policies for Shorelines of Statewide Significance

Implementation of the policy under Section 9.1 of this Program above shall include:

1. Consistent with RCW 90.58.020, the County shall for shorelines of statewide significance administer and update this Program to consider the following:

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

   b. The public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall interest of the state and people generally.

   c. Uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline.

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

2. Consistent with WAC 173-26-251, the County shall for shorelines of statewide significance administer and update this Program to consider the following:

   a. Recognize and take into account existing state agency policies, programs, and recommendations.

   b. Preserve the shorelines for future generations. For example, actions that would convert resources into irreversible uses or detrimentally alter natural conditions characteristic of shorelines of statewide significance should be severely limited.

   c. Where natural resources of statewide importance are being diminished over time, incorporate provisions to contribute to the restoration of those resources.

   d. Identify the extent and importance of ecological resources of statewide importance and potential impacts to those resources.

   e. Preserve sufficient shorelands and submerged lands to accommodate current and projected demand for economic resources of statewide importance, such as commercial shellfish and navigable harbors. Base projections on statewide or regional analyses, requirements for essential public facilities, and comment from related industry associations, affected Indian tribes, and state agencies.

**Comment [SG265]:** Staff believes there is some confusion regard to how shorelines of statewide significance (see 9.2.1 above) are regulated in terms of Chapter 9 and the rest of the SMP. The other provisions of the SMP such as environmental designations and use tables (Chapter 2), specific use standards (Chapter 3), shoreline modification standards (Chapter 4), general policies/standards (Chapter 5), shoreline buffers (Chapter 6), Critical area policies/standards (Chapter 7), and mitigation and no net loss policies (Chapter 8) are intended to address the policy in 9.1.

Chapter 9 contains policies that need to be considered in addition to the rest of the SMP when new development occurs in such areas and when updating the SMP.

**Comment [SG266]:** The recommended additions under sub-part (1a-d)) are based on Section 90.58.020 of the Shoreline Management Act (SMA).

**Comment [SG267]:** The recommended additions under sub-part (2a-j)) are based on Section WAC 173-26-251 of the state SMP guidelines to implement the Shoreline Management Act related to shorelines of statewide significance

f. Base public access and recreation requirements on demand projections that take into account the activities of state agencies and the interests of the citizens of the state to visit public shorelines with special scenic qualities or cultural or recreational opportunities.

g. Ensure the long-term protection of ecological resources of statewide importance, such as anadromous fish habitats, forage fish spawning and rearing areas, shellfish beds, and unique environments.

h. Consider incremental and cumulative impacts of permitted development and insure no net loss of shoreline ecosystems and ecosystem-wide processes.

i. Provide for the shoreline needs of water-oriented uses and other shoreline economic resources of statewide importance.

j. Provide for the right of the public to use, access, and enjoy public shoreline resources of state wide importance.

3. Review new shoreline uses and developments within shorelines of statewide significance for consistency with the purpose and management policies of the applicable shoreline environmental designations of this Program.

4. Review new shoreline uses and developments within shorelines of statewide significance for consistency with the general, specific shoreline uses/developments, shoreline modifications, shoreline buffers/vegetation conservation, critical areas, and mitigation and no net loss, polices and regulations of this Program.

~~1. To ensure that statewide interests are protected over local interests, the County shall review all development proposals within shorelines of statewide significance for consistency with RCW 90.58.030, this Program, and the following, which are not listed in priority order:~~

~~a.~~5. When shoreline development or redevelopment occurs, it shall include restoration and/or enhancement of ecological functions and ~~conditions~~ecosystem processes impaired by prior development activities ~~if such opportunities exist~~.~~;~~

~~b.~~6. State and federal resource agencies, co-managers, and tribes, shall be consulted for development proposals that affect anadromous fish, shellfish, marine birds, and other shoreline resources~~;~~.

~~c.~~7. Areas that are subject to commercial timber harvest pursuant to the Forest Practices Act and RCW 90.58.150 should be reforested as soon as possible and in accordance with the Forest Practices Act and the Forest and Fish Report~~;~~.

~~d.~~8. Nonconsumptive ~~U~~uses that are sustainable, that do not deplete natural resources, and that are compatible with other approved uses shall be preferred over uses that do not have these qualities~~;~~.

~~e.~~9. Potential short term economic gains or convenience should be measured against ~~Uses that provide~~potential long-term and/or costly ~~benefits shall be preferred over uses that provide only short-term gains;~~impairment of natural features~~;~~.

~~f.~~10. ~~Uses that preserve~~ Protection or enhancement of aesthetic qualities ~~shall be preferred over uses that adversely impact aesthetic qualities~~should be actively promoted in design review of new or expanding development.~~;~~

**Comment [SG268]:** See previous comment related to above revisions.

**Comment [SG269]:** Recommended added policy to reinforce the relationship to Chapter 2 of the SMP.

**Comment [SG270]:** Recommended added policy to reinforce the relationship to Chapters 3-8 of the SMP.

**Comment [SG271]:** Recommend that the prior sub-parts (a-k) be listed as separate policies.

**Comment [SG272]:** Recommended revision for clarification and tie to the terms ecological functions and ecosystem processes that that are defined in Chapter 11.

**Comment [SG273]:** Recommended clarification of intent of this policy.

**Comment [SG274]:** Recommended clarification of intent of this policy.

**Comment [SG275]:** Recommended clarification of intent of policy.

~~g.~~11. Uses that require a shoreline location shall be preferred over non-water-related uses. Non-water-related uses should be located outside the shoreline jurisdiction or in areas where they will not interfere with or displace preferred uses or public access.~~;~~

~~h.~~12. Commercial shellfish beds, areas that support recreation and tourism, and other economic resources of statewide importance shall be protected.~~;~~

~~i.~~13. Uses that have the potential to cause significant erosion and sedimentation due to excavation, land clearing, or other activities shall be strictly regulated to prevent adverse impacts to shoreline functions and processes.~~;~~

~~j.~~14. All public access and recreation use and development shall be designed to protect the ecological resources upon which such activities depend~~; and~~.

~~k.~~15. Public and private development ~~shall~~should be encouraged to provide trails, viewpoints, water access points and water-related recreation opportunities where conditions are appropriate for such uses. Such development is recognized as a high priority use.

**Comment [SG276]:** Recommended addition of intent of policy. Public access to shorelines of statewide significance is a recognized priority. *See Section 9.1.2 (e & f) above.*

DRAFT

# Chapter 10 Administrative Procedures

## 10.1 Administrative Authority and Responsibility

1. The Director of the Clallam County Department of Community Development or his/her designee (the Administrator) is vested with authority to administer this Shoreline Master Program and to:

    a. Recommend to the Hearing Examiner approval, approval with conditions, or denial of any shoreline permit applications or revisions in accordance with the policies and regulations of this Program and the provisions of the Clallam County Code;

    b. Consistent with the Shoreline Management Act and Section 10.2.5 of this Program ~~G~~grant ~~written permit~~ exemptions from shoreline substantial development permit requirements of this Program;

    c. Determine compliance with the State Environmental Policy Act (Chapter 43.21C RCW; Chapter 197-11 WAC);

    d. Make administrative decisions and interpretations of the policies and regulations of this Program and the Shoreline Management Act;

    e. Provide technical and administrative assistance to the Hearing Examiner as required for effective and equitable implementation of this Program and RCW 90.58;

    f. Provide a summary report of the shoreline permits issued in the past calendar year to the Clallam County Board of County Commissioners;

    g. Investigate, develop, and propose amendments to this Program as deemed necessary to more effectively and equitably achieve its goals and policies;

    h. Seek remedies for alleged violations of this Program, the provisions of RCW 90.58, or of conditions of any approved shoreline permit issued by the County;

    i. Coordinate information with affected agencies; and

    j. Forward any decision on any shoreline permit, conditional use permit or variance to the Washington State Department of Ecology for filing or action as required by law.

2. The Clallam County Hearing Examiner is vested with authority to:

    a. Approve, condition, or deny shoreline substantial development permits, variance permits, and conditional use permits after considering the findings and recommendations of the Administrator;

    b. Decide local administrative appeals of the Administrator's actions and interpretations, as provided in this Program and the County Code; and

    c. Conduct public hearings on appeals of the Administrator's actions, interpretations, and decisions.

DRAFT

3. The Board of County Commissioners and Ecology must ~~A~~approve any revisions or amendments to this Program in accordance with the applicable requirements of RCW 90.58 and the Washington Administrative Code Chapter 173-26.

**Comment [SG277]:** Recommended revision is for clarification. The County Board must locally approve any local revision to the SMP. Ecology must approve the local adopted SMP to be effective.

## 10.2 Permit Provisions and Review

### 10.2.0 General Requirements

1. To be authorized, all uses and developments shall be planned and carried out in a manner that is consistent with this Program and the policy of the Shoreline Management Act as required by RCW 90.58.140(1), regardless of whether a shoreline permit, statement of exemption, shoreline variance, or shoreline conditional use permit is required.

2. Determinations of the Administrator regarding the geographic applicability of this Program, permit exemptions and application submittal requirements shall be processed as Type I decisions pursuant to Clallam County Code Chapter 26.10.

3. Whenever the Administrator issues a determination or recommendation and/or conditions of approval on a proposal which will result in the denial or substantial alteration of a proposed action, such determinations will be provided in writing stating the relationship(s) between the ecological factors, the proposed action and the condition(s).

DRAFT

### 10.2.1 Substantial Development Permits

1. Developments that meet the definition of substantial development in RCW 90.58.030 shall not be undertaken on the shoreline of the state without first obtaining a substantial development permit. A substantial development permit shall be required for any development that is not specifically defined as an exempt use from a substantial development permit under WAC 173-27-010 or a specified conditional use/development/modification under this Program.

2. Applications for shoreline substantial development permits shall be processed as Type III decisions pursuant to Clallam County Code Chapter 26.10.

3. A substantial development permit shall be granted only when the applicant can demonstrate that the proposed development is consistent with the policies and procedures of the Shoreline Management Act and this Program, as well as criteria in WAC 173-27-150.

### 10.2.2 Conditional Use Permits

1. The purpose of a conditional use permit is to allow greater flexibility in administering the use regulations of this Program in a manner consistent with the policies of RCW 90.58.020.

~~1.~~2. In authorizing a conditional use, special conditions may be attached to the permit by the Hearing Examiner or the Department of Ecology to control any undesirable effects of the proposed use. Final authority for conditional use permit decisions rests with the Department of Ecology.

~~2.~~3. Applications for shoreline conditional use permits shall be processed as Type III decisions pursuant to Clallam County Code Chapter 26.10.

~~3.~~4. A use that is specifically classified or set forth in this Program as conditional uses may be authorized provided the applicant/proponent can demonstrate all of the following:

a. That the proposed use will be consistent with the policies of RCW 90.58.020 and this Program.

b. That the proposed use will not interfere with normal public use of public shorelines.

c. That the proposed use of the site and design of the project will be compatible with other permitted uses within the area.

d. That the proposed use will not cause adverse ~~effects~~impacts to the shoreline environment in which it is to be located.

e. That the public interest suffers no substantial detrimental effect.

~~4.~~5. In the granting of all conditional use permits, consideration shall be given to the cumulative environmental impact of additional requests for similar actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the sum of the conditional uses and their impacts should also remain consistent with the policies of RCW 90.58.020 and should not produce a significant adverse ~~effect~~impact to the shoreline ecological functions and ecosystem processes or other users.

### 10.2.3 Variances

1. The purpose of a shoreline variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in this Program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the master program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

2. Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

3. Applications for shoreline variances shall be processed as Type III decisions pursuant to Clallam County Code Chapter 26.10.

4. Variance permits for shoreline development and/or uses that will be located landward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(b), and/or landward of any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:

   a. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;

   b. That the hardship described in (a) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;

   c. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;

d. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;

e. That the variance requested is the minimum necessary to afford relief; and

f. That the public interest will suffer no substantial detrimental effect.

5. Variance permits for shoreline development and/or uses that will be located waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(b), or within any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:

   a. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property;

   b. That the proposal is consistent with the criteria established under subsection (4)(b) through (f) of this subsection; and

   c. That the public rights of navigation and use of the shorelines will not be adversely ~~affected~~impacted.

6. In the granting of all shoreline variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example if variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse ~~effects~~impacts to the shoreline environment.

7. Variances from the use regulations of the master program are prohibited.

### 10.2.4 Unclassified Uses

1. Other uses not specifically classified or set forth in this Program may be authorized as conditional uses provided the applicant/proponent can demonstrate that the proposal will satisfy the criteria set forth in this chapter, and that the use clearly requires a specific site location on the shoreline not provided for under the Program, and extraordinary circumstances preclude reasonable use of the property in a manner consistent with the use regulations of this Program.

### 10.2.5 Exemptions from Shoreline Substantial Development Permit

1. Activities and uses that are exempt from the requirement to obtain a shoreline substantial development permit are listed in RCW 90.58.030(3)(e) and WAC 173-27-040.

2. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions in RCW 90.58.030(3)(e) and WAC 173-27-040 may be granted exemptions from the substantial development permit process.

3. An exemption from the substantial development permit process is not an exemption from compliance with RCW 90.58 or this Program, or from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of this Program and RCW 90.58.

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4. A use or development that is listed as a conditional use pursuant to this Program, or is an unlisted use or development, must obtain a conditional use permit even if the development or use does not require a substantial development permit.

5. When a development or use is proposed that does not comply with the bulk, dimensional and/or performance standards of the Program, such development or use shall only be authorized by approval of a shoreline variance even if the development or use does not require a substantial development permit.

6. The burden of proof that a development or use is exempt is on the applicant/proponent of the exempt development/use.

7. If any part of a proposed development is not eligible for exemption, then a substantial development permit is required for the entire proposed development project.

8. Exempt activities shall not be conducted until a statement of exemption has been obtained from the Administrator.

9. All statements of exemption shall be in writing on forms attached to this Program (Exhibit B). As appropriate, statements of exemptions shall contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of the Program and RCW 90.58. The granting of a statement of exemption shall constitute a valid authorization to engage in the activity or development.

10. The Administrator's actions on the issuance of a statement of exemption or a denial are subject to appeal pursuant to the appeal provisions listed in this chapter.

11. No statement of exemption is required for emergency development pursuant to WAC 173-14-040~~(1)~~(2)(d).

**Comment [SG278]:** Reference correction.

12. Whenever the exempt activity also requires a U.S. Army Corps of Engineers Section 10 permit under the Rivers and Harbors Act of 1899 or a Section 404 permit under the Federal Water Pollution Control Act of 1972, a copy of the written statement of exemption shall be sent to the applicant/proponent and Ecology pursuant to WAC 173-27-050.

### 10.2.6 Permit Conditions

1. In granting, revising, or extending a shoreline permit, the review authority may attach such conditions, modifications, or restrictions thereto regarding the location, character, and other features of the proposed development deemed necessary to assure that the development will be consistent with the policy and provisions of RCW 90.58 and this Program as well as the supplemental authority provided in RCW 43.21C as applicable. In cases involving unusual circumstances or uncertain effects, a condition may be imposed to require monitoring with future review or reevaluation to assure conformance with RCW 90.58 and this Program.

2. When permit or permit exemption approval is based on conditions, such conditions shall be satisfied prior to occupancy or use of a structure or prior to commencement of a non-structural activity; provided that an alternative compliance limit may be specified in the permit or permit exemption.

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### 10.2.7 Expiration of Permits and Permit Exemptions

1. The following time requirements shall apply to all permit exemptions, substantial development permits, and to any development authorized pursuant to a variance permit or conditional use permit:

   a. Construction shall be commenced or, where no construction is involved, the use or activity shall be commenced within two (2) years of the effective date of the permit or permit exemption, provided that the review authority may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the Department of Ecology.

   b. Authorization to conduct development activities shall terminate five (5) years after the effective date of a permit or permit exemption; provided that the Administrator may authorize a single extension for a period not to exceed one (1) year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the Department of Ecology.

### 10.2.8 Permits and Permit Exemptions - Effective Date

1. The effective date of a shoreline permit or permit exemption shall be the date of the last action required on the shoreline permit or permit exemption and all other government permits and approvals that authorize the development to proceed, including all administrative and legal actions on any such permit or approval.

2. It is the responsibility of the project proponent to inform the Administrator of the permit applications filed with agencies other than Clallam County and of any related administrative and legal actions on any permit or approval. If no notice of the permits or approvals is given to the Administrator prior to the date established by the shoreline permit, permit exemption, or the provisions of this section, the expiration of a permit shall be based on the shoreline permit or permit exemption.

3. The Administrator shall notify the Department of Ecology in writing of any change to the effective date of a substantial development permit, variance permit, or conditional use permit as authorized by this section, with an explanation of the basis for approval of the change. Any change to the time limits of a permit or permit exemption other than those authorized by this section shall require a new permit application.

### 10.2.9 Permit Revisions

1. A permit revision is required whenever the applicant/proponent proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, this Program or RCW 90.58. Changes that are not substantive in effect do not require a permit revision.

2. An application for a revision to a shoreline permit shall be submitted to the Administrator. The application shall include detailed plans and text describing the proposed changes. The County decision maker that approved the original permit may approve the request upon a finding that the proposed changes are within the scope and intent of the original permit, and are consistent with this Program and RCW 90.58.

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3. "Within the scope and intent of the original permit" means all of the following:

   a. No additional overwater construction is involved except that a pier, dock or floating structure may be increased by ten percent (10%) over that approved under the original permit;

   b. Ground area coverage and/or height may be increased a maximum of ten percent (10%) over that approved under the original permit provided that the revised permit does not authorize development to exceed the height, lot coverage, setback or any other requirements of this Program except as authorized under a variance granted for the original development;

   c. Additional or revised landscaping is consistent with any conditions attached to the original permit and with this Program;

   d. The use authorized pursuant to the original permit is not changed; and

   e. The revision will not cause adverse environmental impacts beyond those originally authorized in the permit.

4. Revisions to shoreline permits may be authorized after the original permit authorization has expired. Revisions made after the expiration of the original permit shall be limited to changes that are consistent with this Program and that would not require a permit under this Program. If the proposed change is a substantial development as defined by this Program, then a new permit is required. The provisions of this paragraph shall not be used to extend the time requirements or to authorize substantial development beyond the time limits or scope of the original permit.

5. A new permit shall be required if the proposed revision and any previously approved revisions in combination would constitute development beyond the scope and intent of the original permit.

6. Upon approval of a permit revision, the decision maker shall file with the Department of Ecology a copy of the revised site plan and a detailed description of the authorized changes to the original permit, together with a final ruling and findings supporting the decision based on the requirements of this section. In addition, the decision maker shall notify parties of record of the action.

   a. If the proposed revision is to a development for which a shoreline conditional use or variance was issued, the decision maker shall submit the revision to the Department of Ecology for approval with conditions or denial, and shall indicate that the revision is being submitted under the requirements of this paragraph. Under the requirements of WAC 173-27-110(6), the Department of Ecology shall render and transmit to the decision maker and the applicant/proponent its final decision within fifteen (15) days of the date of the Department of Ecology's receipt of the submittal from the decision maker. The decision maker shall notify parties on record of the Department of Ecology's final decision. Appeals of a decision of the Department of Ecology shall be filed in accordance with the provisions of WAC 173-27-110(8).

### 10.2.10 Fees

1. Required fees for all shoreline substantial development permits, shoreline conditional use permits, shoreline variances, statements of exemption, appeals, pre-application conferences

and other required approvals shall be paid to the County at the time of application in accordance with the Clallam County Consolidated Fee Schedule, CCC 5.100, in effect at that time.

### 10.2.11 Transfer of Permits

1. An approved substantial development permit, conditional use permit, or variance permit may be transferred from the original project proponent to any successor in interest to the project proponent provided that all of the conditions and requirements of the approved permit or variance shall continue in effect as long as the use or activity is pursued or the structure exists unless the terms of the substantial development permit, conditional use permit, or variance permit are modified in accordance with the relevant provisions of this Program.

### 10.2.12 Permit Criteria for All Development

1. No authorization to undertake use or development on shorelines of the state shall be granted unless upon review the use or development is determined to be consistent with the policy and provisions of the Shoreline Management Act and this Program.

2. No permit shall be issued for any new or expanded building or structure of more than thirty-five (35) feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where a master program does not prohibit the same and then only when overriding considerations of the public interest will be served.

## 10.3 Permit Application Process

### 10.3.0 Minimum Permit Application Requirements

1. A complete application for a substantial development, conditional use, or variance permit shall contain, as a minimum, all of the information required in any applicable section of this Program, all of the information required in Clallam County Code Chapter 26.10.310, and any other information the Administrator deems pertinent, including at a minimum:

   a. The name, address, and phone number of the applicant/proponent, applicant's representative, and/or property owner if different from the applicant/proponent.

   b. The property address and identification of the section, township and range to the nearest quarter, quarter section, or longitude and latitude to the nearest minute.

   c. The name of the shoreline (water body) that the site of the proposal is associated with.

   d. A general description of the property as it exists at the time of application including its use, physical and ecological characteristics, improvements and structures.

   e. A general description of the project vicinity including adjacent uses, structures and improvements, development intensity, and physical characteristics.

   f. A vicinity map showing the relationship of the property and proposed development or use to roads, utilities, existing developments and uses on adjacent properties.

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g. A site plan and/or engineered drawings identifying existing conditions, consisting of photographs, text, maps and elevation drawings, drawn to an appropriate scale to clearly depict all required information.

h. Location of the ordinary high water mark of all water bodies within or adjacent to the project boundary. For any development that requires a precise location of the ordinary high water mark, the applicant/proponent shall provide a survey and describe the biological and hydrological basis for the location as indicated on the plans. Where the ordinary high water mark is neither adjacent to nor within the boundary of the project, the plan shall indicate the distance and direction to the ordinary high water mark of the adjacent shoreline.

i. Existing land contours at intervals sufficient to accurately determine the existing character of the property. Areas within the project boundary that will not be altered by the development may be indicated as such and contours approximated for that area.

j. A summary characterization of the effects of the project on existing ecological functions and processes in the vicinity of the project. If the project is likely to have adverse ~~effects~~impacts on shoreline ecological functions or processes, a mitigation plan meeting the requirements of Section 8.3 shall be provided demonstrating measures that will be taken to offset impacts and achieve no net loss.

k. On all variance applications, the plans shall clearly indicate where development could occur without approval of a variance, the physical features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and use.

l. On all conditional use permit applications, the proponent shall provide information demonstrating that the proposal meets the conditional use permit criteria listed in Section 10.2.2 of this Program.

2. Where other approvals or permits are required for a use or development that does not require an open record hearing, such approvals or permits shall not be granted until a shoreline approval or permit is granted. All shoreline approvals and permits shall include written findings prepared by the Administrator documenting compliance with bulk and dimensional standards and other policies and regulations of this Program.

### 10.3.1 Burden of Proof

1. Permit applicants/proponents have the burden of proving that the proposed development is consistent with the criteria set forth in RCW 90.58 and this Program.

### 10.3.2 Pre-application Meeting

1. In accordance with Clallam County Code Chapter 26.10.230, all prospective applicants for Type I – III permits may apply for an optional pre-application meeting. Pre-application meetings are strongly encouraged.

2. As stated in Clallam County Code Chapter 26.10.230(2), the purpose of the pre-application meeting is to provide the applicant with the best available information regarding the application requirements and development information necessary for review prior to expenditure of the application fees and scheduling of the application review process.

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### 10.3.3 Notice of Application and Permit Application Review

1. Public notice requirements shall occur in accordance with Clallam County Code Chapter 26.10 and the following:

   a. Type I permits (Statements of Exemption) shall not require notice of application or open record hearing consistent with Clallam County Code Chapter 26.10.210. However, if a Type I permit is not categorically exempt under SEPA, then a notice may be required.

   b. The County shall issue a notice of application on all Type II and Type III project permit applications in accordance with Clallam County Code Chapter 26.10.410.

2. Permit application review shall occur in accordance with Clallam County Code Chapter 26.10.340.

### 10.3.4 Public Hearings

1. Public hearings shall occur in accordance with Clallam County Code Chapter 26.10 CCC.

2. Public hearing requirements for permit appeals shall be processed according to Clallam County Code Chapter 26.10 Part Six, provided that appeals of a determination regarding a statement of exemption shall occur in accordance with Clallam County Code Chapter 26.10.6100. The fee for such appeal shall be as set forth in the Clallam County fee schedule and must be paid by the appellant at the time of filing the appeal.

### 10.3.5 Notice of Decision, Reconsideration, and Appeal

1. A notice of decision for action on a shoreline substantial development permit, shoreline variance, or shoreline conditional use permit shall be provided to the applicant/proponent and any party of record in accordance with the procedures of Clallam County Code Chapter 26.10 and at least ten (10) days prior to filing such decisions with the Department of Ecology pursuant to WAC 173-27-130. Decisions filed with the Department of Ecology shall contain all of the following information:

   a. A copy of the complete application;

   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 local government;

   d. Where applicable, local government shall also file the applicable documents required by SEPA, or in lieu thereof, a statement summarizing the actions and dates of such actions taken under RCW Chapter 43.21C; and

   e. When the project has been modified in the course of the local review process, plans or text shall be provided that clearly indicate the final approved plan.

2. A notice of decision for shoreline statements of exemption shall be provided to the applicant/proponent and any party of record. Such notices shall also be filed with the Department of Ecology, pursuant to the requirements of WAC 173-27-050. Statements of exemption shall be required for all exempt developments as indicated in Section 10.2.5.



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3. This Program shall only establish standing for parties of record for shoreline substantial development permits, shoreline variances, or shoreline conditional use permits. Standing as a party of record is not established by this Program for exempt actions; provided that, in such cases standing may be established through an associated permit process that provides for public notice and provisions for parties of record.

4. The applicant/proponent or any party of record may request reconsideration of any final action by the decision maker within ten (10) days of notice of the decision. Such requests shall be filed on forms supplied by the County. Grounds for reconsideration must be based upon the content of the written decision. The decision maker is not required to provide a written response or modify his/her original decision. He/she may initiate such action as he/she deems appropriate. The procedure of reconsideration shall not preempt or extend the appeal period for a permit or affect the date of filing with the Department of Ecology, unless the applicant/proponent requests the abeyance of said permit appeal period.

5. Appeals to the Shoreline Hearings Board of a decision on a shoreline substantial development permit, shoreline variance, or shoreline conditional use permit may be filed by the applicant/proponent or any aggrieved party pursuant to RCW 90.58.180 within twenty-one (21) days of filing the final decision by Clallam County with the Department of Ecology.

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### 10.3.6 Third-party Review

1. The Administrator shall determine when third-party review shall be required. Third-party review allows any technical studies or inventories provided by the project proponent to be reviewed by an independent third party, paid for by the project proponent, but hired by the Administrator. The Administrator shall require third party review when he/she determines that such review is necessary to adequately evaluate a proposal's potential impacts and accordance with the relevant provisions of this Program. A qualified professional shall conduct third-party review.

### 10.3.7 Initiation of Development

1. Development pursuant to a shoreline substantial development permit, shoreline variance, or conditional use shall not begin and shall not be authorized until twenty one (21) days after the "date of filing" or until all review proceedings before the Shoreline Hearings Board have terminated.

2. "Date of filing" of a substantial development permit is the date of actual receipt of the decision by the Department of Ecology. The "date of filing" for a shoreline variance or shoreline conditional use permit shall mean the date the permit decision rendered by the Department of Ecology, is transmitted by the Department of Ecology to the County and the applicant/proponent.

## 10.4 Remedies and Enforcement

### 10.4.0 Permit Rescission and Modification

1. Any shoreline permit granted pursuant to this Program may be rescinded or modified upon a finding by the Hearing Examiner that the permittee or his/her successors in interest have not complied with conditions attached thereto. A specific monitoring plan may be required as a condition of a permit with specific reporting requirements. If the monitoring plan is not implemented, the permittee may be found to be non-compliant. The results of a monitoring

plan may show a development to be out of compliance with specific performance standards, which may be the basis for findings of non-compliance.

2. The Administrator shall initiate rescission or modification proceedings by serving written notice of non-compliance to the permittee or his/her successors and notifying parties of record at the original address provided in application review files.

3. The Hearing Examiner shall hold a public hearing no sooner than fifteen (15) days following such service of notice, unless the applicant/proponent files notice of intent to comply and the Administrator grants a specific schedule for compliance. If compliance is not achieved, the Administrator shall schedule a public hearing before the Hearing Examiner. Upon considering written and oral testimony taken at the hearing, the Hearing Examiner shall make a decision in accordance with the above procedure for shoreline permits.

4. These provisions do not limit the Administrator, the Prosecuting Attorney, the Department of Ecology, or the Attorney General from administrative, civil, injunctive, declaratory or other remedies provided by law, or from abatement or other remedies.

### 10.4.1 Violations and Penalties

1. In addition to incurring civil liability under Clallam County Code Title 20 and RCW 90.58.210, pursuant to RCW 90.58.220 any person found to have willfully engaged in activities on shorelines of the state in violation of the provisions of RCW 90.58 or of this Program, or other regulations adopted pursuant thereto, shall be punished by:

   a. A fine of not less than twenty-five dollars ($25) or more than one thousand dollars ($1,000);

   b. Imprisonment in the County jail for not more than ninety (90) days; or

   c. Both such fine and imprisonment; provided that, the fine for the third and all subsequent violations in any five (5) year period shall not be less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000). Provided further that fines for violations of RCW 90.58.550, or any rule adopted thereunder, shall be determined under RCW 90.58.560.

2. Any person who willfully violates any court order or regulatory order of injunction issued pursuant to this Program shall be subject to a fine of not more than five thousand dollars ($5,000), imprisonment in the County jail for not more than ninety (90) days, or both.

### 10.4.2 Remedies

1. The Clallam County Prosecuting Attorney, or Administrator, where authorized, shall bring such injunctive, declaratory, or other actions as are necessary to ensure that no uses are made of the shorelines of the state located within Clallam County in conflict with the provisions of this Program, RCW 90.58, or other regulations adopted pursuant thereto, and to otherwise enforce the provisions of this Program.

2. Any person subject to the regulatory provisions of this Program or RCW 90.58 who violates any provision thereof, or permit or permit condition issued pursuant thereto, shall be liable for all damage to public or private property arising from such violation, including the cost of restoring the affected area to its conditions prior to violation. The Clallam County Prosecuting Attorney shall bring suit for damages under this section on their own behalf and on the behalf

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of all persons similarly situated. If liability has been established for the cost of restoring an area affected by a violation, the court shall make provision to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including money damages, the court in its discretion may award attorney's fees and costs of the suit to the prevailing party.

3. A person who fails to conform to the terms of a substantial development permit, conditional use permit, or variance issued under RCW 90.58.140, who undertakes a development or use on shorelines of the state without first obtaining a permit, or who fails to comply with a cease and desist order, may be subject to a civil penalty. The penalty shall be imposed pursuant to the procedure set forth in WAC 173-27-280 and become due and recovered as set forth in WAC 173-27-290(3) and (4). Persons incurring a penalty may appeal the same to the Shoreline Hearings Board or the Clallam County Board of County Commissioners pursuant to WAC 173-27-290(1) and (2).

### 10.4.3 Inspections

1. Whenever it is necessary to make an inspection to enforce any of the provisions of this Program, or whenever the Administrator has reasonable cause to believe that there exists in any building, or upon any premises, any condition that constitutes a violation of this Program, the Administrator shall take any action authorized by law. The Clallam County Prosecuting Attorney shall provide assistance to the Administrator in obtaining administrative search warrants or other legal remedies when necessary.

### 10.4.4 Abatement

1. Structures or development on shorelines considered by the Administrator to present a hazard or other public nuisance to persons, properties, or natural features may be abated by the County under the applicable provisions of the Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition or successor as adopted by Clallam County, or by other appropriate means.

## 10.5 State Environmental Policy Act (SEPA) Compliance

1. Whenever an application for shoreline substantial development permit, shoreline variance, shoreline conditional use permit, or statement of exemption is subject to the rules and regulations of SEPA (RCW 43.21C), the review requirements of SEPA, including time limitations, shall apply, where applicable.

2. Applications for shoreline permit(s) or approval(s) that are not categorically exempt shall be subject to environmental review by the responsible official of Clallam County pursuant to the State Environmental Policy Act (WAC 197-11).

3. As part of SEPA review, the responsible official may require additional information regarding the proposed development in accordance with WAC 197-11.

4. Failure of the applicant/proponent to submit sufficient information for a threshold determination to be made shall be grounds for the responsible official to determine the application incomplete.

## 10.6 Master Program Amendments

1. Pursuant to RCW 90.58.190 and RCW 36.70A.280, a decision by the Clallam County Board of County Commissioners to amend this Program shall not constitute a final appealable decision until the Department of Ecology has made a decision to approve, reject, or modify the proposed amendment. Following the decision of the Department of Ecology regarding the proposed amendment, the decision may be appealed to the Western Washington Growth Management Hearings Board.

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# Chapter 11 Definitions

## A

1. Abandon means to terminate the use of a structure by an affirmative act such as changing to a new use; or to cease, terminate, or vacate a use or structure through nonaction. Land uses that have been discontinued for eighteen (18) or more consecutive months are considered abandoned and no longer vested under this Program; except that agriculture, which has been discontinued for five (5) consecutive years, is considered abandoned and will no longer be vested under this Program. Subsequent uses of the property must be in conformance with this Program and the County Code, as they apply.

2. Abutting means adjoining with a common boundary line or any portion thereof.

3. Accessory dwelling unit or "ADU" means a separate dwelling unit within a single-family dwelling or a separate structure associated with a single-family dwelling which is incidental and subordinate to the primary residential use of the property. Accessory dwelling units are further defined as follows:

   a. Detached. Those accessory dwelling units that are lawfully constructed within existing outbuildings, or stand alone, where the ADU does not share a common wall with the primary residential dwelling unit.

   b. Attached. Those accessory dwelling units that share a common wall or floor/ceiling with the primary dwelling unit and do not meet the definition of detached accessory dwelling unit.

4. Accessory use means any legally established use or structure which is necessary for the full use and enjoyment of the primary use of the property, is typically associated with the primary use, and is subordinate to or incidental to the primary use of a parcel and which includes the utilities necessary to serve the accessory use.

5. Accretion means the slow addition of land by the deposition of water-borne sediment through the net effect of wave action and longshore drift.

6. Act means the Shoreline Management Act of 1971 (RCW 90.58) as amended.

7. Adequate means acceptable but not excessive.

8. Adjacent means (in addition to abutting) that which is near or close; for example, an industrial district across the road or highway from a commercial district shall be considered as adjacent.

9. Adjacent lands, shoreline means lands adjacent to the shorelines of the state (outside of shoreline jurisdiction). See RCW 90.58.340.

10. Administrator means ~~means~~ the Director of the Department of Community Development or his/her designee, who is responsible for carrying out the administrative duties set forth in this code.

11. Adverse impact means a condition that creates, imposes, aggravates, or leads to inadequate, impractical, unsafe, or unhealthy conditions or substantially degrades ecological functions or processes.

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12. Advertising means publicly displayed messages or signs, billboards, placards, or buildings that direct attention to promotion of a business, service, or product.

13. Aggrieved party means a party of record who can demonstrate the following:

    a. The land use decision will prejudice the person;

    b. The asserted interests are among those the County is required by County code, federal or state law or regulation to consider in making a land use decision; and

    c. A decision on appeal in favor of the person would substantially eliminate or redress the prejudice alleged to be caused by the land use decision.

14. 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.

15. Agricultural equipment and agricultural facilities means to include, but is not limited to:

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

    b. Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;

    c. Farm residences and associated equipment, lands, and facilities; and

    d. Roadside stands and on-farm markets for marketing fruit or vegetables. WAC 173-26-020.

~~15.~~16. Agricultural land means those specific land areas on which agriculture activities are conducted as of the date of adoption of this Program pursuant to the state guidelines (WAC 173-26) as evidenced by aerial photography or other documentation. After the effective date of the Program, land converted to agricultural use is subject to compliance with the requirements of the Program.

17. Agricultural products means to include, but is not limited to, horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and livestock including both the animals themselves and animal products including, but not limited to, meat, upland finfish, poultry and poultry products, and dairy products. WAC 173-26-020. Upland finfish aquaculture use and development is subject to the Aquaculture policies and regulations of this Program.

~~16.~~18. Agriculture, existing and ongoing means any agricultural activity conducted on an ongoing basis on lands enrolled in the open space tax program for agriculture or designated as agricultural lands of long-term commercial significance on the official map of Comprehensive Plan land use designations; provided, that agricultural activities were conducted on those lands at any time during the five-year period preceding April 28, 2003. Agricultural use ceases when the area on which it is conducted is converted to a nonagricultural use.

~~17.~~19. Agriculture, new means agricultural activities proposed or conducted after April 28, 2003, and that do not meet the definition of existing and ongoing agriculture.

~~18.~~20. Allowed use means uses allowed subject to the provisions of this Program, including meeting applicable performance and development standards; if a building permit or other development permit (e.g., stormwater permit) is required, the use is subject to the project review and approval process.

~~19.~~21. Alteration means any human induced change in an existing condition of a shoreline and/or its buffer. Alterations include, but are not limited to grading; filling; channelizing; dredging; clearing (vegetation); draining; constructing structures; compaction, excavation, or any other activity that changes the character of a site.

~~20. Alteration, nonconforming structures means any change or rearrangement in the supporting members of existing buildings, such as bearing walls, columns, beams, girders, or interior partitions, as well as any changes in doors, windows, means of egress or ingress or any enlargement to or diminution of a building or structure, horizontally or vertically, or the moving of a building from one location to another. This definition excludes normal repair and maintenance, such as painting or roof replacement, but includes more substantial changes.~~

**Comment [SG279]:** Deleted because the term is not used in the body of the SMP.

~~21.~~22. Alteration, nonconforming use means the expansion, modification or intensification of a use that does not conform to the land use regulations of this Program.

~~22.~~23. Anadromous fish means fish species that spend part of their lifecycle in saltwater, but return to freshwater to reproduce.

~~23.~~24. Appeal means a request by an applicant or citizen that a decision made pursuant to this Program be reviewed for its correctness and legality by another person, agency or court of law having jurisdiction to hear such an appeal.

~~24.~~25. Applicant means the owner or owners of record of the property subject to a project permit application under this Program, or authorized representative thereof.

~~25.~~26. Application means the forms, plans and accompanying documents required for any project permit approval under this code.

~~26.~~27. Aquatic Habitat Conservation Areas means the subset of fish and wildlife habitat conservation areas listed in WAC 395-190-130(1) that occur in the water.

~~27.~~28. Aquaculture means the ~~farming or~~ culture or farming of ~~food~~ fish, shellfish, or other aquatic plants or animals ~~either on land or in freshwater or saltwater areas, and may include development such as structures or rafts, as well as use of natural spawning and rearing areas.~~ Aquaculture does not include the harvest of ~~wildstock geoducks on state-owned lands. Wildstock geoduck harvest is a fishery.~~wild geoduck associated with the state managed wildstock geoduck fishery. WAC 173-26-020.

~~28.~~29. Aquaculture activity means actions directly pertaining to growing, handling, or harvesting of aquaculture produce including but not limited to propagation, stocking, feeding, disease treatment, waste disposal, water use, development of habitat and structures. Excluded from this definition are related commercial or industrial uses such as wholesale and retail sales, or final processing and freezing.

~~29.~~30. Aquaculture facility or farm means any facility or tract of land used to culture aquatic products. Each geographically separate facility or tract of land used for aquaculture shall constitute a separate facility/farm, provided that adjoining farms/facilities with separate operators shall be considered separate facilities/farms.

~~30.~~31. Archaeological means having to do with the scientific study of material remains of past human life and activities.

~~31.~~32. Archaeological resource/site means a geographic locality including, but not limited to, submerged and submersible lands and the bed of the sea that contains physical evidence of an indigenous and subsequent culture including material remains of past human life, monuments, symbols, tools, facilities, graves, skeletal remains and technological byproducts:

a. That are associated with events that have made a significant contribution to the broad patterns of our history; or

b. That are associated with the lives of significant persons in our past; or

c. That embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

d. That have yielded or may be likely to yield, information important in history or prehistory.

~~32.~~33. Archaeologist means a person who has designed and executed an archaeological study as evidenced by a thesis or dissertation and has been awarded an advanced degree such as an M.A., M.S. or Ph.D. from an accredited institution of higher education in archaeology, anthropology, or history or other germane discipline with a specialization in archaeology; has a minimum of one (1) year of field experience with at least twenty-four (24) weeks of field work under the supervision of a professional archaeologist, including no less than twelve (12) weeks of survey or reconnaissance work, and at least eight (8) weeks of supervised laboratory experience. Twenty (20) weeks of field work in a supervisory capacity must be documentable with a report produced by the individual on the field work.

~~33.~~34. Associated wetlands means wetlands that are in proximity to tidal waters, lakes, rivers or streams that are subject to the Shoreline Management Act and either influence or are influenced by such waters. Factors used to determine proximity and influence include but are not limited to: location contiguous to a shoreline waterbody, formation by tidally influenced geo-hydraulic processes, presence of a surface connection including through a culvert or tide gate, location in part or whole within the 100-year floodplain of a shoreline, periodic inundation, and/or hydraulic continuity.

~~34.~~35. Average grade level means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property on that part of the lot to be occupied by the building or structure as measured by averaging the elevations at the center of all exterior walls of the

DRAFT

proposed structure. In the case of structures to be built over the water, the average grade level shall be the elevation of the ordinary high water mark.

**Comment [SG280]:** The correct full reference is ordinary high water mark.

## B

~~35.~~36. Beach means the zone of accumulated, unconsolidated sediment that is moved by waves, wind and tidal currents.

~~36. Beach restoration and enhancement means the alteration of freshwater and marine shorelines or submerged shorelines for the purposes of recreational enhancement, or aquatic habitat creation, reestablishment or upgrading.~~

**Comment [SG281]:** Deleted because the term is not used in the body of the SMP.

37. Base flood means the flood having a one percent chance of being equaled or exceeded in any given year; also known as the 100-year flood, as shown on the FIRM maps.

38. Base flood elevation means the elevation for which there is a one percent chance in any given year that flood levels will equal or exceed it.

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

~~40. Beds of navigable waters means those lands lying waterward of and below the line of navigability on rivers and lakes not subject to tidal flow, or extreme low tide mark in navigable tidal waters, or the outer harbor line where harbor area has been created (RCW 79.105.060(2)).~~

**Comment [SG282]:** Deleted because the term is not used in the body of the SMP.

~~41.~~40. Bedrock means a general term for rock, typically hard, consolidated geologic material that underlies soil or other unconsolidated, superficial material or is exposed at the surface.

~~42.~~41. Berm ~~or protective berm~~ means one or several accreted linear mounds of sand and gravel generally paralleling the shore on a beach in the vicinity of the mean higher high water and the ordinary high water mark. Natural berms are normally composed of a variety of sediment sizes and may be vegetated on the landward portion, and are naturally formed by net shore drift. Also, a linear mound used to screen an adjacent activity (e.g., a parking lot) from transmitting excess noise and glare.

**Comment [SG283]:** Deleted because the term is not used in the body of the SMP.

~~43.~~42. Best management practices (BMPs) means systems of practices, schedules of activities, prohibitions, maintenance procedures, and management measures that prevent or minimize adverse impacts to the environment.

~~44.~~43. Bioengineering ~~or Biostabilization~~ means the practice of using natural vegetative materials to stabilize shorelines and prevent erosion. This may include use of bundles of stems, root systems, or other living plant material, soft gabions, fabric or other soil stabilization techniques, and limited rock toe protection where appropriate. Bioengineering projects often include habitat enhancement measures (e.g., anchored logs, root wads, etc.). Such techniques may be applied to creeks, rivers, lakes, reservoirs, and marine waters. Bioengineering may also be applied in upland areas away from the immediate shoreline.

**Comment [SG284]:** Deleted because the term is not used in the body of the SMP.

~~45.~~44. Board (BOCC) means the Board of County commissioners for Clallam County.

DRAFT

~~46. Boat building and repair, commercial means a commercial establishment where boats are constructed, dismantled, stored, serviced, or repaired, including maintenance work thereon.~~

**Comment [SG285]:** Deleted because the term is not used in the body of the SMP.

~~47.~~45. Boating facilities means any public or private facility for launching or wet storage of vessels or watercraft, including such facilities that additionally provide landing for water dependent recreation. This includes marinas, open water moorage and anchorage areas, boat launch ramps, boat lifts, mooring buoys, piers, floats and docks or any other similar single-user or shared-use facility for public recreational use or private residential use. For purposes of this Program, upland boathouses, boat repair shops, and other upland (dry) boat storage structures are not considered boating facilities.

~~48.~~46. Boathouse means an enclosed structure on land designed and used exclusively for the storage of boats and boating equipment and not used as a dwelling unit.

~~49.~~47. Boat launch or boat ramp means a slab, pad, plank, rail, or graded slope used for launching boats by means of a trailer, hand, or mechanical device.

~~50.~~48. Boat lift is an in-water structure used for the dry berthing of vessels above the water level and lowering of vessels into the water periodically. A boat lift as herein defined is used to berth and launch a single vessel, suspended over the water's surface. A boat lift is generally a manufactured unit without a canopy cover and may be placed in the water adjacent to a dock/pier or as a stand-alone structure. A boat lift may be designed either for boats or personal watercraft. A boat lift is to be differentiated from a hoist or crane used for the launching or haul-out of vessels.

~~51. Bottom aquaculture means all aquaculture systems that are set on or securely and rigidly attached to the tidelands or bedlands and do not extend higher than six feet from the bottom (excluding hoists and similar apparatus). Bottom aquaculture includes but is not limited to geoduck tubes, oyster longlines, clam netting, oyster rack and bags, and clam bags. Bottom aquaculture does not include aquaculture suspended from rafts or buoys or contained in floating net pens.~~

**Comment [SG286]:** Deleted because the term is not used in the body of the SMP.

~~52.~~49. Breakwater means an offshore structure that is generally built parallel to shore that may or may not be connected to land, and may be floating or stationary. Their primary purpose is to protect harbors, moorages and navigation activity from wave and wind action by creating stillwater areas along shore. A secondary purpose is to protect shorelines from wave caused erosion. Most breakwaters in the Pacific Coast are rip-rap mound construction.

~~53.~~50. Buffer means the area abutting to a shoreline or critical area that separates and protects the area from adverse impacts associated with adjacent land uses.

~~54.~~51. Building means any structure used or intended for supporting or sheltering any use or occupancy as defined in the International Building Code.

~~55.~~52. Building envelope means:

a. A three-dimensional space in which a building or structure may be built meeting septic requirements;

b. A plat restriction for the purpose of defining building coverage areas for individual lots, or for describing shoreline building setbacks;

c. The buildable area of a lot, tract or parcel after applicable setbacks, buffers, easements and other restrictions on the lot, tract or parcel are taken into account.

~~56.~~53. Bulkhead means a wall usually constructed parallel to the shore with the primary purpose of containing and preventing the loss of soil caused by erosion or wave action. Bulkheads are usually constructed of rock, poured-in-place concrete, steel or aluminum sheet piling, wood or wood and structural steel combinations. They may be either thin structures penetrating deep into the ground, or more massive structures resting on the surface.

## C

~~57.~~54. Campground and camping facilities means a facility in which sites are offered for persons using tents or other personal, portable overnight shelters, recreational vehicles, or other recreational shelters, such as cabins, yurts or platform tents, specifically designated and operated for temporary overnight camping. Campgrounds are for short-term stays and do not include trailer parks.

~~58.~~55. Certificate of occupancy or use means a document issued by the Clallam County building official as the final approval acknowledging that all conditions and requirements have been met and that the occupancy or use of a development is allowed.

~~59.~~56. Channel means an open waterway either naturally or artificially created to convey water.

~~60.~~57. Channel migration zone means the area along a river or stream within which the channel can reasonably be expected to migrate over time as a result of normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings. Such hazards are characterized by abandoned channels, ongoing sediment deposition and erosion, topographic position, and changes in the plant community, age, structure and composition. These areas do not include areas protected from channel movement due to the existence of permanent levees or infrastructure improvements such as roads and bridges constructed and maintained by public agencies.

**Comment [SG287]:** Recommend addition of last two sentences for consistency with existing language under 7.12.2.(g).

~~61.~~58. Channelization means the straightening, relocation, deepening or lining of stream channels, including construction of continuous revetments or levees for the purpose of preventing gradual, natural meander progression.

~~62.~~59. Chemical means any synthetic substance or mixture of such substances used as a cleaner, solvent, adhesive, paint, varnish, or other coating layer, or for a fertilizer, herbicide, pesticide, insecticide, or rodenticide.

~~63.~~60. Clearing means the destruction or removal, by hand or with mechanical means, of vegetative ground cover, shrubs or trees. Clearing may or may not include removing root material or topsoil.

~~64.~~61. Cluster development means a development design technique that groups or clusters buildings in specific areas on a site to minimize environmental impacts related to impervious surface, clearing and other impacts.

~~65.~~62. Commercial development means any premises devoted primarily to the wholesaling or retailing of a product or service for the purpose of generating an income. Examples of commercial development include, but are not limited to, restaurants, resorts, and retail shops.

DRAFT

~~66.~~63. Commercial fish means those species of fish that are classified under the Washington Department of Fish and Wildlife Food Fish Classification as commercial fish (WAC 220-12-010).

~~67.~~64. Commercial recreational facility means a place designed and equipped for sports and leisure-time activities that is operated as a business and open to the public for a fee.

~~68.~~65. Commercial sign means ~~any object, device, display or structure~~ a sign that is used for attracting attention to a business or profession; to a commodity or service sold, offered or manufactured;to an entertainment offered; or to any other commercial use, product, service, or activity.

~~69.~~66. Commercial use 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.

~~70.~~67. Community dock means a dock that serves multiple residential properties including upland and waterfront lots in a subdivision or similar community setting.

~~71.~~68. Compatible means uses or activities capable of existing together or in the vicinity of one another without disharmony or without generating effects or impacts which are disruptive to the normal use and enjoyment of surrounding property.

~~72.~~69. Compensatory mitigation means replacing resources or functions, at an equivalent or greater level, to offset unavoidable impacts that remain after all appropriate and practicable avoidance and minimization measures have been implemented. Compensatory mitigation includes, but is not limited to, creation, restoration, enhancement, preservation, and rehabilitation of wetlands, buffers, and other habitats or resources.

~~73.~~70. Comprehensive Plan means the Clallam County Comprehensive Plan.

~~74. Condominium means real property, portions of which are designed for separate ownership and the remainder of which is designated for common ownership solely by owners of those portions. Real property is not a condominium unless the undivided interests in the common elements are vested in unit owners, and unless a declaration and a survey map and plans have been recorded in accordance with Chapters 64.32 and 64.34 RCW. Condominiums are not confined to residential units, such as apartments, but also include offices and other types of space in commercial buildings.~~

71. Conditional use (or shoreline conditional use) means a use, development, or substantial development which is classified as being permitted only as a conditional use, or is not classified in this Program.

72. Conforming means any real property, parcel, lot, structure, proposal, use, development or submission which is fully compliant with the policies and regulations of this Program.

~~75.~~73. Conservation means the prudent management of rivers, streams, wetlands, wildlife and other environmental resources in order to preserve and protect them. This includes the careful use of natural resources to prevent depletion or harm to the environment.

~~76.~~74. Conservation district means a special purpose district, like a fire district or school district, organized in accordance with Chapter 89.08 RCW for the purpose of providing assistance to landowners for the conservation of renewable resources.

**Comment [SG288]:** Recommended clarification and also consolidates definition of "sign, commercial" that is recommended to be deleted.

**Comment [SG289]:** Deleted because the term is not used in the body of the SMP

**Comment [SG290]:** Moved and edited from deleted definition of "shoreline conditional use". The term "conditional use" in the body of the SMP is often not proceeded by term "shoreline."

**Comment [SG291]:** Recommend add a definition of conforming. Have a definition of non-conforming.

DRAFT

~~77.~~75. Conservation easement means a legal agreement that the property owner enters into to restrict uses of the land for purposes of natural resources conservation. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property.

~~78.~~76. Contaminant means any chemical, physical, biological, or radiological substance that does not occur naturally in ground water, air, or soil or that occurs as a result of direct or indirect actions at concentrations greater than those in the natural levels (Chapter 173-200 WAC).

~~79.~~77. County means Clallam County, Washington, its board, commissions, and departments.

~~80.~~78. Covered moorage means boat moorage, with or without walls, that has a roof (made of wood, metal, fiberglass, plastic, canvas, or other material) to protect the vessel.

~~81.~~79. Creek. See Stream.

~~82.~~80. Critical areas mean the following areas as designated in CCC 27.12 and this Program:

a. Wetlands

b. Aquatic and Wildlife Habitat Conservation Areas

c. Critical Aquifer Recharge Areas

d. Geologically Hazardous Areas

e. Frequently Flooded Areas

~~83.~~81. Critical habitat means habitat areas with which endangered, threatened, sensitive or monitored plant, fish, or wildlife species have a primary association (e.g., feeding, breeding, rearing of young, migrating) as defined through rules promulgated by the Washington Department of Fish and Wildlife as identified in WAC 232-12-011 or 232-12-014; in the Priority Habitat and Species (PHS) program of the Department of Fish and Wildlife; or by rules and regulations adopted by the U.S. Fish and Wildlife Service, National Marine Fisheries Service, or other agency with jurisdiction for such designations.

82. Critical facilities means a facility for which even a slight chance of flooding or destruction caused by a geologic hazard would be too great. They include, but are not limited to: schools, hospitals, police, fire, emergency response installation, nursing homes, installations which produce, use or store hazardous materials or hazardous waste, pipelines which transmit oil and gas, municipal water and sewer facilities, and regional transportation facilities, such as airports, ports, railroads, and major highways.

**Comment [SG292]:** Definition recommended to be added since term "critical facilities" is used in a number of SMP regulations. Definition is from 7.16.3.

~~84.~~83. Critical freshwater habitats includes critical areas as designated in CCC 27.12 and this Program that are associated with freshwater shorelines, including streams and associated riparian zones, wetlands, aquatic and wildlife habitat conservation areas, and areas with which priority species, as defined by WAC 173-26-020(29), have a primary association.

~~85.~~84. Critical saltwater habitats means all kelp beds and eelgrass beds; stream mouths; spawning and holding areas for forage fish, such as herring, smelt and sandlance; subsistence, commercial and recreational shellfish beds; priority habitat areas for marine shellfish, including but not limited to pandalid shrimp, Dungeness crab, geoduck, hardshell clam, subtidal hardshell clam, and red sea urchin; mudflats; intertidal habitats with vascular plants;

DRAFT

and areas with which marine priority species, as defined by WAC 173-26-020(29), have a primary association.

~~86.~~85. Culvert means a section of pipe placed in a stream and filled over in order to provide a stream crossing.

~~87.~~86. Cumulative impacts or Cumulative effects means the combined impacts of a proposed development action along with past impacts and impacts of reasonably foreseeable future development actions.

~~88. Current use means the use of land or improvements at the time of permit application.~~

**Comment [SG293]:** Deleted because the term is not used in the body of the SMP

## D

~~89.~~87. Dam means a barrier across a stream or river to confine or regulate flow or raise water levels for purposes such as flood or irrigation water storage, erosion control, or power.

~~90.~~88. Dedicate means to set aside a piece of real property, a structure, or a facility for public or private use or ownership.

~~91.~~89. Delta or river delta means those lands formed as an aggredational feature by stratified clay, silt, sand and gravel deposited at the mouths of streams where they enter a quieter body of water. The upstream extent of a river delta is that limit where it no longer forms distributary channels.

~~92.~~90. Density means the quantity per unit area, such as the number of dwelling units per acre.

~~93.~~91. Development means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this Program at any state of water level.

~~94.~~92. Developed shorelines means those shoreline areas that are characterized by existing uses or structures located within shoreline jurisdiction.

~~95.~~93. Dike means an artificial embankment placed at a stream mouth or delta to hold back sea water.

~~96.~~94. Director means, unless otherwise specified, the director of the County's Community Development Department or the director's designee.

~~97.~~95. Division of land means the creation of any new lot or lots for the purpose of sale, lease, or transfer of ownership.

~~98.~~96. Dock means a fixed platform structure anchored in and floating upon 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.

~~99.~~97. Drainage means surface water runoff; the removal of surface water or ground water from land by drains, grading, or other means, which include runoff controls to minimize erosion and sedimentation during and after construction or development.

~~100.~~98. Dredge material disposal means the depositing of dredged materials on land or into water bodies.

DRAFT

~~101.~~99. Dredging means the removal of earth from the bottom of a stream, river, lake, bay, or other water body. This does not include the minimal and insignificant removal of sediment during harvest of geoduck, clams or other shellfish.

~~102.~~100. Drift cell, net shore drift cell, drift sector, or littoral cell refers to the long-term, net effect along a coastal sector in which directionally uniform shore drift occurs, depending on wave energy and currents, without significant interruption; each drift cell, net shore drift cell, drift sector, or littoral cell typically includes one or more sources of sediment, such as a feeder bluff or stream mouth, a transport zone within which the sediment drifts along the shore, and an accretion area such as a spit, bar or hook.

~~103.~~101. Driveway means a strip of land which provides vehicular access from a public way to a building or other development on abutting grounds.

## E

~~104.~~102. Ecological functions or Shoreline functions means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem processes. See WAC 173-26-~~200~~201 (2)(c). Functions include, but are not limited to, habitat diversity and food chain support for fish and wildlife, ground water recharge and discharge, high primary productivity, low flow stream water contribution, sediment stabilization and erosion control, storm and flood water attenuation and flood peak desynchronization, and water quality enhancement through biofiltration and retention of sediments, nutrients, and toxicants. These beneficial roles are not listed in order of priority.

**Comment [SG294]:** Added "processes" because "ecosystem processes" is defined (see Def. 104). Revisions also corrects reference.

~~105.~~103. Ecology means the Washington State Department of Ecology.

~~106.~~104. Ecosystem processes or 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.

105. Eelgrass means a marine plant that grows in coastal waters and brackish inlets. For the purposes of this Program, eelgrass includes the native *Zostera marina* species and not non-native species such as *Zostera japonica*.

**Comment [SG295]:** Addresses Planning Commission direction to add a definition of eelgrass and make distinction between native and non-native eelgrass species.

~~107. Emergency activities are those activities that require immediate action within a time too short to allow full compliance with this Program due to an unanticipated and imminent threat to public health, safety or the environment (see WAC 173-27-040). Emergency activity does not include development of new permanent protective structures where none previously existed.~~

**Comment [SG296]:** Deleted because the term is not used in the body of the SMP

~~108.~~106. Endangered species means a species which is in danger of extinction throughout all or a significant portion of its range, as classified by the Washington Department of Fish and Wildlife, the Washington Department of Natural Resources, or the federal Endangered Species Act.

~~109.~~107. Enhancement means actions performed within an existing degraded shoreline and/or buffer to intentionally increase or augment one or more ecological functions or values of the existing area. Enhancement actions include, but are not limited to, increasing plant diversity and cover, increasing wildlife habitat and structural complexity (snags, woody debris), installing environmentally compatible erosion controls, removing nonindigenous plant or

DRAFT

animal species, or removing human-made structures or fill that are degrading ecological functions or values.

~~110.~~108. Erosion means the detachment and transport of soil or rock by water, wind, ice, or gravity.

~~111.~~109. Erosion Hazard Areas. Areas likely to become unstable, such as bluffs, steep slopes, and areas with unconsolidated soils. Erosion hazards may also include coastal and riverine erosion areas. Lands meeting the following classifications shall be designated as erosion hazard areas~~and are subject to the requirements of this Program~~:

a. Areas containing evidence of significant ~~existing~~ erosion activity ~~which causes accelerated erosion, sedimentation of critical areas, and/or~~ caused either by natural or human-made factors that threatens public health, safety, and welfare.

b. Shoreline erosion hazard areas potentially subject to land regression or retreat due to a combination of geologic, seismic, tidally influenced, and/or hydrologic or human-made factors. Shoreline erosion hazard areas can be identified by the presence of any of the following indicators:

i. Areas with active bluff retreat that exhibit continuing sloughing or calving of bluff sediments, resulting in vertical or steep bluff face with little or no vegetation. These areas include unstable slopes and feeder bluffs mapped in the Clallam County Shoreline Inventory and Characterization Report (ICR) and Washington State Coastal Atlas available from the Department of Ecology.

ii. Areas with active land retreat as a result of wave action.

c. Riverine erosion areas subject to lateral erosion related to moving water, including the channel migration zone and the potential slope/bank failures resulting from river channel movement.

~~b.~~d. ~~Any s~~Slopes ~~forty (~~40~~)~~ percent or steeper with a vertical relief of ~~ten (~~10~~)~~ or more feet, except areas composed of exposed bedrock outcrop at the surface.

~~c.~~ Soil erosion hazard areas are identified by the presence or absence of natural vegetation cover, soil texture condition, slope, and rainfall patterns, or human-induced changes to such characteristics that create site conditions which are vulnerable to erosion of the upper soil horizon. ~~Soils classified by the soil survey of Clallam County~~ Soil erosion hazard areas include those areas with slopes of 15% or steeper and that are classified as having a ~~moderate,~~ severe, or very severe erosion hazard potential by the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS) in the most recent Soil Survey of Clallam County or the NRCS Web Soil Survey.

~~112.~~110. Essential public facilities means those important and necessary facilities which provide essential services that are typically difficult to site, such as airports, state educational facilities, state or regional transportation facilities, state and local correctional facilities, solid waste handling facilities, and in-patient facilities including substance-abuse facilities, mental health facilities, and group homes (RCW 36.70A.200). They do not necessarily include all public facilities or services; they may be, but are not necessarily, publicly owned.

~~113.~~111. Estuary means a semi-enclosed coastal waterbody connected to a larger body of salt water with one or more rivers or streams flowing into it. Estuaries are typically the mouths of rivers and have brackish water.

**Comment [SG297]:** Revisions mirror recommended amendments to the erosion hazard area classification/designation criteria under Section 7.12.3. *See related revisions and comments in Section 7.12.3.*

**Comment [SG298]:** *See related revisions and comments in Section 7.12.3.*

**Comment [SG299]:** *See related revisions and comments in Section 7.12.3.*

**Comment [SG300]:** Recommended revision to clarify intent of exception.

**Comment [SG301]:** Recommended revision to include both a slope and soil classification and to reference current soil data bases. Recommend drop moderate erosion potential from hazard designation.

~~114.~~112. Excavation means the mechanical removal of earth, including soil, rocks, bedrock, and/or root material from areas landward of the ordinary high water mark of a waterbody.

~~115.~~113. Exempt development means development that is exempt from the requirement to obtain a substantial development permit as defined by RCW 90.58.030 and WAC 173-27(040), but which must otherwise comply with applicable provisions of this Program as demonstrated by obtaining a statement of exemption from the Administrator. Exempt development or uses may still require conditional use and/or variance permits.

**Comment [SG302]:** Recommended clarification..

~~116.~~114. Existing use means the use of a lot or structure or improvements at the time of the enactment of this code, unless otherwise specified.

~~117. Exotic means any species of plants or animals that is not indigenous to the area.~~

**Comment [SG303]:** Deleted because the term is not used in the body of the SMP

~~118.~~115. Experimental aquaculture means an aquaculture activity that uses genera that have not previously been regularly cultivated in the state of Washington.

~~119.~~116. Extraction means the commercial removal of naturally occurring materials from the earth, excluding water.

~~120.~~117. Extreme low tide means the lowest line of the land reached by a receding tide. This is the line as estimated by the federal government below which it might reasonably be expected that the tide would not ebb. In the Puget Sound area generally, this point is estimated by the federal government to be a point in elevation 4.50 feet below the datum plane of mean lower low water (0.0). Along the Pacific Ocean and in the bays fronting thereon and the Strait of Juan de Fuca, the elevation ranges down to a minus 3.5 feet in several locations.

## F

~~121.~~118. Fair market value ~~of a development~~ 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.

**Comment [SG304]:** Deleted because the term "fair market value of a development" is not used in the body of the SMP. Fair market value is used.

~~122.~~119. Feasible means, for the purpose of this Program, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

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

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

c. The action does not physically preclude achieving the project's primary intended legal use. In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

DRAFT

~~123.~~120. Feasible alternative means an alternative that:

a. Meets the requirements of federal, state, and local laws and regulations;

b. Attains most or all of the basic objectives of the project;

c. Is technically and technologically possible;

d. Can be accomplished at a reasonable cost;

e. Can be accomplished in a reasonable amount of time; and

f. Adverse environmental, health, and safety effects are no greater than those of the original proposal.

g. A determination of what is reasonable or feasible is made by the Administrator on a case-by-case basis, taking into account the:

i. Probable intensity, severity, and cumulative impacts of the original proposal and alternative approaches, and opportunity for the avoidance or reduction in the number, intensity, or severity of impacts, or of the aggregate adverse impact;

ii. Risk of upset conditions (i.e., the risk that the control and mitigation measures will fail, be overwhelmed, or exceed allowed limits) and the potential severity of the impact should control or mitigation measures be ineffective or fail;

iii. Capital and operating costs;

iv. Period of time to accomplish, costs of additional time or delay, and time constraints for completion; and

v. Location and site-specific factors, such as seasonal or topographic constraints, environmentally sensitive areas and habitats, site accessibility, and local community concerns.

~~124.~~121. Feeder bluff or erosional bluff means any marine bluff or cliff ~~with substantial sediment input into the net shore-drift system through mass wasting and/or~~active erosion and/or mass wasting ~~. Feeder bluff segments have periodic~~which periodically supplies moderate volumes of sediment input with a longer recurrence interval ~~as compared to~~than feeder bluff exceptional segments. ~~Feeder bluff segments were characterized by the presence of historic landslide scarps, a lack of mature vegetation on the bank, and intermittent bank toe erosion.~~The bluff face typically has vegetation indicative of disturbance with evidence of landslides and toe erosion. These natural sources of beach sediment are limited and vital for the long-term maintenance of beaches and accretion shoreforms (e.g., spits, bars, and hooks) and the nearshore habitats therein.

122. Feeder bluff exceptional means a feeder bluff with active erosion and/or mass wasting which periodically supplies substantial volumes of sediment input to the nearshore in greater quantities with a shorter recurrence interval than feeder bluffs. The bluff face typically has little to no vegetation with active landslides and toe erosion, and may include colluvium and toppled large woody debris. These bluffs play a critical role in sediment erosion and deposition and transport processes, which are key determinants of the health of many of the County's marine beaches, spits, bars and hooks.

**Comment [SG305]:** Recommended revision to clarify what a feeder bluff means. Also, addresses Planning Commission request to clarify feeder bluff terminology in regards to landslide hazard designations.

**Comment [SG306]:** Addresses Planning Commission request to clarify terms of marine feeder bluffs in terms of landslide hazard designations by adding a definition of *"Feeder Bluff Exceptional"*.

DRAFT

123. Feeder bluff talus means a feeder bluff characterized by coastal bluffs/sea cliffs that are actively receding and have a history of erosion/landslides but are primarily found within areas mapped as bedrock. These areas function as bedrock sediment sources (typically marine sedimentary units such as sandstone and conglomerate). These bluffs likely recede/erode at a slower rate than typical feeder bluffs and therefore are distinctively different from the unconsolidated, glacially deposited bluffs that the term feeder bluffs typically represents. Feeder bluff talus units provide beach sediment in the form of shallow landslides and/or large deep-seated landslides that deliver soil and large woody debris with boulders, cobbles, sand and gravel (often via sandstone and conglomerate talus with soil) to beaches.

**Comment [SG307]:** Addresses Planning Commission request to clarify terms of marine feeder bluffs in terms of landslide hazard designations by adding a definition of *"Feeder Bluff Talus"*.

~~125.~~124. Fill means the addition of solid or semi-solid material such as soil, sand, rock, gravel, sediment, wood chips, mining overburden, earth retaining structure, or other material used to create any structure or infrastructure or that when placed changes the elevation or grade of a receiving site.

~~126.~~125. Fill material means any solid or semi-solid material such as soil, sand, rock, gravel, sediment, wood chips, mining overburden, earth retaining structure, or other material from mining or other excavation activities, and materials used to create any structure or infrastructure, that when placed, changes the grade or elevation of the receiving site.

~~127.~~126. Filling means the act of placing by any manual or mechanical means fill material from, to, or on any soil surface, including temporary stockpiling of fill material.

~~128.~~127. Fish habitat means a complex of physical, chemical, and biological conditions that provide the life supporting and reproductive needs of a species or life stage of fish. Although the habitat requirements of a species depend on its age and activity, the basic components of fish habitat in rivers, streams, ponds, and nearshore areas include, but are not limited to, the following:

a. Clean water and appropriate temperatures for spawning, rearing, and holding;

b. Adequate water depth and velocity for migrating, foraging, spawning, rearing, and holding, including off-channel habitat;

c. Abundance of bank and instream structures to provide hiding and resting areas and stabilize stream banks and beds (freshwater);

d. Appropriate substrates for spawning and embryonic development. For stream and lake dwelling fishes, substrates range from sands and gravel to rooted vegetation or submerged rocks and logs. Generally, substrates must be relatively stable and free of silts or fine sand;

e. Presence of riparian vegetation as defined in this Program. Riparian vegetation creates a transition zone, which provides shade, and food sources of aquatic and terrestrial insects for fish; and

f. Unimpeded passage (suitable gradient and lack of barriers) for upstream and downstream migrating anadromous juveniles and adults (freshwater); areas upstream of partial or full fish passage barriers are still frequently fish habitat, and may provide additional fish habitat if artificial barriers are removed.

DRAFT

~~129.~~128. 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, and that does not include above water storage.

~~130.~~129. Floating aquaculture means aquaculture systems that suspend aquatic organisms in the water column using buoys, rafts, docks, piers or other structure. Floating aquaculture is synonymous with hanging aquaculture.

~~131.~~130. Floating house or floating home means single-family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed per RCW 90.58.270.

~~132.~~131. Flood or flooding means the temporary inundation of normally dry land areas from the overflow of inland or tidal waters or from the unusual and rapid accumulation or runoff of surface waters.

~~133.~~132. Flood control means all development on rivers and streams designed to retard bank erosion, to reduce flooding of adjacent lands, to control or divert stream flow, or to create a reservoir, including but not limited to revetments, dikes, levees, channelization, dams, weirs, flood and tidal gates. Excluded are water pump apparatus.

~~134.~~133. Floodplain is synonymous with one hundred-year floodplain and means that land area susceptible to inundation with a one percent chance of inundation being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the Shoreline Management Act.

~~135.~~134. Floodplain management means a long-term program to reduce flood damages to life and property and to minimize public expenses due to floods through a comprehensive system of planning, development regulations, building standards, structural works, and monitoring and warning systems.

~~136.~~135. Floodway means the area of a river valley that conveys flood waters with reasonable regularity, although not necessarily annually. At a minimum, the floodway is that which has been established in Federal Emergency Management Act flood insurance rate maps or Federal Emergency Management Act floodway maps.

~~137.~~136. Forest land means all land that is capable of supporting a merchantable stand of timber and is not being actively used, developed, or converted in a manner that is incompatible with timber production.

~~138.~~137. Forest management means forest practices pertaining to protecting, producing, and harvesting timber for economic use.

~~139.~~138. Forest practice means any activity conducted on or directly pertaining to forest land and relating to growing or harvesting of timber, or the processing of timber, including but not limited to: road and trail construction and maintenance; harvest, final and intermediate; precommercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control.

~~140.~~139. Forest practice, conversion means the conversion of land to an active use incompatible with timber growing and where future nonforest uses will be located on currently forested land.

DRAFT

~~141.~~140. Frequently flooded areas means lands subject to a one percent or greater chance of flooding in any given year.

~~142. Function assessment or Functions and values assessment means a set of procedures, applied by a qualified consultant, to identify the ecological functions being performed in a shoreline or critical area, usually by determining the presence of certain characteristics, and determining how well the area is performing those functions. Function assessments can be qualitative or quantitative and may consider social values potentially provided by an area. Function assessment methods must be consistent with Best Available Science.~~

**Comment [SG308]:** Deleted because the term is not used in the body of the SMP

## G

~~143.~~141. Gabions means works composed of masses of rock, rubble, or masonry tightly enclosed usually by wire mesh so as to form massive blocks. They are used to form walls on beaches to retard wave erosion or as foundations for breakwaters or jetties.

~~144.~~142. Geologically hazardous areas means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

~~145. Geologically unstable means the relative instability of a shoreform or land form for development purposes over the long term or the intended life of any proposed structure. Soil, slope, ground or surface water, other geologic conditions, vegetation and effects of development are common factors that contribute to instability. Areas characterized by banks or bluffs composed of unconsolidated alluvial or glacial deposits (till and drift material), severely fractured bedrock, active and substantial erosion, substantially deformed trees and shrubs, or active or inactive earth slides are likely to be considered geologically unstable.~~

**Comment [SG309]:** Deleted because the term is not used in the body of the SMP

~~146.~~143. Geotechnical report or Geotechnical analysis means a scientific study or evaluation that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified engineers or geologists who are knowledgeable about the regional and local geology.

~~147.~~144. Grade, existing means the elevation of the ground or site prior to any work being done or any changes being made to the ground or site.

~~148.~~145. Grade, finished means the final elevation of the ground level after development.

~~149.~~146. Gradient means a degree of inclination, or a rate of ascent or descent, of an inclined part of the earth's surface with respect to the horizontal; the steepness of a slope. It is expressed as a ratio (vertical to horizontal), a fraction (such as meters/ kilometers or feet/miles), a percentage (of horizontal distance), or an angle (in degrees).

~~150.~~147. Grading means stripping, cutting, filling, or stockpiling earth to create new grade.

~~151.~~148. Grandfathered uses/developments means legally established uses, buildings, structures and/or lots of record that do not meet the specific standards of this Program but which existed

on the effective date of initial adoption of the Program (August 5, 1976), or any subsequent amendment thereto, or was authorized under a permit, variance or conditional use approval, or is otherwise vested to the Program.

~~152.~~149. Groin means a wall-like structure extending on an angle waterward from the shore into the intertidal zone. Its purpose is to build or preserve an accretion shoreform or berm on its updrift side by trapping littoral drift. Groins are relatively narrow in width but vary greatly in length. Groins are sometimes built in series as a system, and may be permeable or impermeable, high or low, and fixed or adjustable.

~~153.~~150. Ground water means all water that exists beneath the land surface or beneath the bed of any stream, lake or reservoir, or other body of surface water within the boundaries of the state, whatever may be the geological formation or structure in which such water stands or flows, percolates or otherwise moves (Chapter 90.44 RCW).

~~154.~~151. Growth Management Act (GMA) means the State of Washington Growth Management Act, Chapter 36.70A RCW, as amended.

~~155.~~152. Guidelines means those regulations adopted under Chapter 173-~~16~~26 WAC, as amended, or any successor regulations thereof, that serve as standards for implementation of the policy of Chapter 90.58 RCW for regulations of uses of the shorelines, and that provide criteria to local governments and the Department of Ecology in developing shoreline master programs (including this Program).

**Comment [SG310]:** Reference correction.

DRAFT

## H

~~156.~~153. Habitat means the place or type of site where a plant or animal naturally or normally lives and grows.

~~157.~~154. Hanging aquaculture. See Floating aquaculture.

~~158.~~155. Harbor area means the area of navigable tidal waters as determined in Section 1 of Article 15 of the Washington State Constitution, which is forever reserved for landings, wharves, streets, and other conveniences of navigation and commerce. Harbor areas exist between the inner and outer harbor lines as established by the state harbor line commission. Harbor areas are managed by the Department of Natural Resources for the conveniences of navigation and commerce.

~~159.~~156. Hazard tree means any tree with a high probability of falling due to a debilitating disease, a structural defect, a root ball more than fifty percent exposed, or having been exposed to wind throw within the past ten years. To be considered hazardous, there must be a residence or residential accessory structure within a tree length of the base of the trunk. Hazard trees also means any tree with a high probability of falling that will cause a landslide. Where not immediately apparent to the Administrator, the hazard tree determination shall be made after review of a report prepared by an arborist or forester.

~~160.~~157. Hazardous area means any shoreline area which is hazardous for intensive human use or structural development due to inherent and/or predictable physical conditions; such as but not limited to geologically hazardous areas, frequently flooded areas, and channel migration zones.

~~161.~~158. Hazardous materials means any substance containing such elements or compounds which when discharged in any quantity in shorelines present an imminent and/or substantial danger

to public health or welfare; including, but not limited to: fish, shellfish, wildlife, water quality, and other shoreline features and property.

~~162.~~159. Hazardous waste means those solid wastes designated by 40 CFR Part 261, and regulated as hazardous waste by the United States Environmental Protection Agency.

~~163.~~160. Hearings Board means the State Shorelines Hearings Board referenced in RCW 90.58.170.

~~164.~~161. Height, building means the vertical distance from grade plane to the average height of the highest roof surface (cf. International Building Code).

~~165.~~162. Historic means having considerable importance or influence in history; historical.

~~166.~~163. Historic preservation professionals means those individuals who hold a graduate degree in architectural history, art history, historic preservation, or closely related field, with coursework in American architectural history, or a bachelor's degree in architectural history, art history, historic preservation or closely related field plus one of the following:

a. At least two (2) years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution; or

b. Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.

~~167.~~164. Historic site, structure or landmark means a site, structure or building of outstanding archaeological, historical or cultural significance. This is shown by its designation as such by the National or Washington State Register of Historic Places, designation as an historic landmark, or any such structure or feature for which the State Historic Preservation Officer has made a determination of significance pursuant to Section 106 of the National Historic Preservation Act.

~~168.~~165. Hydraulic Project Approval (HPA) means a permit issued by the State Department of Fish and Wildlife for modifications to waters of the state in accordance with Chapter 75.20 RCW.

~~169.~~166. Hydroelectric generating facility means an in-stream facility or device requiring the diversion, impoundment or use of water in order to produce, generate and transmit electrical power.

## I

~~170.~~167. Illegal use means any use of land or a structure which is inconsistent with current codes and/or was inconsistent with previous codes in effect when the use or structure was established. An illegal use is different than a nonconforming use. (See also Nonconforming.)

~~171.~~168. Impervious surface means a hard surface area that either prevents or retards the entry of water into the soil mantle. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and other surfaces. Open, uncovered retention/detention facilities shall not be considered impervious surfaces for purposes of this

DRAFT

Program. Open, uncovered retention/detention facilities shall be considered impervious surfaces for purposes of runoff modeling.

~~172.~~169. Incidental means subordinate to, minor in significance, and bearing a reasonable relationship with the primary use.

~~173.~~170. Incompatible means uses and activities that are not compatible.

~~174.~~171. Industry means the production, processing, manufacturing, or fabrication of goods or materials. Warehousing and storage of materials or production is considered part of the industrial process.

~~175.~~172. Industrial development means facilities for processing, manufacturing, and storage of finished or semi-finished goods, including but not limited to oil, metal or mineral product refining, power generating facilities, including hydropower, ship building and major repair, storage and repair of large trucks and other large vehicles or heavy equipment, related storage of fuels, commercial storage and repair of fishing gear, warehousing construction contractors' offices and material/equipment storage yards, wholesale trade or storage, and log storage on land or water, together with necessary accessory uses such as parking, loading, and waste storage and treatment. Excluded from this definition are mining including onsite processing of raw materials, and off-site utility, solid waste, road or railway development, and methane digesters that are accessory to an agricultural use.

~~176.~~173. Infiltration means the downward entry of water into the immediate surface of soil.

~~177.~~174. Infrastructure means ~~existing installed~~ facilities and services including capital facilities such as water supply, sewage disposal, and storm drainage systems, and transportation facilities such as public roads.

~~178. Instream resources means features, properties, or other beneficial assets which exist within a stream corridor, such as fish and wildlife habitat, recreation, and scenic beauty.~~

~~179.~~175. Instream structure means a human-made structure placed within a stream or river waterward of the ordinary high water mark that either causes or has the potential to cause water impoundment, or the diversion, obstruction, or modification of water flow. Instream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service, transmission, fisheries enhancement, or other purposes.

~~180.~~176. Intensive means highly concentrated, very large, or considerable, in terms of Clallam County standards and environment.

~~181.~~177. International Building Code means the building code officially adopted by Clallam County.

~~182.~~178. Intertidal means the marine area waterward of the ordinary high water mark and landward of the line of extreme low tide.

~~183.~~179. Invasive species means a species that is 1) non-native (or alien) to Clallam County and 2) whose introduction causes or is likely to cause economic or environmental harm or harm to human health. Invasive species can be plants, animals, and other organisms (e.g., microbes). Human actions are the primary means of invasive species introductions.

**Comment [SG311]:** Recommended clarification.

**Comment [SG312]:** Deleted because the term is not used in the body of the SMP

DRAFT

## J

~~184.~~180. Jetty means a structure generally perpendicular to the shore, extending through or past the intertidal zone. Jetties are built singly or in pairs at a harbor entrance or river mouth mainly to prevent accretion from littoral drift in an entrance channel. Jetties also serve to protect channels from storm waves or cross currents and to stabilize inlets through barrier beaches. Most jetties are of rip-rapped mound construction.

~~185. Joint use dock. See Community dock.~~

**Comment [SG313]:** Deleted because the term is not used in the body of the SMP

## L

~~186.~~181. Lake means a body of standing water in a depression of land or expanded part of a stream, of twenty acres or greater in total area. A lake is bounded by the ordinary high water mark, or where a stream enters the lake, the extension of the lake's ordinary high water mark within the stream. A lake is generally distinguished from marshes, bogs, and swamps by its greater depth.

~~187.~~182. Land disturbing activity means any activity that results in movement of earth, or a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, clearing, grading, filling, compaction, and excavation.

~~188. Landfill. See Filling.~~

**Comment [SG314]:** Deleted because the term is not used in the body of the SMP

~~189.~~183. Landslide means a general term covering a wide variety of mass movement landforms and processes involving the downslope transport, under gravitational influence, of soil and rock material en masse; included are debris flows, debris avalanches, earthflows, mudflows, slumps, mudslides, rock slides, and rock falls.

~~190.~~184. Landslide Hazard Areas means lands potentially subject to mass movement due to a combination of geologic, topographic, and hydrologic factors. The following classifications shall be designated as landslide hazards ~~and are subject to the requirements of this Program~~:

**Comment [SG315]:** Recommend delete unnecessary language.

a. Areas of historic failures, such as:

   i. Those areas delineated by the United States Department of Agriculture Natural Resources Conservation Service as having a significant limitation for building site development;

   ii. Those coastal areas mapped as class u (unstable), uos (unstable old slides), and urs (unstable recent slides) in the Department of Ecology Washington coastal atlas; or

   iii. Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the United States Geological Survey or Washington Department of Natural Resources.

b. Areas with all three of the following characteristics:

   i. Slopes steeper than fifteen percent;

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

   iii. Springs or groundwater seepage.

DRAFT

c. Areas that have shown movement during the holocene epoch (from ten thousand years ago to the present) or which are underlain or covered by mass wastage debris of this epoch~~;~~.

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

e. Slopes having gradients steeper than eighty percent subject to rockfall during seismic shaking~~;~~.

f. Feeder bluffs, feeder bluff exceptional, and feeder bluff talus described and mapped in the Clallam County Shoreline Inventory and Characterization Report or in the Washington Department of Ecology Washington Coastal Atlas.

**Comment [SG316]:** Addresses Planning Commission request to clarify terms of marine feeder bluffs in terms of landslide hazard designations. *See also amended landslide hazard classification criteria in Section 7.12.2.*

~~f.~~g. Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action, including stream channel migration zones. Channel migration zones are areas within which the stream channel can reasonably be expected to migrate over time as a result of normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings. Such hazards are characterized by abandoned channels, ongoing sediment deposition and erosion, topographic position, and changes in the plant community, age, structure and composition. These areas do not include areas protected from channel movement due to the existence of permanent levees or infrastructure improvements such as roads and bridges constructed and maintained by public agencies. The County maintains a set of maps showing the approximate location and extent of known channel migration zones as determined by the Department of Ecology, or in the case of the Dungeness River, by the Jamestown S'Klallam Tribe~~;~~.

~~g.~~h. Areas that show evidence of, or are at risk from snow avalanches~~;~~.

~~h.~~i. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding~~; and~~.

~~i.~~j. Any area with a slope of forty percent or steeper and with a vertical relief of ten or more feet except areas composed of exposed bedrock outcrop at the surface. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten feet of vertical relief.

**Comment [SG317]:** Recommended revision to clarify intent of exception

~~191.~~185. Landward means to or toward the land.

~~192.~~186. Levee means a natural or artificial embankment on the bank of a river or stream for the purpose of keeping floodwaters from inundating adjacent land. Some levees have revetments on their sides.

~~193.~~187. Liberal construction means an interpretation that tends to effectuate the spirit and purpose of the writing. For purposes of this Program, liberal construction means that the Planning Director shall interpret the regulatory language of this Program in relation to the broad policy statement of RCW 90.58.020, and make determinations which are in keeping with those policies as enacted by the Washington State Legislature.

~~194.~~188. Live-aboard means a seaworthy vessel that was designed primarily for navigation but is used as a residence. A boat or other floating structure is a residence if it is occupied 30 out of 45 days or 90 out of 365 days while moored or anchored in the same area, or if the local government, the marina, or the occupant of the boat defines it as a residence. The phrase 'in

DRAFT

the same area' means within a radius of one mile of any location where the same vessel previously moored or anchored. A vessel that is occupied and is moored or anchored in the same area, but not for the number of days described in this subsection, is considered a recreational or transient vessel (WAC 332-30-106).

~~195.~~189. Logging means activities related to and conducted for purposes of harvesting or processing timber.

~~196.~~190. Long-term commercial significance means lands with the growing capacity, productivity, soil composition, and economic viability for long-term agricultural, mineral or silvicultural production.

~~197.~~191. Lot means a designated tract, parcel or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, and utilized. The area below the ordinary high water mark shall not be considered a part of the lot area.

~~198.~~192. Lot of record means ~~an undeveloped~~ a lot, tract or parcel of land shown on an officially recorded short plat or long plat or a parcel of land officially recorded or registered as a unit of property and described by platted lot number or by metes and bounds and lawfully established for conveyancing purposes on the date of recording of the instrument first referencing the lot. The term lot of record does not imply that the lot was created in conformity with the legal regulatory requirements for subdivision of property in accordance with Chapter 58.17 RCW or CCC Title 29.

**Comment [SG318]:** Recommended clarification. A legal lot of record can also include a developed lot.

~~199.~~193. Low intensity land use means a land use that has limited impact upon the land, resources and adjoining properties in terms of the scale of development, and frequency, amount, or concentration of use. Low intensity uses are mostly passive uses that do not substantially consume resources or leave noticeable or lasting adverse ~~effects~~impacts.

~~200.~~194. Low impact development (LID) means site design techniques aimed at reducing or eliminating the adverse ~~effects~~impacts of development on the environment. LID seeks to preserve or mimic natural hydrologic processes to avoid increases in runoff volumes and peak flow rates, prevent or reduce pollutant loadings in runoff, and recharge ground water. LID practices include protecting native vegetation; reducing impervious surfaces; and using permeable pavements, green roofs, bioretention areas (rain gardens), topsoil amendment, and cisterns to collectively preserve or restore the processes of evaporation, transpiration, and infiltration. LID stormwater practices can be selected for flow control and/or water quality treatment depending on site-specific conditions.

## M

~~201.~~195. Maintenance and repair means work required to keep existing improvements in their existing operational state. This does not include any modification that changes the character, scope, or size of the original structure, facility, utility or improved area.

~~202.~~196. Marina means a wet moorage and/or dry storage facility for multiple pleasure crafts and/or commercial crafts where goods or services related to boating may be sold commercially. Launching facilities and covered moorage may also be included. Marinas may be open to the general public or restricted on the basis of property ownership or membership.

~~203.~~197. Marine bluff means a steep, nearly vertical slope bordering the Strait of Juan de Fuca marine shore that is at least 20 feet high.

DRAFT

~~204.~~198. Mass wasting means downslope movement of soil and rock material by gravity. This includes soil creep, erosion, and various types of landslides, not including bed load associated with natural stream sediment transport dynamics.

~~205.~~199. May means the action is allowable, provided it conforms to the provisions of this Program.

~~206.~~200. Mean annual flow means the average flow of a river or stream (measured in cubic feet per second) from measurements taken throughout the year. If available, flow data for the previous ten (10) years should be used in determining mean annual flow.

~~207.~~201. Mineral extraction means the removal of naturally occurring materials from the earth for economic use. Extraction materials include nonmetallic minerals such as sand, gravel, clay, coal, and various types of stone. This shall not include the following:

a. Excavation and grading at building construction sites where such construction is authorized by a valid building permit; or

b. Excavation and grading in public rights-of-way for the purpose of on-site road construction, or in private rights-of-way for the same purpose if authorized by the County; or

c. Excavation and grading for the purpose of developing ponds or manure lagoons for agricultural purposes; or

d. Excavation and grading in connection with and at the site of any creek, river, or flood-control or storm drainage channel for the purpose of enlarging hydraulic capacity or changing the location or constructing a new channel or storm drain where such work has been approved by the County; or

e. Excavation and grading where the excavated material will be used on the same property or on property contiguous to and under the same ownership as the excavation.

~~208.~~202. Mineral processing means activities accessory to mineral extraction that include material washing, sorting, crushing or more intensive modification or alteration to a mineral resource through mechanical or chemical means after it has been removed from the earth. This does not include asphalt or concrete batch plants.

~~209.~~203. Mining means mineral extraction and mineral processing.

~~210.~~204. Mitigate/Mitigation means measures to avoid, minimize, lessen, or compensate for adverse impacts of development projects. Mitigation includes the following actions in order of preference (mitigation sequence):

a. Avoiding an impact altogether by not taking a project or parts of a project;

b. Minimizing impacts by limiting the extent or magnitude of a project;

c. Rectifying impacts by repairing, rehabilitating, or restoring the affected environment;

d. Reducing or eliminating an impact over time by preservation and maintenance operations during the life of the project;

e. Compensating for an impact by replacing or providing substitute resources or habitats; and

DRAFT

f. Monitoring the mitigation and taking remedial action when necessary.

~~211.~~205. Mitigation plan means a detailed plan indicating actions necessary to mitigate adverse impacts to shorelines and/or critical areas.

~~212.~~206. Mixed use means a combination of uses within the same building or site as a part of an integrated development project with functional interrelationships and coherent physical design.

~~213.~~207. Monitoring means evaluating the effects of a development action on the biological, hydrological, pedological, and geological elements of systems and/or assessing the performance of required mitigation measures through data collection, analysis and reporting.

208. Moorage or Moorage Facility means piers, docks, floats and buoys and their associated pilings, ramps, lifts, and other structures to which a vessel may be secured.

**Comment [SG319]:** Recommend add a definition of moorage or moorage facility since those terms are used interchangeably in Section 4.2.

~~214.~~209. Mooring buoy means an anchored floating device in a water body used for the landing or storage of a vessel or water craft.

~~215.~~210. Must means a mandate; the action is required.

~~216.~~211. Multi-family ~~dwelling~~residence means for the purposes of this Program a building containing ~~three (3)~~2 or more dwelling units.

**Comment [SG320]:** Recommended clarification for consistency with Section 2.9, Table-2-1 use table for residential development.

**N**

~~217.~~212. National Register of Historic Places means the official federal list, established by the National Historic Preservation Act, of sites, districts, buildings, structures and objects significant in the nation's history and prehistory, or whose artistic or architectural value is unique.

~~218.~~213. Native vegetation means plant species that are indigenous to Clallam County.

~~219.~~214. Navigable waters of the United States means a water body that in its ordinary condition, or by being united with other water bodies, forms a continued route over which commerce is or may be carried on with other states or foreign countries in the customary modes in which such commerce is conducted by water.

~~220.~~215. Net pens are finfish culturing systems that generally consist of one or more nets that are typically anchored to the waterbody floor and suspended from the surface with a floatation structure. Net pens that are connected at the surface, tied into the same anchoring network, or located in close proximity to each other and operated together shall be considered a single aquaculture facility. Net pen structures solely and directly established and managed for purposes of Pacific salmon enhancement and/or restoration are not considered net pens for purposes of this Program.

~~221.~~216. No net loss means the maintenance of the aggregate total of the County shoreline ecological functions over time. The no net loss standard requires that the impacts of shoreline use and/or development, whether permitted or exempt from permit requirements, be identified and mitigated on a project-by-project basis, so that as development occurs there is not an aggregate loss of shoreline functions. No net loss also requires that the County and other entities implement restoration projects to improve ecological functions and processes since there may be some development impacts that cannot be fully mitigated.

DRAFT

~~222.~~217. Noise means any sound not occurring in the natural environment which causes or tends to cause an adverse psychological or physiological effect on humans. This includes sounds arising from the amplification of noises generated by expected or permitted uses of a lot or structure.

~~223.~~218. Nonconforming means a legal use or development which conformed to the applicable codes in effect on the date of its creation but which no longer complies because of changes in code requirements. Nonconforming is different than and not to be confused with illegality (see Illegal use).

~~224.~~219. Nonconforming lot means a legal lot of record in existence prior to the effective date of this Program and any amendments thereto, on which it is not possible to construct a structure outside of/landward of the shoreline buffer or which does not otherwise meet the minimum lot size requirements as set forth in this Program.

~~225.~~220. Nonconsumptive use means a use which does not permanently deplete, degrade, or destroy the resource involved.

## O

~~226.~~221. Off-premise sign means a sign situated on premises other than those premises to which the sign's message is related.

~~227.~~222. Off-shore wind ~~turbine~~energy systems ~~involves the construction of~~means devices in waterbodies that convert kinetic energy from the wind into mechanical energy, usually for purposes of generating electricity.

**Comment [SG321]:** Recommended revision based on how term used in the SMP.

~~228.~~223. Offshore means the sloping subtidal area seaward from the low intertidal.

~~229.~~224. Off-site mitigation means to replace shoreline resources at a location away from the site that is impacted by development.

~~230.~~225. On-premise sign means a sign situated on the premises to which the sign's message is related.

~~231.~~226. On-site ~~waste~~sewage systems ~~disposal~~ means any one of several means for disposal of sanitary waste on the property from which it is generated (e.g., septic tank and drainfield).

~~232.~~227. Open record hearing means a hearing, conducted by a single hearing body or officer that creates the record through testimony and submission of evidence and information under procedures prescribed by ordinance or resolution. An open record hearing may be held prior to the decision on a project permit and is to be known as an open record predecision hearing. An open record hearing may be held on an appeal, and is to be known as an open record appeal hearing, if no open record predecision hearing has been held on the project permit.

~~233.~~228. Open space means lands committed to farming and forestry uses and any parcel, lot, or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment.

~~234. Operator means any person who is in actual physical or electronic control of a powered watercraft, motor vehicle, aircraft, off-highway vehicle, or any other engine driven vehicle.~~

**Comment [SG322]:** Deleted because the term is not used in the body of the SMP

229. Ordinary high water mark or OHWM ~~ordinary high water line~~ means on all lakes, streams, and tidal water that mark that will be found by examining the bed and banks and ascertaining

where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by Clallam County or the Department of Ecology. On a site-specific basis, Department of Ecology has the final authority on determining where the ordinary high water mark is located. The following criteria clarify this mark on tidal waters, lakes, and streams:

a. Tidal waters:

i. In high energy environments where the action of waves or currents is sufficient to prevent vegetation establishment below mean higher high tide, the ordinary high water mark is coincident with the line of vegetation. Where there is no vegetative cover for less than one hundred feet parallel to the shoreline, the ordinary high water mark is the average tidal elevation of the adjacent lines of vegetation. Where the ordinary high water mark cannot be found, it is the elevation of mean higher high tide; and

ii. In low energy environments where the action of waves and currents is not sufficient to prevent vegetation establishment below mean higher high tide, the ordinary high water mark is coincident with the landward limit of salt tolerant vegetation. "Salt tolerant vegetation" means vegetation which is tolerant of interstitial soil salinities greater than or equal to 0.5 parts per thousand.

b. Lakes: Where the ordinary high water mark cannot be found, it shall be the line of mean high water.

~~a.~~c. Streams: Where the ordinary high water mark cannot be found, it shall be the line of mean high water. For braided streams, the ordinary high water mark is found on the banks forming the outer limits of the depression within which the braiding occurs. WAC 173-22-030.

**Comment [SG323]:** Revisions to the ordinary high water mark (OHWM) definition above are recommended for clarity and to fully incorporate how the OHWM is defined in state SMP guidelines under WAC 173-22-030.

~~235.~~230. Owner means an individual, firm, business entity, trust, association, syndicate, partnership, or corporation having sufficient property interest to seek development of land.

~~236. Owner-occupied means the residential occupancy of a building or property by the owner.~~

**Comment [SG324]:** Deleted because the term is not used in the body of the SMP

## P

~~237.~~231. Park means a tract of land designated and used by the public for recreation.

~~238.~~232. Parking facilities means off-street, ground-level open areas or structures used for the temporary storage of motor vehicles. Parking facilities do not include driveways for single-family residences.

~~239.~~233. Parties of record means the land use permit applicant; persons who have testified at the open record hearing; and any persons who have submitted written comments concerning the application that form part of the public record (excluding persons who only signed petitions or mechanically produced form letters).

~~240.~~234. Penstocks means a sluice or gate or intake structure that controls water flow, or an enclosed pipe that delivers water to hydraulic turbines.

~~241.~~235. Performance standard means a set of criteria or limits relating to certain characteristics that a particular use or process may not exceed.

~~242. Permit center means the Clallam County Department of Community Development.~~

~~243. Permit review means the process of reviewing applications for project permits for consistency with the requirements of this Program.~~

~~244.~~236. Permitted use or development means a use that is allowed when consistent with the Program. Permitted uses/development shall require a shoreline substantial development permit, a shoreline conditional use permit, a shoreline variance, or a statement from the County Community Development Department that the use/development is exempt from a shoreline substantial development permit. Permitted uses are the same as allowed uses/developments and the opposite of prohibited uses/developments.

~~245.~~237. Permittee means the entity to whom a permit is granted.

~~246.~~238. Person means any individual, owner, contractor, tenant, partnership, corporation, business entity, association, organization, cooperative, public or municipal corporation, agency of a state or local governmental unit however designated, public or private institution, or an employee or agent of any of the foregoing entities.

~~247.~~239. Pervious ~~surface~~ means a surface that absorbs water.

~~248.~~240. 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.

~~249.~~241. Plat means a map or representation of a subdivision or short subdivision of land showing the division of a parcel of land into lots, roads, dedications, common areas, restrictions and easements, as regulated by Chapter 58.17 RCW and this Program.

~~250. Playing field means a land area designed and used for outdoor games, such as baseball, football, soccer, track events and tennis. It includes public outdoor swimming pools.~~

~~251.~~242. Powerhouse means a plant where electric energy is produced by conversion from other forms of energy by means of suitable apparatus. This includes all generating station auxiliaries and other associated equipment required for the operation of the plant.

~~252.~~243. Ports are legal entities established for purposes of acquiring, constructing, maintaining, operating, developing and regulating harbor improvements, rail or motor vehicle transfer and terminal facilities, water transfer and terminal facilities, air transfer and terminal facilities, or any combination of such transfer and terminal facilities, and other commercial transportation, transfer, handling, storage and terminal facilities, and industrial improvements.

~~253.~~244. Predecision hearing, open record means a hearing, conducted by the hearing examiner, that creates the County's record through testimony and submittal of evidence and information, under procedures prescribed by the County by ordinance or resolution. An open record predecision hearing may be held prior to the County's decision on a project permit (RCW 36.70B.020).

**Comment [SG325]:** Deleted because the term is not used in the body of the SMP

**Comment [SG326]:** Deleted because the term is not used in the body of the SMP

**Comment [SG327]:** Deleted because the phrase "pervious surface" is not used in the body of the SMP

**Comment [SG328]:** Deleted because the term is not used in the body of the SMP

DRAFT

~~254. Preliminary plat means a neat and approximate drawing of a proposed subdivision showing the general layout of streets, lots, blocks (if applicable) and other elements of a subdivision consistent with the provisions of this Program.~~

**Comment [SG329]:** Deleted because the term is not used in the body of the SMP

~~255.~~245. Preservation means actions taken to ensure the permanent protection of existing, ecologically important areas that the County has deemed worthy of long-term protection.

~~256.~~246. Primary association means the use of a habitat area by a listed or priority species for breeding/spawning, rearing young, resting, roosting, feeding, foraging, and/or migrating on a frequent and/or regular basis during the appropriate season(s) as well as habitats that are used less frequently/regularly but which provide for essential life cycle functions such as breeding/nesting/spawning.

~~257.~~247. Primary use means the principal use of a property. For example, on a lot of record developed with only a single-family residence and accessory uses the primary use would be residential.

**Comment [SG330]:** Recommended example to add to help clarify.

248. Primary structure means the structure(s) that comprise the primary use of the property.

**Comment [SG331]:** Recommended added definition for this term that is used in the SMP.

~~258.~~249. Priority habitat means a habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes: Comparatively high fish or wildlife density; comparatively high fish or wildlife species diversity; fish spawning habitat; important fish and wildlife breeding habitat; important fish or wildlife seasonal range; important fish or wildlife movement corridor; rearing and foraging habitat; refuge; limited availability; high vulnerability to habitat alteration; unique or dependent species; or shellfish bed. A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife (WAC 173-26-020(24)).

~~259.~~250. Priority species means wildlife species of concern due to their population status and their sensitivity to habitat alteration, as defined by the Washington Department of Fish and Wildlife.

~~260. Private sign means a sign used on a private residence to indicate only the owner's name or address, that the premises are for rent or sale, or for other reasonable purposes related to residential use including permitted home occupations.~~

**Comment [SG332]:** Deleted because the term is not used in the body of the SMP

~~261.~~251. Prohibited use means any use or activity which is specifically not allowed by this Program. A prohibited use cannot be authorized through a variance or conditional use permit.

~~262.~~252. Project means any proposed or existing activity regulated by Clallam County.

~~263. Project area means all areas at and around a proposed shoreline development that would be affected directly or indirectly by the proposal for which a project proponent is seeking approval under this Program, and not simply the immediate area involved in the project. That is, the project area may consist of an area larger than the affected lot or parcel. Direct effects are those caused by the proposed project and occur at the same time and place. Indirect effects are those caused by the proposed project and are later in time, but still are reasonably certain to occur. The Administrator is vested with the authority to define the project area.~~

**Comment [SG333]:** Deleted because the term is not used in the body of the SMP

~~264.~~253. Proof of ownership means a photocopy of a recorded deed to property and/or a current title insurance policy insuring the status of an applicant as the owner in fee title to real property.

~~265.~~254. Proponent means the owner, sponsor, authorized agent and/or permit applicant of any proposed use or development on or affecting shorelines of the state.

~~266.~~255. Provision means any written language contained in this Program, including without limitation any definition, policy, goal, regulation, requirement, standard, authorization, or prohibition.

~~267.~~256. Public access means physical shoreline access that is either lateral (areas paralleling the shore) or perpendicular (an easement or public corridor to the shore), and/or visual shoreline access facilitated by scenic roads and overlooks, viewing towers and other facilities. Public access can be established by easement or other means and may not always include a facility or structure. Public access is one goal of the Shoreline Management Act that supports the public's right to get to view and use the State's public waters, both saltwater and freshwater, the water/land interface and associated shoreline area.

~~268.~~257. Public facilities (and services) means facilities which serve the general public including streets, roads, ferries, sidewalks, street and road lighting systems, traffic signals, community water systems, community sewage treatment systems, storm sewer systems, parks and recreational facilities, and libraries (see RCW 36.70A.030). Some public facilities are essential public facilities.

~~269.~~258. 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 adverse ~~effects~~impacts of a use or development.

~~270.~~259. Public transportation systems means public facilities for air, water, or land transportation.

~~271.~~260. Public use means the use of any land, water, or building by a public agency for the general public, or by the public itself.

~~272.~~261. Public utility means a use owned or operated by a public or publicly licensed or franchised agency that provides essential public services such as telephone exchanges, electric substations, radio and television stations, wireless communications services, gas and water regulation stations and other facilities of this nature.

## Q

~~273.~~262. Qualified professional or qualified consultant means a person with experience and training and expertise appropriate for the relevant subject. A qualified professional/consultant must have obtained a B.S. or B.A. degree, a professional license/certification and/ or have appropriate education and experience in biology, soil science, engineering, environmental studies, fisheries, geology, geomorphology or related field.

~~274.~~263. Qualified geotechnical engineer means a professional engineering geologist or geotechnical engineer, licensed in the state of Washington.

DRAFT

## R

~~275. Rare, endangered, threatened and sensitive species means plant and animal species identified and listed by the Washington State Department of Natural Resources, Washington Natural Heritage Program, Washington State Department of Fish and Wildlife, or the U.S. Fish and Wildlife Service, as being severely limited or threatened with extinction within their native ranges.~~

**Comment [SG334]:** Deleted because the term is not used in the body of the SMP

~~276.~~264. RCW means the Revised Code of Washington.

~~277.~~265. Reach means a segment of shoreline and associated planning area that is mapped and described as a unit due to relatively homogenous characteristics that include land use and/or natural features, such as a drift cell location and other factors.

~~278.~~266. Recharge means the hydrologic process involved in the absorption and addition of water downward from surface waters and subsurface areas above the ground water table into ground water.

~~279.~~267. Recording means the filing of a document(s) for recordation with the County auditor.

~~280.~~268. Recreational development means development that ~~provides opportunities for the use and enjoyment of the shoreline, including but not limited to fishing, hiking, swimming and viewing. This includes both commercial and public recreational facilities~~ include, but are not limited to: piers, docks, boat launches, campgrounds, interpretive structures, trails, etc. that support a recreational use.

~~281.~~269. Recreational use means an experience or activity in which an individual engages for personal enjoyment and satisfaction. ~~Most shore-based recreation is outdoor recreation such as:~~ Examples of shore-based recreation include: fishing, hunting, clamming, beach combing, and rock climbing; various forms of boating, swimming, hiking, bicycling, horseback riding, camping, picnicking, watching or recording activities such as photography, painting, bird watching or viewing of water or shorelines, nature study and related activities.

~~282.~~270. Reestablishment means measures taken to intentionally restore an altered or damaged natural feature or process including:

a. Active steps taken to restore damaged wetlands, streams, protected habitat, and/or their buffers to the functioning condition that existed prior to an unauthorized alteration;

b. Actions performed to reestablish structural and functional characteristics of the critical area that have been lost by alteration, past management activities, or other events; and

c. Restoration can include restoration of wetland functions and values on a site where wetlands previously existed, but are no longer present due to lack of water or hydric soils.

~~283.~~271. Rehabilitation means a type of restoration action intended to repair natural or historic functions and processes. Activities could involve breaching a dike to reconnect wetlands to a floodplain or other activities that restore the natural water regime.

~~284. Renovation means to restore to an earlier condition as by repairing or remodeling. Renovation shall include any interior changes to the building and those exterior changes that do not substantially change the character of the existing structure.~~

**Comment [SG335]:** Deleted because the term is not used in the body of the SMP

DRAFT

~~285. Resident fish means a fish species that completes all stages of its life cycle within freshwater and frequently within a local area.~~

**Comment [SG336]:** Deleted because the term is not used in the body of the SMP

~~286.~~272. Residential development means development of land with dwelling units for non-transient occupancy. For the purposes of this Program, accessory dwelling units, garages, and other similar structures accessory to a dwelling unit shall also be considered residential development (See also Dwelling unit and Accessory dwelling unit).

~~287. Resource-based industrial means a forest resource-based industrial land use designation that recognizes existing, active sawmills and related activities.~~

**Comment [SG337]:** Deleted because the term is not used in the body of the SMP

~~288.~~273. Resource lands means agricultural, forest, and mineral lands that have long-term commercial significance as identified in Chapter 33.07 CCC (Clallam County Zoning).

~~289.~~274. Restoration means the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of fill, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

~~290.~~275. Restriction means a limitation placed upon the use of parcel(s) of land.

~~291.~~276. Revetment means a sloped wall constructed of rip-rap or other suitable material placed on stream banks or other shorelines to retard bank erosion and minimize lateral stream movement.

~~292.~~277. Rip-rap means dense, hard, angular rock free from cracks or other defects conducive to weathering often used for bulkheads, revetments or similar slope/bank stabilization purposes.

~~293.~~278. Riparian corridor or Riparian zone means the area adjacent to a water body (stream, lake or marine water) that contains vegetation that influences the aquatic ecosystem, nearshore area and/or fish and wildlife habitat by providing shade, fine or large woody material, nutrients, organic debris, sediment filtration, and terrestrial insects (prey production). Riparian zones include those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems (i.e., zone of influence). Riparian zones provide important wildlife habitat. They provide sites for foraging, breeding and nesting; cover to escape predators or weather; and corridors that connect different parts of a watershed for dispersal and migration. Buffers are specified by this Program to provide protection for riparian zones.

~~294.~~279. River means a large natural stream of water emptying into any ocean, lake, or other body of water, and usually fed along its course by converging tributaries.

~~295.~~280. Road means an improved and maintained public or private right-of-way which provides vehicular access to abutting properties, and which may also include provision for public utilities, pedestrian access, cut and fill slopes, and drainage.

~~296.~~281. Runoff means that portion of rainfall and other precipitation that becomes surface flow and interflow and that is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes and wetlands as well as shallow ground water.

~~297.~~282. Rural lands means the class of land use designations which are intended to preserve the rural character of the County. Rural land designations in the Comprehensive Plan and Title 33

DRAFT

CCC (Clallam County Zoning) include the following: rural residential, rural commercial and rural industrial.

~~298.~~283. Rural residential designation means the land use designation in the Comprehensive Plan designed to recognize existing residential development patterns of the rural landscape and provide for a variety of residential living opportunities at densities which maintain the primarily rural residential character of an area.

## S

~~299.~~284. Sale means the conveyance for consideration of legal or beneficial ownership.

~~300.~~285. Salt water intrusion means the underground flow of salt water into wells and aquifers.

~~301.~~286. Scientific and educational facilities means those sites, structures, or facilities that provide unique insight into our natural and cultural heritage.

~~302.~~287. Screening means a method of visually shielding or obscuring a structure or use from view by fencing, walls, trees, or densely planted vegetation.

~~303.~~288. Seaward means to or toward the sea.

~~304.~~289. Seawall means a structure whose primary purpose is to protect the shore from erosion by water waves. Seawalls are similar but typically more massive than bulkheads because they are designed to resist the full force of waves.

~~305.~~290. Sedimentation means the process by which material is transported and deposited by water or wind.

291. Sediment input means the delivery of sediment from bluff, stream, and marine sources into the nearshore. Depending on landscape setting, inputs can vary in scale from acute, low-frequency episodes (hillslope mass wasting from bluffs) to chronic, high-frequency events (some streams and rivers). Sediment input interacts with sediment transport to control beach structure.

292. Sediment transport means bedload and suspended transport of sediments and other matter by water and wind along (longshore) and across (cross-shore) the shoreline. The continuity of sediment transport strongly influences the longshore structure of beaches.

~~306.~~293. Segment means a section of shoreline and associated planning area that is mapped and described as a unit due to relatively homogenous characteristics that include land use and/or natural features, such as a drift cell location and other factors. Segment is synonymous with reach.

~~307.~~294. Seismic Hazard Areas means areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, surface faulting, or tsunamis. L~~l~~ands meeting the following classifications shall be designated as seismic hazard areas~~and are subject to the requirements of this Program.~~:

a. Landslide hazard areas and materials.

b. Artificial fills especially on soils listed in subsection ~~(1)~~(c) of this definition and areas with perched water tables.

**Comment [SG338]:** Recommended added definition for this term that is used in the SMP.

**Comment [SG339]:** Recommended added definition for this term that is used in the SMP.

**Comment [SG340]:** Recommended revision to incorporate same language from WAC 365-190-120(7) for classification of seismic hazard areas.

DRAFT

c. The following soil types described within the Clallam County soil survey as beaches, Mukilteo muck, Lummi silt loam, Sequim-McKenna-Mukilteo complex, and Tealwhit silt loam.

d. Other areas as determined by the Clallam County Building Official pursuant to 1997 Washington State Uniform Building Code, Chapter 18, as amended.

~~308.~~295. Setback means the distance a building structure is placed behind a specified limit such as a lot line or shoreline buffer.

296. Shall means a mandate; the action must be done.

**Comment [SG341]:** Recommended added definition for this term that is used throughout the SMP.

~~309.~~297. Shellfish means invertebrate organisms of the phyla Arthropoda (class Crustacea), Mollusca (class Pelecypoda) and Echinodermata.

~~310.~~298. Shellfish habitat conservation areas are all public and private tidelands suitable for shellfish, as identified by the Washington Department of Health classification of commercial growing areas, and those recreational harvest areas as identified by the Washington Department of Ecology as designated as Shellfish Habitat Conservation Areas pursuant to Chapter 365-190-80 WAC. Any area that is or has been designated as a Shellfish Protection District created under RCW 90.72 is also a Shellfish Habitat Conservation Area.

~~311.~~299. Shoreline armoring or structural shoreline armoring refers to the placement of bulkheads and other hard structures on the shoreline to provide stabilization and reduce or prevent erosion caused by wave action, currents and/or the natural transport of sediments along the shoreline. Groins, jetties, breakwaters, revetments, sea walls are examples of other types of shoreline armoring.

~~312.~~300. Shorelands or Shoreland areas means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes and tidal waters which are subject to the provisions of Chapter 173-22 WAC, as may be amended; the same to be designated as to location by the Department of Ecology, as defined by RCW 90.58. For the purposes of this Program, shorelands also includes the full-extent of the mapped 100-year floodplain pursuant to RCW 90.58.030 (2)(d)(i), and also extends to all lands necessary for buffers to protect critical areas that are overlapping or otherwise coincident with the shoreline jurisdiction pursuant to RCW 90.58.030(2)(d)(ii).

**Comment [SG342]:** Recommended addition to clarify shorelands subject to the SMP consistent with Section 1.8, Shoreline Jurisdiction.

~~313.~~301. Shorelines ~~are~~means all of the water areas of the state as defined in RCW 90.58.030, 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 cubic feet per second (20 cfs) 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.

DRAFT

~~314. Shoreline conditional use means a use, development, substantial development, or unclassified use that, owing to some special characteristics attendant to its typical operation or installation, may be allowed in certain circumstances when consistent with criteria specified herein.~~

~~315.~~302. Shoreline conditional use permit means a permit issued by Clallam County and approved by Ecology stating that the land uses and activities meet all criteria set forth in this Program, and all conditions of approval in accordance with the procedural requirements of this Program.

~~316.~~303. Shoreline jurisdiction means ~~all shorelines of the state and shorelands~~ the jurisdiction of this Program as described in Section 1.8 of this Program.

~~317.~~304. Shoreline Management Act means the Shoreline Management Act of 1971 (Chapter 90.58 RCW), as amended.

~~318.~~305. Shoreline Master Program (SMP or Program) means the Clallam County Shoreline Master Program Chapter Title 35 of the Clallam County Code.

~~319.~~306. Shoreline modification activities 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 bulkhead, dock or other shoreline structure. They can include other actions, such as clearing, grading, or filling.

~~320.~~307. Shoreline permit means a shoreline substantial development permit, a shoreline conditional use, or a shoreline variance, or any combination thereof issued by Clallam County pursuant to RCW 90.58.

~~321.~~308. Shoreline stabilization means structural and non-structural modifications to the existing shoreline intended to reduce or prevent erosion of uplands or beaches and/or influence wave action, currents and/or the natural transport of sediments along the shoreline. This includes use of bulkheads and concrete walls as well as bioengineering and other forms of vegetative stabilization.

~~322.~~309. Shorelines of statewide significance with respect to Clallam County are identified as follows:

a. The 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, including associated wetlands.

b. Those areas of Puget Sound and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide.

c. The area between the ordinary high water mark and the western boundary of the state including harbors, bays, estuaries, and inlets.

d. Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying seaward from the line of extreme low tide.

e. Those natural rivers or segments thereof downstream from a point where the mean annual flow is measured at one thousand (1,000) cubic feet per second or more.

f. Those shorelands associated with the areas described in subsection a, b, d and e of this definition.

**Comment [SG343]:** Moved and further edited under added definition of "conditional use". This was done since "conditional use" is often used in the body of the SMP without being proceeded by the term shoreline.

*See also added Definition #71, Conditional Use.*

**Comment [SG344]:** Recommended reference to Section 1.8 that contains the full text of shoreline jurisdiction.

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~~323.~~310. Shorelines of the state means the total of all shorelines and shorelines of statewide significance within Washington State.

~~324.~~311. Short plat means a neat and accurate drawing of a short subdivision, prepared for filing for record with the County auditor, and containing all elements and requirements set forth in CCC Titles 29 (Subdivisions) and 33 (Zoning).

~~325.~~312. Should means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Act and this Program, against taking the action.

~~326.~~313. Sign means any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination or projected images. Excluded from this definition are signs required by law, such as handicapped parking signs, and the flags of national and state governments.

~~327. Sign, commercial means a sign that directs attention to a business or profession, to a commodity or service sold, offered, or manufactured, or to an entertainment offered on the premises where the sign is located.~~

**Comment [SG345]:** Deleted because the phrase "sign, commercial" is not used in the body of the SMP. Intent of this definition consolidated with definition of commercial sign (see Def. 65).

~~328.~~314. Significant adverse impact means having a reasonable likelihood of producing more than a moderate, negative effect on environmental quality. The determination takes into account the severity of the impact as well as its likelihood of occurring. An impact may be significant if its magnitude would be severe, even if its likelihood is not great. What is considered significant will vary from one site to another because of the conditions surrounding the proposal at a particular location.

~~329.~~315. Significant vegetation removal means the removal or alteration of multiple trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical, or other means, where the amount, extent or nature of the removal activity causes a significant adverse impact on shade, slope stability, habitat, water quality or other ecological functions provided by vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

~~330.~~316. Single-family residence means a dwelling unit designed for and occupied by no more than one family, including accessory uses (see definition). Accessory uses include development that is necessarily connected to the use and enjoyment of a single-family residence and located landward of the ordinary high water mark and the perimeter of a wetland and include a garage; deck; driveway; utilities; fences; septic tanks and drainfields; and grading which does not exceed two hundred fifty cubic yards which does not involve placement of fill in any wetland or waterward of the ordinary high water mark.

~~331.~~317. Slope means:

a. Gradient.

b. The inclined surface of any part of the earth's surface, delineated by establishing its toe and top and measured by averaging the inclination over at least 10 feet of vertical relief.

~~332.~~318. Small-scale means of a size or intensity which does not substantially degrade the surrounding area and which makes minimal demands on the existing infrastructure.

~~333.~~319. Soil means all unconsolidated materials above bedrock described in the Soil Conservation Service Classification System or by the Unified Soils Classification System.

~~334.~~320. Solid waste means all putrescible and non-putrescible solid and semi-solid wastes, except wastes identified in WAC 173-304-015, including, but not limited to, junk vehicles, garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities, but excluding agricultural wastes and crop residues returned to the soil at agronomic rates. This includes all liquid, solid and semi-solid materials which are not the primary products of public, private, industrial, commercial, mining and agricultural operations. Solid waste includes but is not limited to sludge from wastewater treatment plants and septage from septic tanks, wood waste, dangerous waste, and problem wastes. Unrecovered residues from recycling operations shall be considered solid waste.

~~335.~~321. Solid waste handling and disposal facilities 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 an accessory to the handling and disposal of garbage and refuse.

~~336.~~322. Special Flood Hazard means the land area covered by the floodwaters of the base flood is the Special Flood Hazard Area (SFHA) on National Flood Insurance Program (NFIP) rate maps. The SFHA is the area where the NFIP's floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies. The SFHA includes Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE, and V.

~~337.~~323. Spit means an accretion shoreform that is narrow in relation to length and extends parallel to or curves outward from shore; spits are also characterized by a substantial wave-built sand and gravel berm on the windward side, and a more gently sloping silt or marsh shore on the lagoon or leeward side; curved spits are called hooks.

324. Statement of exemption means a written statement by the Administrator that a particular development proposal is exempt from the substantial development permit requirement and is consistent with this Program (see also definition of substantial development).

**Comment [SG346]:** Recommended added definition for this term that is used throughout the SMP.

~~338.~~325. Stormwater means rain or snow melt that does not naturally infiltrate into the ground but runs off surfaces such as rooftops, streets, or lawns, directly or indirectly, into streams and other water bodies or through constructed infiltration facilities into the ground.

~~339.~~326. Stream means an area where surface waters produce a defined channel or bed. A defined channel or bed is an area that demonstrates clear evidence of the annual passage of water and includes, but is not limited to, bedrock channels, gravel beds, sand and silt beds, and defined channel swales. The channel or bed need not contain water year round. This definition includes drainage ditches or other artificial water courses where natural streams existed prior to human alteration, and/or the waterway is used by anadromous or resident salmonid or other fish populations.

~~340.~~327. Strict construction means an interpretation that considers only the literal words of a writing.

~~341.~~328. Structure means a permanent or temporary edifice or building or any piece of work artificially built ~~up~~ or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels (WAC 173-27-030). Retaining walls, bulkheads, fences, landscaping walls/decorative rockeries, mussel racks, and similar improvements to real property are examples of structures. Geoduck harvest tubes are not considered structures for purposes of this Program.

~~342.~~329. Subdivision means the division or redivision of land into lots, tracts, parcels, sites or divisions for the purpose of sale, lease or transfer of ownership.

~~343.~~330. Substantial development means any development of which the total cost or fair market value exceeds the inflation-adjusted value threshold set by the Washington State Office of Financial Management at the time of permit application, or any development which materially interferes with the normal public use of water or shorelines of the State; except the classes of development specifically listed under ~~meets the definition in~~ RCW 90.58.030(3)(e) and WAC 173-27-040.

**Comment [SG347]:** Recommended clarification and reference addition. The fair market value is updated by state generally every 5 years. It is one of the criteria to determine if a new development or use is exempt from a shoreline substantial development permit.

~~344.~~331. Substantially degrade means to cause noticeable damage or harm to an area's ecological condition or function. An action is considered to substantially degrade the environment under any of the following criteria:

a. The change in condition or function is considerable in size or area relative to the pre-existing condition/function; or

b. The change in condition or function will have long-term implications on the viability of the affected habitat or species that depend on the affected habitat; or

c. The change in condition will create a human health or safety hazard or cause a threat to people or property in the foreseeable future; or

d. The change in condition or function has indirect effects on the environment that extend beyond the immediate footprint of the damaged/degraded area; or

e. The change in condition or function may contribute to damage or harm to ecological functions as part of cumulative impacts from similar permitted development on nearby shorelines.

~~345.~~332. Subtidal means the area waterward of the line of extreme low tide.

~~346.~~333. Sustainable means actions or activities which preserve and enhance resources for future generations.

## T

~~347.~~334. Terrestrial Habitat Conservation Areas means the subset of fish and wildlife habitat conservation areas listed in WAC 395-190-130(1) that occur on land.

~~348.~~335. Threatened species means a species that is likely to become an endangered species within the foreseeable future, as classified by the Washington Department of Fish and Wildlife, the Department of Natural Resources, Washington Natural Heritage Program, or the federal Endangered Species Act.

~~349.~~336. Threshold determination means the decision by the responsible official of the lead agency under the State Environmental Policy Act (SEPA)whether or not an environmental impact

statement (EIS) is required for a proposal that is not categorically exempt (WAC 197-11-310 and 197-11-330 (1)(b)).

~~350.~~337. Toe means the lowest part of a slope or cliff; the downslope end of an alluvial fan, landslide, etc.

~~351.~~338. Transportation uses and developments means roads, rails, trails, and other surfaces and facilities designed to accommodate movement of motorized and non-motorized vehicles and pedestrians.

~~352.~~339. Type "F" Water means streams and waterbodies that are known to be used by fish, or meet the physical criteria to be potentially used by fish. Fish streams may or may not have flowing water all year; they may be perennial or seasonal (formerly type 2 or 3)

~~353.~~340. Type "Np" Water means streams that have flow year round, but do not meet the physical criteria of a Type F stream. This also includes streams that have been proven not to contain fish using methods described in Forest Practices Board Manual Section 13 (formerly type 4)

~~354.~~341. Type "Ns" Water means streams that do not have surface flow during at least some portion of the year, and do not meet the physical criteria of a Type F stream (formerly type 5).

~~355.~~342. Type "S" Water means streams and waterbodies that are designated "shorelines of the state" as defined in chapter 90.58.030 RCW (formerly type 1).

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## U

~~356.~~343. Unavoidable means adverse impacts that remain after all appropriate avoidance and minimization measures have been implemented.

~~357.~~344. Uplands means dry lands landward of ordinary high water mark.

~~358.~~345. Urban growth area means an area designated by the County within which urban growth is to be encouraged and outside of which growth is not intended to be urban in nature. (cf. Chapter 36.70A RCW.)

~~359.~~346. Use means the purpose that a parcel of land, a building or a structure now serves or may serve in the future. This includes the purpose for which such parcel, building or structure is or may be occupied, maintained, arranged, designed, or intended.

~~360.~~347. Utility means a fixed improvement which produces, conveys, stores or processes power, gas, sewage, communications, oil, waste, water, stormwater, and communication signals.

~~361.~~348. Utility ~~distribution~~ lines means pipes, wires, and associated structural supports.

**Comment [SG348]:** Deleted because the term is not used in the body of the SMP

~~362.~~349. Utility facilities means facilities directly used for the distribution or transmission of services to an area, excluding utility service offices.

## V

~~363.~~350. Variance (or shoreline variance) permit means a type of permit that can provide relief from the specific bulk, dimensional, or performance standards ~~requirements~~ of this Program, but not available as a means to vary from the uses allowed on a shoreline. A variance may only be granted when all of the criteria listed at WAC 173-27-170 are met. The variance is intended to allow only a minimum degree of variation from setback or other standards, just

**Comment [SG349]:** Recommended clarification and consistent with how defined by state under WAC 173-27-030 (17).

enough to afford relief and to allow a reasonable use of a property. Variances approved by Clallam County must also be approved, denied, or approved with conditions by Ecology.

~~364.~~351. Vessel means a floating structure that is designed primarily for navigation, is normally capable of self propulsion and used as a means of transportation, and meets all applicable laws and regulations pertaining to navigation and safety equipment on vessels, including, but not limited to, registration as a vessel by an appropriate government agency as per WAC 332-30-103.

~~365. Vicinity means the area generally within the same marine drift cell or freshwater reach of the boundary of a given parcel.~~

**Comment [SG350]:** Deleted because the term is not used in the body of the SMP

~~366.~~352. View protection means protection of the visual quality of the shoreline resource and maintenance of view corridors to and from waterways and their adjacent shoreland features.

## W

~~367.~~353. WAC means the Washington Administrative Code.

~~368.~~354. Water-dependent use means a use or portion of a use that requires direct contact with the water and cannot exist at a non-water location due to the intrinsic nature of its operations. Ferry terminals, public fishing piers, aquaculture, and marinas are examples of water-dependent uses. Residential development is not a water-dependent use but is a preferred use of shorelines of the state (RCW 90.58.020).

~~369.~~355. Water-enjoyment use means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment. A restaurant or similar use may qualify as a water-enjoyment use provided it includes public access to the shoreline.

~~370.~~356. Water-oriented use means any one or a combination of water-dependent, water-related or water-enjoyment uses and serves as an all-encompassing definition for priority uses under the Act.

~~371.~~357. Water quality means the physical, chemical and biological characteristics of water. Water quality is a measure of the condition of water relative to the requirements of humans and other biotic species. Water quality is typically assessed in terms of specific standards for drinking water, shellfish harvest, recreation, fish production, and other beneficial uses.

~~372.~~358. Water-related use means a use or portion of a use that is not intrinsically dependent on a waterfront location but depends upon a waterfront location for economic viability because of one of the following:

a. A functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or

b. The use provides a necessary service supportive of the water-dependent ~~activities~~ uses and the proximity of the use to its customers makes its services less expensive and/or more

**Comment [SG351]:** Recommended revision because "use" is the more general term used in the SMP and is also defined.

convenient. Water-related uses include manufacturers of ship parts large enough that transportation becomes a significant factor in the product's cost; professional services for primarily water-dependent activities and storage of water-transported foods. Other examples of water-related uses may include the warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker, and log storage for water-borne transportation.

~~373.~~359. Watershed means a geographic region within which water drains into a particular river, stream or body of water.

~~374.~~360. Wetlands means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created for non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands intentionally created from non-wetland areas as mitigation (e.g., to mitigate the conversion of wetlands) and wetlands modified for approved land use activities shall be considered as regulated wetlands.

**Comment [SG352]:** Recommended changes for clarification of intent and for added consistency with state wetland definition under RCW 90.58.030 (2) (h).

~~375.~~361. Weir means a structure in a stream or river for measuring or regulating stream flow and/or for directing fish movement for passage, fisheries, or scientific research purposes.

~~376.~~362. Wind energy system (WES) means a wind energy conversion system, consisting of: wind turbine, tower, base and associated control or conversion electronics, as well as all anchors, guy cables and hardware.

~~377.~~363. Wind throw means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

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