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.*

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 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.

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. 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. Substrate disturbance/modification (including rate, frequency, and spatial extent).

5. 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.

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

8. Aquaculture uses/developments should be permitted when they have been evaluated and approved by state and federal agencies, when they incorporate measures to mitigate adverse effects 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 on water quality, sediment quality, benthic and pelagic organisms, and/or wild fish populations; or

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

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

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

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

10. 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. 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. Commercial net pen aquaculture operations that propagate non-native finfish species should be discouraged unless these operations are conducted in a manner that prevents escapement, disease transmission, or significant waste-related environmental impacts.

13. 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. 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. The County should review proposals for new aquaculture 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 aquaculture development and planned restoration.

17. 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.

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 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 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 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.

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.

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 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 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.

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, 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, 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 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:

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

b. Number, types, and dimensions of structures, apparatus, or equipment.

c. Predator control methods.

d. Anticipated levels of noise, light, and odor and plans for minimizing their impacts.

e. Potential impacts to animals, plants, and water quality due to the discharge of wastewater from any upland development.

f. 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.

g. Department of Health Shellfish Certification Number.

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

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

5. In-water finfish aquaculture facilities shall provide estimates of high, average, and low volumes of waste to be produced, including catastrophic events.

6. 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.

7. 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.

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.

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. 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 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.

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 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 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.

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.

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.

2. 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.

3. 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.

4. Forest practices conversions and other Class IV-General forest practices should minimize damage to fish and wildlife species and terrestrial, wetland, and aquatic habitats.

5. Forest practices conversions and other Class IV-General forest practices should maintain or improve the quality of soils and minimize erosion.

6. 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 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. 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:

   a. With respect to timber situated within two hundred feet abutting landward of the ordinary high water mark with shorelines of statewide significance, 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, as required by RCW 90.58.150. 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. Other activities associated with timber harvesting, such as filling, excavation, and building roads and structures, that meet the definition of development, shall require a shoreline substantial development permit 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. Conversion of forest land to non-forestry uses (Class IV 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.

4. Those lands harvested and not reforested under a Class I, II, or III Forest Practices permit 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. 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.

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.

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 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.

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 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;
   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.

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 shall be 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.

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. 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. Recreational developments should facilitate appropriate use and enjoyment of shoreline resources while also conserving them.

3. 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. 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. 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. 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. 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. 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. 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 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 on water quality and habitat; and

   d. Provides compensatory mitigation to offset any unavoidable impacts on shoreline vegetation, functions or processes; and

   e. 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

   e. 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. 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 not be approved via a shoreline conditional use permit or shoreline variance.

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. Low impact development practices and 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.

5. 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. 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 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 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. 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. 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. 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. To preserve shoreline views, the maximum height above average grade level of any residential structure shall not exceed thirty-five (35) feet.

12. 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. Access to new residential developments shall comply with the applicable transportation provisions in Section 3.11.2 of this Program.

14. 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.

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.

15. 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.

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.

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 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.

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.

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.

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.

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.

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. Maintenance and repair of existing transportation facilities in shoreline jurisdiction should use all reasonable methods to minimize significant adverse impacts on nearby shorelines.

3. New transportation facility locations should be planned to fit the topographical characteristics of the shoreline to minimize alterations to natural shoreline conditions.

4. 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. 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. 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. 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 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. 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.

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. 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. 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.

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.

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.

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 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.

    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 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.

   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 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

   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 adverse effects.

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 water-dependent but shall be located to minimize adverse effects on shoreline 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 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.

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 to shoreline ecological functions;

   c. The stormwater facility meets applicable stormwater management standards 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 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.

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.