Edits to 17.50.010 through 17.50.055 of the April 2013 (the January 2013 draft regulations combined with policies) draft of the Mason County Shoreline Master Program Regulations

Prepared on 8/6/2013 for 8/12/2013 Planning Advisory Commission Workshop

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(.060 through .150 not yet reviewed at PAC Workshops)
Title

This Title shall be officially cited as Title 17.50 Zoning—Shoreline Master Program Regulations.

Adoption Authority

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

Purpose and Intent

This Title is intended to carry out the responsibilities given Mason County by the Shoreline Management Act of 1971 (RCW 90.58). The actual purpose of the Use Regulations is the same as the purpose of the Act itself, which is summarized and paraphrased below.

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

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

The public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependant upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single-family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state.
Permuted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act has designated the following shoreline areas of Mason County as Shorelines of Statewide Significance:

1. Marine waters and shorelands (200 feet landward of the OHWM) of Hood Canal;
2. Marine waters of South Puget Sound seaward from extreme low tide;
3. Freshwater of Lake Cushman including shorelands; and
4. Skokomish River (downstream from the confluence of its North and South Forks) including shorelands.

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

1. Recognize and protect the statewide interest over local interest;
2. Preserve the natural character of the shoreline;
3. Result in long term over short term benefit;
4. Protect the resources and ecology of the shoreline;
5. Increase public access to publicly owned areas of the shoreline;
6. Increase recreational opportunities for the public in the shoreline;
7. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

17.50.030 Application of Regulations

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

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

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

D. Federal agencies are subject to this Program and RCW 90.58, as provided by the Coastal Zone Management Act (Title 16 United States Code §1451 et seq.; and WAC 173-27-080).

E. The provisions of this Program shall not apply to lands held in trust by the United States for Indian Nations, tribes or individuals.

F. The provisions of this Program shall not apply to existing agricultural activities.

Comment [rh1]: See Young/Richert comment in Matrix.
17.50.040 Definitions

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

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

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

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

Administrator. The Director of the Mason County Department of Community Development or his or her designee.

Agricultural Activity. Uses and practices including but not limited to producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation. Excluded from this definition are transportation of products, related commercial or industrial uses such as wholesale and retail sales or final processing.

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

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

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

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

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

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

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

PAC: Changes as of 8/6/2013 to Draft MC SMP 17.50 Policies and Regulations (April 2013 DRAFT)
Application. An application for a Substantial Development Permit application, Variance Permit application, Conditional Use Permit application, or Statement of Exemption application.

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

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

Aquaculture Practices. Any activity directly pertaining to growing, handling, or harvesting of aquaculture produce including but not limited to propagation, stocking, feeding, disease and pest treatment, waste disposal, water use, development of habitat, maintenance and construction of necessary equipment building and growing areas.

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

Archaeologist. A person with qualifications meeting the federal secretary of the interior's standards for a professional archaeologist, or a person who meets the requirements of RCW 27.35.030 (8).

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

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

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

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

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

Board. The Board of County Commissioners of Mason County.

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

Boat Launch. An Inclined slab, concrete boat ramp, pads, planks, marine rails, or graded slope used for transferring marine and freshwater vessels or equipment to or from land or water.
**Boat Lift.** An in-water structure used to berth and launch a single vessel, suspended over the water's surface. A boat lift is generally a manufactured unit without a canopy cover and may be placed in the water or attached to a dock. A boat lift may be designed either for boats or personal watercraft. A boat lift is to be differentiated from a hoist or crane used for the launching or haul-out of vessels. Boat lift with canopies are considered covered moorage.

**Boat Launch.** An inclined-slab, concrete boat ramp, set of pads, planks, marine rails, or graded slope used for transferring marine vessels or equipment to or from land or water.

**Boating Facilities.** Any facility for launching or wet storage of vessels or watercraft. This includes marinas, overwater or upland boat houses, boat launches, boat lifts, mooring buoys, piers, floats and docks or any other similar single-use or shared-use facility for public recreational use or private residential use. Commercial boat repair shops and commercial upland (dry) boat storage structures are considered under Commercial use regulations.

**Bog.** A depression or other undrained or poorly drained area containing or covered with usually more than one layer of peat. Characteristic vegetation of bogs are sedges, reeds, rushes, or mosses. In early stages of development, vegetation is herbaceous and the peat is very wet. In middle stages, dominant vegetation is shrubs. In mature stages, trees are dominant and peat near the surface may be comparatively dry. (Bogs represent the final stage of the natural process (eutrophication) by which lakes are very slowly transformed into land; bogs are sometimes mined for peat on a commercial basis; bogs are often an intake for ground water (aquifer recharge area).

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

**Buffer.** An area of land used or designated for the purpose of insulating or separating a structure or land use from a critical area or resource land in such a manner as to reduce or mitigate any adverse impacts of the developed area. Permitted development and activities within buffers depend on the type of critical area or resource land the buffer is protecting. **Need to add how buffer widths are measured.**

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

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

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

**Commercial Development.** Uses and facilities that are involved in the retail or wholesale trade or other business activities. Water-dependent commercial uses are those commercial activities that cannot exist in other than a waterfront location and are dependent on the water by reason of the intrinsic nature of its operation.

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

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PAC Changes as of 8/6/2013 to Draft MC SMP 17.50 Policies and Regulations (April 2013 DRAFT)
**Commercial Feedlot.** An enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations. Said enclosure/facility for commercial livestock.

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

**Confinement Areas.** Corrals or other concentrated animal keeping areas. Confinement areas are concentrated areas and do no: include the entire fenced perimeter of a parcel.

**Cottage Industry.** Small scale commercial or industrial activities on residential properties performed in the residence or building accessory thereto. The principle practitioner must reside on the property. Cottage Industries are considered as residential uses and minor commercial development, provided they do not alter the character of the site as a residential property and wholesale and retail trade is minimal. Cottage Industries must comply with all applicable County Ordinances and require a Conditional Use Permit.

**County.** Mason County.

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

**Critical Areas: [add per 2/11/13 PAC]**

**Dam.** A barrier across a stream that confines or regulates stream flow or raises water level for purposes such as flood or irrigation water storage, erosion control, power generation, or collection of sediment or debris.

**Davit.** Add after discussion of boat lifts?

**Development.** A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel or minerals; bulkheading; driving of pilings; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Act at any state of water level.

**Designations: [add?]**

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

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

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

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

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

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

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

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

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

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

Exemption. Exempt developments are those set forth in WAC 173-27-040 and RCW 90.58.030 (3)(e), 90.58.140(9), 90.58.147, 90.58.355, 90.58.390 and 90.58.515 which are not required to obtain a substantial development permit but which must otherwise comply with applicable provisions of the act and this Master Program.

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

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

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

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

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

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

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

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

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

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

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

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

**Fetch.** The perpendicular distance across the channel or inlet a body of water.

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

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

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

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

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

**Floating HouseHome.** Any floating structure that is designed, or has been substantially and structurally remodeled or redesigned, to serve primarily as a residence. Floating houses include house boats, house barges, or any floating structures that serve primarily as a residence and do not qualify as a vessel. A floating structure that is used as a residence and is capable of navigation, but is not designed primarily for navigation, nor normally is capable of self-propulsion and use as a means of transportation, is a floating house, not a vessel per WAC 352-30-106. Though it may be capable of being towed.

**Floodplain.** The area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. Floodplain is synonymous with one hundred-year floodplain as defined by the Federal Emergency Management Agency. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the act.

**Floodway.** The area established in effective Federal Emergency Management Agency (FEMA) flood insurance rate maps or floodway maps. Those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding.
that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition by changes in surface soil conditions or changes in types or quality of vegetative ground-cover condition. The floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the Federal Government, the state, or a political subdivision of the state. See RCW 90.58.030. The limit of the floodway is that which has been established in flood regulation ordinance maps or by a reasonable method that meets the objectives of the Act [WAC 173-22-030(3)].

Footprint. The total area within the perimeter of a structure (including roof eves, if applicable), or the perimeter of a development other than a structure. However, for the vertical expansions of 'grandfathered' structures and the horizontal expansion allowance for manufactured homes (Chapter 4), footprint does not include uncovered decks or patios, nor does it include illegally established structures or additions [4].

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

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

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

Grading. Stripping, cutting, filling, or stockpiling earth to create new grade. Grading includes excavation of material and addition of fill.

Grandfathered Use or Structure. Existing lawfully constructed structures (and floating homes), including those approved through a Variance, except that residences built overwater or in floodways are not grandfathered. Grandfathered uses and structures may continue and may be maintained, repaired, and replaced within their footprints in accordance with the Act and this Program.

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

Habitat Management Plan. A report prepared by a qualified professional pursuant to Mason County's Resource Ordinance that identifies how impacts from a proposed use or activity will be avoided or mitigated through habitat mitigation. See MCC 17.01.110.J.

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

Height. Height is measured from average grade level to the highest point of a structure: provided, that television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or this master program specifically requires that such appurtenances be included: provided further, that temporary construction equipment is excluded in this calculation.
Historic Preservation Professional. A person who hold a graduate degree in architectural history, art history, historic preservation, or closely related field, with coursework in American architectural history, or a bachelor's degree in architectural history, art history, historic preservation or closely related field plus at least two years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution; or substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.

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

Home Occupation. A business conducted within a dwelling which is the residence of the principal practitioner. A Home Occupation may be reviewed as a residential use provided it complies with all applicable County Ordinances and no alteration is made to the exterior of the residence or site which would alter the character of the site as residential property including parking and signs.

Impervious Surface. A non-vegetated surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A non-vegetated surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the ground under normal conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater.

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

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

In-stream Structure. A human-made structure placed within a stream or river waterward of the ordinary high water mark that either causes or has the potential to cause water impoundment, or the diversion, obstruction, or modification of water flow. Instream structures may include those for hydroelectric generation, irrigation, water supply.

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

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

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

Legal, nonconforming lot. An undeveloped lot, tract, parcel, site or division of land which was established in accordance with local and state subdivision requirements prior to the effective date of this Program and does not conform to the present County lot size standards. See also “Grandfathered.”

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

Lot. A fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts, or parcels.

PAC Changes as of 8/6/2013 to Draft MC SMP 17.50 Policies and Regulations (April 2013 DRAFT)
Where the context so indicates, lots, tracts or parcels may refer to subdivided lands not conforming to, or in violation of, zoning or subdivision regulations.

Lot Coverage. The percent or square footage of a lot that will be covered by the modification.

Low Impact Development (LID), A stormwater management strategy that emphasizes conservation and use of existing natural site features integrated with distributed, small-scale stormwater controls to more closely mimic natural hydrologic patterns in residential, commercial, and industrial settings. The term may also be used to describe any type of development which incorporates new or experimental best management practices to reduce environmental impacts.

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

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

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

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

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

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

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

Mixed Use Development, A project including both water oriented and non-water oriented uses as part of a coordinated development.

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

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

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

No Net Loss, The maintenance of the aggregate total of the County's shoreline ecological functions. The no net loss standard requires that the impacts of shoreline development and/or use, whether permitted or exempt, be identified and prevented or mitigated such that there are no resulting adverse impacts on ecological functions or processes. Each project shall be evaluated based on its ability to meet the no net loss requirement.
Non-conforming Development. A shoreline use, structure or lot which was lawfully constructed or established prior to the effective date of the Act, or the Master Program, or amendments thereto, but which does not conform to present regulations or standards of the Program or policies of the Act.

Non-floating Aquaculture. Bottom aquaculture systems on tidal areas or bedlands.

Normal Maintenance. Those usual acts to prevent a decline, lapse or cessation from a lawfully established condition.

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

Normal Repair. To restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction except where repair involves total replacement which is not common practice or causes substantial adverse effects to the shoreline resource or environment (WAC 173-27-040, as amended). A reasonable period of time for repair shall be up to one year after decay or partial destruction, except for bulkhead replacement which shall be allowed up to five years. The burden of proof is on the Applicant. Total replacement that is common practice includes but is not limited to floats, bulkheads and structures damaged by accident, fire and the elements.

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

Ordinary High Water Mark (OHWM). On all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, or as it may naturally change thereafter or as it may change thereafter in accordance with permits issued by local government or the Department PROVIDED THAT in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean high high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water (WAC 173-22-030 as amended).

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

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

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

Port District. Port Districts are governmental entities established under Title 53 RCW which are formed by a vote of the residents in an area to promote and support economic development within that area. Any geographical area could be designated as a port district whether it is on a waterfront or not. Ports can engage in almost any activity that provides jobs, supports local business, or facilitates economic stability in their districts. Most port districts in Mason County operate public marinas in addition to other economic development activities both on and off of the shoreline. Port district developments are regulated according to the proposed use of the shoreline. For example, if a port district proposed a marina, the boating facility regulations would apply. If a port district proposed a marine terminal, the industrial and marine termina regulations would apply.

PAC Changes as of 8/6/2013 to Draft MC SMP 17.50 Policies and Regulations (April 2013 DRAFT)
Priority Species. Species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below.

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

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

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

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

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

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

Recreational Development. Includes facilities such as campgrounds, recreational vehicle parks, day use parks, etc. This applies to both publicly and privately owned shoreline facilities intended for use by the public, or a private club, individual group or association.

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

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

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

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

Road and Railway Development. Includes also related bridges and culverts, fills, embankments, causeways, parking areas, truck terminals and rail switchyards, sidings and spurs.

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

Shorelands. Those lands extending landward for 200 feet in all directions, as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes and tidal waters which are subject to the provisions of the Act and this master program.
**Shorelines.** All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands under lying them; except

(a) shorelines of statewide significance;

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

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

**Shorelines of Statewide Significance.** Those shoreline areas as defined in RCW 90.58-030(2)(e), and, specifically the following bodies and associated shorelands in Mason County: Hood Canal, Lake Cushman, the Skokomish River from the confluence of the North Fork of the Skokomish River and the South Fork of the Skokomish River, downstream to the Great Bend of Hood Canal (excluding that portion within the Skokomish Indian Reservation), and all saltwater bodies below the line of extreme low tide.

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

**Shoreline Geotechnical Assessment.** A scientific study or evaluation that includes a description of the ground and surface hydrology and geology, the affected landform and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Shoreline Geotechnical Assessments shall conform to accepted technical standards and must be prepared by qualified engineers, geologists or soil scientists who are knowledgeable about the regional and local geology. Shoreline Geotechnical Assessments may be incorporated into other required special studies such as Habitat Management Plans or Landslide Hazard Geotechnical reports.

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

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

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

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

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

**Stream.** An area where surface waters produce a defined channel or bed. A defined channel or bed is an area that demonstrates clear evidence of the annual passage of water and includes, but is not limited to, bedrock channels, gravel beds, sand and silt beds, and defined channel swales. The channel
or bed need not contain water year round. This definition includes drainage ditches or other artificial water courses where natural streams existed prior to human alteration, and/or the waterway is used by anadromous or resident salmonid or other fish populations.

**Structure.** A permanent or temporary building or edifice of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels. Retaining walls, decks, bulkheads, fences and similar improvements to real property are examples of structures.

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

**Substantial Development.** Any development of which the total cost or fair market value exceeds six thousand four hundred sixteen ($6,416) dollars, or any development which materially interferes with normal public use of the water or shorelines of the state; except that those developments defined above as an “exemption” do not require a substantial development permit but may require a variance or conditional use permit. The dollar threshold must be adjusted for inflation every five years, as defined in WAC 173-27-040(2).

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

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

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

**Transportation Facilities (Road and Railway Development).** Facilities consisting of the means and equipment necessary for the movement of passengers or goods. Includes also related bridges and culverts, fills, embankments, causeways, parking areas, truck terminals and rail switchyards, sidings and spurs.

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

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

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

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

**Variance.** An adjustment in the application of this program's regulations to a particular site pursuant to Chapter 7.28, to grant relief from a specific bulk, dimensional or performance standards set forth in the applicable Master Program and not a means to vary the use of a shoreline.

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

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

**Vegetative Debris.** All dead and downed plant material, naturally expired or portions of a plant removed intentionally, such as by trimming, resulting from native and non-native, woody and herbaceous, deciduous and evergreen, trees and understory groundcover, aquatic and terrestrial source. Examples include, but are not limited to, leaves, needles, branches, limbs, annual herbaceous

*PAC. Changes as of 8/6/2013 to Draft MC SMP 17.50 Policies and Regulations (April 2013 DRAFT)*
Vegetation removal. Physical extraction, including the whole plant plus its root structure, or trimming in excess of that which a plant can survive even though the root structure is left in place, or chemical expiration of plant material.

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

Water Enjoyment Use. A recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public’s ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

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

Water Related Use. A use that is not intrinsically dependent on a waterfront location but whose operation cannot occur economically and functionally without a shoreline location because: (1) The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or (2) The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient. Examples include but are not limited to warehousing of goods transported by water, seafood processing, oil refineries, paper and wood mills (if materials or products are water transported) and ships’ parts and equipment fabrication.

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

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

A. PURPOSE AND CRITERIA

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

1. “Natural” Shoreline Environmental Designation

   a. Purpose

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

   b. Designation Criteria

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

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

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

      iii. High quality estuaries;

      iv. High quality accretional spits;

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

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

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

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

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

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

      xi. Areas of particular scientific and educational interest; or

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

2. “Conservancy” Shoreline Environmental Designation
a. Purpose

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

b. Designation Criteria

Shorelines with one or more of the following qualities:

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

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

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

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

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

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

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

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

3. “Rural” Shoreline Environmental Designation

a. Purpose

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

b. Designation Criteria

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

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

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

Comment [rh33]: PAC 7/29/13 asked for “agriculture” to be added to the Conservancy criteria (which is consistent with Ecology guidance).
iii. Areas designated as agricultural lands per Comprehensive Plan designations.

4. “Residential” Shoreline Environmental Designation
   a. Purpose
      The purpose of the Residential designation is to accommodate residential development in areas already developed with or planned primarily for residential uses. Intensive recreational uses and public access are appropriate provided impacts to ecological functions are mitigated or avoided.
   b. Designation Criteria
      Shorelines that are developed; characterized by small lot sizes; designated as Rural Residential 2.5, Rural Residential 5, Allyn UGA residential zones, or Belfair UGA residential zones; and have one or more of the following:
      i. Areas that are predominantly developed with single-family or multifamily residential development;
      ii. Areas planned and platted for residential development, but are not predominantly characterized by critical areas, floodplains and/or channel migration zones;
      iii. Areas with a proliferation of docks/piers and structural armoring;
      iv. Areas developed with or planned for highly intensive recreational uses [e.g., marinas, boat launches]; or
      v. Puget Sound Nearshore Estuary Restoration Program nearshore degradation score of moderate to most degraded.

5. “Urban Commercial” Shoreline Environmental Designation
   a. Purpose
      The purpose of the Urban Commercial designation is to ensure optimum utilization of shoreline within urbanized areas by managing commercial development.
   b. Designation Criteria
      Shorelines inside UGAs, RACs, or Hamlets that have the following qualities:
      i. Existing or planned high intensity commercial land uses in already developed areas; or
      ii. Areas developed with water-dependent commercial uses requiring frontage on navigable waters.

6. “Aquatic” Shoreline Environmental Designation
   a. Purpose
      The purpose of the “aquatic” environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high-water mark.
b. Criteria

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

B. ENVIRONMENT DESIGNATIONS MAP

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

1. Mapping Boundaries

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

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

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

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

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

e. Boundaries indicated as parallel to or extensions of features identified in subsections 1 through 4 above shall be so construed;

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

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

h. Where existing physical or cultural features are at variance with those shown on the environment designation map and cannot be determined with certainty by applying subsections 1 through 6 above, the County shall determine the location or existence of such feature utilizing the provisions of WAC 173-27-211, the policies of RCW 90.58.020, and the corresponding Master Program provisions herein; and

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

2. Mapping Errors

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

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

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

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

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

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

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

C. Project Classifications

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

b. During application review, the basic element or intent of a proposed development will guide in the determination of the proposal's particular use activity. When a proposal contains two or more use activities, including accessory uses, the most restrictive category will be applied to the entire proposal.

c. Definitions:

PAC Changes as of 8/6/2013 to Draft MC SMP 17.50 Policies and Regulations (April 2013 DRAFT)
d. Permitted. Those allowed uses that are preferable and meet the policies of the particular shoreline designation. See definition of Substantial Development Permit and 17.50.080 of the Shoreline Master Program.

e. Conditional Use. A Conditional Use Permit is intended to allow for flexibility and the exercise of judgment in the application of regulations in a manner consistent with the policies of the Shoreline Management Act and the Master Program. While not prohibited, these uses are an exception to the general rule. Criteria used for judging conditional uses are outlined in 17.50.080 of the Shoreline Management Program.

f. Prohibited. Some developments and uses are viewed as inconsistent with the definition, policies or intent of the shoreline environmental designation. For the purposes of this program, these uses are not considered appropriate and are not allowed, including by Conditional Use or Variance.
<table>
<thead>
<tr>
<th>SHORELINE USES AND MODIFICATIONS</th>
<th>SHORELINE ENVIRONMENT DESIGNATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Urban Commercial</td>
</tr>
<tr>
<td>Agriculture</td>
<td></td>
</tr>
<tr>
<td>Agriculture</td>
<td>P</td>
</tr>
<tr>
<td>Commercial Feedlots</td>
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<tr>
<td>Upland finfish rearing facilities</td>
<td>X</td>
</tr>
<tr>
<td>Aquaculture</td>
<td></td>
</tr>
<tr>
<td>Non-floating</td>
<td>P</td>
</tr>
<tr>
<td>Floating</td>
<td>P</td>
</tr>
<tr>
<td>Finfish net pens</td>
<td>C</td>
</tr>
<tr>
<td>Gravel enhancement projects &gt;1,000 cy</td>
<td>n/a</td>
</tr>
<tr>
<td>Commercial geoduck</td>
<td>C</td>
</tr>
<tr>
<td>Boating Uses</td>
<td></td>
</tr>
<tr>
<td>Piers, Docks &amp; Attached Floats</td>
<td>P</td>
</tr>
<tr>
<td>Hood Canal</td>
<td>P</td>
</tr>
<tr>
<td>South Puget Sound</td>
<td>P</td>
</tr>
<tr>
<td>Lakes</td>
<td>X</td>
</tr>
<tr>
<td>Rivers</td>
<td>X</td>
</tr>
<tr>
<td>Unattached Floats</td>
<td>n/a</td>
</tr>
<tr>
<td>Motorized boat launches (marine rails, boat ramps, etc)</td>
<td>P</td>
</tr>
<tr>
<td>Non-motorized boat launches</td>
<td>P</td>
</tr>
<tr>
<td>Mooring buoys</td>
<td>n/a</td>
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<tr>
<td>Boat house on land</td>
<td>C</td>
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<tr>
<td>Boat house over water/Covered moorage</td>
<td>n/a</td>
</tr>
<tr>
<td>Boat lifts</td>
<td>P</td>
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<tr>
<td>Marinas</td>
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<table>
<thead>
<tr>
<th>SHORELINE USES AND MODIFICATIONS</th>
<th>Urban Commercial</th>
<th>Residential</th>
<th>Rural</th>
<th>Conservancy</th>
<th>Natural</th>
<th>Aquatic</th>
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<tbody>
<tr>
<td>Commercial Development</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Water-oriented uses</td>
<td>P</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>X</td>
<td>See regs.</td>
</tr>
<tr>
<td>Non-water dependent with waterfront</td>
<td>C</td>
<td>C</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>See regs.</td>
</tr>
<tr>
<td>Non-water dependent without waterfront</td>
<td>P</td>
<td>P</td>
<td>C</td>
<td>C</td>
<td>X</td>
<td>n/a</td>
</tr>
<tr>
<td>Non-water oriented uses that are part of a mixed use project and provide a significant public benefit such as providing public access or ecological restoration</td>
<td>P</td>
<td>P</td>
<td>C</td>
<td>C</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Forestry</td>
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<td></td>
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<td></td>
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</tr>
<tr>
<td>Forestry</td>
<td>X</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>C</td>
<td>X</td>
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<tr>
<td>In-stream Structures</td>
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<tr>
<td>Utility-related</td>
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<td>C</td>
<td>C</td>
<td>C</td>
<td>X</td>
<td>*</td>
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<tr>
<td>Habitat enhancement</td>
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<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
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<tr>
<td>Other</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>X</td>
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<tr>
<td>Mining</td>
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<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Mining</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>X</td>
<td>C/X</td>
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<tr>
<td>Outdoor Advertising, Signs and Billboards</td>
<td>P</td>
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<td>P</td>
<td>P</td>
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<td>Industrial and Marine Terminal Development</td>
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<td>C</td>
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<td>C</td>
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<td>C</td>
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<td>Water-dependent, water-related, water-related</td>
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<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Non-water oriented</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recreational Development</td>
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<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Campgrounds</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>X</td>
</tr>
<tr>
<td>Parks</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>C</td>
<td>C</td>
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</tr>
</tbody>
</table>

**KEY:**
- P = Permitted.
- C = Conditional Use.
- X = Prohibited.
- n/a = Not Applicable.
- * = See upland designation.

Table 17.50.050-4A Project classification table continued
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<thead>
<tr>
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<th>SHORELINE ENVIRONMENT DESIGNATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Urban Commercial</td>
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<tr>
<td><strong>Residential Development</strong></td>
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<tr>
<td>Single-family</td>
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<tr>
<td>Duplex</td>
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<tr>
<td>Multi-family</td>
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</tr>
<tr>
<td>Accessory Dwelling Uses</td>
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</tr>
<tr>
<td>Floating Homes</td>
<td>n/a</td>
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<tr>
<td><strong>Restoration and Enhancement Projects</strong></td>
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</tr>
<tr>
<td>Restoration and Enhancement Projects</td>
<td>P</td>
</tr>
<tr>
<td><strong>Transportation Facilities</strong></td>
<td></td>
</tr>
<tr>
<td>Transportation (Roads and Railways)</td>
<td>P</td>
</tr>
<tr>
<td>Parking – accessory to permitted use</td>
<td>P</td>
</tr>
<tr>
<td>Parking – Primary Use</td>
<td>X</td>
</tr>
<tr>
<td><strong>Utilities</strong></td>
<td></td>
</tr>
<tr>
<td>Production and processing</td>
<td>C</td>
</tr>
<tr>
<td>Transmission facilities</td>
<td>P</td>
</tr>
<tr>
<td><strong>Shoreline Modifications</strong></td>
<td></td>
</tr>
<tr>
<td>Beach access structures</td>
<td>P</td>
</tr>
<tr>
<td>Breakwaters, jetties, groins</td>
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</tr>
<tr>
<td>Maintenance dredging</td>
<td>n/a</td>
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<tr>
<td>Non-maintenance dredging</td>
<td>n/a</td>
</tr>
<tr>
<td>Dredge material disposal</td>
<td>C</td>
</tr>
<tr>
<td>Restoration dredging and disposal</td>
<td>P</td>
</tr>
</tbody>
</table>

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* See upland designation.

Table 17.50.050-4A Project classification table continued

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</thead>
<tbody>
<tr>
<td></td>
<td>Urban Commercial</td>
</tr>
<tr>
<td><strong>Flood Protection</strong></td>
<td></td>
</tr>
<tr>
<td>Dams for the sole purpose of flood protection</td>
<td>X</td>
</tr>
<tr>
<td>All other flood protection structures, including dikes</td>
<td>C</td>
</tr>
<tr>
<td><strong>Grading, Fill, &amp; Excavation</strong></td>
<td></td>
</tr>
<tr>
<td>Water dependent</td>
<td>P</td>
</tr>
<tr>
<td>Non-water dependent</td>
<td>C</td>
</tr>
<tr>
<td>Sanitary landfill</td>
<td>X</td>
</tr>
<tr>
<td><strong>Shoreline Stabilization</strong></td>
<td></td>
</tr>
<tr>
<td>Shoreline stabilization</td>
<td>P</td>
</tr>
</tbody>
</table>
17.50.051 General policies

A. Ecological Protection, Critical Areas and No Net Loss of Ecological Functions

1. This program aims to protect against adverse effects on the public health, on the land and its vegetation and wildlife, and the waters and their aquatic life by:
   a. Requiring that current ecological functions be identified and understood when evaluating new uses and developments;
   b. Requiring adverse impacts be mitigated in a manner that ensures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources. "No net loss" means that existing shoreline ecological functions are not degraded as a result of new development. This can be achieved through mitigation which involves first avoiding the impact altogether, then minimizing impacts where possible, and then replacing or compensating for unavoidable loss of functions and resources.
   c. Ensuring that all uses and developments regulated under the Act, including preferred uses and uses that are exempt from a shoreline substantial development permit, will not cause a net loss of shoreline ecological functions.
   d. Preventing, to the greatest extent practicable, cumulative impacts from individual developments.
   e. Fairly allocating the burden of preventing cumulative impacts among development opportunities.
   f. Including incentives to restore shoreline ecological functions where such functions have been degraded by past actions.

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

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

B. Vegetation Conservation

1. This program is intended to maintain shoreline vegetation that protects human safety and property, increases the stability of river banks and coastal bluffs, reduces the need for structural shoreline stabilization measures, improves the visual and aesthetic qualities of the shoreline, protects plant and animal species and their habitats, and enhances shoreline uses.
2. New uses and developments should be located and designed to preserve native shoreline vegetation to maintain shoreline ecological functions and prevent direct, indirect and cumulative impacts of shoreline development.

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

C. FLOOD HAZARD REDUCTION

1. This program seeks to limit new development in flood-prone areas while recognizing private property rights.

2. Development in floodplains should not significantly or cumulatively increase flood hazard or be inconsistent with an adopted comprehensive Flood control Damage management plan Prevention Ordinance.

3. Development should be designed and located to preclude the need for flood control structures. New or expanded development or uses in the shoreline, including subdivision of land, that would likely require flood control structures within a stream, channel migration zone, or floodway should be prohibited.

4. Development should be discouraged in the channel migration zone areas and existing hazards or problem areas that would result in interference with the process of channel migration which may cause significant adverse impacts to property or public improvements and/or result in a net loss of ecological functions associated with the rivers and streams.

5. The County should ensure mutual consistency between shoreline management provisions and the flood damage prevention ordinance.

D. VIEWS AND AESTHETICS

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

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

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

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

5. The County should achieve aesthetic objectives by implementing regulations and criteria for site planning, maximum height, setbacks, siting of buildings and accessories.

Comment [rh34]: PAC requested this wording.

Comment [rh35]: PAC requested the word "while" be added.

Comment [rh36]: PAC requested the clarification.
screening, vegetation conservation, architectural standards, sign control regulations, appropriate development siting and maintenance of natural vegetative buffers.

E. Ecological Restoration

1. This program encourages voluntary restoration of impaired shorelines to improve the overall condition of habitat and resources.

2. The County should facilitate publicly and privately initiated restoration projects through adoption of a restoration plan. The plan should identify degraded areas, set overall goals and priorities for restoring these areas, identify existing and proposed restoration projects and programs, and implementation strategies.

F.E. Water Quality and Quantity

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

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

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

F.F. Public Access

1. This program is intended to preserve and enhance the public's opportunity to enjoy the physical and aesthetic qualities of county shorelines.

2. Increasing all types of public access is a priority for the County. Strategic efforts to find and fund new shoreline public access are encouraged to meet increasing demands. The County should cooperate with appropriate local, state, tribal and non-governmental organizations to preserve and enhance lands that provide physical access to public waters for public use.

3. Shoreline development by public entities should provide public access as part of each development project, unless access would be incompatible with this Program because of safety, security, or adverse impacts to shoreline functions.

4. Shoreline development by private entities should be encouraged to provide public access when the development would either generate a demand for public access, or would impair existing legal access opportunities or rights.

5. Public access requirements on privately owned lands should be commensurate with the scale and character of the development and should be reasonable, effective and fair to all affected parties including the landowner and the public.

Comment [rh37]: Staff recommendation: delete the "Ecological Restoration" section from the General Policies as restoration is covered as a specific use.

Comment [rh38]: PAC requested this change.
H.G. **ARCHAEOLOGICAL, CULTURAL AND HISTORIC RESOURCES**

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

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

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

4. On sites not designated by archaeological and historical authorities but where the above artifacts are found, the archaeological or anthropological, tribal and historical authorities should be notified.

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

I.H. **PROPERTY RIGHTS**

1. This program should regulate use and development of private property consistent with all relevant legal limitations.

2. This Program should not unconstitutionally infringe on private property rights or result in an unconstitutional taxing of private property.
17.50.055 General Regulations

This section describes general regulations which apply to all shorelines of the state that are located in Mason County. The General Regulations section is used in conjunction with more specific use regulations.

A. No Net Loss and Mitigation

1. Except when specifically exempted by statute, all new shoreline use and development, including preferred uses and uses that are exempt from permit requirements, shall be located, designed, constructed, conducted, and maintained in a manner that maintains shoreline ecological functions.

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

3. Mitigation measures shall be applied in the following sequence of steps listed in order of priority:
   a. Avoiding the adverse impact altogether by not taking a certain action or parts of an action;
   b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
   c. Rectifying the impact by repairing, rehabilitating or restoring the affected environment;
   d. Reducing or eliminating the impact over time by preservation and maintenance operations;
   e. Compensating for the adverse impact by replacing, enhancing, or providing substitute resources or environments;
   f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

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

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

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

7. Compensatory mitigation measures shall occur in the vicinity of the impact or at an alternative location within the same watershed or marine shoreline reach that provides greater and more sustainable ecological benefits.
   a. When determining whether offsite mitigation provides greater and more sustainable benefits, the County shall consider limiting factors, critical habitat needs, and other
factors identified by a locally adopted shoreline restoration plan, or an approved watershed or comprehensive resource management plan.

b. Considerations for determining whether off-site mitigation is preferable include, but are not limited to:
   i. On-site conditions do not favor successful establishment of functions, such as lack of proper soil conditions or hydrology;
   ii. On-site compensation would result in a habitat that is isolated from other natural habitats or severely impaired by the effects of the adjacent development;
   iii. Off-site location is crucial to one or more species that is threatened, endangered, or otherwise of concern, and the on-site location is not;
   iv. Off-site location is crucial to larger ecosystem functions, such as providing corridors between habitats, and the on-site location is not; and
   v. Off-site compensation has a greater likelihood of success or will provide greater functional benefits.

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

8. Authorization of compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions. Mitigation activities shall be monitored and maintained by the applicant or their designee to ensure they achieve intended functions. The County may require an applicant to post a bond or provide other financial surety equal to the estimated cost of the mitigation in order to ensure the mitigation is carried out successfully. The bond/surety shall be refunded to the applicant/proponent upon completion of the mitigation activity and any required monitoring.

9. Land that is constrained by critical areas and buffers shall not be subdivided to create parcels that are only buildable through a shoreline variance or would be considered non-conforming.

B. CRITICAL AREAS

1. Applicability
   a. Subject to exceptions listed below, the critical area provisions of the Mason County Resource Ordinance (MCC 17.01) adopted on August 3rd 1993 as Ordinance Number 77-93 and last amended on June 16th 2009 as Ordinance Number 54-09 are adopted by reference and shall apply within shoreline jurisdiction.
   b. Critical area provisions do not extend shoreline jurisdiction beyond the limits specified in this SMP. For regulations addressing critical area buffers that are outside Shoreline Jurisdiction, see Resource Ordinance, Chapter 17.01 MCC.
   c. In the event provisions of MCC 17.01 are found inconsistent with standards and requirements in this Program, this Program shall govern except as provided below.
d. [MCC 17.01.050 D, which states that in the case of overlapping regulations, the more applicable regulation shall prevail, does not apply in shoreline jurisdiction.]

d. MCC 17.01 does not create any exceptions to requirements for a shoreline substantial development permit, shoreline variance, or shoreline conditional use permit unless the activity is exempt from permit requirements under the Shoreline Management Act, RCW 90.58.030(3)(e).

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

f. The following procedural provisions of MCC 17.01 do not apply in shoreline jurisdiction:

g. Development applications that are processed according to the Reasonable Use Exception provisions of MCC 17.01.120(k) or Variance provisions of MCC 17.01.150 shall be processed as a shoreline variance.

h. MCC 17.01.140 regarding Nonconforming use and development shall be subject to MCC 17.50.055 within shoreline jurisdiction.

i. MCC 17.01.180 regarding Appeals does not apply within shoreline jurisdiction.

j. MCC 17.01.190 regarding Judicial Review does not apply within shoreline jurisdiction.

2. Buffers and setbacks

a. Buffers and setbacks in shoreline jurisdiction are consistent with requirements of MCC 17.01, except as specified below and in Table 155-I.

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

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

de. As authorized by MCC 17.01.110.D(2)(a), special setbacks may be authorized for single-family residences on existing lots in certain circumstances without a shoreline variance.

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

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

3. Wetlands

a. MCC 17.01.070.B and C regarding Wetland Designations and Procedures are not applicable to wetlands in Shoreline Jurisdiction. Instead, identification of wetlands...
and delineation of their boundaries pursuant to this SMP shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas within the County’s Shoreline Jurisdiction meeting wetland designation criteria are subject to the provisions of this program.

b. MCC 17.01.070.E.3.d regarding selective commercial timber cutting is not applicable to wetlands in shoreline jurisdiction.

4. Landslide hazard areas

   a. Buffers for new development on designated landslide hazard areas are consistent with Mason County Resource Ordinance, MCC 17.01.100.D(6), except:
      
      i. In Conservancy and Natural environments, reduction of the landslide hazard area buffer through submittal and approval of a Geotechnical Report or Geological Assessment is not allowed except through a variance process.
      
      ii. In Urban Commercial, Residential and Rural environments, reduction of the landslide hazard area buffer through submittal and approval of a Geotechnical Report or Geological Assessment is allowed when the report/assessment concludes that doing so would not result in an increased risk to people or property or impacts to shoreline ecological processes.

      iii. Erosion rates measured over the long term (i.e., using at least a 75 year period) shall be evaluated in any Geotechnical Report or Geological Assessment recommending a buffer width less than the applicable minimum. Under no circumstance may the buffer width for a marine bluff be less than a distance equal to the sum of the bluff erosion rate over at least 75 years plus 20 feet. Beach access structures are not subject to this provision. In addition to other classification criteria established in MCC 17.01.100.A, the County shall consider mapped areas of bluff backed beach as determined by Puget Sound Nearshore Estuary Program shoreform mapping, in determining the extent of the landslide hazard area.

5. Fish and wildlife habitat conservation areas

   a. As specified in MCC 17.01.110.D(1)(a), fish and wildlife habitat conservation area buffers are measured from the edge of the Ordinary High Water Mark, or a delineated Channel Migration Zone, whichever is greater.

   b. Standard buffer widths are modified from MCC 17.01.110.D(2) within shoreline jurisdiction for saltwater shorelines designated Urban Commercial, Conservancy, and Natural as specified in Table 055-1.

   c. As authorized by MCC 17.01.110.D(2)(a), special buffers may be authorized for single-family residences on existing lots in certain circumstances without a shoreline variance, provided the buffer shall not be less than 50 feet from the OHWM.

   d. As authorized by MCC 17.01.110.D(2)(b), special exception for water dependent uses may be authorized without a shoreline variance, if the development provides the standard buffer along as much of the shoreline as possible while making the minimum Comment [rh31]: PAC decided to address this in the LHA chapter of the Resource Ordinance.

Comment [rh32]: PAC agreed that these criteria are not reliable indicators of LHA’s.

Comment [rh33]: PAC agreed to delete this and edit the wording (a fusion of Clark and Clallam County’s SMP’s) in the FWHA chapter of the Resource Ordinance. And add a definition of buffer widths and setbacks to this draft.

Comment [rh34]: PAC agreed to simply update the table in the Resource Ordinance.

Comment [rh35]: Moved up to ‘buffers and setbacks.’

Comment [rh36]: PAC agreed to clarify in Resource Ordinance.
necessary adjustments to the buffer. Within shoreline jurisdiction the following water-oriented developments may also be permitted within a shoreline buffer without a shoreline variance, provided they meet all requirements of this Program, and the amount and extent of buffer modification is the minimum needed to accommodate the allowed development:

- Freshwater boating facilities accessory to a single-family residential development including pier, dock, float, boat ramp, boat lift, stairways, stair towers;
- Beach access structures;
- Public access structures, including but not limited to docks, piers, floats or pedestrian beach access structures accessory to water dependent commercial, industrial, port or other allowed uses/developments; and
- Utilities and essential public facilities as authorized under Utility regulations.

When new uses or development is proposed on sites where fish and wildlife conservation area buffer areas do not have native vegetation throughout, the buffer shall be enhanced with native woody trees and shrubs that contribute to habitat quality and ecological functions, proportionate to the impacts of the proposed development.

A building setback of 15 feet is required from the landward edge of shoreline buffers. The exception to this setback requirement in MCC 17.01.110 D(1)(c) for saltwater shorelines and lakes excluding Conservancy shorelines does not apply.

6. Frequently Flooded Areas

- Shoreline uses and developments shall be consistent with MCC Chapter 14.22 Flood Damage Prevention, or as amended.
- New development shall not reduce the effective flood storage volume of the regulatory floodplain. A development proposal shall provide compensatory storage if grading or other activity eliminates effective flood storage volume. Compensatory storage shall not be required in coastal or lacustrine floodplains. Compensatory storage may not be required in specific instances where flooding results from emergent groundwater, or where flooding occurs behind levees or in backwater areas without salmonid access and where effects to habitat and flood storage functions are negligible. The County shall require documentation completed by qualified professional providing evidence that a proposal for floodplain fill would have no effect on effective flood storage. Compensatory storage shall:
  - Provide equivalent volume at equivalent elevations to that being displaced. For this purpose, “equivalent elevation” means having similar relationship to ordinary high water and to the best available 10-year, 50-year and 100-year water surface profiles;
  - Be hydraulically connected to the source of flooding;
  - Provide compensatory storage in the same construction season as when the displacement of flood storage volume occurs and before the flood season begins (September 30), and
iv. Be designed to prevent fish standing in areas where salmonid access and presence is reasonably expected during 100-year flood events, newly created storage area shall be graded and vegetated to allow fish access during flood events without creating fish standing sites.

e. Development within a channel migration zone or floodway that can be reasonably expected to require structural flood protection during the useful life of the structure is prohibited.

d. Development and shoreline modifications that would result in interference with the process of channel migration that may cause significant adverse impacts to property or public improvements and/or result in a net loss of shoreline ecological functions within the rivers and streams shall be prohibited.

e. The County shall require an assessment delineating the outer boundaries of a channel migration zone under the following circumstances:

i. Development is proposed within a channel migration zone study area according to the 2011 Ecology CMZ Characterization or the 2009 Geomorphic Analysis of the Skokomish River report; and

ii. Development has the potential to interfere with the process of channel migration that may cause significant adverse impacts to property or public improvements or result in a net loss of shoreline ecological functions within the rivers and streams.

f. The assessment shall be prepared by an engineering geologist, a geotechnical engineer, or a civil engineer licensed in the State of Washington shall include review of historic and current aerial photos and maps and field analysis of specific channel and valley bottom characteristics. This regulation shall not be construed as necessarily requiring an extensive reach-level channel migration zone study for each development, however, assessments should be based on the guidance provided by Ecology on Channel Migration Assessments.

g. Based on the results of the assessment, the Shoreline Administrator may limit development in the channel migration zone and require a buffer of undisturbed natural vegetation from the edge of the channel migration zone consistent with Table 055-1.

C. DIMENSIONAL STANDARDS FOR SHORELINE DEVELOPMENT

1. Table 055-1 establishes buffer and dimensional standards for shoreline development.

2. A standard height limit of thirty-five feet (35') shall apply within shoreline jurisdiction, unless Mason County zoning code requires a lesser height. Height is measured according to MCC 17.50.040, Definitions. Power poles and transmission towers associated with allowed uses and developments are not subject to height limits but shall not be higher than needed to achieve the intended purpose. Consistent with MCC 17.01.061D, agricultural buildings, cell towers, antennas and water tanks are also not subject to height limits. Pursuant to RCW 90.58.320, exceptions are allowed when overriding...
considerations of the public interest will be served. Bridge structures are examples of structures that serve the public interest.  

3. In Conservancy and Natural shoreline environments maximum impervious coverage for residential development shall be limited to ten percent (10%) or 2,550 square feet, whichever is greater. The impervious lot coverage surface area is calculated by dividing the total area of impervious surface (e.g., driveways, buildings, patios, parking lots) located in shoreline jurisdiction by the total lot area that is within shoreline jurisdiction (landward of the OHWM) and then multiplied by one-hundred (100) to convert to percentage points.

4. Minimum lot width shall comply with the dimensions in Table 055-1.

| Table 17.50.055-44 Buffer and dimensional standards for shoreline development |
|---|---|---|---|---|---|---|
| **1. Minimum Standard** Fish & Wildlife Habitat Conservation Area buffer (in feet) | **Urban Commercial** | **Residential** | **Rural** | **Conservancy** | **Natural** | **Aquatic** |
| Streams | 150' | 150' | 150' | 150' | 150' | NA |
| Saltwater | 100' | 100' | 100' | 100' | 100' | NA |
| Lakes | 100' | 100' | 100' | 100' | 100' | NA |
| **2. Minimum Erosion Control buffer-in feet** | 50' | 50' | 50' | 50' | 50' | NA |
| **3. Minimum building setback from landward edge of shoreline buffer (in feet)** | 15' | 15' | 15' | 15' | 15' | NA |
| **4. Maximum Height limit (in feet)** | 35' | 35' | 35' | 35' | 35' | NA |
| **5. Maximum impervious surface coverage area** (percent of lot or square feet) | See Current Adopted Stormwater Manual for standardsNA | 10% | 10% | 10% | NA |
| **6. Minimum lot width** (in feet) | 50' | 50' | 100' | 200' | 200' | NA |

1. Common line provisions may apply per Consistent with Mason County Resource Ordinance, MCC 17.01.100.
2. Varies from Mason County Resource Ordinance, MCC 17.01.110.D, Table 3.
3. Consistent with Mason County Resource Ordinance, MCC 17.01.100.D.
4. Unless a lesser height is required by Zoning.

Comment [rh65]: To address the abbreviations in Item 2.5.3.

Comment [rh66]: This row is redundant because LHA's and their buffers are discussed in detail in the Resource Ordinance.

Comment [rh67]: The Stormwater Manual does not limit impervious surfaces directly.
D. VEGETATION CONSERVATION

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

2. Vegetation clearing in shoreline jurisdiction shall be limited to the minimum necessary to accommodate approved shoreline development. Outside shoreline buffers, vegetation removal shall comply with applicable requirements for clearing and grading, forest practices, and protection standards for fish and wildlife habitat. Clearing non-native vegetation is allowed. Vegetation conservation standards shall not be applied retroactively in a manner that requires lawfully established uses and developments including residential landscaping and gardens to be removed, except when required as mitigation for new or expanded development.

3. Removal of dangerous trees, establishment of view corridors, trimming, pruning, maintenance of existing landscaped areas, and noxious weed removal in buffers shall be conducted in accordance with the regulations in the Mason County Resource Ordinance, MCC 17.01.0700.2, MCC 17.01.100.D(2)(c), and MCC 17.01.110.F, and Appendix C.

E. VIEWS AND AESTHETICS

1. The following standards shall apply to developments and uses within the jurisdiction of this Program:

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

   b. Buildings shall incorporate architectural features that reduce scale such as setbacks, pitched roofs, offsets, angled facades, and recesses.

   c. Building surfaces on or adjacent to the water shall employ materials that minimize reflected light.

   d. Building mechanical equipment shall be incorporated into building architectural features, such as pitched roofs, to the maximum extent possible. Where mechanical equipment cannot be incorporated into architectural features, a visual screen shall be provided consistent with building exterior materials that obstructs views of such equipment.

   e. Any other design standards included in community plans or regulations adopted by Mason County.

2. To preserve aesthetic character and minimize environmental impacts:

   a. For new residential construction, no fence or landscape wall shall be erected, placed or altered closer to the water than the landward edge of the required setback line.

   b. If an existing primary dwelling encroaches into the required buffer, fences or landscape walls may be allowed in the required buffer consistent with MCC 17.01.110.F(2), provided they do not exceed twenty-four (24) inches in height.
e. Fences or landscape walls that exceed twenty-four (24) inches in height must be sited at or behind the building setback line;

f. Fences and landscape walls shall not be allowed waterward of the ordinary high water mark.

P.E. Water Quality and Quantity

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

2. All shoreline uses and activities shall use effective stormwater and erosion control, treatment, and flow control methods during both project construction and operation. At a minimum, effective erosion control methods shall require compliance with the provisions of MCC Chapter 14.48 Stormwater Management and 17.80.

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

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

5. Shoreline developments adjacent to areas suitable for aquaculture shall practice strict pollution control procedures. As required by MCC 17.01.110.G. design and siting of all new construction and major new development shall not adversely impact water quality

G.F. Public Access

1. Public access shall be required to the extent allowed by law in the review of shoreline substantial development or conditional use permits in the following circumstances:
   a. The use or development is a public project; or
   b. The project is a non-residential, water-enjoyment or non-water-oriented use or development; or
   c. The project is a residential development of more than 4 dwelling units; or
   d. The project is a subdivision of land into more than four parcels; or

Comment [rh72]: PAC agreed. Delete entire part 2 and update maintenance provision in resource ordinance to allow for 3 first fence in existing landscaped areas.

Comment [rh73]: PAC asked that this text in the Aquaculture Use section to be repeated here.
The project is a private water-dependent or water-related use or development and one of the following conditions exists:

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

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

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

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

3. Public access to the shoreline shall not be required of the following:
   a. Activities qualifying for a shoreline permit exemption; or
   b. New single family residential development of four (4) or fewer units.

4. The County may approve alternatives to on-site, physical access to the shoreline if the applicant can demonstrate with substantial and credible evidence that one or more of the following conditions exist:
   a. Unavoidable health or safety hazards to the public exist which cannot be prevented by any reasonable means;
   b. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
   c. The cost of providing the access, easement, or an alternative amenity, is unreasonably disproportionate to the total long term cost of the proposed development;
   d. Environmental impacts that cannot be mitigated, such as damage to spawning areas or nesting areas, would result from the public access; and
   e. Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated.

5. To be exempt from the public access requirements above, the project proponent must demonstrate that all feasible alternatives have been considered, including, but not necessarily limited to:
   a. Regulating access through means such as maintaining a gate and/or limiting hours of use; and
   b. Separating uses and activities (e.g., fences, terracing, use of one-way glazing, hedges, landscaping, etc.).

6. When physical public access is deemed to be infeasible, the proponent shall provide visual access to the shore where site conditions make visual access possible. Visual access shall not be provided by removing vegetation from required vegetative buffers.

Comment [r75]: PAC decided that residential development will not require public access. See Residential Use section.

Comment [r76]: PAC agreed that clarification is needed.
7. Public access shall be located and designed to be compatible with the natural shoreline character, to avoid adverse impacts to shoreline ecological functions, and to ensure public safety.

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

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

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

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

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

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

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

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

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

17. The public-access requirement is met where a single-family residential development of greater than four (4) parcels but less than ten (10) parcels provides community access to the shoreline or to a common waterfront lot/tract for non-commercial recreational use of the property owners and guests within the proposed subdivision. The proponent shall provide visual access to the shoreline via view corridors within the subdivision as illustrated on the final plan and as determined by Mason County. Existing lawfully established public access shall be maintained where new commercial, industrial,
multifamily and/or multi-lot developments are proposed in locations that would interrupt existing shoreline views, primary structures should provide for reasonable view corridors.

H.G. ARCHAEOLOGICAL AREAS AND HISTORIC SITES

1. Any project within the shoreline jurisdiction has a ground breaking component shall be sent to the Department of Archaeology and Historic Preservation and the Tribes within County jurisdiction for archaeological review, as soon as Mason County has been notified of the project proponent’s intent in writing. The notified Tribes will have 14 days from the date of notice from Mason County to reply to the County. If Mason County has not heard from the notified Tribes within 14 calendar days of notification, it will be assumed that the Tribes have no concern with the project. If said project triggers SEPA compliance, then notification will be accomplished in the SEPA Process.

2. When the County receives a complete development application for a project within shoreline jurisdiction on a property within 500 feet of a known, documented archaeological area or historic site, the County shall require the applicant to provide a cultural resource site assessment to determine the presence of historic or significant archaeological resources in the area of the proposal. This requirement may be waived with the Department of Archaeology and Historic Preservation and Tribal consent, if the applicant can demonstrate the proposed development clearly will not disturb the ground or impact a known site or resource.

3. If a cultural resource site assessment identifies the presence of significant archaeological or historic resources, the applicant shall provide a Cultural Resource Management Plan (CRMP). The plan shall include:
   a. The purpose of the project and relevant site plan information including depth and location of ground disturbing activities;
   b. An explanation of why the proposed activity requires a location on, or access across and/or through, a significant archaeological or historic resource;
   c. A description of the archaeological or historic resources affected by the proposal;
   d. An assessment of the archaeological or historic resource and an analysis of the potential adverse impacts as a result of the activity;
   e. Recommended measures to avoid adverse impacts;
   f. A recommendation of appropriate mitigation measures for unavoidable impacts, which may include but are not limited to the following:
      i. Recording the site with the State Department of Archaeology and Historic Preservation, or listing the site in the National Register of Historic Places, Washington Heritage Register, as applicable, or locally developed historic registry;
      ii. Adaptive re-use of buildings or structures according to the U.S. Secretary of the Interior’s Standards for Rehabilitation;
      iii. Preservation in place;

Comment [rh79]: Change to 'should' per PAC.
Comment [rh80]: This wording was moved from Views and Aesthetics to here.
Comment [rh81]: Archaeology will not be discussed by PAC until November or later.
iv. Reinterment in the case of grave sites;

v. Covering an archaeological site with a nonstructural surface to discourage pilferage (e.g., maintained grass or pavement);

vi. Excavation and recovery of archaeological resources;

vii. Inventorying prior to covering of archaeological resources with structures or development; and

viii. Monitoring of construction excavation.

4. Site assessments and CRMPs required by this section shall be prepared by a professional archaeologist or historic preservation professional, as applicable. The landowner or project proponent shall be responsible for any professional service fees.

5. The county shall notify and request recommendations from the Washington State Department of Archaeology and Historic Preservation and affected Tribes prior to approval of the CRMP. The notification request shall include a description of the proposed project action including timing, location, scope, and resources affected. The notification shall include a statement of the limits of the comment period, the right of each agency to comment on the application within a 15-day time period, receive notice of and participate in any hearings, request a copy of the decision once made, and to appeal a decision when allowed by law.

6. The recommendations and conclusions of the CRMP shall be used to inform the county’s final administrative decisions concerning the presence and extent of historic/archaeological resources and appropriate mitigating measures.

7. The county may reject or request revision of the conclusions reached in a CRMP when the county can demonstrate that the assessment is inaccurate or does not fully address the historic/archaeological resource management concerns involved.

8. If items of possible historic, archaeological or cultural interest are inadvertently discovered during any new shoreline use or development, the proponent shall immediately stop work and:

a. Notify the County Department of Community Development, Washington State Department of Archaeology and Historic Preservation, affected tribes;

b. Prepare a site assessment pursuant to this section to determine the significance of the discovery and the extent of damage to the resource;

c. Distribute the site assessment to the Washington State Department of Archaeology and Historic Preservation and affected tribes for a 30-day review to determine appropriate treatment measures for the discovery;

d. Maintain the work stoppage until the County consults about the site with the above listed agencies or governments, or if the above listed agencies or governments have failed to respond within the 30 day review period following certified mailing or other transmittal of the site assessment; and
e. Prepare a CRMP pursuant to this section if the County treatment measures are necessary.

9. Upon inadvertent discovery of human remains, the County Sheriff, Coroner, and state Department of Archaeology and Historic Preservation (DAHP) must be immediately notified.

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

11. If a private or publicly owned building or structure of historic significance is identified, public access shall be encouraged as appropriate for purposes of public education; provided that:

a. the type and/or level of public access is consistent with the property rights of any private owner and with the long term protection of both historic resource values and shoreline ecological functions; and

b. an access management plan is developed in accordance with site- and resource-specific conditions in consultation with the Washington State Department of Archaeology and Historic Preservation, and affected Tribes, to address:

c. The type and/or level of public access that is consistent with the long-term protection of both historic resource values and shoreline ecological functions, and with the property rights of any private owner;

d. Types and location of interpretative signs, displays and other educational materials; and

e. Site- and resource-specific conditions, including hours of operation, interpretive or directional signage, lighting, pedestrian access, and traffic and parking.

I. EXISTING RESIDENTIAL STRUCTURES

1. Legally established residential structures and appurtenances that are landward of the ordinary high water mark as of the date of adoption of this SMP shall be considered legal conforming structures even if they do not meet regulatory standards for setbacks, buffers, or yards, area, bulk, height, or density.

2. Expansion of legally established residential structures located overwater or in hazardous areas, such as floodways, floodplains or geologically hazardous areas is prohibited. Redevelopment or replacement of such structures may be considered as a conditional use and subject to limitations that ensure public health and safety.

3. Requests for expansion of a residential structure shall utilize the mitigation sequence and mitigation strategies set forth in this SMP to satisfy no net loss requirements.

4. If expansion of a nonconforming structure will result in better management of shoreline resources, expansion shall be approved.
5. Expansion to the main structure or the addition of a normal appurtenance shall only be accomplished by addition of space above the building footprint of the main structure and/or by addition of space onto or behind that side of the main structure which is farthest away from the ordinary high water mark and/or critical area.
   a. Applications for expansions upward shall demonstrate that impacts to existing views are minimized to the greatest extent practical.
   b. Applications for expansions outside the existing footprint in a buffer shall submit a Habitat Management Plan that identifies measures to protect habitat and mitigates for unavoidable impacts.

6. For the replacement of manufactured homes, a greater building footprint than existed prior to replacement may be allowed in order to accommodate the conversion of single wide manufactured homes to double wide manufactured homes. Applications for such replacements shall submit a Habitat Management Plan that identifies measures to protect habitat and mitigates for unavoidable impacts. Any increase greater than 50% of the existing home shall require a Variance.

7. Nothing in this regulation affects application of other federal or state requirements related to residential structures.

8. Floating homes legally established prior to January 1, 2011, are conforming preferred uses under this Program and may be remodeled, rebuilt (home torn down to the float and rebuilt in place), or replaced (existing home and float removed and a new home and float towed in) in situ, provided there is no increase in the surface water area covered by the floating homes and accessory structures including cantilevered portions that extend beyond the float.

1-H. Nonconforming Existing Uses and Structures

This section on nonconforming structures is from MCC 15.09.055(B) and Ecology WAC 173-27-080.

1. Nonconforming structures and nonconforming uses are those that were lawfully constructed or established prior to the effective date of this Master Program but which do not conform to present regulations or standards of the Program. See special considerations under MCC 17.40.055(1) “Existing Residential Structures.”

2. Structures that were legally established prior to this Program and are used for a conforming use but which are nonconforming with regard to setbacks, buffers or yards, area, bulk, height or density may be maintained and repaired. Such structures may be enlarged or expanded provided that said enlargement does not increase the extent of nonconformity by further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses. Expansion or enlargement of such structures into areas prohibited by current bulk, dimensional or performance standards shall require a variance.

3. A use which was legally established but is nonconforming with regard to the use regulations of this program may continue as a legal nonconforming use. Such uses shall not be enlarged or expanded.

PAC Changes as of 8/6/2013 to Draft MC SMP 17.50 Policies and Regulations (April 2013 DRAFT) 50
4. A use which is classified as a conditional use but which existed prior to adoption of this Program or any amendment thereto, and for which a conditional use permit has not been obtained, shall be considered a nonconforming use.

5. A structure for which a variance has been issued shall be considered a legal nonconforming structure, and the requirements of this section shall apply as they apply to preexisting nonconformities.

6. A structure which is being or has been used for a nonconforming use may be used for a different nonconforming use upon the approval of a shoreline conditional use permit, provided that:
   a. The proposed use will be as consistent with the policies and provisions of this Program and as compatible with uses in the area as the preexisting use; and
   b. Conditions may be attached to the permit that the County deems necessary to assure compliance with the requirements of this Program and to assure that the use will not become a nuisance or hazard.

8. A nonconforming structure which is moved any distance must be brought into conformance with this Program to the maximum extent practicable.

9. This Program shall not restrict the reconstruction of a nonconforming structure which is damaged or destroyed by fire, accident or the elements, provided that nonconformance with the standards and regulations of this Program shall not be increased by such reconstruction and provided applications for permits are submitted within two (2) years of the date of change.

10. If a nonconforming use is discontinued for twelve (12) consecutive months or twelve (12) months during any two (2) year period, the nonconforming rights shall expire and any subsequent use shall be conforming.

This section addresses existing structures and uses that were lawfully constructed or established prior to the effective date of this Master Program.

1. Existing Structures
   a. Existing lawfully constructed structures (and floating homes), including those approved through a Variance, shall be considered 'grandfathered,' with the exception of residences built overwater or in floodways, which shall be considered nonconforming.
   b. Grandfathered structures may continue and may be maintained, repaired, and replaced within their footprints in accordance with the Act and this Program.
   c. Grandfathered structures may be expanded by addition of space above the existing building footprint up to authorized heights without a Variance. Upward expansions shall minimize impacts to existing views of the water to the greatest extent practical.
   d. Grandfathered structures may be expanded or redeveloped in accordance with this Program. Lateral expansion or enlargement of structures into areas prohibited by current bulk, dimensional or performance standards shall require a Variance.
e. For the replacement of grandfathered factory built homes, a greater building footprint than existed prior to replacement may be allowed in order to accommodate the replacement of a factory built home that is less than 1,000 square feet with another factory built home that does not have the same size and shape. Applications for such replacements shall submit a Habitat Management Plan that identifies measures to protect habitat and mitigates for unavoidable impacts. The replacement home may be no closer to the shoreline than the existing residence. A proposed increase less than 25% of the existing home's footprint shall not require a Variance.

f. In the event a grandfathered structure is damaged or destroyed by fire, accident or other elements, it may be reconstructed to configurations existing immediately prior to the time the structure was damaged or destroyed, provided applications for permits are submitted within five (5) years of the date of damage.

g. An existing structure which is moved any distance on the subject parcel shall increase its conformity with the Program to the maximum extent practicable.

2. Existing Uses

a. Lawfully established uses shall be considered grandfathered, with the exception of residences built overwater or in floodways, and existing non-water-oriented commercial with waterfront or any non-water oriented industrial uses, which shall be considered nonconforming.

b. All grandfathered uses, both conforming and non-conforming, may continue, and may be repaired, maintained, or replaced consistent with the Act and this Program. Nonconforming uses, except for residential uses that are overwater or in floodways may be enlarged or expanded with a Conditional Use Permit.

c. Any change in use shall conform to the standards of this program. Changes from one nonconforming use to another nonconforming uses shall require the approval of a shoreline conditional use permit consistent with MCC 17.50.080.P.

A CUP may be granted for a change to a nonconforming use, provided that:

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

ii. Conditions may be attached to the permit that the County deems necessary to assure compliance with the requirements of this Program and to assure that the use will not become a nuisance or hazard, and to assure the use will not result in a net loss of shoreline ecological functions.

d. If a nonconforming use is discontinued (ceases to operate, use, or produce) for more than thirty-six (36) months, any subsequent use, if allowed, shall comply with the Act and this Program.
K.I. Development on Legal Lots of Record

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