

# Attachment C: Ecology Recommended Changes

## Mason County Shoreline Master Program, Resolution No. 94-16, adopted Dec. 6, 2016

The following changes are recommended to comply with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III):

ITEM	DRAFT SMP Submittal PROVISION (Cite)	BILL FORMAT CHANGES ( <u>underline</u> = additions; <del>strikethrough</del> = deletions)	RATIONALE
1.	17.50.020 Definitions	<p><b>Development.</b> A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Act at any stage of water level. Siting a piece of equipment on the ground, <u>such as a portable bar-b-que</u>, <del>or platform</del> is not “development” if the action meets the following criteria:</p> <ul style="list-style-type: none"> <li><del>• It consists entirely of a self-contained piece of equipment that is typically fabricated off-site and placed on the site as a unit.</del></li> <li>• It involves no construction on site. <del>Some assembly of equipment parts is allowed.</del></li> <li>• It is not permanently affixed to the ground or other surface or platform.</li> <li>• It does not require a building permit, mechanical permit, or plumbing permit.</li> <li>• It is not located at or waterward of the ordinary high water mark.</li> <li><del>• It is on private property.</del></li> <li><del>• It is not on a tract, easement, or other conveyance that provides for public access.</del></li> <li>• It does not include any of the actions listed in the definition for “development.”</li> <li>• <del>Placement of self-contained equipment</del> <u>It is subject to the SMP vegetation requirements.</u></li> <li><del>• It is not a “recreational vehicle” as defined in the County Code.</del></li> <li>• <u>It is not a storage container of any kind,</u></li> </ul>	This change was proposed by County staff, in response to a public comment and to clarify intent.


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2.	17.50.020 Definitions	<b>Exemption.</b> 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, <del>90.58.390</del> 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.	This revision deletes a reference to RCW 90.58.390, which does not exist in the Shoreline Management Act (SMA).
3.	17.50.020 Definitions	<b>Forest Practices.</b> Any activity conducted on or directly pertaining to forest land (as defined in WAC 222-16-010) and related growing, harvesting, or processing of timber including but not limited to: (1) road and trail construction, (2) harvesting, (3) pre-commercial thinning, (4) reforestation, (5) fertilization, (6) prevention and suppression of diseases and insects, (7) salvage of timber, (8) brush control, (9) slash and debris disposal, and (10) borrow pits, as regulated by <del>WAC Title 222-24</del> WAC 010.	This revision amends the citation to a more generalized references to Forest Practices rules, rather than referencing one subsection that does not address all the numbered activities listed in this definition.
4.	17.50.020 Definitions	<b>Habitat Management Plan (HMP).</b> A report prepared by a qualified professional pursuant to Mason County's Resource Ordinance that identifies how impacts upon habitat from a proposed use or activity will be avoided or mitigated in accordance with the 'mitigation sequencing' <del>detailed in the definition of 'mitigation' in MCC 8.52.030 (definitions)</del> described in Section 17.50.110 (B) of this program. See MCC 8.52.170(j) for the minimum details required in HMP's.	This revision corrects a cross-reference for internal consistency. Mitigation sequencing is not detailed in the definition of "mitigation" in the Resource Ordinance (RO). It is detailed in the Shoreline Master Program (SMP) and the wetlands chapter of the RO.
5.	17.50.020 Definitions	<b>Ordinary High Water Mark (OHWM).</b> On all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, or as it may naturally change thereafter or as it may change thereafter in accordance with permits issued by local government or the Department PROVIDED THAT in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water ( <del>WAC 173-22</del> RCW 90.58.030 as amended).	RCW definition.
6.	17.50.020 Definitions	<b>Port District.</b> 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	This revision corrects the cross-reference to marina


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		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 <del>boating facility</del> <u>marina</u> regulations would apply. If a port district proposed a marine terminal, the industrial and marine terminal regulations would apply.	regulations for internal consistency.
7.	<b>17.50.020 Definitions</b>	<b>Shorelines of Statewide Significance.</b> Those shoreline areas as defined in RCW 90.58-030(2)( <del>ef</del> ), 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.	This revision corrects a reference to a statutory citation.
8.	<b>17.50.060 Jurisdiction and Application of Regulations</b>	<u>G. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review.</u>	This revision incorporates a requirement adopted by the Legislature in 2015 that precludes local review of certain WSDOT activities within the state right-of-way.
9.	<b>17.50.080.B.1.e</b>	<b>Environment Designations Map.</b> Boundaries indicated as parallel to or extensions of features identified in subsections <del>4</del> <u>a</u> through <del>4</del> <u>d</u> above shall be so construed;	This revision corrects a citation for internal consistency.
10.	<b>17.50.080.B.1.h</b>	<b>Environment Designations Map.</b> Where existing physical or cultural features are at <del>v</del> <u>v</u> ariance with those shown on the environment designation map and cannot be determined with certainty by applying subsections a through f above, the County shall determine the location or existence of such feature utilizing the provisions of WAC 173-22-055, the policies of RCW 90.58.020, and the corresponding Master Program provisions herein; and	This editorial revision is intended to reduce any potential confusion about whether this use of the word was intended to apply to formally defined "Variances."
11.	<b>17.50.110.B.4.c</b>	<b>Ecological Protection, Critical Areas, No Net Loss.</b> Removal of dangerous trees, establishment of view corridors, trimming, pruning, maintenance of existing landscaped areas, and noxious weed removal in buffers shall be conducted in accordance with the regulations in the Mason County Resource Ordinance: MCC 8.52.110.D.2.i, MCC 8.52.140.D.2.c, MCC 8.52.170.FD, and Appendix C.	This revision corrects a citation for internal consistency.
12.	<b>17.50.215.B.2 Commercial development</b>	Commercial development may be permitted on the shoreline in the following descending order of priority: water dependent, water related, and water enjoyment. <u>Low-intensity, water-oriented commercial and industrial uses may be permitted in the limited instances where those uses have located in the past or at unique sites in rural communities that possess shoreline conditions and services to support the use.</u>	This revision provides clarity and limits consistent with WAC 173-26-211, regarding when

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			Commercial Uses are allowed in Conservancy SED.
13.	17.50.230.B.8 In-stream structures	Small-scale power generating micro-turbines may be placed in streams provided they do not create impoundments and there are no adverse effects on shoreline functions and processes, including but not limited to, <u>fish passage</u> , stream flow, habitat structure, temperature, and/or water quality.	This revision was proposed by county staff in response to a comment from WDFW.
14.	17.50.255.B.3.a Residential Development	<del>As required by MCC 8.52.170(g), a</del> All projects shall meet or exceed any stormwater design requirements in MCC 14.48 and 17.80 to avoid any risk of decertification of shellfish beds. Site preparation and construction in the vicinity of aquaculture operations shall not result in off-site erosion, siltation, or other reductions in water quality. Land uses on erosion hazard areas shall meet the requirements of MCC 8.52.160.	This revision deletes an invalid reference - MCC 8.52.170(g) no longer exists in the Resource Ordinance.
15.	17.50.320B.1.j Docks, Floats, Buoys, Lifts, Etc.	i. As detailed in MCC 17.50.120, Existing Structures, the footprints of existing legally established structures are grandfathered, therefore repairs and replacements including grandfathered docks, boat houses, and other overwater structures do not need to meet the County's dimensional standards but do need to use approved materials. Replacement structures shall be restricted to the original footprint and size dimensions, except for any variations required by health and safety regulations. Existing skirting shall be removed and may not be replaced. <u>Whenever feasible, repairs to boathouses should include materials that allow for light penetration to intertidal and shallow subtidal water areas.</u>	This revision was proposed by county staff in response to a comment from DNR.
16.	17.50.320.B.2.d Docks, Floats, Buoys, Lifts, Etc.	Vessels shall be restricted from extended mooring on 'State Owned Aquatic Lands' except as allowed by <u>WAC 332-52-155 and other applicable</u> state regulations and provided that a lease or permission is obtained from the state and impacts to navigation and public access are mitigated.	This revision was proposed by county staff in response to a DNR comment, to improve regulatory consistency with other WACs.
17.	17.50.320.B.2.f.viii.d Docks, Floats, Buoys, Lifts, Etc.	(d)Flotation components <del>shall not be installed under the grating</del> shall not be counted toward functional grating calculation..	This clarifying revision was proposed by county staff in response to a comment from DNR.
18.	17.50.320.B.3.c Docks, Floats, Buoys, Lifts, Etc.	Mooring buoys shall <u>have a mid-line float system installed; be located at sufficient depth to prevent vessel grounding mid-line float must hold the tether line off the bottom at all tides;</u> , and <del>shall design the buoy system so that anchor lines don't drag. Where practicable, use embedment style mooring anchors instead of surface style mooring anchors</del> <u>locate the mid-line float at a distance from the anchor that is equal to 1/3 of the water depth at mean high water (MHW).</u>	This clarifying revision was proposed by county staff in response to a comment from DNR.
19.	17.50.320.B.3.d Docks, Floats, Buoys, Lifts, Etc.	New buoys that would result in an area <u>being defined as a marina under the Department of Health and cause</u> a closure of local shellfish beds for future harvest, per the National Shellfish Sanitation Standards( <del>WAC 246-282</del> ), shall be prohibited.	This clarifying revision was proposed by county staff in response to a comment from DNR.

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20.	17.50.335.B.1 Grading	<u>h. In wetlands, grading associated with construction of a single-family residence, provided the mitigation sequence has been followed and all other necessary state and/or federal permits obtained.</u>	This clarifying revision avoids a broad prohibition of wetland fill for otherwise permitted and preferred uses.
21.	17.50.340.A.10 Shoreline Stabilization	New Development should be located and designed to avoid the need for future shoreline stabilization to the extent feasible. <u>Potential sea level rise should be included in these considerations.</u>	This clarifying revision was proposed by county staff in response to a comment from NOAA and Futurewise.
22.	17.50.400.B.1 Permits, Exemptions, and Appeals	a. Any development of which the total cost or fair market value, whichever is higher, does not exceed <del>\$6,416</del> <u>\$7,047</u> , or as amended by the state Office of Financial Management, if such development does not materially interfere with the normal public use of the water or shorelines of the state.	The Office of Financial Management has revised the cost threshold for substantial development. The revised number will be in effect by the time the Mason County SMP is in effect.
23.	17.50.400.B.1 Permits, Exemptions, and Appeals	<u>g. The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.</u>	This shoreline permit exemption was added to the SMA by the 2016 Legislature. RCW 90.58.030(3)(e)(xiii)
24.	17.50.400.C.4 Permits, Exemptions, and Appeals	Appeal to <del>State</del> Shorelines Hearings Board. Any person aggrieved by the granting, denying, rescission or modification of a Shoreline Permit may seek review from the <del>State</del> Shorelines Hearings Board by filing a petition for review within 21 days of the "date of filing" of the decision. Said request shall be in the form required by the rules for practice and procedure before the <del>State</del> Shorelines Hearings Board. Concurrent with the filing of request for review with the <u>Shorelines</u> Hearings Board, the person seeking review shall file a copy of the request for review with the Department of Ecology, the Attorney General and the Hearing Examiner. The Shorelines Hearings Board regulations are contained in Chapter 461-08 WAC.	These revisions clarify the reference to consistency
25.	Shoreline Environment Designation (SED) Map	Shoreline Environmental Designation for existing residential development areas along the Hama Hama River is changed from Conservancy SED to Rural SED.	This revision to the Shoreline Environment Designation (SED) map was proposed by county staff in response to comments from Kendra James. The area meets the Rural SED criteria.



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			<p>The area from the mouth of the Hama Hama river, westward to the Natural designation (green color), is proposed to be changed from Conservancy designation (purple color) to Rural designation.</p>

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26.	<b>Resource Ordinance (RO)</b> <b>8.52.030</b>	<b>Ordinary High Water Mark (OHWM).</b> On all lakes, streams and tidal water, the 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	This revision corrects a reference to a date found in state law that cannot be

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	<b>Definitions</b>	vegetation as that condition exists on <del>January 31, 1992</del> <u>June 1, 1971</u> , or as it may naturally change thereafter or as it may change thereafter in accordance with permits issued by local government or the state; provided, that in any areas where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water.	changed through local ordinances. The amended definition is consistent with RCW 90.58.030(2)(c).
27.	<b>8.52.030 Definitions</b>	<b>Qualified Wetland Professional:</b> A person with experience and training in wetland issues, and with experience in performing delineations, analyzing wetland functions and values, analyzing wetland impacts, and recommending wetland mitigation and restoration. Qualifications include: (1) Bachelor of Science or Bachelor of Arts or equivalent degree in biology, botany, environmental studies, fisheries, soil science, wildlife or related field, and two years of related work experience, including a minimum of one year experience delineating wetlands using any Federal Manual <u>and appropriate regional supplement</u> for identifying and delineating jurisdictional wetlands and preparing wetland reports. <del>The Washington State Wetland Identification and Delineation Manual (Ecology No. 96-94) will become the standard delineation methodology for wetlands beginning in 1997. Experience with this manual will be required when it is adopted.</del> Additional education may substitute for one year of related work experience; or (2) Four years of related work experience and training, with a minimum or two years' experience delineating wetlands using any Federal Manual <u>and appropriate regional supplement</u> for identifying and delineating jurisdictional wetlands and preparing wetland reports;	This revision updates the reference to the method for delineating wetlands. The 1997 Washington State Delineation Manual has been superseded by US Army Corps of Engineers regional supplements. WAC 173-22 was amended in 2011 to reflect this change.
28.	<b>8.52.030 Definitions</b>	<b>Repair or Maintenance:</b> An activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter additional designated critical areas or have a significant adverse impact on the critical areas are not included in this definition. <del>However, within the shoreline jurisdiction, replacement and vertical expansion of some residential structures is considered repair (see the FWHCA Chapter).</del>	This review improves consistency with the SMP and WAC 173-27-040(2)(b). Expansion of certain structures is allowed, but it is not considered repair.
29.	<b>8.52.030 Definitions</b>	<b>Wetlands, Mosaic:</b> Groups of wetlands that should be rated and regulated as an aggregate. Although each patch the wetlands that make up the mosaic is separated from nearby wetlands by some upland area these wetlands are not regulated as "isolated wetlands" as the term is used in this chapter. That is, in determining whether a wetland falls into the category of non-regulated wetlands (See Table 8.52.110) the area of the wetland is the area of the mosaic wetland and not the area of an individual wetland component of the mosaic. Guidance for determining when nearby wetlands compose a mosaic wetland is provided in the Washington State wetland rating system for western Washington — Revised, Washington State Department of Ecology Publication # <u>014-06-0295</u> . The patches of wetlands compose a mosaic when: (1) the patches are less than one acre in size, (2) the patches are separated from each other by one	This revision updates the citation to the 2014 Wetlands Rating System, for internal consistence.



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		hundred feet or less on average, and (3) the area of the wetlands in the potential mosaic are greater than fifty percent of the total combined area of wetland and upland. An illustration of this analysis of whether the potential mosaic should be considered as an aggregate rather than as individual isolated wetlands is shown below.	
30.	<b>Table 8.52.110(B) Land Use Intensity “High” category</b>	<del>Hobby farms</del>	This clarifying amendment removes hobby farms from the Land Use Intensity “High” category, consistent with a recent Court of Appeals decision on San Juan County’s Critical Areas Ordinance.
31.	<b>8.52.170.D.1.a.iii Buffer on Fish and Wildlife Habitat Conservation Areas</b>	When major new development is proposed within 1/4 mile of a listed species point location (den or nest site) <u>or habitat</u> , as identified through the WDFW PHS data base, tribal and other local fish and wildlife databases or knowledge, a preliminary review by a qualified fish and wildlife professional shall be provided to the county which shall determine if a FWHCA or its buffer is within the area of the development. The buffer distance shall be measured horizontally from the established FWHCA perimeter.	This clarifying revision ensures the reference to WDFW’s database includes not just point locations but other PHAS habitat areas (e.g., which may be polygons and not just points.)