

## **40.460 SHORELINE MASTER PROGRAM**

### **40.460.100 Introduction**

#### **40.460.110 Title**

This chapter contains the Clark County Shoreline Master Program (Program).

(Added: Ord. 2012-07-16)

### **40.460.120 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.

The Act and Chapter 173-26 WAC establish a broad policy giving preference to shoreline uses that:

- A. Depend on proximity to the shoreline (“water-dependent uses”);
- B. Protect biological and ecological resources, water quality and the natural environment; and
- C. Preserve and enhance public access or increase recreational opportunities for the public along shorelines.

(Added: Ord. 2012-07-16)

### **40.460.130 Purpose and Intent**

Clark County prepared this Program to meet the requirements of the Act. This Program provides goals, policies, and regulations for shoreline use and protection. The goals, policies, and regulations contained herein are tailored to the specific geographic, economic, and environmental needs of Clark County.

The purpose of this Program is:

- A. To guide the future development of shorelines in the county in a positive, effective, and equitable manner consistent with the Act;
- B. To promote the public health, safety, and general welfare of the community by providing long range, comprehensive policies and effective, reasonable regulations for development and use of the county’s shorelines; and
- C. To ensure, at minimum, no net loss of shoreline ecological functions and processes and to plan for restoring shorelines that have been impaired or degraded by adopting and fostering the following policy contained in RCW 90.58.020, Legislative findings for shorelines of the state:

“It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner, which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the State and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto...

In the implementation of this policy 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 dependent 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, 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.

Permitted 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."

(Added: Ord. 2012-07-16)

**40.460.140 Governing Principles**

- A. The goals, policies, and regulations of this Program are intended to be consistent with the state shoreline guidelines in Chapter 173-26 WAC. The goals, policies and regulations are informed by the governing principles in WAC 173-26-186, and the policy statements of RCW 90.58.020.
- B. Any inconsistencies between this Program and the Act must be resolved in accordance with the Act.
- C. Regulatory or administrative actions contained herein must not unconstitutionally infringe on private property rights or result in an unconstitutional taking of private property.
- D. The regulatory provisions of this Program are limited to shorelines of the state, whereas the planning functions of this Program extend beyond the designated shoreline boundaries, given that activities outside the shoreline jurisdiction may affect shorelines of the state.
- E. The policies and regulations established by this Program must be integrated and coordinated with those policies and rules of the Clark County Comprehensive Growth Management Plan and development regulations adopted under the Growth Management Act (Chapter 36.70A RCW) and RCW 34.05.328, Significant legislative rules.
- F. Protecting the shoreline environment is an essential statewide policy goal, consistent with other policy goals. This Program protects shoreline ecosystems from such impairments in the following ways:
1. By using a process that identifies, inventories, and ensures meaningful understanding of current and potential ecological functions provided by shorelines.
  2. By including policies and regulations that require mitigation of adverse impacts in a manner that ensures no net loss of shoreline ecological functions. The required mitigation shall include avoidance, minimization, and compensation of impacts in accordance with the policies and regulations for mitigation sequencing in WAC 173-26-201(2)(e)(i), Comprehensive Process to Prepare or Amend Shoreline Master Programs.
  3. By including policies and regulations to address cumulative impacts, including ensuring that the cumulative effect of exempt development will not cause a net loss of shoreline ecological functions, and by fairly allocating the burden of addressing such impacts among development opportunities.
  4. By including regulations and regulatory incentives designed to protect shoreline ecological functions, and restore impaired ecological functions where such functions have been identified.

(Added: Ord. 2012-07-16)

**40.460.150 Liberal Construction**

As provided for in RCW 90.58.900, Liberal construction, the Act is exempted from the rule of strict construction; the Act and this Program shall therefore be liberally construed to give full effect to the purposes, goals, objectives, and policies for which the Act and this Program were enacted and adopted.

(Added: Ord. 2012-07-16)

**40.460.160 Severability**

Should any section, subsection, paragraph, sentence, clause or phrase of this Program or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this chapter or its application to any other person or situation. The Board of County Commissioners of Clark County hereby declares that it would have adopted the ordinance codified in this chapter and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

(Added: Ord. 2012-07-16)

**40.460.170 Relationship to Other Plans and Regulations**

A. Applicants for shoreline use/development shall comply with all applicable laws prior to commencing any shoreline use, development, or activity.

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

C. Uses, developments and activities regulated by this Program may also be subject to the provisions of the Clark County Comprehensive Growth Management Plan, the Washington State Environmental Policy Act ("SEPA," Chapter 43.21C RCW and Chapter 197-11 WAC), other provisions of the Clark County Code, and other local, state and federal laws, as may be amended.

D. In the event this Program conflicts with other applicable county policies or regulations, they must be interpreted and construed so that all the language used is given effect, with no portion rendered meaningless or superfluous, and unless otherwise stated, the provisions that provide the most protection to shoreline ecological processes and functions shall prevail.

E. Projects in the shoreline jurisdiction that have been previously approved through local and state reviews are considered accepted. Major changes or new phases of projects that were not included in the originally approved plan will be subject to the policies and regulations of this Program.

F. The Clark County Critical Area Ordinances (CAO) are adopted into the Master Program by reference, except that those provisions inconsistent with the Shoreline Management Act and implementing Washington Administrative Code chapters shall not apply in shoreline jurisdiction. The applicable CAO is the version listed in Section 40.460.530. Any amendments to the CAO shall be incorporated through an amendment to the Master Program that is approved by the Department of Ecology pursuant to WAC 173-26-191(2)(b).

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

**40.460.180 Composition of the Shoreline Master Program (Program)**

A. This Shoreline Master Program is a comprehensive use plan for Clark County, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020.

B. Clark County Comprehensive Growth Management Plan Chapter 13, Shoreline Master Program Goals and Policies, this chapter, and the Official Shoreline Map (electronic) are adopted as Clark County's Shoreline Master Program (Program).

C. The Inventory and Characterization Report; Shoreline Management Strategy; Restoration Plan; Cumulative Impacts Analysis; No Net Loss Report; and Public Participation Plan are supporting documents, and are not adopted as part of this Program or the County's Comprehensive Growth Management Plan.

D. The Inventory and Characterization Report establishes the baseline against which the standard "no net loss of shoreline ecological functions" is measured. The Restoration Plan identifies and prioritizes shoreline restoration opportunities that may be undertaken independently or in conjunction with mitigation for development impacts to improve shoreline ecological functions over time.

(Added: Ord. 2012-07-16)

**40.460.190 Effective Date**

This Program and all amendments thereto shall take effect fourteen (14) days from the date of Department of Ecology (Ecology) written notice of final action, and shall apply to new applications submitted on or after that date and to applications that have not been determined to be fully complete by that date.

(Added: Ord. 2012-07-16)

**40.460.200 Applicability, Shoreline Permits and Exemptions**

To be authorized, all uses and development activities in shorelines shall be planned and carried out in a manner consistent with this Program and this chapter and the policy of the Act as required by RCW 90.58.140(1), regardless of whether a shoreline permit, statement of exemption, shoreline variance, or shoreline conditional use is required.

(Added: Ord. 2012-07-16)

**40.460.210 Applicability**

A. This Program shall apply to all of the shorelands and waters within the unincorporated Clark County limits that fall under the jurisdiction of Chapter 90.58 RCW. Such shorelands shall include:

1. Those lands extending two hundred (200) feet in all directions as measured on a horizontal plane from the ordinary high water mark (OHWM);
2. Floodways and contiguous floodplain areas landward two hundred (200) feet from such floodways;
3. The full extent of floodplains; and
4. All wetlands and river deltas associated with the streams and lakes that are subject to the provisions of this Program; the same to be designated as to location by Ecology.

An unofficial copy of the Shoreline Map for the county and all urban growth areas is shown in Appendix B.

B. The following rivers and streams, listed by drainage basin and with tributaries identified, have shorelines subject to this Program. The upstream point (twenty (20) cubic feet per second (cfs)) is based on the Determination of Upstream Boundaries for Western Washington Streams and Rivers Under Requirements of the Shoreline Management Act of 1971, U.S. Geological Survey Report 96-4208:

Hagen Creek: from the 20 cfs point (Sec. 36, T3N, R4E) downstream to the Skamania County line.

Columbia River: from the Skamania County line downstream to the Cowlitz County line.

Lawton Creek: from the 20 cfs point (Sec. 24, T1N, R4E) downstream to its confluence with the Columbia River.

Gibbons Creek: from the 20 cfs point (Sec. 16, T1N, R4E) downstream to its confluence with the Columbia River.

Washougal River: from the Skamania County line downstream to the Washougal city limits.

Cougar Creek: from the 20 cfs point (Sec. 26, T2N, R4E) downstream to its confluence with the Washougal River.

Little Washougal River: from the 20 cfs point (Sec. 8, T2N, R4E) downstream to its confluence with the Washougal River.

East Fork Little Washougal River: from the 20 cfs point (Sec. 9, T2N, R4E) downstream to its confluence with the Little Washougal River.

Boulder Creek: from the 20 cfs point (Sec. 4, T2N, R4E) downstream to its confluence with the Little Washougal River.

Lacamas Creek: from its 20 cfs point (Sec. 35, T3N, R3E) downstream to the Camas city limits.

North Fork Lacamas Creek: from its 20 cfs point (Sec. 35, T3N, R3E) downstream to the confluence with Lacamas Creek.

Matney Creek: from its 20 cfs point (Sec. 15, T2N, R3E) downstream to its confluence with Lacamas Creek.

Fifth Plain Creek: from its 20 cfs point (Sec. 6, T2N, R3E) downstream to its confluence with Lacamas Creek.

Burnt Bridge Creek: those shorelines outside the Vancouver city limits (1) near the intersection of NE St. Johns Blvd. and Highway 500 (Sec. 24, T2N, R1E), and (2) downstream from the I-5 highway crossing (Sec. 15, T2N, R2E).

Salmon Creek: from its 20 cfs point (Sec. 10, T3N, R3E) downstream to the Battle Ground city limits (Sec. 12, T3N, R2E); from the Battle Ground city limits (Sec. 14, T3N, R2E) downstream to its confluence with Lake River.

Rock Creek: from its 20 cfs point (Sec. 33, T4N, R3E) downstream to its confluence with Salmon Creek.

Morgan Creek: from its 20 cfs point (Sec. 13, T3N, R2E) downstream to its confluence with Salmon Creek.

Curtin (Glenwood) Creek: from its 20 cfs point (Sec. 32, T3N, R2E) downstream to its confluence with Salmon Creek.

Mill Creek: from its 20 cfs point (Sec. 7, T3N, R2E) downstream to its confluence with Salmon Creek.

Gee Creek: downstream from the Ridgefield city limits (Sec. 13, T4N, R1W) to its confluence with the Columbia River.

East Fork Lewis River: from the Skamania County line downstream to its confluence with the North Fork Lewis River.

Copper Creek: from the Skamania County line downstream to its confluence with the East Fork Lewis River.

King Creek: from its 20 cfs point (Sec. 26, T4N, R4E) downstream to its confluence with the East Fork Lewis River.

Rock Creek: from its 20 cfs point (Sec. 23, T3N, R4E) downstream to its confluence with the East Fork Lewis River.

Coyote Creek: from its 20 cfs point (Sec. 10, T3N, R4E) downstream to its confluence with Rock Creek.

Cedar Creek: from its 20 cfs point (Sec. 17, T3N, R4E) downstream to its confluence with Rock Creek.

Big Tree Creek: from its 20 cfs point (Sec. 31, T5N, R4E) downstream to its confluence with the East Fork Lewis River.

Yacolt Creek: from its 20 cfs point (Sec. 11, T4N, R3E) downstream to its confluence with Big Tree Creek.

Rock Creek: from its 20 cfs point (Sec. 36, T5N, R2E) downstream to its confluence with the East Fork Lewis River.

Mason Creek: from its 20 cfs point (Sec. 8, T4N, R2E) downstream to its confluence with the East Fork Lewis River.

Lockwood Creek: from its 20 cfs point (Sec. 1, T4N, R1E) downstream to its confluence with the East Fork Lewis River.

North Fork Lewis River, south side: from the Skamania County line downstream to its confluence with the East Fork Lewis River.

Siouxon Creek: from the Skamania County line downstream to its confluence with the North Fork Lewis River.

North Siouxon Creek: from Skamania County line downstream to its confluence with Siouxon Creek.

Canyon Creek: from the Skamania County line downstream to its confluence with the North Fork Lewis River.

Fly Creek: from its 20 cfs point (Sec. 1, T4N, R4E) downstream to its confluence with Canyon Creek.

Cedar Creek: from its 20 cfs point (Sec. 19, T5N, R4E) downstream to its confluence with the North Fork Lewis River.

Chelatchie Creek: from its 20 cfs point (Sec. 12, T5N, R3E) downstream to its confluence with Cedar Creek.

Unnamed Tributary to Chelatchie Creek: from its 20 cfs point (Sec. 10, T5N, R3E) downstream to its confluence with Chelatchie Creek.

Pup Creek: from its 20 cfs point (Sec. 10 T5N, R2E) downstream to its confluence with Cedar Creek.

Lewis River south side: downstream from the confluence of the East Fork and the North Fork to its confluence with the Columbia River.

Lake River: from its origin at Vancouver Lake to its confluence with the Columbia River.

Whipple Creek: from its 20 cfs point (Sec. 7, T3N, R1E) downstream to its confluence with Lake River.

C. The following are lakes with shorelines subject to this Program:

Lacamas Lake;

Round Lake;

Vancouver Lake;

Unnamed Lake 02 (west of Vancouver Lake);

Post Office Lake;

Green Lake;

Battle Ground Lake;

Campbell Lake;

Unnamed Lake 03 (south of Canvasback Lake);

Canvasback Lake;

Hathaway Lake;  
Lancaster Lake;  
Mud Lake;  
Unnamed Lake 01 (south of Horseshoe Lake);  
Horseshoe Lake;  
Lake Merwin;  
Yale Lake;  
Carty Lake.

(Amended: Ord. 2014-12-10)

- D. Maps indicating the extent of shoreline jurisdiction and shoreline designations are guidance only. They are to be used in conjunction with best available science, field investigations and on-site surveys to accurately establish the location and extent of shoreline jurisdiction when a project is proposed. All areas meeting the definition of a shoreline of the state or a shoreline of statewide significance, whether mapped or not, are subject to the provisions of this Program.
- E. This Program shall apply to every person, individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or other non-federal entity that develops, owns, leases, or administers lands, wetlands, or waters that fall under the jurisdiction of the Act; and within the external boundaries of federally owned lands (including, but not limited to, private in-holdings in national wildlife refuges).
- F. Non-federal agency actions undertaken on federal lands must comply with this Program and the Act.
- G. Shoreline development occurring in or over navigable waters may require a shoreline permit in addition to other approvals required from state and federal agencies.
- H. The provisions of RCW 35.21.160 are recognized, which state that jurisdictions along lakes or waterways have shoreline jurisdiction that extends to the middle of such lakes or waterways.
- I. This Program shall apply whether the proposed development or activity is exempt from a shoreline permit or not.

(Added: Ord. 2012-07-16)

**40.460.220 Shoreline Substantial Development Permit Required**

**A. General Requirements.**

1. Substantial development as defined by this Program and RCW 90.58.030(3)(e) shall not be undertaken by any person on the shorelines of the state without first obtaining a substantial development permit from the Shoreline Administrator, unless the use or development is specifically identified as exempt from a substantial development permit, in which case a letter of exemption is required.
2. The Shoreline Administrator may grant a substantial development permit only when the development proposed is consistent with the policies and procedures of Chapter 90.58 RCW, the provisions of Chapter 173-27 WAC, and this Program.
3. Within an urban growth area a shoreline substantial development permit is not required on land that is brought under shoreline jurisdiction due to a shoreline restoration project creating a landward shift in the OHWM.

B. Developments Not Subject to the Act.

1. Native American tribes' actions on tribal lands and federal agencies' actions on federal lands are not required, but are encouraged, to comply with the provisions of this Program and the Act. Nothing in this Program shall affect any rights established by treaty to which the United States is a party.
2. Environmental excellence programs entered into under Chapter 43.21K RCW.

(Added: Ord. 2012-07-16)

**40.460.230 Exemptions from a Shoreline Substantial Development Permit**

A. General Requirements.

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

B. List of Exemptions.

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

1. Any development of which the total cost or fair market value does not exceed five thousand seven hundred eighteen dollars (\$5,718) or as adjusted by the State Office of Financial Management, if such development does not materially interfere with the normal public use of the water or shorelines of the state. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030(2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed, or found labor, equipment or materials.
2. Subject to the provisions of Section 40.460.250, normal maintenance or repair of existing legally established structures or developments, including those that have been damaged by accident, fire, or elements. The features of the repaired structure or development, including but not limited to its size, shape, configuration, location, and external appearance, must be comparable to the original structure or development, and the repair must not cause substantial adverse effects to shoreline resources or environment. The replacement of demolished existing single-family residences and their appurtenances is not considered normal maintenance and repair.
3. Construction of a normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the

purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one (1) cubic yard of fill per one (1) foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the Department of Fish and Wildlife (WDFW).

4. Emergency construction necessary to protect property from damage by the elements. An “emergency” is an unanticipated and imminent threat to public health, safety, or the environment that requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Shoreline Administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit that would have been required, absent an emergency, pursuant to Chapter 90.58 RCW, these regulations, or this Program, shall be obtained. All emergency construction shall be consistent with the policies and requirements of this chapter, Chapter 90.58 RCW, and this Program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency.

5. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels. A feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation shall not be considered normal or necessary farming or ranching activities.

6. Construction or modification of navigational aids such as channel markers and anchor buoys.

7. Construction on shorelands by an owner, lessee, or contract purchaser of a single-family residence or appurtenance for their own use or for the use of their family, which residence does not exceed a height of thirty-five (35) feet above average grade level, and which meets all requirements of the county, other than requirements imposed pursuant to Chapter 90.58 RCW. Construction authorized under this exemption shall be located landward of the ordinary high water mark.

8. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of a single-family or multiple-family residence. This exception applies in fresh waters when the fair market value of the dock does not exceed ten thousand dollars (\$10,000), but if subsequent construction having a fair market value exceeding two thousand five hundred dollars (\$2,500) occurs within five (5) years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter.

9. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water from the irrigation of lands.

10. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water.

11. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, that were created, developed or utilized primarily as a part of an agricultural drainage or diking system.

12. Any project with a certification from the Governor pursuant to Chapter 80.50 RCW (certification from the State Energy Facility Site Evaluation Council).

13. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:
  - a. The activity does not interfere with the normal public use of surface waters;
  - b. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
  - c. The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity; and
  - d. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to assure that the site is restored to pre-existing conditions.
14. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control published by the Departments of Agriculture or Ecology jointly with other state agencies under Chapter 43.21C RCW.
15. Watershed restoration projects as defined in RCW 89.08.460.
16. a. A public or private project that is designed to improve fish or wildlife habitat or fish passage when all of the following apply:
  - (1) The project has been approved by WDFW;
  - (2) The project has received hydraulic project approval (HPA) by WDFW pursuant to Chapter 77.55 RCW; and
  - (3) Clark County has determined that the project is substantially consistent with the local Shoreline Master Program. Clark County shall make such determination in a timely manner and provide it by letter to the applicant.
- b. Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with local Shoreline Master Programs and do not require a statement of exemption.
17. Any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to Chapter 70.105D RCW or to Ecology when it conducts a remedial action under Chapter 70.105D RCW.
18. Other than conversions to nonforest land use, forest practices regulated under Chapter 76.09 RCW are not subject to additional regulations under the Act or this Program (RCW 90.58.030(2)(d)(ii)).

(Amended: Ord. 2015-12-12)

C. Statements of Exemption.

1. Any person claiming exemption from the substantial development permit requirements shall make an application to the Shoreline Administrator for such an exemption in the manner prescribed by the Shoreline Administrator, except that no written statement of exemption is required either for a project designed to improve fish or wildlife habitat or fish passage pursuant to WAC 173-27-040(2)(p)(iii)(A), or for emergency development pursuant to WAC 173-27-040(2)(d).
2. The Shoreline Administrator is authorized to grant or deny requests for statements of exemption from the shoreline substantial development permit requirement for uses and developments within shorelines that are specifically listed in Section 40.460.230(B). The statement shall be in writing and shall indicate the specific exemption of this Program that is being applied to the development, and shall provide a summary of the

Shoreline Administrator's analysis of the consistency of the project with this Program and the Act. The letter shall be sent to the applicant and maintained on file in the offices of the Shoreline Administrator.

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

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

#### **40.460.240 Prohibited Uses**

The following modifications and uses are prohibited in all shoreline designations and are not eligible for review as a shoreline conditional use or shoreline variance. See Sections 40.100.070 and 40.460.800 for definitions of the following modifications and uses:

- A. Uses not otherwise allowed in the underlying zoning district;
- B. Parking as a primary use;
- C. Discharge of solid wastes, liquid wastes, untreated effluents, and other potentially harmful materials;
- D. Solid waste facilities;
- E. Hazardous waste facilities as defined in Section 40.100.070; and
- F. Speculative fill.

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

#### **40.460.250 Nonconforming Uses and Development**

A. Existing uses, structures and lots legally established prior to the effective date of this Program are allowed to continue. Where lawful uses, structures and lots exist that could not be established under the terms of this Program, such uses, structures and lots are deemed nonconforming and are subject to the provisions of this section, unless specific exceptions are provided for in Section 40.460.250(B).

##### **B. Nonconforming Uses.**

1. Additional development of any property on which a nonconforming use exists shall require that all new uses conform to this Program and the Act.
2. Change of ownership, tenancy, or management of a nonconforming use shall not affect its nonconforming status; provided, that the use does not change or intensify.
3. If a nonconforming use is converted to a conforming use, a nonconforming use may not be resumed.
4. When the operation of a nonconforming use is vacated or abandoned for a period of twelve (12) consecutive months, the nonconforming use rights shall be deemed extinguished and the future use of such property shall be in accordance with the permitted and conditional use regulations of this Program.
5. If a conforming building housing a nonconforming use is damaged by fire, flood, explosion, or other natural disaster and the damage is less than seventy-five percent (75%) of the replacement cost of the structure or development, such use may be resumed at the time the building is repaired; provided, such restoration shall be undertaken within twelve (12) months following said damage.

6. Normal maintenance and repair of a structure housing a nonconforming use may be permitted provided all work is consistent with the provisions of Section 40.530.010 and this Program.
7. Legally established floating homes and residences are considered conforming uses, subject to the requirements in Section 40.460.630(K)(13).

(Amended: Ord. 2015-12-12)

C. Nonconforming Structures.

1. A nonconforming building or structure may be maintained or repaired, provided such improvements do not extend or expand the nonconformity of such building or structure and are consistent with the provisions of this Program, unless required by other law or ordinance.
2. If a nonconforming structure or development is damaged by fire, flood, explosion, or other natural disaster and the damage is less than seventy-five percent (75%) of the replacement cost of the structure or development, it may be restored or reconstructed to those configurations existing at the time of such damage, provided:
  - a. The reconstructed or restored structure will not cause additional adverse effects to adjacent properties or to the shoreline environment;
  - b. The rebuilt structure or portion of structure shall not expand the original footprint or height of the damaged structure;
  - c. No degree of relocation shall occur, except to increase conformity or to increase ecological function, in which case the structure shall be located in the least environmentally damaging location possible;
  - d. The submittal of applications for permits necessary to restore the development is initiated within twelve (12) months of the damage. The Shoreline Administrator may waive this requirement in situations with extenuating circumstances;
  - e. The reconstruction is commenced within one (1) year of the issuance of permit;
  - f. The Shoreline Administrator may allow a one (1) year extension provided consistent and substantial progress is being made; and
  - g. Any residential structures, including multifamily structures, may be reconstructed up to the size, placement and density that existed prior to the damage, so long as other provisions of this Program are met.

(Amended: Ord. 2015-12-12)

D. Nonconforming Lots.

Legally established, nonconforming, undeveloped lots located landward of the ordinary high water mark are buildable; provided, that all new structures or additions to structures on any nonconforming lot must meet all setback, height and other construction requirements of the Program and the Act.

(Added: Ord. 2012-07-16)

**40.460.260 Shoreline Variance**

A. The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this Program where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this Program would impose unnecessary hardships on the applicant or thwart the policies set forth in the Act and this Program.

B. When a shoreline variance is requested, the Shoreline Administrator shall be the final approval authority for the county. However, shoreline variances must have approval from Ecology, which shall have final approval authority. Shoreline variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in the Act (RCW 90.58.020). In all instances extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

C. The Shoreline Administrator is authorized to recommend a variance from the performance standards of this Program only when all of the following criteria are met (WAC 173-27-170):

1. That the strict application of the bulk, dimensional or performance standards set forth in this Program precludes, or significantly interferes with, reasonable use of the property;
2. That the hardship described in subsection (A) of this section is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of this Program, and not, for example, from deed restrictions or the applicant's own actions;
3. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Growth Management Plan and this Program and will not cause adverse impacts to the shoreline environment;
4. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
5. That the variance requested is the minimum necessary to afford relief; and
6. That the public interest will suffer no substantial detrimental effect.

D. Variance permits for development and/or uses that will be located waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030(2)(b), or within any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:

1. That the strict application of the bulk, dimensional or performance standards set forth in this Program precludes all reasonable use of the property;
2. That the proposal is consistent with the criteria established under Sections 40.460.260(C)(2) through (6); and
3. That the public rights of navigation and use of the shorelines will not be adversely affected.

E. The burden of proving that a proposed shoreline variance meets the criteria of this Program shall be on the applicant. Absence of such proof shall be grounds for denial of the application.

F. In the granting of all shoreline variances, consideration shall be given to the cumulative environmental impact of additional requests for like actions in the area.

G. Before making a recommendation to grant a shoreline variance, the county shall consider issues related to the conservation of valuable natural resources, and the protection of views from nearby public roads, surrounding properties and public areas.

H. A variance from county development code requirements shall not be construed to mean a shoreline variance from use regulations in this Program, and vice versa.

I. Shoreline variances may not be used to permit a use or development that is specifically prohibited in a shoreline designation.

(Added: Ord. 2012-07-16)

**40.460.270 Shoreline Conditional Use Permit**

- A. The purpose of the conditional use permit is to provide greater flexibility in varying the application of the use regulations of this Program in a manner that will be consistent with the policies of the Act and this Program, particularly where denial of the application would thwart the policies of the Act.
- B. When a conditional use is requested, the Shoreline Administrator shall be the final approval authority for the county. However, shoreline conditional uses must have approval from Ecology, which shall have final approval authority under WAC 173-27-200.
- C. Conditional use permits shall be authorized only when they are consistent with the following criteria:
1. The proposed use is consistent with the policies of RCW 90.58.020, WAC 173-27-160 and all provisions of this Program;
  2. The use will not interfere with normal public use of public shorelines;
  3. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Growth Management Plan and this Program;
  4. The public interest will suffer no substantial detrimental effect; and
  5. Consideration has been given to cumulative impact of additional requests for like actions in the area.
- D. Uses specifically prohibited by this Program may not be authorized.
- E. Other uses not specifically identified in this Program are considered “unclassified uses” and may be authorized through a conditional use permit if the applicant can demonstrate that the proposed use is consistent with the purpose of the shoreline designation and compatible with existing shoreline improvements.
- F. The burden of proving that a proposed shoreline conditional use meets the criteria of this Program and WAC 173-27-160 shall be on the applicant. Absence of such proof shall be grounds for denial of the application.
- G. The County is authorized to impose conditions and standards to enable a proposed shoreline conditional use to satisfy the conditional use criteria.

(Added: Ord. 2012-07-16)

**40.460.300 Shoreline Master Program Goals and Policies**

The Shoreline Master Program Goals and Policies are listed in Chapter 13 of the Clark County Comprehensive Plan. The general regulations in Section 40.460.500 and the specific use regulations in Section 40.460.600 are the means by which these goals and policies are implemented.

(Added: Ord. 2012-07-16)

**40.460.400 Shoreline Designations**

**40.460.410 Introduction**

The intent of assigning shoreline designations to specific geographies is to encourage development that will enhance the present or desired character of the shoreline. To accomplish this, segments of shoreline are given a shoreline designation based on existing development patterns, natural capabilities and limitations, and the vision of the County. The shoreline designations are intended to work in conjunction with the comprehensive plan and zoning.

Management policies are an integral part of the shoreline designations and are used for determining uses and activities that can be permitted in each shoreline designation. Development regulations specify how and where permitted development can take place within each shoreline designation and govern height and setback.

(Added: Ord. 2012-07-16)

**40.460.420 Authority**

A. Local governments are required under the Shoreline Management Act of 1971 (Chapter 90.58 RCW) and the Shoreline Master Program Guidelines (Chapter 173-26 WAC) to develop and assign a land use categorization system known as “shoreline environment designations” for shoreline areas as a basis for effective shoreline master programs. For purposes of this Program “shoreline designation” is used in place of the term “shoreline environment designation” referred to in Chapter 173-26 WAC.

B. The method for local government to account for different shoreline conditions is to assign a shoreline designation to each distinct shoreline section in its jurisdiction. The shoreline designation assignments provide the framework for implementing shoreline policies and regulatory measures for environmental protection, use provisions, and other regulatory measures specific to each shoreline designation.

(Added: Ord. 2012-07-16)

**40.460.430 Shoreline Designations**

A. The county classification system consists of shoreline designations that are consistent with and implement the Act (Chapter 90.58 RCW), the Shoreline Master Program Guidelines (Chapter 173-26 WAC) and the Clark County Comprehensive Growth Management Plan. These designations have been assigned consistent with the corresponding criteria provided for each shoreline designation. In delineating shoreline designations, the county aims to ensure that existing shoreline ecological functions are protected with the proposed pattern and intensity of development. Such designations should be consistent with the policies for restoration of degraded shorelines. All the shoreline designations, even if they are not applied within the city limits or urban growth area, are listed here to maintain consistency countywide (see Sections 40.460.440(E) and 40.460.620), and are defined in the following subsections:

Aquatic;

Natural;

Urban Conservancy;

Medium Intensity;

High Intensity;

Rural Conservancy – Residential; and

Rural Conservancy – Resource Lands.

B. Aquatic Shoreline Designation.

1. Purpose.

The purpose of the “Aquatic” shoreline designation is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high water mark (OHWM).

2. Designation Criteria.

An Aquatic shoreline designation is assigned to lands and waters waterward of the ordinary high water mark.

3. Areas Designated.

The Aquatic shoreline designation applies to areas as shown on a copy of the Shoreline Map in Appendix B.

4. Management Policies.

In addition to the other applicable policies and regulations of this Program the following management policies shall apply:

- a. New over-water structures should be allowed only for water-dependent uses, public access, recreation, or ecological restoration.
- b. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and natural hydrographic conditions.
- c. In-water uses should be allowed where impacts can be mitigated to ensure no net loss of shoreline ecological functions. Permitted in-water uses must be managed to avoid impacts to shoreline ecological functions. Unavoidable impacts must be minimized and mitigated.
- d. On navigable waters or their beds, all uses and developments should be located and designed to:
  - (1) Minimize interference with surface navigation;
  - (2) Consider impacts to public views; and
  - (3) Allow for the safe, unobstructed passage of fish and wildlife, particularly species dependent on migration.
- e. Multiple or shared use of over-water and water access facilities should be encouraged to reduce the impacts of shoreline development and increase effective use of water resources.
- f. Structures and activities permitted should be related in size, form, design, and intensity of use to those permitted in the immediately adjacent upland area. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.
- g. Natural light should be allowed to penetrate to the extent necessary to discourage salmonid predation and to support nearshore habitat unless other illumination is required by state or federal agencies.
- h. Aquaculture practices should be encouraged in those waters and beds most suitable for such use. Aquaculture should be discouraged where it would adversely affect the strength or viability of native stocks or unreasonably interfere with navigation.
- i. Shoreline uses, development, activities, and modifications in the Aquatic shoreline designation requiring use of adjacent landside property should be in a shoreline designation that allows that use, development, activity or modification.

C. Natural Shoreline Designation.

1. Purpose.

The purpose of the "Natural" shoreline designation is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline ecological functions intolerant of human use. These systems require that only very low-intensity uses be allowed in order to maintain the ecological functions and ecosystem-wide processes. Consistent with the policies of the designation, restoration of degraded shorelines within this environment is appropriate.

2. Designation Criteria.

The following criteria should be considered in assigning a Natural shoreline designation:

- a. The shoreline ecological functions are substantially intact and have a high opportunity for preservation and low opportunity for restoration;

- b. The shoreline is generally in public or conservancy ownership or under covenant, easement, or a conservation tax program;
- c. The shoreline contains little or no development, or is planned for development that would have minimal adverse impacts to ecological functions or risk to human safety;
- d. There are low-intensity agricultural uses, and no active forestry or mining uses;
- e. The shoreline has a high potential for low-impact or passive or public recreation and is planned for park or open space uses as part of the comprehensive plan; or
- f. The shoreline is considered to represent ecosystems and geologic types that have high scientific and educational value.

3. Areas Designated.

The Natural shoreline designation applies to areas as shown on a copy of the Shoreline Map in Appendix B.

4. Management Policies.

In addition to the other applicable policies and regulations of this Program the following management policies shall apply:

- a. Any use that would substantially degrade shoreline ecological functions or natural character of the shoreline area should not be allowed.
- b. Scientific, historical, cultural, educational research uses, and low-impact, passive recreational uses may be allowed; provided, that ecological functions remain intact.
- c. Vegetation should remain undisturbed except for removal of noxious vegetation and invasive species. Proposed subdivision or lot line adjustments, new development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed.
- d. Uses that would deplete physical or biological resources or impair views to or from the shoreline over time should be prohibited.
- e. Only physical alterations that serve to protect a significant or unique physical, biological or visual shoreline feature that might otherwise be degraded or destroyed, or those alterations that are the minimum necessary to support a permitted use, should be allowed.
- f. Only the following types of signs should be considered for location in the shorelines: interpretive, directional, navigational, regulatory, and public safety.

D. Urban Conservancy Shoreline Designation.

1. Purpose.

The purpose of the "Urban Conservancy" shoreline designation is to protect and restore shoreline ecological functions of open space, floodplains, and other sensitive lands, where they exist in urban and developed settings, while allowing a variety of compatible uses.

2. Designation Criteria.

The following criteria are used to consider an Urban Conservancy shoreline designation:

- a. The shoreline is located within incorporated municipalities and designated urban growth areas;

- b. The shoreline has moderate to high ecological function with moderate to high opportunity for preservation and low to moderate opportunity for restoration, or low to moderate ecological function with moderate to high opportunity for restoration;
- c. The shoreline has open space or critical areas that should not be more intensively developed;
- d. The shoreline is not highly developed and is likely in recreational use. The shoreline has the potential for development that is compatible with ecological restoration. The shoreline is planned for a park, as open space, or for a Master Planned Resort; or
- e. The shoreline has moderate to high potential for low-impact, passive or active water-oriented recreation where shoreline ecological functions can be maintained or restored.

3. Areas Designated.

The Urban Conservancy shoreline designation applies to areas as shown on a copy of the Shoreline Map in Appendix B.

4. Management Policies.

In addition to the other applicable policies and regulations of this Program the following management policies shall apply:

- a. Uses that preserve the natural character of the area or promote preservation of open space or critical areas either directly or over the long term should be the primary allowed uses. Uses that result in restoration of shoreline ecological functions should be allowed if the use is otherwise compatible with the purpose of the Urban Conservancy shoreline designation and the setting.
- b. Single-family residential development shall ensure no net loss of shoreline ecological functions and preserve the existing character of the shoreline consistent with the purpose of this designation.
- c. Encourage regulations that limit lot coverage, provide adequate setbacks from the shoreline, promote vegetation conservation, reduce the need for shoreline stabilization and maintain or improve water quality to ensure no net loss of shoreline ecological functions.
- d. Public access and public recreation objectives should be implemented whenever feasible and when significant ecological impacts can be mitigated.
- e. Thinning or removal of vegetation should be limited to that necessary to:
  - (1) Remove noxious vegetation and invasive species;
  - (2) Provide physical or visual access to the shoreline; or
  - (3) Maintain or enhance an existing use consistent with critical areas protection and maintenance or enhancement of shoreline ecological functions.
- f. Public access and public recreation facilities are a preferred use if they will not cause substantial ecological impacts and when restoration of ecological functions is incorporated.
- g. Low-intensity water-oriented commercial uses may be permitted if compatible with surrounding uses.

E. Medium Intensity Shoreline Designation.

1. Purpose.

The purpose of the “Medium Intensity” shoreline designation is to accommodate primarily residential development and appurtenant structures, but to also allow other types of development that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses.

2. Designation Criteria.

The following criteria are used to consider a Medium Intensity shoreline:

- a. The shoreline is located within incorporated municipalities and designated urban growth areas;
- b. The shoreline has low to moderate ecological function with low to moderate opportunity for restoration;
- c. The shoreline contains mostly residential development at urban densities and does not contain resource industries (agriculture, forestry, mining);
- d. The shoreline is planned or platted for residential uses in the comprehensive plan; or
- e. The shoreline has low to moderate potential for low impact, passive or active water-oriented recreation where ecological functions can be restored.

3. Areas Designated.

The Medium Intensity shoreline designation applies to areas as shown on a copy of the Shoreline Map in Appendix B.

4. Management Policies.

In addition to the other applicable policies and regulations of this Program, the following management policies shall apply:

- a. Encourage regulations that ensure no net loss of shoreline ecological functions as a result of new development such as limiting lot coverage, providing adequate setbacks from the shoreline, promoting vegetation conservation, reducing the need for shoreline stabilization and maintaining or improving water quality to ensure no net loss of ecological functions.
- b. The scale and density of new uses and development should be compatible with sustaining shoreline ecological functions and processes, and the existing residential character of the area.
- c. Public access and joint (rather than individual) use of recreational facilities should be promoted.
- d. Access, utilities, and public services to serve proposed development within shorelines should be constructed outside shorelines to the extent feasible, and be the minimum necessary to adequately serve existing needs and planned future development.
- e. Public or private outdoor recreation facilities should be provided with proposals for subdivision development and encouraged with all shoreline development if compatible with the character of the area. Priority should be given first to water-dependent and then to water-enjoyment recreation facilities.
- f. Commercial development should be limited to water-oriented uses. Non-water-oriented commercial uses should only be allowed:
  - (1) As part of mixed use developments where the primary use is residential and where there is a substantial public benefit with respect to the goals and policies of this Program such as providing public access or restoring degraded shorelines;

(2) Where navigability is severely limited at the proposed site and the commercial use provides a significant public benefit with respect to the Act's objectives such as providing public access and ecological restoration; or

(3) If the site is physically separated from the shoreline by another property or public right-of-way.

(Amended: Ord. 2014-08-10)

F. High Intensity Shoreline Designation.

1. Purpose.

The purpose of the "High Intensity" shoreline designation is to provide for high intensity water-oriented commercial, transportation, and industrial uses while protecting existing shoreline ecological functions and restoring ecological functions in areas that have been previously degraded.

2. Designation Criteria.

The following criteria are used to consider a High Intensity shoreline designation:

- a. The shoreline is located within incorporated municipalities and designated urban growth areas;
- b. The shoreline has low to moderate ecological function with low to moderate opportunity for ecological restoration or preservation;
- c. The shoreline contains mostly industrial, commercial, port facility, mixed use, or multifamily residential development at high urban densities and may contain industries that are not designated agriculture, forestry, or mineral resource lands in the comprehensive plan;
- d. The shoreline may be or has been identified as part of a state or federal environmental remediation program;
- e. The shoreline is planned or platted for high intensity uses in the comprehensive plan; or
- f. The shoreline may support public passive or active water-oriented recreation where ecological functions can be restored.

3. Areas Designated.

The High Intensity shoreline designation applies to areas as shown on a copy of the Shoreline Map in Appendix B.

4. Management Policies.

In addition to the other applicable policies and regulations of this Program, the following management policies shall apply:

- a. Encourage regulations that ensure no net loss of shoreline ecological functions as a result of new development.
- b. Promote infill and redevelopment in developed shoreline areas and encourage environmental remediation and restoration of the shoreline, where applicable with the goal of achieving full utilization of designated high intensity shorelines.
- c. Encourage the transition of uses from non-water-oriented to water-oriented uses.
- d. Water-oriented uses are encouraged; however, new non-water-oriented uses may be allowed if that use has limited access to the shoreline and when included in a master plan or part of a mixed use development.

(Amended: Ord. 2014-08-10)

G. Rural Conservancy – Residential Shoreline Designation.

1. Purpose.

The purpose of the “Rural Conservancy – Residential” shoreline designation is to protect shoreline ecological functions, conserve existing natural resources and valuable historic and cultural areas in order to provide for sustained resource use, achieve natural floodplain processes, and provide recreational opportunities. Examples of uses that are appropriate in a Rural Conservancy – Residential shoreline designation include low-impact, passive recreation uses, water-oriented commercial development, and low-intensity residential development.

2. Designation Criteria.

The following criteria are used to consider a Rural Conservancy – Residential shoreline designation:

- a. The shoreline is located outside of incorporated municipalities and designated urban growth areas;
- b. The shoreline has moderate to high ecological function with moderate to high opportunity for preservation and low to moderate opportunity for restoration or low to moderate ecological function with moderate to high opportunity for restoration;
- c. The shoreline is not highly developed and most development is low-density residential;
- d. The shoreline is planned or platted Rural Center, Rural, or Master Planned Resort;
- e. The shoreline has moderate to high potential for public, water-oriented recreation where ecological functions can be maintained or restored; or
- f. The shoreline has high scientific or educational value or unique historic or cultural resources value.

3. Areas Designated.

The Rural Conservancy – Residential shoreline designation applies to areas as shown on a copy of the Shoreline Map in Appendix B.

4. Management Policies.

In addition to the other applicable policies and regulations of this Program the following management policies shall apply:

- a. Uses in the Rural Conservancy – Residential shoreline designation should be limited to those that sustain the shoreline area’s physical and biological resources and do not substantially degrade shoreline ecological functions or the rural or natural character of the shoreline area.
- b. Residential development shall ensure no net loss of shoreline ecological functions and preserve the existing character of the shoreline consistent with the purpose of this designation.
- c. Encourage regulations that limit lot coverage, provide adequate setbacks from the shoreline, promote vegetation conservation, reduce the need for shoreline stabilization and maintain or improve water quality to ensure no net loss of shoreline ecological functions.
- d. Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time are preferred uses, provided significant adverse impacts to the shoreline are avoided and unavoidable impacts are minimized and mitigated.
- e. Water-oriented commercial uses should be allowed in rural centers and Master Planned Resorts only.

- f. Developments and uses that would substantially degrade or permanently deplete the biological resources of the area should not be allowed.

H. Rural Conservancy – Resource Lands Shoreline Designation.

1. Purpose.

The purpose of the “Rural Conservancy – Resource Lands” shoreline designation is to protect shoreline ecological functions, conserve existing natural resources and valuable historic and cultural areas in order to provide for sustained resource use, achieve natural floodplain processes, and provide recreational opportunities. Examples of uses that are appropriate in a Rural Conservancy – Resource Lands shoreline designation include low-impact outdoor recreation uses, timber harvesting on a sustained-yield basis, agricultural uses, and other natural resource-based uses.

2. Designation Criteria.

The following criteria are used to consider a Rural Conservancy – Resource Lands shoreline designation:

- a. The shoreline is located outside of incorporated municipalities and designated urban growth areas;
- b. The shoreline has moderate to high ecological function with moderate to high opportunity for preservation and low to moderate opportunity for restoration or low to moderate ecological function with moderate to high opportunity for restoration;
- c. The shoreline is not highly developed, but consists primarily of resource operations (agriculture, forestry, mining) and recreation, but may contain Master Planned Resorts;
- d. The shoreline is planned or platted Rural Industrial, Forest, Agriculture, Agri-Wildlife, or has a surface mining overlay;
- e. The shoreline has a moderate to high potential for low-intensity, passive water-oriented recreation where resource industry-related safety concerns are minimal or mitigated and ecological functions can be maintained or restored; or
- f. The shoreline has moderate to high scientific or educational value or unique historic or cultural resources value.

3. Areas Designated.

The Rural Conservancy – Resource Lands shoreline designation applies to areas as shown on a copy of the Shoreline Map in Appendix B.

4. Management Policies.

In addition to the other applicable policies and regulations of this Program the following management policies shall apply:

- a. Agriculture, commercial forestry, and mining should be allowed in Rural Conservancy – Resource Lands provided they are allowed in the underlying zoning designation, and adverse impacts to the shoreline are avoided and unavoidable impacts are minimized and mitigated.
- b. Encourage regulations that ensure new shoreline uses, development, and activities to sustain the shoreline area’s physical and biological resources do not substantially degrade shoreline ecological functions or the rural or natural character of the shoreline area, and achieve no net loss of shoreline ecological functions.

- c. Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time are preferred uses, provided adverse impacts to the shoreline are avoided and unavoidable impacts are minimized and mitigated.
- d. Allow open space and recreational uses consistent with protection of shoreline ecological functions and personal safety considerations.
- e. Only water-oriented commercial uses that support permitted uses should be allowed.
- f. Residential development shall ensure no net loss of shoreline ecological functions and preserve the existing character of the shoreline consistent with the purpose of this designation.

(Added: Ord. 2012-07-16)

**40.460.440 Official Shoreline Map**

**A. Map Established.**

- 1. The location and extent of areas under the jurisdiction of this Program, and the boundaries of various shoreline designations affecting the lands and water of the county, shall be as shown on the map entitled, "Official Shoreline Map, Clark County, Washington." The official shoreline map and all the notations, references, amendments, and other information shown on the map are hereby made a part of this Program, as if such information set forth on the map were fully described herein.
- 2. In the event that new shoreline areas are discovered (including but not limited to associated wetlands) that are not mapped and/or designated on the official shoreline map, these areas are automatically assigned an Urban Conservancy designation for lands within cities and urban growth areas, or Rural Conservancy – Residential if on lands outside urban growth areas until the shoreline can be re-designated through a Program amendment.
- 3. In the event of a mapping error, the county will rely upon common boundary descriptions and the criteria contained in RCW 90.58.030(2) and Chapter 173-22 WAC pertaining to determinations of shorelands, as amended, rather than the incorrect or outdated map.

**B. File Copies.**

The Official Shoreline Map will be recorded with the Clark County Auditor's office and kept in electronic format at the office of the Clark County Department of GIS and at Ecology. Unofficial copies of the map may be prepared for administrative purposes. To facilitate use of this Program an "unofficial copy" is included in Appendix B.

**C. Map Amendments.**

The Official Shoreline Map is an integral part of this Program and may not be amended except upon approval by the county and Ecology, as provided under the Act.

**D. Boundary Interpretation.**

If disagreement develops as to the exact location of a shoreline designation boundary line shown on the Official Shoreline Map, the following rules shall apply:

- 1. Boundaries indicated as approximately following lot, tract, or section lines shall be so construed;
- 2. Boundaries indicated as approximately following roads or railways shall be respectively construed to follow their centerlines;
- 3. Boundaries indicated as approximately parallel to or extensions of features indicated in subsection (D)(1) or (2) of this section shall be so construed;

4. Whenever existing physical features are inconsistent with boundaries on the Official Shoreline Map, the Shoreline Administrator shall interpret the boundaries with deference to actual conditions. Appeals of such interpretation may be filed according to the applicable appeal procedures described in Section 40.460.700, Administration and Enforcement.

E. Shoreline Designation Changes and Urban Growth Boundary Revisions.

When a portion of shoreline jurisdiction is brought into or removed from an urban growth area, a new shoreline designation may need to be assigned. Shoreline designations shall be assigned in accordance with Table 40.460.440-1, Shoreline Designations for Urban/Rural Boundary Revisions. Where more than one designation could be appropriate according to Table 40.460.440-1, the shoreline designation criteria in this chapter shall be applied and the best-fitting shoreline designation assigned. Shoreline designation assignments shall occur concurrently with the annexation or other legislative action to remove a portion of shoreline jurisdiction from a city or urban growth area and to amend the shoreline map and shall be effective upon approval by Ecology (see Section 40.460.440(B)).

**Table 40.460.440-1. Shoreline Designations for Urban<sup>1</sup>/Rural<sup>2</sup> Boundary Revisions**

SENDING Jurisdiction Shoreline Designation	Transfer From/To	RECEIVING Jurisdiction Shoreline Designation(s)
Aquatic	Rural/Urban Urban/Rural	Aquatic Aquatic
Natural	Rural/Urban Urban/Rural	Natural Natural
Rural Conservancy – Residential	Rural/Urban	Urban Conservancy Medium Intensity
Rural Conservancy – Resource Lands	Rural/Urban	Urban Conservancy Medium Intensity High Intensity
Urban Conservancy	Urban/Rural	Rural Conservancy – Residential Rural Conservancy – Resource Lands
Medium Intensity	Urban/Rural	Rural Conservancy – Residential
High Intensity	Urban/Rural	Rural Conservancy – Resource Lands

<sup>1</sup>Urban = City or Urban Growth Area

<sup>2</sup>Rural = Unincorporated Clark County outside Urban Growth Areas

(Added: Ord. 2012-07-16)

**40.460.500 General Shoreline Use and Development Regulations**

All uses and development activities in shorelines shall be subject to the following general regulations in addition to the applicable use-specific regulations in Section 40.460.600.

(Added: Ord. 2012-07-16)

**40.460.510 General Shoreline Use and Development Regulations**

- A. Shoreline uses and developments that are water-dependent shall be given priority.
- B. Shoreline uses and developments shall fully mitigate for impacts and shall not cause impacts that require remedial action or loss of shoreline ecological functions on the subject property or other properties.
- C. Shoreline uses and developments shall be located and designed in a manner such that shoreline stabilization is not necessary at the time of development and will not be necessary in the future for the subject property or other nearby shoreline properties unless it can be demonstrated that stabilization is the only alternative that protects public safety and existing primary structures.

- D. Non-water-oriented uses shall not adversely impact or displace water-oriented shoreline uses.
- E. Single-family residential uses shall be allowed on all shorelines not subject to a preference for commercial or industrial water-dependent uses, and shall be located, designed and used in accordance with applicable policies and regulations of this Program. However, single-family residences are prohibited in the Aquatic and Natural shoreline designations.
- F. On navigable waters or their beds, all uses and developments should be located and designed to:
1. Minimize interference with surface navigation;
  2. Consider impacts to public views; and
  3. Allow for the safe, unobstructed passage of fish and wildlife, particularly species dependent on migration.
- G. Hazardous materials shall be disposed of and other steps be taken to protect the ecological integrity of the shoreline area in accordance with the other policies and regulations of this Program as amended and all other applicable federal, state, and local statutes, regulations, codes, and ordinances.
- H. In-water work shall be scheduled to protect biological productivity (including but not limited to fish runs, spawning, and benthic productivity). In-water work shall not occur in areas used for commercial fishing during a fishing season unless specifically addressed and mitigated for in the permit.
- I. The effect of proposed in-stream structures on bank margin habitat, channel migration, and floodplain processes should be evaluated during permit review.
- J. Previous approvals of master plans for projects in shoreline jurisdiction should be accepted. New phases of projects for which no master plan has yet been approved, or for which major changes are being proposed, or new projects for which master plans are being submitted shall be subject to the policies and regulations of this Program.
- K. Within urban growth areas, Ecology may grant relief from use and development regulations of this Program when:
1. A shoreline restoration project identified in the SMP Restoration Plan causes or would cause a landward shift in the OHWM creating a hardship meeting specific criteria in RCW 90.58.580;
  2. The proposed relief meets specific criteria in RCW 90.58.580; and
  3. The application for relief is submitted to Ecology in writing requesting approval or disapproval as part of a normal review of a shoreline substantial development permit, conditional use permit, or variance. If the proposal is not connected to a shoreline permit review, the county may provide a copy of a complete application to Ecology along with the applicant's request for relief.

(Added: Ord. 2012-07-16)

**40.460.520 Archaeological, Cultural, and Historic Resources**

A. When a shoreline use or development is in an area known or likely to contain archaeological artifacts and data based on the state's predictive model, the applicant shall provide for a site inspection and evaluation by a professional archaeologist prior to issuance of any shoreline permit or approval. Work may not begin until the inspection and evaluation have been completed and the county has issued its permit or approval.

(Amended: Ord. 2015-12-12)

B. If any item of possible archaeological interest (including human skeletal remains) is discovered on site, all work shall immediately stop, and the county, State Department of Archaeology and Historic Preservation (DAHP), and affected Native American tribe(s) shall be notified of the discovery. A stop-work order will be issued. The shoreline permit will be temporarily suspended. All applicable state and federal permits shall be obtained as a

condition of resumption of development activities. Development activities may resume only upon the applicant's receipt of county approval.

(Amended: Ord. 2015-12-12)

C. If the discovery includes human skeletal remains, the find must be secured and protected from further disturbance; the Clark County Medical Examiner and local law enforcement shall be notified in the most expeditious manner possible. The County Medical Examiner will assume jurisdiction over the site and the human skeletal remains, and will make a determination of whether they are crime-related. If they are not, DAHP will take jurisdiction over the remains and report them to the appropriate parties. The State Physical Anthropologist will make a determination of whether the remains are Native American and report that finding to the affected parties. DAHP will handle all consultation with the affected parties as to the preservation, excavation, and disposition of the remains.

(Added: Ord. 2012-07-16)

#### **40.460.530 Critical Areas Protection**

##### **A. General Provisions.**

1. Critical areas as defined in Chapters 40.410 through 40.450 which are located within the shoreline jurisdiction are protected under this section.
2. Any allowed use, development, or activity proposed on a parcel with a critical area located in the shoreline jurisdiction shall be regulated under the provisions of this Program.
3. Any allowed use, development, or activity meeting the definition of a development exempt from the shoreline substantial development permit process outlined in WAC 173-27-040 and Section 40.460.230 shall be consistent with the policies and provisions of this Program for critical areas protection.
4. Provisions of the critical areas regulations that are not consistent with the Act and supporting WAC chapters shall not apply in shoreline jurisdiction.
5. Habitat that cannot be replaced or restored within twenty (20) years shall be preserved.
6. Where construction of a single-family residence is proposed, this activity is considered exempt from obtaining a shoreline substantial development permit when the construction is located landward of the ordinary high water mark and does not include placement of fill in wetlands. Construction of single-family residences requiring fill in wetlands must obtain a shoreline substantial development permit in addition to other shoreline approvals as applicable.
7. Unless otherwise stated, no development shall be constructed, located, extended, modified, converted, or altered, or land divided without full compliance with this Program and this title.
8. Unless otherwise stated, critical area buffers within the shoreline jurisdiction shall be protected and/or enhanced in accordance with this Program and this title.
9. Shoreline uses and developments and their associated structures and equipment shall be located, designed and operated using best management practices to protect critical areas.
10. The applicant shall demonstrate all reasonable efforts have been taken to avoid and, where unavoidable, minimize and mitigate impacts such that no net loss of critical area and shoreline ecological function is achieved. Mitigation shall occur in the following order of priority:
  - a. Avoiding the impact altogether by not taking a certain action or parts of an action.
  - b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by 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 impact by replacing, enhancing, or providing substitute resources or environments; and
- f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

11. In addition to compensatory mitigation, unavoidable adverse impacts may be addressed through restoration efforts.

B. Applicable Critical Areas.

For purposes of this Program, the following critical areas will be protected under this Program. An amendment to these regulations will apply in shoreline jurisdiction only if it is adopted as an SMP limited amendment or update.

1. Critical aquifer recharge areas, defined in Chapter 40.410 as adopted by Ordinance 2005-04-15, dated April 26, 2005; Ordinance 2009-03-02;
2. Flood hazard areas, defined in Chapter 40.420 as adopted by Ordinance 2012-07-15, dated July 24, 2012;
3. Geologic hazard areas, defined in Chapter 40.430 as adopted by Ordinance 2005-04-15, dated April 26, 2005; Ordinance 2006-09-13; Ordinance 2009-01-01; Ordinance 2012-02-03; and Ordinance 2012-07-16;
4. Habitat conservation areas, defined in Chapter 40.440 as adopted by Ordinance 2006-08-03, dated August 1, 2006; Ordinance 2012-07-16; and Ordinance 2014-12-05; and
5. Wetlands, defined in Chapter 40.450 as adopted by Ordinance 2006-05-27, dated May 26, 2006; Ordinance 2012-07-03; Ordinance 2012-07-16; and Ordinance 2014-12-05.

(Amended: Ord. 2015-12-12)

C. Critical Aquifer Recharge Areas.

1. General Provisions. Chapter 40.410, Critical Aquifer Recharge Areas, Ordinance 2005-04-15, dated April 26, 2005; and Ordinance 2009-03-02, is hereby adopted in whole as part of this Program.

(Amended: Ord. 2015-12-12)

D. Flood Hazard Areas.

1. General Provisions.
  - a. The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in a report entitled "Flood Insurance Study, Clark County, Washington and Incorporated Areas" effective September 5, 2012, and accompanying flood insurance rate maps (FIRMs) and any revisions thereto are hereby adopted by reference and declared to be a part of this Program. The Flood Insurance Study and the FIRMs are on file with the Public Works Department. In addition, Map 27, Potential Channel Migration Zone (CMZ) Areas (Inventory and Characterization Report Volume 1, Lewis and Salmon-Washougal Watersheds and Rural Areas), is incorporated herein by reference.
  - b. This chapter applies to all development in identified special flood hazard areas as defined in Section 40.420.010(C) within shoreline jurisdiction, including channel migration zones.
  - c. A statement of exemption pursuant to Section 40.460.230(C) or an application for a shoreline permit (substantial development, variance, or conditional use) pursuant to Sections 40.460.220, 40.460.260 or

40.460.270 is required, and a flood hazard review will be part of the approvals required under this Program.

d. The degree of flood protection required by this section is considered reasonable for regulatory purposes, and is based upon scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside flood hazard areas, or uses permitted within such areas, will be free from flooding or flood damages. This chapter shall not create liability on the part of Clark County, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

2. Regulated Activities.

a. Within special flood hazard areas, development may be allowed for those uses allowed in this Program pursuant to Section 40.460.530(D)(1)(c).

b. All uses not allowed by this Program are prohibited, except as follows:

(1) In accordance with Chapter 86.16 RCW, repairs, reconstruction, or improvements to a lawfully established structure:

(a) Which do not increase the ground floor area; and

(b) That are not substantial improvements as defined in Section 40.420.010(C).

(2) Floodway encroachments are prohibited unless certification by a licensed professional engineer registered in the state of Washington is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. If it has been adequately demonstrated that the encroachment will not result in increased flood levels, all new non-residential construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Program.

3. Standards.

a. Construction in special flood hazard areas is subject to the standards specified in Section 40.420.020.

b. Structural flood hazard reduction measures are allowed only when necessary to protect existing development.

c. When necessary, in-stream structures shall be located, designed, and maintained in such a manner that minimizes flood potential and the damage affected by flooding.

d. Fills are prohibited in floodplains except where the applicant clearly demonstrates that the geohydraulic characteristics will not be altered in a way that increases flood velocity or risk of damage to life or property, and flood storage capacity will not be reduced (see Section 40.460.560(B)).

e. Fill shall be avoided in critical areas or buffers where possible. Pile or pier supports or other support methods shall be utilized instead of fills whenever feasible, particularly for permitted development in floodways or wetlands.

f. Dikes and levees shall not be placed in the floodway except for current deflectors necessary for protection of bridges and roads.

g. Removal of beaver dams to control or limit flooding shall be avoided where feasible and allowed only in coordination with WDFW and receipt of all applicable state permits.

E. Geologic Hazard Areas.

1. General Provisions.
  - a. Geologic hazard areas include steep slope hazard areas, landslide hazard areas, seismic hazard areas, and volcanic hazard areas as defined in Section 40.430.010.
  - b. Approximate locations of geologic hazard areas are identified on adopted maps which are on file with the County Auditor. Where the maps and definitions of geologic hazard areas conflict, the definitions shall prevail.
  - c. Where development proposals require a geologic hazard area review under Section 40.430.030, the review will be part of the approvals required under this Program.
2. Regulated Activities.
  - a. All construction, development, earth movement, clearing, or other site disturbance which requires a permit, approval or other authorization from the County in or within one hundred (100) feet of a geologic hazard area shall comply with the requirements of this Program.
  - b. Class IV G forest practices (conversions) are regulated under this Program.
3. Standards.
  - a. Required buffers and setbacks for development activities in geologic hazard areas are specified in Section 40.430.020.
  - b. The Shoreline Administrator may approve buffers and setbacks which differ from those required by Section 40.430.020(D)(1) if the applicant submits a geologic hazard area study described in Section 40.430.030(C), which technically demonstrates and illustrates that the alternative buffer provides protection which is greater than or equal to that provided by the buffer required in Section 40.430.020(D)(1).
  - c. The Shoreline Administrator may increase buffers or setbacks where necessary to meet requirements of the International Building Code.

F. Habitat Conservation Areas.

1. General Provisions.
  - a. Designated habitat areas are those defined in Section 40.100.070 and those described below:
    - (1) Water bodies defined as waters of the state (RCW 90.48.020), including waters, bed, and bank;
    - (2) DNR Classification System Type S, F, Np, and Ns water bodies as defined and mapped based on WAC 222-16-030 (Forest Practices Rules);
    - (3) Riparian Priority Habitat Areas. Areas extending landward on each side of the stream or water body from the ordinary high water mark to the edge of the one hundred (100) year floodplain, or the following distances, if greater:
      - (a) DNR Type S waters, two hundred fifty (250) feet;
      - (b) DNR Type F waters, two hundred (200) feet;
      - (c) DNR Type Np waters, one hundred (100) feet; and
      - (d) DNR Type Ns waters, seventy-five (75) feet;
    - (4) Other Priority Habitats and Species (PHS) Areas. Areas identified by and consistent with WDFW priority habitats and species criteria, including areas within one thousand (1,000) feet of

individual species point sites. The county shall defer to WDFW in regards to classification, mapping and interpretation of priority habitat species.

b. In the event of inconsistencies, official habitat area definitions shall prevail over county-wide maps in determining applicability of this section. The county shall follow the recommendations of WDFW in the interpretation of site-specific conditions as they relate to the definition of priority habitat and species.

c. The portion of the riparian priority habitat area nearest to the OHWM shall be set aside for vegetation conservation and protection of the water body within the shoreline jurisdiction.

d. Where development proposals require a habitat review under Section 40.440.030, the review will be part of the approvals required under this Program.

e. The reasonable use provisions in Chapter 40.440 do not apply to habitat conservation areas regulated under this Program.

2. Regulated Activities.

a. All construction, development, earth movement, clearing, or other site disturbance proposals within a habitat area which require a permit, approval, or other authorization from the county shall be reviewed pursuant to Chapter 40.440 and shall comply with the requirements of this section.

b. Proposed new single-family residential development occurring immediately outside but within three hundred (300) feet of designated priority species habitat polygons or within one hundred (100) feet of designated nonriparian priority habitat polygons shall require consultation with WDFW prior to issuance of a development permit. In such cases, further review under this section is not required unless WDFW finds that there are potential adverse impacts.

c. Agricultural activities within designated riparian habitat areas are subject to the provisions of this section and Section 40.440.040(B).

d. Class IV G forest practices (conversions) are regulated under this Program.

3. Standards.

a. Any alterations within designated habitat areas in shoreline jurisdiction require review and approval prior to clearing or development and prior to issuance of any County permit or statement of exemption.

b. Alterations within the designated habitat areas shall:

(1) Avoid impacts to the habitat conservation areas during project planning and development to the extent possible;

(2) Substantially maintain the level of habitat functions and values as characterized and documented using best available science;

(3) Minimize habitat disruption or alteration beyond the extent required to undertake the proposal; and

(4) Compensate for impacts to the habitat conservation areas to meet the standard of no net loss of shoreline ecological functions. Mitigation measures and proposals must demonstrate use of best available science.

c. In the event that impacts to habitat areas cannot be avoided, development and approval of a mitigation plan in accordance with the provisions of Sections 40.440.020(A)(3) through (8) is required.

(Amended: Ord. 2015-12-12)

G. Wetlands.

1. General Provisions.

- a. Where development proposals require a wetlands review under Section 40.450.030, the review will be part of the approvals required under this Program. Such review is required for any development activity that is within wetlands and wetland buffers subject to this Program, unless specifically authorized by a statement of exemption. Requirements for wetland permit applications are provided in Sections 40.450.040(B), (C), and (D).
- b. This section shall not apply to wetlands created from nonwetland sites including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, stormwater facilities, farm ponds, landscape amenities and unintentionally created wetlands created as a result of the construction of a public or private road, street, or highway after July 1, 1990; provided, that wetlands created as mitigation shall not be exempt.
- c. A wetland determination is required in conjunction with the submittal of a development permit application. The Shoreline Administrator shall determine the probable existence of a wetland on the parcel involved in the development permit application. If wetlands or wetland buffers are found to exist on a parcel, wetland delineation is required.
- d. The location of a wetland and its boundary shall be determined through the performance of a field investigation utilizing the methodology contained in the Wetlands Delineation Manual and as specified in Chapter 40.450. If a wetland is located off site and is inaccessible, the best available information shall be used to determine the wetland boundary and category. Methodology is specified in Section 40.450.030(D).
- e. All buffers shall be measured horizontally outward from the delineated wetland boundary.
- f. Wetland buffer widths shall be determined by the Shoreline Administrator in accordance with the standards in Section 40.450.030.
- g. All wetland reviews require approval of a preliminary and a final enhancement/mitigation plan in accordance with the provisions of Section 40.450.040(E) unless the preliminary enhancement/mitigation plan requirement is waived under the provisions of Section 40.450.040(E)(2).
- h. Wetland reviews under this Program shall be according to the application, processing, preliminary approval, and final approval procedures set out in Section 40.450.040(F) through (I) and are part of the approvals required under this Program.
- i. Provisions for programmatic permits are included in Section 40.450.040(K).
- j. Provisions for emergency wetland permits are included in Section 40.450.040(L).
- k. The reasonable use provisions in Chapter 40.450 do not apply to wetlands regulated under this Program.

2. Regulated Activities.

No development or activity in wetlands or wetland buffers subject to this Program shall be allowed unless it is demonstrated that:

- a. The proposed development or activity will not result in a net loss of wetland functions to the point of net loss of shoreline ecological function; and
- b. The proposed development or activity complies with all state, local and federal laws, including those related to sediment control, pollution control, floodplain restrictions, stormwater management, wetlands protection, and on-site wastewater disposal.

3. Standards.
  - a. Stormwater Facilities.
    - (1) Stormwater dispersion practices and facilities that comply with the standards of Chapter 40.386 shall be allowed in all wetland buffers where no net loss of shoreline ecological functions can be demonstrated. Stormwater outfalls for dispersion facilities shall comply with the standards in Section 40.460.530(G)(3)(b).
    - (2) Other stormwater facilities are only allowed in buffers of wetlands with low habitat function (less than five (5) points on the habitat section of the rating system form) per Section 40.450.040(C)(4)(b).
  - b. Road and utility crossings into and through wetlands and wetland buffers are allowed provided all the following conditions are met:
    - (1) Buffer functions, as they pertain to protection of the adjacent wetland and its functions, are replaced;
    - (2) Impacts to the buffer and wetland are first avoided and minimized; and
    - (3) The activity does not result in a decrease in wetland acreage or classification.
  - c. Regulated activities not involving stormwater management, road and utility crossings, or a buffer reduction via enhancement are allowed in the buffer if all the following conditions are met:
    - (1) The activity is temporary and will cease or be completed within three (3) months of the date the activity begins;
    - (2) The activity will not result in a permanent structure in the buffer;
    - (3) The activity will not result in a reduction of buffer acreage or shoreline ecological function; and
    - (4) The activity will not result in a reduction of wetland acreage or shoreline ecological function.
  - d. Wetland mitigation for unavoidable impacts shall be required using the following prioritization:
    - (1) On-Site. Locate mitigation according to the following priority:
      - (a) Within or adjacent to the same wetland as the impact;
      - (b) Within or adjacent to a different wetland on the same site;
    - (2) Off-Site. Locate mitigation within the same watershed, as shown on Section 40.450.040, Figure 40.450.040-1, or use an established wetland mitigation bank; the service area determined by the mitigation bank review team and identified in the executed mitigation bank instrument;
    - (3) In-Kind. Locate or create wetlands with similar landscape position and the same hydro-geomorphic (HGM) classification based on a reference to a naturally occurring wetland system; and
    - (4) Out-of-Kind. Mitigate in a different landscape position and/or HGM classification based on a reference to a naturally occurring wetland system.
  - e. The various types of wetland mitigation allowed are listed below in the general order of preference.
    - (1) Re-establishment, which is the manipulation of the physical, chemical or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland.

Re-establishment results in a gain in wetland acres (and functions). Activities could include removing fill material, plugging ditches, or breaking drain tiles.

(2) Rehabilitation, which is the manipulation of the physical, chemical or biological characteristics of a site with the goal of returning natural or historic functions to a degraded wetland. Re-establishment results in a gain in wetland function, but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland.

(3) Creation (Establishment). The manipulation of the physical, chemical, or biological characteristics of a site with the goal of developing a wetland on an upland or deepwater site where a wetland did not previously exist. Establishment results in a gain in wetland acres. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydro-period, create hydric soils, and support the growth of hydrophytic plant species.

(4) Enhancement. The manipulation of the physical, chemical, or biological characteristics of a wetland site to heighten, intensify, or improve the specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in some wetland functions and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Activities typically consist of planting vegetation, controlling non-native or invasive species, modifying site elevations or the proportion of open water to influence hydro-periods, or some combination of these activities.

f. The mitigation ratios for each of the mitigation types described in Section 40.460.530(G)(3)(e) are specified in Section 40.450.040(D)(4).

g. The Shoreline Administrator has the authority to approve preservation of existing wetlands as wetland mitigation under the following conditions:

- (1) The wetland area being preserved is a Category I or II wetland or is within a WDFW priority habitat or species area;
- (2) The preservation area is at least one (1) acre in size;
- (3) The preservation area is protected in perpetuity by a covenant or easement that gives the county clear regulatory and enforcement authority to protect existing wetland and wetland buffer functions with standards that exceed the protection standards of this chapter; and
- (4) The preservation area is not an existing or proposed wetland mitigation site.

h. Wetland mitigation shall be required in accordance with the wetland mitigation standards in this section for the following indirect wetland impacts:

- (1) Buffer loss resulting from wetland fills permitted under this section;
- (2) Reduction of wetland buffers beyond the maximum reduction allowed under Section 40.450.040(C)(2); provided, that such reductions are limited as follows:
  - (a) Road and utility crossings in the wetland buffer approved in accordance with Section 40.450.040(C)(5); and
  - (b) The total indirect wetland impact from buffer reductions is less than one-quarter (1/4) acre; and
- (3) Unavoidable loss of wetland function due to stormwater discharges that do not meet the wetland protection standards in Chapter 40.386.

- i. Wetland mitigation shall be protected by the water quality function wetland buffers required in Table 40.450.030-2.
  - (1) Reductions to the required buffers may be applied in accordance with Sections 40.450.040(C) and (D)(5).
  - (2) All wetland buffers shall be included within the mitigation site and subject to the conservation covenant required under Section 40.450.030(F)(3).
- j. Alternate Wetland Mitigation is provided in Section 40.450.040(D)(7) which includes:
  - (1) Wetland mitigation banking; and
  - (2) Contributions to the county's cumulative effects fund.

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

**40.460.540 Public Access**

- A. Provisions for adequate public access shall be incorporated into all shoreline development proposals and erosion control measures that involve public funding unless the applicant demonstrates public access is not feasible due to one (1) or more of the provisions of Section 40.460.540(B)(1) through (5).
- B. Consistent with constitutional limitations, provisions for adequate public access shall be incorporated into all land divisions and other shoreline development proposals (except residential development of less than five (5) parcels), unless this requirement is clearly inappropriate to the total proposal. Public access will not be required where the applicant demonstrates one (1) or more of the following:
  1. Unavoidable health or safety hazards to the public exist that cannot be prevented by any practical means;
  2. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
  3. The cost of providing the access, easement, alternative amenity, or mitigating the impacts of public access is unreasonably disproportionate to the total proposed development;
  4. Significant environmental impacts that cannot be mitigated will result from the public access; or
  5. Significant undue and unavoidable conflict between public access requirements and the proposed use and/or adjacent uses would occur; provided, that the applicant has first demonstrated and the county determines that all reasonable alternatives have been evaluated and found infeasible, including but not limited to:
    - a. Regulating access by such means as maintaining a gate and/or limiting hours of use;
    - b. Designing separation of uses and activities (including, but not limited to, fences, terracing, use of one-way glazing, hedges, landscaping); and
    - c. Provisions for access at a site geographically separated from the proposal such as a street end, vista or trail system.
- C. Public access sites shall be connected to barrier free route of travel and shall include facilities based on criteria within the Americans with Disabilities Act accessibility guidelines.
- D. Public access shall include provisions for protecting adjacent properties from trespass and other possible adverse impacts to neighboring properties.
- E. Signs indicating the public's right of access to shoreline areas shall be installed and maintained in conspicuous locations.

F. Required public access shall be fully developed and available for public use at the time of occupancy of the use or activity.

G. Public access shall consist of a dedication of land or a physical improvement in the form of a walkway, trail, bikeway, corridor, viewpoint, park, deck, observation tower, pier, boat launching ramp, dock or pier area, or other area serving as a means of view and/or physical approach to public waters and may include interpretive centers and displays.

H. Public access easements and permit conditions shall be recorded on the deed of title and/or on the face of a plat or short plat as a condition running contemporaneous with the authorized land use, as a minimum. Said recording with the County Auditor's Office shall occur at the time of permit approval.

I. Future actions by the applicant, successors in interest, or other parties shall not diminish the usefulness or value of the public access provided.

J. Maintenance of the public access facility shall be the responsibility of the owner unless otherwise accepted by a public or nonprofit agency through a formal agreement approved by the Shoreline Administrator and recorded with the County Auditor's Office.

(Added: Ord. 2012-07-16)

#### **40.460.550 Restoration**

A. Restoration of shoreline ecological functions and processes shall be encouraged and allowed on all shorelines and shall be located, designed and implemented in accordance with applicable policies and regulations of this Program and consistent with other county programs (see Section 40.460.640(D)).

B. Impacts to shoreline ecological functions shall be fully mitigated. Such mitigation may include elements from the shoreline restoration plan, where appropriate.

C. Elements of the shoreline restoration plan may also be implemented in any shoreline designation to improve shoreline ecological function.

D. Restoration efforts shall be developed by a qualified professional, shall be based on federal, state, and local guidance and shall consider the following:

1. Riparian soil conditions;
2. In-stream fish habitats; and
3. Healthy aquatic and terrestrial food webs.

(Added: Ord. 2012-07-16)

#### **40.460.560 Site Planning and Development**

A. General.

1. Land disturbing activities such as grading and cut/fill shall be conducted in such a way as to minimize impacts to soils and native vegetation.
2. Impervious surfaces shall be minimized to the extent feasible as specified in Chapter 40.386. Low impact development techniques shall be utilized where feasible to minimize increases to stormwater runoff.
3. When feasible, existing transportation corridors shall be utilized. Ingress/egress points shall be designed to minimize potential conflicts with and impacts upon vehicular and pedestrian traffic. Pedestrians shall be provided with safe and convenient circulation facilities.
4. Vehicle and pedestrian circulation systems shall be designed to minimize clearing, grading, alteration of topography and natural features, and designed to accommodate wildlife movement.

5. Parking, storage, and non-water-dependent accessory and appurtenant structures and areas shall be located landward from the OHWM and landward of the water-oriented portions of the principal use.
6. Trails and uses near the shoreline shall be landscaped or screened to provide visual and noise buffering between adjacent dissimilar uses or scenic areas, without blocking visual access to the water.
7. Fencing, walls, hedges, and similar features shall be designed in a manner that does not significantly interfere with wildlife movement.
8. Utilities shall be located within roadway and driveway corridors and rights-of-way wherever feasible.
9. A use locating near a legally established aquaculture enterprise, including an authorized experimental project, shall demonstrate that such use would not result in damage to or destruction of the aquaculture enterprise, or compromise its monitoring or data collection.

(Amended: Ord. 2015-12-12)

B. Grading, Fill, and Excavation.

1. Land disturbing activities such as grading and cut/fill shall be conducted in such a way as to minimize impacts to soils and native vegetation, and shall at a minimum meet the requirements of Chapter 14.07.
2. Clearing, grading, fill, and excavation activities shall be scheduled to minimize adverse impacts, including, but not limited to, damage to water quality and aquatic life.
3. Clearing and grading shall not result in changes to surface water drainage patterns that adversely impact adjacent properties.
4. Developments shall include provisions to control erosion during construction and to ensure preservation of native vegetation for bank stability. Disturbed areas shall be stabilized immediately and revegetated with native vegetation.
5. Fills shall be permitted only in conjunction with a permitted use, and shall be of the minimum size necessary to support that use. Speculative fills are prohibited.
6. Any significant placement of materials from off site (other than permitted deposition of clean dredge materials) shall be considered fill and shall comply with the fill provisions in Chapter 14.07. Fill shall consist only of clean materials.
7. Soil, gravel or other substrate transported to the site for fill shall be screened and documented that it is uncontaminated. Use of any contaminated materials as fill is prohibited.
8. Fills shall be designed and placed to allow surface water penetration into groundwater supplies where such conditions existed prior to filling.
9. Fills must protect shoreline ecological functions, including channel migration processes.
10. Fill waterward of OHWM shall only be allowed as a conditional use and then only when it is necessary:
  - a. To support a water-dependent or public access use;
  - b. For habitat creation or restoration projects;
  - c. For remediation of contaminated sediments as part of an interagency environmental clean-up plan;
  - d. For disposal of dredged material considered suitable under, and conducted in accordance with, the dredged material management program of the Department of Natural Resources;

- e. For expansion or alteration of transportation facilities of statewide significance currently located on the shoreline and then only upon a demonstration that alternatives to fill are not feasible;
- f. For a mitigation action;
- g. For environmental restoration; or
- h. For a beach nourishment or enhancement project.

In the Columbia River, fills shall be prohibited between the OHWM and minus fifteen (-15) feet CRD, unless shallow water habitat will be created as mitigation.

11. Excavation below the OHWM is considered dredging and subject to provisions in Section 40.460.640.

12. Upon completion of construction, remaining cleared areas shall be replanted with native species as identified by the Clark Conservation District. Replanted areas shall be maintained such that within three (3) years' time the vegetation is fully re-established.

(Amended: Ord. 2012-12-23)

C. Building Design.

- 1. Non-single-family structures shall incorporate architectural features that provide compatibility with adjacent properties, enhance views of the landscape from the water, and reduce scale to the extent possible.
- 2. Building surfaces on or adjacent to the water shall employ materials that minimize reflected light.
- 3. Facade treatments, mechanical equipment and windows in structures taller than two (2) stories shall be designed and arranged to prevent bird collisions using the best available technology. Single-family residential structures are exempt from this provision.
- 4. Interior and exterior structure lighting shall be designed, shielded and operated to:
  - a. Avoid illuminating nearby properties or public areas;
  - b. Prevent glare on adjacent properties, public areas or roadways;
  - c. Prevent land and water traffic hazards; and
  - d. Reduce night sky effects to avoid impacts to fish and wildlife.
- 5. Accessory uses, including parking, shall be located as far landward as possible while still serving their intended purposes.

(Added: Ord. 2012-07-16)

**40.460.570 Vegetation Conservation**

A. Existing vegetation within shoreline jurisdiction shall be retained in the riparian area closest to the water body but landward from the OHWM as follows:

- 1. Type S waters in rural areas, one hundred fifty (150) feet;
- 2. Type S waters in urban growth areas, one hundred fifteen (115) feet;
- 3. Type F waters in rural areas, one hundred fifteen (115) feet;
- 4. Type F waters in urban growth areas, one hundred (100) feet;
- 5. Type Np waters, seventy-five (75) feet;

6. Type Ns waters, fifty (50) feet;
  7. Lakes, one hundred (100) feet.
- B. Removal of native vegetation shall be avoided to the extent possible. Where removal of native vegetation cannot be avoided, it shall be minimized to protect shoreline ecological functions.
- C. If non-native vegetation is to be removed, then it shall be replaced with native vegetation within the shoreline jurisdiction.
- D. If vegetation removal cannot be avoided, it shall be minimized and then mitigated at a minimum ratio of one to one (1:1), and shall result in no net loss of shoreline ecological functions. Lost functions may be replaced by enhancing other functions; provided, that no net loss in overall functions is demonstrated and habitat connectivity is maintained. Mitigation shall be provided consistent with an approved mitigation plan.
- E. Development shall be located to avoid clearing and grading impacts to more mature or multistoried plant communities and to retain habitat connectivity.
- F. Developments shall include provisions to ensure preservation of native vegetation and control erosion during construction.
- G. Vegetation that cannot be replaced or restored within twenty (20) years shall be preserved.
- H. Clearing by hand-held equipment of invasive or non-native shoreline vegetation or plants listed on the State Noxious Weed List is permitted in shoreline locations if native vegetation is promptly re-established in the disturbed area.
- I. Topping trees is prohibited.
- J. Thinning of trees is limited, as follows:
1. Removal of no more than twenty-five percent (25%) of the canopy of any tree or group of trees (calculated based on the area of the crown, or upper portion(s) comprised of branches and leaves or as determined by a certified arborist) in any given five (5) year period;
  2. Pruning of trees that does not affect shoreline ecological functions. No more than twenty percent (20%) of the limbs on any single tree may be removed and no more than twenty percent (20%) of the canopy cover in any single stand of trees may be removed in a given five (5) year period. Pruning shall comply with the National Arborist Association pruning standards, unless the tree is a hazard tree as defined in Section 40.100.070.
- K. Native plant materials which are equivalent to those which would typically occur with respect to size, structure, and diversity at maturation shall be used in restoration, rehabilitation, or enhancement projects.
- L. Natural features such as snags, stumps, logs or uprooted trees, which support fish and other aquatic systems, and which do not intrude on the navigational channel or threaten agricultural land, existing structures and facilities, or public safety shall be left undisturbed.
- M. Unless otherwise stated, the vegetation conservation regulations of this Program do not apply to commercial forest practices as defined by this Program when such activities are covered under the Washington State Forest Practices Act (Chapter 76.09 RCW), except where such activities are associated with a conversion to other uses or other forest practice activities over which local governments have authority, or with flood control levees required to be kept free of vegetation that damages their structural integrity. For the purposes of this Program, preparatory work associated with the conversion of land to nonforestry uses and/or developments shall not be considered a forest practice and shall be reviewed in accordance with the provisions for the proposed nonforestry use, the general provisions of this Program, and shall be limited to the minimum necessary to accommodate an approved use.

N. Aquatic weed control shall only occur to protect native plant communities and associated habitats or where an existing water-dependent use is restricted by the presence of weeds. Aquatic weed control shall occur in compliance with all other applicable laws and standards and shall be done by a qualified professional.

(Added: Ord. 2012-07-16)

**40.460.580 Views and Aesthetics**

A. Visual access shall be maintained, enhanced, and preserved as appropriate on shoreline street-ends, public utility rights-of-way above and below the ordinary high water mark, and other view corridors.

B. Development on or over the water shall be constructed to avoid interference with views from surrounding properties to the adjoining shoreline and adjoining waters to the extent practical.

C. A new or expanded building or structure over thirty-five (35) feet in height above average grade level that obstructs the shoreline view of a substantial number of residents shall only be allowed when overriding considerations of the public interest will be served. The Shoreline Administrator shall require a view analysis including view corridors, view profiles, and vertical profiles from various locations to determine if shoreline views will be obstructed.

D. Clearing or pruning to preserve or create views shall be allowed as follows:

1. When shoreline stability and shoreline ecological functions are maintained; and
2. The applicable standards in Sections 40.460.560 and 40.460.570 are met.

(Added: Ord. 2012-07-16)

**40.460.590 Water Quality and Quantity**

A. The location, design, construction, and management of all shoreline uses and activities shall protect the quality and quantity of surface and groundwater adjacent to the site.

B. All shoreline development shall comply with the applicable requirements of Chapters 13.26A, Water Quality, 40.386, Stormwater and Erosion Control, and 40.410, Critical Aquifer Recharge Areas.

(Amended: Ord. 2015-12-12)

C. Best management practices (BMPs) for control of erosion and sedimentation (Chapter 40.386) and for meeting water quality standards (Chapter 13.26A) shall be implemented for all shoreline development.

(Amended: Ord. 2015-12-12)

D. Potentially harmful materials, including but not limited to oil, chemicals, tires, or hazardous materials, shall not be allowed to enter any body of water or wetland, or to be discharged onto the land. Potentially harmful materials shall be maintained in safe and leak-proof containers.

E. Herbicides, fungicides, fertilizers, and pesticides shall not be applied within twenty-five (25) feet of a water body, except by a qualified professional in accordance with state and federal laws. Further, pesticides subject to the final ruling in *Washington Toxics Coalition, et al., v. EPA* shall not be applied within sixty (60) feet for ground applications or within three hundred (300) feet for aerial applications of the subject water bodies and shall be applied by a qualified professional in accordance with state and federal law.

F. Any structure or feature in the Aquatic shoreline designation shall be constructed and/or maintained with materials that will not adversely affect water quality or aquatic plants or animals. Materials used for decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants.

G. Septic systems should be located as far landward of the shoreline and floodway as possible. Where permitted, new on-site septic systems shall be located, designed, operated, and maintained to meet all applicable water quality, utility, and health standards.

(Added: Ord. 2012-07-16)

**40.460.600 Specific Shoreline Use Regulations**

**40.460.610 General Provisions**

A. This chapter contains the regulations that apply to specific uses, developments, and activities in the shoreline jurisdiction.

B. These regulations are intended to work in concert with all sections of this Program and in particular the goals and policies (Section 40.460.300) and general use and development regulations (Section 40.460.500).

(Added: Ord. 2012-07-16)

**40.460.620 Shoreline Use, Modification, and Standards Table**

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

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

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

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

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

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

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

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

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

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

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<b>Shoreline Designation</b>	<b>Aquatic</b>	<b>Natural</b>	<b>Urban Conservancy</b>	<b>Medium Intensity</b>	<b>High Intensity</b>	<b>RC Residential</b>	<b>RC Resource Lands</b>
Multifamily	X	X	X	P	P	X	X
• <i>Structure Setback</i>	N/A	N/A	N/A	35'	35'	N/A	N/A
• <i>Structure Height</i>	N/A	N/A	N/A	35'	35'	N/A	N/A
• <i>Density</i>	N/A	N/A	N/A	In accordance with the underlying zoning		N/A	N/A
<b>Signs</b>							
Agricultural	X	X	P	X	P	P	P
Fascia or Wall Signs	X	X	X	P	P	P	P
Freestanding Informational	P	P	P	P	P	P	P
High School Electronic Message	X	X	P	P	P	P	P
Monument	X	P	P	P	P	P	P
Navigation	P	P	P	P	P	P	P
<b>Transportation Uses</b>							
Highways, Arterials, Railroads (Parallel to OHWM)	C	X	P	P	P	P	P
• <i>Right-of-Way Setback</i>	0'	N/A	200'	100'	100'	200'	200'
Secondary/Public Access Roads (Parallel to OHWM)	X	X	P	P	P	P	P
• <i>Right-of-Way Setback</i>	N/A	N/A	100'	50'	50'	100'	100'
Roads Perpendicular to the OHWM	X	X	P	P	P	P	P
• <i>Setback</i>	N/A	N/A	Limited to the setback for the use the road is serving <sup>6</sup>				
Bridges (Perpendicular to Shoreline)	C	C	C	P	P	C	C
• <i>Structure Setback</i>	0'	0'	0'	0'	0'	0'	0'
<b>Utility Uses</b>							
Above-Ground Utilities (Parallel to Shoreline)	C	C	P	P	P	P	P
• <i>Right-of-Way Setback</i>	0'	200'	100'	50'	50'	100'	100'
• <i>Structure Height</i>	15'	15'	35'	35'	UNL	15'	15'
• <i>Distribution Pole Height</i>	0'	45'	45'	45'	UNL	45'	45'
Electrical Transmission Lines	C	C	C	C	C	C	C
• <i>Tower Height</i>	UNL	UNL	UNL	UNL	UNL	UNL	UNL
Underground Utilities (Parallel to Shoreline)	C	C	P	P	P	P	P
• <i>Right-of-Way Setback</i>	0'	200'	100'	50'	50'	50'	50'

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

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

<sup>2</sup> See Section 40.460.630(D)(4).

<sup>3</sup> In Surface Mining Overlay areas only.

<sup>4</sup> Low intensity only.

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

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

<sup>7</sup> Permitted outside of channel migration zones.

<sup>8</sup> See Section 40.460.560(B)(10).

<sup>9</sup> Permitted for restoration only; otherwise prohibited.

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

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

#### **40.460.630 Use-Specific Development Regulations**

##### **A. Agriculture.**

1. Agricultural practices shall prevent erosion of soils and bank materials within shoreline areas and minimize siltation, turbidity, pollution, and other environmental degradation of watercourses and wetlands.

2. Stream banks and water bodies shall be protected from damage due to concentration and overgrazing of livestock by providing the following:

a. Suitable bridges, culverts or ramps for stock crossing;

b. Ample supplies of clean water in tanks on dry land for stock watering; and

c. Fencing or other grazing controls to prevent damage to riparian vegetation, bank compaction or bank erosion.

3. New confinement lots, feeding operations, lot wastes, stockpiles of manure solids, manure lagoons, and storage of noxious chemicals are prohibited.

4. The disposal of farm wastes, chemicals, fertilizers and associated containers and equipment within shoreline jurisdiction is prohibited. Composted organic wastes may be used for fertilization or soil improvement.

5. New uses proposed as part of a conversion of agricultural lands shall comply with the provisions of this title and this Program.

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

##### **B. Aquaculture.**

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

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

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

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

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

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

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

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

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

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

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

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

C. Boating Uses.

1. General Requirements.

a. All boating uses, development, and facilities shall protect the rights of navigation.

b. Boating facilities shall be sited and designed to ensure no net loss of shoreline ecological functions, and shall meet DNR requirements and other state guidance if located in or over state-owned aquatic lands.

c. Boating facilities shall locate on stable shorelines in areas where:

(1) There is adequate water mixing and flushing;

- (2) Such facilities will not adversely affect flood channel capacity or otherwise create a flood hazard;
  - (3) Water depths are adequate to minimize spoil disposal, filling, beach enhancement, and other channel maintenance activities; and
  - (4) Water depths are adequate to prevent the structure from grounding out at the lowest low water or else stoppers are installed to prevent grounding out.
- d. Boating facilities shall not be located:
  - (1) Along braided or meandering river channels where the channel is subject to change in alignment;
  - (2) On point bars or other accretion beaches;
  - (3) Where new or maintenance dredging will be required; or
  - (4) In areas with important bank margin habitat for aquatic species or where wave action caused by boating use would increase bank erosion rates.
- e. Boating uses and facilities shall be located far enough from public swimming beaches, fishing and aquaculture harvest areas, and waterways used for commercial navigation to alleviate any adverse impacts, safety concerns and potential use conflicts.
- f. In-water work shall be scheduled to protect biological productivity (including but not limited to fish runs, spawning, and benthic productivity). In-water work shall not occur in areas used for commercial fishing during a fishing season unless specifically addressed and mitigated for in the permit.
- g. Accessory uses at boating facilities shall be:
  - (1) Limited to water-oriented uses, including uses that provide physical or visual shoreline access for substantial numbers of the general public; and
  - (2) Located as far landward as possible while still serving their intended purposes.
- h. Parking and storage areas shall be landscaped or screened to provide visual and noise buffering between adjacent dissimilar uses or scenic areas.
- i. Boating facilities shall locate where access roads are adequate to handle the traffic generated by the facility and shall be designed so that lawfully existing or planned public shoreline access is not unnecessarily blocked, obstructed nor made dangerous.
- j. Joint-use moorage with ten (10) or more berths is regulated under this section as a marina (Section 40.460.630(C)(3)). Joint-use moorage with fewer than ten (10) berths is regulated under this section as a moorage facility (Section 40.460.630(C)(4)).
- k. All marinas and public launch facilities shall provide restrooms/hand-sanitizing facilities for boaters' use that are designed, constructed and maintained to be clean, well lighted, safe and convenient for public use. One (1) restroom and hand-sanitizing facility shall be provided for every seventy-five (75) marina moorage sites or twenty (20) boat launch parking spaces.
- l. Installation of boat waste disposal facilities such as pump-outs and portable dump stations shall be required at all marinas and shall be provided at public boat launches to the extent possible. The locations of such facilities shall be considered on an individual basis in consultation with the Washington Departments of Health, Ecology, Natural Resources, Parks, and WDFW, as necessary.
- m. All utilities shall be placed at or below dock levels, or below ground, as appropriate.

- n. All signage shall adhere to the standards for signs in this Program and Chapter 40.310, except that a marina or boat launch may have one (1) advertising sign oriented towards the water that does not exceed twenty-four (24) square feet in area and fifteen (15) feet in height above the OHWM.
  - o. When appropriate, marinas and boat launch facilities shall install public safety signs, to include the locations of fueling facilities, pump-out facilities, and locations for proper waste disposal.
  - p. Boating facilities shall be constructed of materials that will not adversely affect water quality or aquatic plants and animals over the long term. Materials used for submerged portions, decking and other components that may come in contact with water shall be approved by applicable state agencies for use in water to avoid discharge of pollutants from wave splash, rain or runoff. Wood treated with creosote, copper chromium, arsenic, pentachlorophenol or other similarly toxic materials is prohibited for use in moorage facilities.
  - q. Boating facilities in waters providing a public drinking water supply shall be constructed of untreated materials, such as untreated wood, approved plastic composites, concrete, or steel.
  - r. Vessels shall be restricted from extended mooring on waters of the state except as allowed by state regulations; and provided, that a lease or permission is obtained from the state and impacts to navigation and public access are mitigated.
2. Boat Launch Facilities.
- a. A private boat launch shall be allowed on a parcel or lot only when public boat launches are unavailable within one-half (1/2) mile upstream or downstream of any property line.
  - b. No more than one (1) private boat launch facility or structure shall be permitted on a single residential parcel or lot.
  - c. Boat launch and haul-out facilities, such as ramps, marine travel lifts and marine railways, and minor accessory buildings shall be designed and constructed in a manner that minimizes adverse impacts on fluvial processes, biological functions, aquatic and riparian habitats, water quality, navigation and neighboring uses.
  - d. Boat launch facilities shall be designed and constructed using methods/technology that have been recognized and approved by state and federal resource agencies as the best currently available.
3. Marinas.
- a. Marinas shall be designed to:
    - (1) Provide thorough flushing of all enclosed water areas;
    - (2) Allow the free movement of aquatic life in shallow water areas; and
    - (3) Avoid and minimize any interference with geohydraulic processes and disruption of existing shore forms.
  - b. Open pile or floating breakwater designs shall be used unless it can be demonstrated that riprap or other solid construction would not result in any greater net impacts to shoreline ecological functions, processes, fish passage, or shore features.
  - c. Wet-moorage marinas shall locate a safe distance from domestic sewage or industrial waste outfalls.
  - d. To the maximum extent possible, marinas and accessory uses shall share parking facilities.
  - e. New marina development shall provide public access amenities, such as viewpoints, interpretive displays and public access to accessory water-enjoyment uses such as restaurants.

- f. If a marina is to include gas and oil handling facilities, such facilities shall be separate from main centers of activity in order to minimize the fire and water pollution hazard, and to facilitate fire and pollution control. Marinas shall have adequate facilities and procedures for fuel handling and storage, and the containment, recovery, and mitigation of spilled petroleum, sewage, and other potentially harmful or hazardous materials, and toxic products.
  - g. Live-aboards are restricted to marinas, may occupy up to twenty percent (20%) of the slips at a marina and shall be connected to utilities that provide potable water and wastewater conveyance to an approved disposal facility. Live-aboards are not allowed at joint-use moorages.
  - h. The marina operator shall be responsible for the collection and dumping of sewage, solid waste, and petroleum waste.
  - i. No commercial or sport fish-processing discharge or discarding of unused bait, scrap fish, or viscera shall be permitted within any marina.
4. Moorage Facilities: Docks, Piers, and Mooring Buoys.
- a. Mooring buoys shall be used instead of docks and piers whenever feasible.
  - b. Existing, legally established, private recreational docks, piers, and floats for individual lots in existing subdivisions and for existing individual single-family developments are considered nonconforming uses and structures. If such dock or float is abandoned, becomes hazardous, or is removed for any reason, it may be replaced with only one joint-use facility that complies with the policies and regulations of this Program. All required permits and approvals shall be obtained prior to commencing construction.
  - c. All moorage facilities shall be constructed and maintained in a safe and sound condition. Those that are abandoned or unsafe shall be removed or repaired promptly by the owner.
  - d. Docks and piers for water-dependent commercial and industrial uses shall be allowed to the outer harbor line or combined U.S. Pierhead/Bulkhead line but no more than that required for the draft of the largest vessel expected to moor at the facility. These provisions are also applicable to multiple-use facilities where the majority use is water-dependent and public access can safely be provided.
  - e. Fixed piers shall not be permitted for residential use on rivers. Docks for residential use on a river shall be securely anchored to pilings to allow for changes in river level, and shall be designed to withstand the one hundred (100) year flood or be seasonably removable.
  - f. Commercial covered moorage facilities may be permitted only where vessel construction or repair work is to be the primary activity and covered work areas are demonstrated to be the minimum necessary over water, including a demonstration that adequate landside sites are not feasible.
  - g. Covered moorage facilities associated with any residential development shall be prohibited.
  - h. Provisions for waste discharge shall be made in all proposals for public moorage facilities, and shall include oil containment barriers when required by the U.S. Coast Guard under provisions of the Clean Water Act.
  - i. Bulk storage (nonportable storage in fixed tanks) for gasoline, oil and other petroleum products for any use or purpose is prohibited on docks and piers.
  - j. Residential docks and piers shall be allowed, as follows:
    - (1) A new private dock or pier serving an individual lot is prohibited, unless it can be demonstrated that such dock or pier will result in no net loss of shoreline ecological function.

- (2) New joint-use docks and piers serving two or more lots each with water frontage are allowed if no marina or public boat launch is located within one-half (1/2) mile of the upstream property line or one-half (1/2) mile downstream from the downstream property line, and provided they meet the requirements of this Program.
  - (3) New land divisions with shoreline frontage shall provide for joint-use docks if the proposal includes construction of a dock. Proposed docks and piers shall include no more than one mooring space per dwelling unit. Where a new moorage facility is proposed within a residential waterfront development of more than four (4) units, only one (1) joint-use facility shall be allowed, but only after demonstrating that such use is appropriate for the water body. The applicant must also demonstrate that no public moorage facility is available to residents. This condition of approval with required access easements and dedications shall be identified on the face of the plat. In addition, the joint-use dock easement shall be recorded with the County Auditor.
  - (4) Only a single, joint-use moorage facility shall be permitted in association with hotels, motels, and multifamily residences. No more than one (1) mooring slip per unit shall be allowed.
- k. Applicants for joint-use docks and piers shall demonstrate and document that adequate maintenance of the structure, activities, and associated landward area will be provided by identified responsible parties. The applicant shall file a legally enforceable joint use agreement or other legal instrument prior to the issuance of any building permits. The documents shall at minimum address the following:
- (1) Apportionment of construction and maintenance expenses;
  - (2) Easements and liability agreements; and
  - (3) Use restrictions.
- l. Docks and piers shall be designed and constructed to meet the following standards:
- (1) The maximum dimensions of a dock or pier shall be no greater than necessary, and shall generally meet the following development standards. These dimensions may be adjusted by the Shoreline Administrator on a case-by-case basis to protect sensitive shoreline resources.
    - (a) Docks, piers, and ramps shall be no more than four (4) feet in width.
    - (b) A dock or pier shall be long enough to obtain a depth as required by WDFW at its landward edge, and only as long as necessary to serve the intended use.
    - (c) The deck surface of docks and piers shall not exceed three (3) feet in height above the OHWM on the landward side, and shall extend one (1) foot above the water surface at all other locations.
  - (2) Over-water structures shall be located in water sufficiently deep to prevent the structure from grounding out at the lowest low water or stoppers should be installed to prevent grounding out.
  - (3) The portions of piers, elevated docks, and gangways that are over the nearshore/littoral area shall have unobstructed grating over the entire surface area. Floating docks and piers shall have unobstructed grating over at least fifty percent (50%) of the surface area.
  - (4) Piers/anchors and/or ramps shall extend waterward, perpendicular from the ordinary high water mark (OHWM), to a point where the water depth is sufficient to prevent damage to shallow-water habitat.
  - (5) Skirting shall not be placed on piers, ramps, or floats. Protective bumper material will be allowed along the outside edge of the float as long as the material does not extend below the bottom edge of the float frame or impede light penetration.

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

D. Commercial Uses.

1. Water-oriented commercial uses are preferred over non-water-oriented commercial uses.
2. An applicant for a new commercial use or development shall demonstrate that:
  - a. There will not be a net loss of shoreline ecological function by reason of the use or development; and
  - b. The use or development will have no significant adverse impacts to other shoreline resources or other shoreline uses.

3. Loading, service areas, and other accessory uses and structures shall be located landward of a commercial structure or underground whenever possible, but shall in no case be waterward of the structure. Loading and service areas shall be screened from view with native plants.
4. Where allowed, non-water-oriented commercial uses may be permitted:
  - a. As part of mixed use developments where the primary use is residential and where there is a substantial public benefit with respect to the goals and policies of this Program such as providing public access or restoring degraded shorelines;
  - b. Where navigability is severely limited at the proposed site and the commercial use provides a significant public benefit with respect to the Act's objectives such as providing public access and ecological restoration; or
  - c. If the site is physically separated from the shoreline by another property or public right-of-way.
5. Non-water-oriented commercial uses may occupy:
  - a. Up to a total of twenty-five percent (25%) of the total frontage length of all parcels in the master planned development (regardless of ownership); or
  - b. Up to a total of twenty-five percent (25%) of the total project area within shoreline jurisdiction of all parcels in the master planned development (regardless of ownership).

(Amended: Ord. 2014-08-10)

E. Forest Practices.

1. Commercial harvest of timber undertaken on shorelines shall comply with the applicable policies and provisions of the Forests and Fish Report (U.S. Fish and Wildlife Service, et al., 1999) and the Forest Practices Act, Chapter 76.09 RCW as amended, and any regulations adopted pursuant thereto (WAC Title 222), as administered by the Department of Natural Resources.
2. When timberland is to be converted to another use, such conversion shall be clearly indicated on the Forest Practices application. Failure to indicate the intent to convert the timberland to another use on the application will result in subsequent conversion proposals being reviewed pursuant to Conversion Option Harvest Plan. Failure to declare intent to convert on the application shall provide adequate grounds for denial of subsequent conversion proposals for a period of six (6) years from date of forest practices application approval per RCW 76.09.060(3)(d), (e) and (f), RCW 76.09.460, and RCW 76.09.470, subject to the provisions of Sections 40.260.080(A)(4)(a)(2) and (C).
3. With respect to timber situated within two hundred (200) feet landward of the OHWM within shorelines of statewide significance, Ecology or the county shall allow only selective commercial timber cutting, so that no more than thirty percent (30%) of the merchantable trees may be harvested in any ten (10) year period of time; provided, that other timber harvesting methods may be permitted in those limited instances where the topography, soil conditions, or silviculture practices necessary for regeneration render selective logging ecologically detrimental; and provided further, that clear cutting of timber which is solely incidental to the preparation of land for other uses authorized by this chapter may be permitted. Exceptions to this standard shall be by conditional use permit only.
4. For the purposes of this Program, preparatory work associated with the conversion of land to nonforestry uses and/or developments shall not be considered forest practices and shall be reviewed in accordance with the provisions for the proposed nonforestry use and the general provisions of this Program, including vegetation conservation.

F. Industrial Uses.

1. General Requirements.

- a. Water-oriented industrial uses and development are preferred over non-water-oriented industrial uses and development.
  - b. Water-related uses shall not displace existing water-dependent uses or occupy space designated for water-dependent uses identified in a substantial development permit or other approval.
  - c. Water-enjoyment uses shall not displace existing water-dependent or water-related uses or occupy space designated for water-dependent or water-related uses identified in a substantial development permit or other approval.
  - d. Waterward expansion of existing non-water-oriented industry is prohibited.
  - e. Proposed developments shall maximize the use of legally established existing industrial facilities and avoid duplication of dock or pier facilities before expanding into undeveloped areas or building new facilities. Proposals for new industrial and port developments shall demonstrate the need for expansion into an undeveloped area.
  - f. Proposed large-scale industrial developments or major expansions shall be consistent with an officially adopted comprehensive scheme of harbor improvement and/or long-range port development plan.
  - g. New facilities for shallow-draft shipping shall not be allowed to preempt deep-draft industrial sites.
  - h. Ship, boat-building, and repair yards shall employ best management practices (BMPs) with regard to the various services and activities they perform and their impacts on surrounding water quality.
  - i. Industrial water treatment and water reclamation facilities may be permitted only as conditional uses and only upon demonstrating that they cannot be located outside of shoreline jurisdiction. They shall be designed and located to be compatible with recreational, residential, or other public uses of the water and shorelands.
2. Log Storage.
- a. Log booming, rafting and storage in the Aquatic shoreline designation shall comply with WAC 332-30-145 or its successor.
  - b. Log storage shall be permitted in public waters only where:
    - (1) Water quality standards can be met at all times;
    - (2) Grounding will not occur;
    - (3) Associated activities will not hinder other beneficial uses of the water, such as small craft navigation; and
    - (4) Fish and wildlife habitat conservation areas can be avoided.
  - c. No log raft shall remain in the Aquatic shoreline designation for more than one (1) year, unless specifically authorized in writing.
  - d. Log storage facilities shall be sited to avoid and minimize the need for dredging in order to accommodate new barging and shall be located in existing developed areas to the greatest extent feasible. If a new log storage facility is proposed along an undeveloped shoreline, an alternatives analysis shall be required that demonstrates that it is not feasible to locate the facility within an existing developed area.
  - e. A debris management plan describing the removal and disposal of wood waste must be approved by the county. Debris monitoring reports shall be provided, where stipulated. Positive control, collection, treatment, and disposal methods for keeping leachate, bark, and wood debris (both floating and sinking

particles) out of surface water and groundwater shall be employed at log storage areas, log dumps, raft building areas, and mill-side handling zones. In the event that bark or wood debris accidentally enters the water, it shall be immediately removed. Surface runoff from log storage areas shall be collected and discharged at only one point, if possible.

f. Existing in-water log storage and log booming facilities in critical habitats utilized by threatened or endangered species classified under the Endangered Species Act (ESA) shall be re-evaluated if use is discontinued for one (1) year, or if substantial repair or reconstruction is required. The evaluation shall include an alternatives analysis in order to determine if logs can be stored upland and out of the water, or if the site should be used for other purposes that would have lesser impacts on ESA-listed species. The alternatives analysis shall include evaluation of the potential for moving all, or portions of, log storage and booming to uplands.

g. Nonaquatic log storage areas shall meet the following requirements:

- (1) The ground surface of any unpaved log storage area underlain by permeable soils shall be separated from the highest seasonal water table by at least four (4) feet in order to reduce waste buildup and impacts on groundwater and surface water;
- (2) Stormwater shall be managed consistent with Chapters 13.26A and 40.386; and
- (3) A berm must be located around the outer edge of the upland sort surface using rocks, or other suitable materials to prevent loss of wood debris into the water.

(Amended: Ord. 2015-12-12)

#### G. Institutional Uses.

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

#### H. Mining.

1. An applicant for mining and associated activities within the shoreline jurisdiction shall demonstrate that the proposed activities are dependent on a shoreline location consistent with this Program and WAC 173-26-201(2)(a).
2. Mining and associated activities shall be designed and conducted to result in no net loss of shoreline ecological functions and processes, and will only be allowed if they will not cause:

- a. Damage to or potential weakening of the structural integrity of the shoreline zone that would change existing aquatic habitat or aquatic flow characteristics;
  - b. Changes in the water or exchange of water to or from adjacent water bodies that would damage aquatic or shoreline habitat; and
  - c. Changes in groundwater or surface water flow that would be detrimental to aquatic habitat, shoreline habitat, or groundwater.
3. Mining within the active channel(s) or channel migration zone of a stream shall not be permitted unless:
- a. Removal of specified quantities of sand and gravel or other materials at specific locations will not adversely affect in-stream habitat or the natural processes of gravel transport for the stream system as a whole.
  - b. The mining and any associated permitted activities, such as flood hazard reduction (Section 40.460.530(C)), will not have significant adverse impacts to habitat for priority species nor cause a net loss of shoreline ecological functions.
4. The applicant shall obtain and fully comply with all necessary permits and approvals, including, but not limited to, hydraulic project approvals (HPA) from WDFW.
5. A reclamation plan that complies with the format and detailed minimum standards of Chapter 78.44 RCW and Chapter 332-18 WAC and that meets the provisions of this Program shall be included with any shoreline permit application for mining. The proposed subsequent use of mined property must be consistent with the provisions of the shoreline designation in which the property is located, and shall obtain and fully comply with all necessary permits and approvals. Reclamation of disturbed shoreline areas shall provide appropriate ecological functions consistent with the setting.
6. Aggregate washing and ponding of waste water are prohibited in floodways.
7. Disposal of overburden or other mining spoil or nonorganic solid wastes shall comply with fill policies and regulations of this Program and other applicable county regulations.
8. In considering renewal, extension or reauthorization of gravel bar and other in-channel mining operations in locations where they have previously been conducted, the county shall require compliance with this Program.
9. Where a lawfully established mining operation has resulted in the creation of a lake(s) greater than twenty (20) acres and such lake(s) is subject to the provisions of this Program and the Act, such lake(s) shall be given a shoreline designation of Rural Conservancy – Resource Lands or as otherwise adopted. Notwithstanding any other applicable regulations, such mining operations shall be permitted to continue and may be expanded subject to approval of a shoreline conditional use permit.
10. The provisions of this section do not apply to dredging of authorized navigation channels when conducted in accordance with WAC 173-26-231.
- I. Parking.
1. Parking as a primary use is prohibited in all shoreline areas.
  2. Where parking is allowed as accessory to a permitted use, it shall be located landward of the primary structure as far as possible or within the primary structure.
- J. Recreational Uses.
1. Recreational developments shall provide for nonmotorized access to the shoreline such as pedestrian and bicycle paths.

2. The minimum width of public access easements for trails shall be twenty (20) feet when a trail is not located within a public right-of-way, unless the Shoreline Administrator determines that undue hardship would result, or that it is impractical or environmentally unsound. In such cases, easement width may be reduced only by the minimum extent necessary to meet public access standards.
3. Recreation areas or facilities on the shoreline shall provide physical or visual public access to the shoreline.
4. Parking areas shall be located upland away from the immediate shoreline, with pedestrian trails or walkways providing access to the water.
5. All permanent, substantial, recreational structures and facilities shall be located outside officially mapped floodways. The Shoreline Administrator may grant administrative exceptions for nonintensive minor accessory uses (including, but not limited to, picnic tables, playground equipment).
6. Recreational sites with active uses shall be provided with restrooms and hand-sanitizing facilities in accordance with public health standards and without adversely altering the natural features attractive for recreational uses.
7. Recreational facilities shall include features such as buffer strips, screening, fences, and signs, if needed to protect the value and enjoyment of adjacent or nearby private properties and natural areas from trespass, overflow and other possible adverse impacts.
8. Where fertilizers and pesticides are used in recreational developments, waters in and adjacent to such developments shall be protected from drainage and surface runoff.
9. Golf course structures (clubhouses and maintenance buildings) that are non-water-oriented shall be located no closer than one hundred (100) feet from the OHWM of any shorelines of the state.
10. Tees, greens, fairways, golf cart routes, and other site development features shall be located no closer than one hundred (100) feet from the OHWM of any shorelines of the state to the extent practicable. Where unavoidable, such development shall be designed to minimize impacts to shoreline and critical areas and their buffers and mitigate impacts by including ecological restoration and enhancement.
11. Golf course water hazards and stormwater drainage basins shall be managed:
  - a. For wildlife through appropriate plantings and measures to maintain or enhance water quality; and
  - b. Consistent with Chapters 13.26A and 40.386.
12. The setback for water-related and water-enjoyment recreational development in Natural, Urban Conservancy, and Medium Intensity shoreline designations is fifty (50) feet, except trails which may meander between twenty (20) and fifty (50) feet landward of the OHWM to:
  - a. Respond to site characteristics such as natural topography and existing vegetation; or
  - b. Take advantage of opportunities for visual or physical access to the shoreline; or
  - c. Connect existing trail easements; or
  - d. Create an interesting experience for trail users.

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

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

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

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

(Amended: Ord. 2015-12-12)

K. Residential Uses.

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

12. Floating homes legally established as of January 1, 2011, are considered conforming uses. A one (1) time expansion is allowed, as follows:
  - a. The expansion maintains the size of the footprint of the existing residence;
  - b. The expansion does not exceed the allowed height limit; and
  - c. The applicant demonstrates through a letter of exemption that the expansion will result in no net loss of shoreline ecological functions.
13. Existing Residential Structures.
  - a. Legally established existing residential structures and appurtenances located landward of the OHWM and outside the floodway that do not meet the standards of this Program are considered to be conforming, except that an application to replace an existing residential structure must meet all setback, height, and other construction requirements of the Program and the Act. A one (1) time expansion is allowed, as follows:
    - (1) The expansion is no more than twenty-five percent (25%) of the habitable floor area of the existing residence;
    - (2) The expansion does not exceed the allowed height limit;
    - (3) The expansion is no farther waterward than the existing structure; and
    - (4) The applicant demonstrates that the expansion will result in no net loss of shoreline ecological functions.
  - b. If a structure or development is damaged by fire, flood, explosion, or other natural disaster and the damage is less than seventy-five percent (75%) of the replacement cost of the structure or development, it may be restored or reconstructed to those configurations existing at the time of such damage, provided:
    - (1) The reconstructed or restored structure will not cause additional adverse effects to adjacent properties or to the shoreline environment;
    - (2) The rebuilt structure or portion of structure shall not expand the original footprint or height of the damaged structure;
    - (3) No degree of relocation shall occur, except to increase conformity or to increase ecological function, in which case the structure shall be located in the least environmentally damaging location possible;
    - (4) The submittal of applications for permits necessary to restore the development is initiated within twelve (12) months of the damage. The Shoreline Administrator may waive this requirement in situations with extenuating circumstances;
    - (5) The reconstruction is commenced within one (1) year of the issuance of permit;
    - (6) The Shoreline Administrator may allow a one (1) year extension provided consistent and substantial progress is being made; and
    - (7) Any residential structures, including multifamily structures, may be reconstructed up to the size, placement and density that existed prior to the damage, so long as other provisions of this Program are met.
  - c. If a structure or development is either demolished, or damaged by fire, flood, explosion, or other natural disaster and the damage is more than seventy-five percent (75%) of the replacement cost of the

structure or development, then any replacement structure has to meet the requirements of the Program and the Act.

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

(Amended: Ord. 2015-12-12)

L. Signs.

1. Freestanding signs shall be for only informational purposes such as directional, navigational, educational/interpretive, and safety purposes, unless otherwise allowed under this Program and as specified in Table 40.460.620-1.
2. Signs for commercial purposes shall be limited to fascia or wall signs and as regulated by Chapter 40.310, unless otherwise provided for in this chapter for specific uses.
3. All signs shall be located and designed to minimize interference with vistas, viewpoints, and visual access corridors to the shoreline.
4. Over-water signs or signs on floats or pilings shall be prohibited, except when related to navigation or a water-dependent use. Such signs shall be limited to fifteen (15) feet in height above the OHWM.
5. Illuminated signs shall be limited to informational, directional, navigational or safety purposes and shielded so as to eliminate glare when viewed from surrounding properties or watercourses.

M. Transportation Uses.

1. All transportation facilities in shoreline areas shall be constructed and maintained to cause the least possible adverse impacts on the land and water environments, shall respect the natural character of the shoreline, and make every effort to preserve wildlife, aquatic life, and their habitats.
2. New or expanded surface transportation facilities not related to and necessary for the support of shoreline activities shall be located outside the shoreline jurisdiction wherever possible, or set back from the ordinary high water mark far enough to make shoreline stabilization, such as riprap, bulkheads or jetties, unnecessary.
3. Transportation facilities shall not adversely impact existing or planned water-dependent uses by impairing access to the shoreline.
4. All roads shall be adequately set back from water bodies and shall provide buffer areas of compatible, self-sustaining native vegetation. Shoreline scenic drives and viewpoints may provide breaks in the vegetative buffer to allow open views of the water.
5. Transportation facilities that are allowed to cross over water bodies and associated wetlands shall utilize elevated, open pile or pier structures whenever feasible to reduce shade impacts. All bridges shall be built high enough to allow the passage of debris and anticipated high water flows.
6. Fills for transportation facility development shall not be permitted in water bodies or associated wetlands except when all structural or upland alternatives have proven infeasible and the transportation facilities are necessary to support uses consistent with this Program.
7. Transportation and utility facilities shall be required to make joint use of rights-of-way and to consolidate crossing of water bodies.

N. Utility Uses.

These provisions apply to services and facilities that produce, convey, store, or process power, gas, wastewater, communications, and similar services and functions. On-site utility features serving a primary use, such as a water,

sewer or gas line to a residence or other approved use, are “accessory utilities” and shall be considered a part of the primary use.

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

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

#### **40.460.640 Shoreline Modification Regulations**

##### **A. General Requirements.**

1. Structural modifications shall only be allowed where it can be demonstrated that the proposed activities are necessary to support or protect a legally existing shoreline use or primary structure that is in danger of loss

or substantial damage, or are necessary for reconfiguration of the shoreline or bedlands for an allowed water-dependent use or for shoreline mitigation or enhancement purposes.

2. Modifications shall only be allowed when impacts are avoided, minimized, and mitigated to assure no net loss of shoreline ecological functions.

3. In-water work shall be scheduled to protect biological productivity (including but not limited to fish runs, spawning, and benthic productivity). In-water work shall not occur in areas used for commercial fishing during a fishing season unless specifically addressed and mitigated for in the permit.

B. Dredging and Dredge Material Disposal.

1. Dredging.

a. Nonmaintenance dredging shall be avoided where possible. New dredging shall be permitted only where it is demonstrated that the proposed water-dependent or water-related uses will not result in significant or ongoing adverse impacts to water quality, fish and wildlife habitat conservation areas and other critical areas, flood holding capacity, natural drainage and water circulation patterns, significant plant communities, prime agricultural land, and public access to shorelines, unless one (1) or more of these impacts cannot be avoided. When such impacts are unavoidable, they shall be minimized and mitigated such that they result in no net loss of shoreline ecological functions.

b. Maintenance dredging of established navigation channels and basins shall be restricted to managing previously dredged and/or existing authorized location, depth and width.

c. Dredging and dredge disposal shall be prohibited on or in archaeological sites that are listed on the National Register of Historic Places, the Washington Heritage Register, and/or the Clark County Historic Register until such time that they have been reviewed and approved by the appropriate agency.

d. Dredging shall be prohibited between the OHWM and minus fifteen (-15) feet CRD, unless shallow water habitat will be created to mitigate for the dredging project.

e. New dredging activity is prohibited in the following locations:

(1) Along net positive drift sectors and where geohydraulic/hydraulic processes are active and accretion shore forms would be damaged, altered, or irretrievably lost;

(2) In shoreline areas with bottom materials that are prone to significant sloughing and refilling due to currents or tidal activity which result in the need for continual maintenance dredging; and

(3) In habitats identified as critical to the life cycle of officially designated or protected fish, shellfish, or wildlife.

f. Dredging and dredge disposal shall be scheduled to protect biological productivity (including, but not limited to, fish runs, spawning, and benthic productivity) and to minimize interference with fishing activities. Dredging activities shall not occur in areas used for commercial fishing (including, but not limited to, drift netting and crabbing) during a fishing season unless specifically addressed and mitigated for in the permit.

g. Dredging techniques that cause minimum dispersal and broadcast of bottom material shall be used, and only the amount of dredging necessary shall be permitted.

h. Dredging shall be permitted only:

(1) For navigation or navigational access;

(2) In conjunction with a water-dependent use of water bodies or adjacent shorelands;

- (3) As part of an approved habitat improvement project;
  - (4) To improve water flow or water quality; provided, that all dredged material shall be contained and managed so as to prevent it from re-entering the water;
  - (5) In conjunction with a bridge, navigational structure or wastewater treatment facility for which there is a documented public need and where other feasible sites or routes do not exist; or
  - (6) To acquire sand and gravel for commercial purposes from within the Columbia River.
- i. Dredging for fill is prohibited except where the material is necessary for restoration of shoreline ecological functions.
2. Dredge Material Disposal.
- a. Dredge material disposal shall be avoided where possible. Dredge disposal shall be permitted only where it is demonstrated that the proposed water-dependent or water-related uses will not result in significant or ongoing adverse impacts to water quality, fish and wildlife habitat conservation areas and other critical areas, flood holding capacity, natural drainage and water circulation patterns, significant plant communities, prime agricultural land, and public access to shorelines. When such impacts are unavoidable, they shall be minimized and mitigated such that they result in no net loss of shoreline ecological functions.
  - b. Nearshore or landside disposal of dredge materials shall not be located upon, adversely affect, or diminish:
    - (1) Stream mouths, wetlands, or significant plant communities (approved mitigation plans may justify exceptions);
    - (2) Prime agricultural land except as enhancement;
    - (3) Natural resources including but not limited to sand and gravel deposits, timber, or natural recreational beaches and waters except for enhancement purposes;
    - (4) Designated or officially recognized wildlife habitat and concentration areas;
    - (5) Water quality, quantity, and drainage characteristics; and
    - (6) Public access to shorelines and water bodies.
  - c. Dredged material shall be disposed of on land only at sites reviewed and approved by the USACOE and the Shoreline Administrator. Applicants shall demonstrate that the proposed site will ultimately be suitable for a use permitted by this Program. Disposal shall be undertaken such that:
    - (1) The smallest possible land area is affected, unless dispersed disposal is authorized as a condition of permit approval for soil enhancement or other purposes;
    - (2) Shoreline ecological functions and processes will be preserved, including protection of surface and groundwater;
    - (3) Erosion, sedimentation, floodwaters or runoff will not increase adverse impacts to shoreline ecological functions and processes or property; and
    - (4) Sites will be adequately screened from view of local residents or passersby on public rights-of-way to the maximum extent practicable.
  - d. The following conditions shall apply to land disposal sites:

- (1) Springs and aquifers shall be identified and protected.
  - (2) Containment dikes and adequate settling basins shall be built and maintained so that the water discharged from the site carries a minimum of suspended sediment. Required basins shall be designed to maintain at least one (1) foot of standing water at all times to encourage proper settling.
  - (3) Proper diversion of surface discharge shall be provided to maintain the integrity of the natural streams, wetlands, and drainage ways.
  - (4) There shall be a single point of ingress and egress for removal of the de-watered material.
  - (5) Runoff shall be directed through grassy swales or other treatment features that assure protection of water quality and a location that maximizes circulation and fishing.
  - (6) Sites shall be revegetated with appropriate native species as soon as possible to retard erosion and restore wildlife habitat and other critical areas functions.
  - (7) Vegetation shall be maintained by the property owner.
  - (8) Dredge materials deposited upland and not part of a permitted dike or levee shall constitute fill, and when deposited within the jurisdiction of this Program shall comply with the fill regulations.
  - (9) The requirements of Chapter 13.26A shall be met.
- e. Dredged material shall be disposed of in water only at sites approved by the USACOE and the Shoreline Administrator. Disposal techniques that cause minimum dispersal and broadcast of bottom material shall be used, and only if:
- (1) Land disposal is infeasible, less consistent with this Program, or prohibited by law;
  - (2) Nearshore disposal as part of a program to restore or enhance shoreline ecological functions and processes is not feasible;
  - (3) Offshore habitat will be protected, restored, or enhanced;
  - (4) Adverse effects on water quality or biologic resources from contaminated materials will be mitigated;
  - (5) Shifting and dispersal of spoil will be minimal; and
  - (6) Water quality will not be adversely affected.
- f. The deposition of dredged materials in water or wetlands shall only be in approved, open water disposal sites, and shall be permitted only:
- (1) To improve wildlife habitat;
  - (2) To correct material distribution problems adversely affecting fish habitat;
  - (3) To create, expand, rehabilitate, or enhance a beach when permitted under this Program and any required state or federal permit; or
  - (4) When land deposition is demonstrated to be more detrimental to shoreline resources than water deposition.

C. Flood Control Works and In-Stream Structures.

1. Flood Control Works.

- a. Dikes and levees shall only be authorized by conditional use permit, and only when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development, that nonstructural measures are infeasible, that impacts on shoreline ecological functions and critical areas can be mitigated to ensure no net loss, and that appropriate vegetation conservation actions are undertaken.
  - b. Dikes and levees shall protect the natural processes and resource values associated with streamways and deltas including but not limited to wildlife habitat.
  - c. Springs and aquifers shall be identified and protected.
  - d. Public access shall be provided in accordance with public access policies and regulations of this Program.
  - e. Dikes and levees shall be limited in size to the minimum height required to protect adjacent lands from the protected flood stage as identified in the applicable comprehensive flood control management plan or as required by FEMA for dike recertification.
  - f. Dikes and levees shall not be constructed with material dredged from the adjacent wetland or stream area unless part of a comprehensive flood and habitat enhancement plan, and then only by conditional use.
  - g. Removal of gravel for flood management purposes shall be consistent with an adopted flood hazard reduction plan and with this Program, and allowed only after a biological and geomorphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of shoreline ecological functions, and is part of a comprehensive flood management solution.
2. Flood Control Works Design.
    - a. Dikes and levees shall be designed, constructed, and maintained in accordance with hydraulic project approval, and in consideration of resource agency requirements and recommendations.
    - b. Dikes and levees shall be set back at convex (inside) bends to allow streams to maintain point bars and associated aquatic habitat through normal accretion. Where bank dikes have already cut off point bars from the edge of the floodway, consideration should be given to their relocation in order to lower flood stages and current velocities.
    - c. Where dikes are necessary in intermediate gradient floodways to protect fringe areas, tangent diking is preferred over bank levees. Dikes and levees shall be located near the tangent to outside meander bends so that the stream can maintain normal meander progression and utilize most of its natural flood water storage capacity.
    - d. Proper diversion of surface discharge shall be provided to maintain the integrity of the natural streams, wetlands, and drainages.
    - e. The outside face of dikes shall be sloped at one and one-half to one (1.5:1) (horizontal to vertical) or flatter, and seeded with native grasses.
    - f. Structural flood hazard reduction measures shall be placed landward of associated wetlands and vegetation conservation areas unless there is no other feasible alternative to reduce flood hazard to existing development.
  3. In-Stream Structures.
    - a. In-stream structures shall be constructed and maintained in a manner that does not degrade the quality of affected waters. The county may condition the permit to achieve this objective by requiring that the development include features such as setbacks, buffers, or storage basins.

- b. Natural in-stream features such as snags, uprooted trees, or stumps should be left in place unless it can be demonstrated that they are not enhancing shoreline ecological function or are a threat to public safety.
- c. In-stream structures shall provide for adequate upstream or downstream migration of anadromous fish, where applicable.
- d. In-stream structures shall preserve valuable recreation resources and aesthetic values such as point and channel bars, islands, and braided banks.

4. In-Stream Structures Design and Placement.

- a. In-stream structures and their support facilities shall be located and designed to avoid the necessity for shoreline defense structures. Shoreline defense structures shall be minimized and any impacts mitigated. All diversion structures shall be designed to permit natural transport of bedload materials.
- b. Materials adequate to immediately correct emergency erosion situations shall be maintained on site.
- c. All debris, overburden and other waste materials from construction shall be disposed of in such a manner so as to prevent their entry into a water body, including a wetland, by erosion, from drainage, high water, or other vectoring mechanisms.
- d. All heavy construction equipment, and fuel storage, repair, and construction material staging areas shall be located as far landward as necessary to avoid and minimize impacts to shoreline ecological functions. Powerhouses, but not raceways, shall be located farther than one hundred (100) feet from the OHWM unless there is no feasible alternative and any unavoidable impacts are minimized and mitigated. Penstocks shall be located, designed, and constructed so as to present as low a profile as possible. Powerhouses and penstocks shall be located and designed to return flow to the stream in as short a distance as possible.
- e. A mitigation plan that details the objectives of the mitigation activities shall be prepared by the applicant, and be subject to approval by the appropriate authority.

D. Shoreline Restoration and Enhancement.

- 1. Shoreline restoration and enhancement activities designed to restore shoreline ecological functions and processes and/or shoreline features should be targeted toward meeting the needs of sensitive and/or regionally important plant, fish, and wildlife species, and shall be given priority.
- 2. Shoreline restoration, enhancement, and mitigation activities designed to create dynamic and sustainable ecosystems to assist the county in achieving no net loss of shoreline ecological functions are preferred (see Section 40.460.550).
- 3. Restoration activities shall be carried out in accordance with an approved shoreline restoration plan, and in accordance with the provisions of this Program.
- 4. To the extent possible, restoration, enhancement, and mitigation activities shall be integrated and coordinated with other parallel natural resource management efforts, such as those identified in the shoreline restoration plan.
- 5. Habitat and beach creation, expansion, restoration, and enhancement projects may be permitted subject to required state or federal permits when the applicant has demonstrated that:
  - a. The project will not adversely impact spawning, nesting, or breeding fish and wildlife habitat conservation areas;
  - b. Upstream or downstream properties or fish and wildlife habitat conservation areas will not be adversely affected;

- c. Water quality will not be degraded;
  - d. Flood storage capacity will not be degraded;
  - e. Impacts to critical areas and buffers will be avoided and where unavoidable, minimized and mitigated; and
  - f. The project will not interfere with the normal public use of the navigable waters of the state.
6. The county shall review the projects for consistency with this Program in an expeditious manner and shall issue its decision along with any conditions within forty-five (45) days of receiving all materials necessary to review the request for exemption from the applicant (see Sections 40.460.230(B)(16) and 40.460.750).
- E. Shoreline Stabilization – General.
1. New shoreline stabilization for new development is prohibited unless it can be demonstrated that the proposed use cannot be developed without shore protection or is necessary to restore ecological functions or hazardous substance remediation.
  2. Proposed designs for new or expanded shore stabilization shall be designed in accordance with applicable Ecology and WDFW guidelines, must use best available science, must document that alternative solutions are not feasible or do not provide sufficient protection; must demonstrate that future stabilization measures would not be required on the project site or adjacent properties; and be certified by a qualified professional.
  3. Land subdivisions and lot line adjustments shall be designed to assure that future development of the newly created lots will not require structural stabilization for subsequent development to occur.
  4. New or expanded structural shoreline stabilization for existing primary structures, including roads, railroads, and public facilities, is prohibited unless there is conclusive evidence documented by a geotechnical analysis that there is a significant possibility that the structure will be damaged within three (3) years as a result of shoreline erosion caused by stream processor waves, and only when significant adverse impacts are mitigated to ensure no net loss of shoreline ecological functions and/or processes.
  5. Replacement of an existing shoreline stabilization structure with a similar structure is permitted if there is a demonstrated need to protect existing primary uses, structures or public facilities including roads, bridges, railways, and utility systems from erosion caused by stream undercutting or wave action; provided, that the existing shoreline stabilization structure is removed from the shoreline as part of the replacement activity. Replacement walls or bulkheads shall not encroach waterward of the ordinary high water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. Proposed designs for new or expanded shore stabilization shall be in accordance with applicable Ecology and WDFW guidelines and certified by a qualified professional.
  6. Where a geotechnical analysis confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three (3) years, the analysis may still be used to justify more immediate authorization for shoreline stabilization using bioengineering approaches.
  7. Shoreline stabilization projects that are part of a fish habitat enhancement project meeting the criteria of RCW 77.55.181 are exempt and will be regulated under the state process. Stabilization projects that are not part of such a fish enhancement project will be regulated by this Program.
  8. Small-scale or uncomplicated shoreline stabilization projects (for example, tree planting projects) shall be reviewed by a qualified professional to ensure that the project has been designed using best available science.
  9. Large-scale or more complex shoreline stabilization projects (for example, projects requiring fill or excavation, placing objects in the water, or hardening the bank) shall be designed by a qualified professional using best available science. The applicant may be required to have a qualified professional oversee construction or construct the project.

10. Standards for new stabilization structures when found to be necessary include limiting the size to minimum, using measures to assure no net loss of shoreline ecological functions, using soft approaches, and mitigating for impacts.

F. Bioengineered Stabilization.

1. All bioengineered projects shall be designed in accordance with best available science and use a diverse variety of native plant materials including but not limited to trees, shrubs, forbs, and grasses, unless demonstrated infeasible for the particular site.

2. All cleared areas shall be replanted following construction and irrigated (if necessary) to ensure that within three (3) years' time all vegetation is fully re-established. Areas that fail to adequately re-establish vegetation shall be replanted with approved plant materials until such time as the plantings are viable.

3. Bank protection in the form of a buffer zone shall be provided for a minimum of three (3) years. The buffer zone shall exclude livestock, vehicles, and/or other activities that could disturb the site.

4. All bioengineered projects shall be monitored and maintained as necessary. Areas damaged by pests and/or the elements shall be promptly repaired.

5. All construction and planting activities shall be scheduled to minimize impacts to water quality and fish and wildlife aquatic and upland habitat, and to optimize survival of new vegetation.

G. Structural Stabilization.

Structural stabilization may be allowed when:

1. The requirements of Section 40.460.640(E) are met;

2. Alternative measures are demonstrated to be infeasible or insufficient through a geotechnical analysis by a qualified professional;

3. The structural stabilization is designed and installation overseen by a qualified professional;

4. The structural stabilization is designed so that future stabilization measures will not be necessary on the subject property or other properties;

5. The size of the shoreline stabilization structure is limited to the minimum necessary; and

6. Impacts are mitigated to result in no net loss of shoreline ecological functions.

H. Bulkheads

1. Bulkheads – General.

a. All bulkheads must be in support of an allowable shoreline use that is in conformance with the provisions of this Program, unless it can be demonstrated that such activities are necessary and in the public interest for the maintenance of shoreline environmental resources.

b. Bulkheads shall be allowed only when evidence is presented that conclusively demonstrates that one (1) of the following conditions exists:

(1) Serious wave erosion threatens an established primary use or existing primary building(s) on upland property;

(2) Bulkheads are necessary to the operation and location of water-dependent and water-related activities consistent with this Program; provided, that all alternatives have proven infeasible (i.e., use

- relocation, use design, nonstructural shore stabilization options), and that such bulkheads meet other policies and regulations of this chapter; or
- (3) Proposals for bulkheads have first demonstrated that use of natural materials and processes and nonstructural solutions to bank stabilization are unworkable in protecting existing development.
- c. Use of a bulkhead to protect a platted lot where no structure presently exists is prohibited.
- d. Natural materials and processes such as protective berms, drift logs, brush, beach feeding, or vegetative stabilization shall be utilized to the maximum extent possible.
- e. The construction of a bulkhead for the primary purpose of retaining or creating dry land that is not specifically authorized as a part of the permit shall be prohibited.
- f. Bulkheads are prohibited for any purpose if they will cause significant erosion or beach starvation.
2. Bulkhead Location.
- a. Bulkheads shall not be located on shores where valuable geohydraulic/hydraulic or biological processes are sensitive to interference and critical to shoreline conservation, such as feeder bluffs, marshes, wetlands, or accretion shore forms such as spits, hooks, bars, or barrier beaches.
- b. Bulkheads are to be permitted only where local physical conditions such as foundation bearing material, surface, and subsurface drainage are suitable.
- c. On all shorelines, bulkheads shall be located landward of the OHWM, landward of protective berms (artificial or natural), and generally parallel to the natural shoreline. In addition:
- (1) On bluff or bank shorelines where no other bulkheads are adjacent, the construction of a bulkhead shall be as close to the bank as possible, and in no case shall it be more than three (3) feet waterward from the toe of the natural bank.
- (2) Bulkheads may tie in flush with existing bulkheads on adjoining properties; provided, that (1) the adjoining bulkheads were built at or near the OHWM, and (2) the new bulkhead does not extend more than three (3) feet waterward of OHWM at any point. If there is an existing bulkhead on only one (1) of the adjacent properties, the proposed bulkhead may tie in flush with the adjacent bulkhead at or landward of the OHWM, and shall be contoured to minimize the land area waterward of the required setback, that shall be met on the side not abutting an existing bulkhead.
- d. Replacement bulkheads may be located immediately in front of and abutting (sharing a common surface) an existing bulkhead; provided, that replacement bulkheads shall not be authorized abutting an abandoned or neglected bulkhead, or a bulkhead in serious disrepair that is located more than three (3) feet waterward of OHWM. Replacement of such bulkheads shall be located at OHWM.
3. Bulkhead Design.
- a. Bulkhead design and development shall conform to all other applicable state agency policies and regulations, including the WDFW criteria governing the design of bulkheads.
- b. When a bulkhead is required at a public access site, provision for safe access to the water shall be incorporated into bulkhead design.
- c. Bulkheads shall be designed with the minimum dimensions necessary to adequately protect the development for the expected life of the development.
- d. Bulkheads shall be designed to permit the passage of surface or groundwater without causing ponding or saturation of retained soil/materials.

- e. Adequate toe protection consisting of proper footings, a fine retention mesh, etc., shall be provided to ensure bulkhead stability without relying on additional riprap.
- f. Stairs or other permitted structures may be built into a bulkhead, but shall not extend waterward of it.
- g. Materials used in bulkhead construction shall meet the following standards:
  - (1) Bulkheads shall utilize stable, nonerosional, homogeneous materials such as concrete, wood, rock riprap, or other suitable materials that will accomplish the desired end with the maximum preservation of natural shoreline characteristics.
  - (2) Beach materials shall not be used for fill behind bulkheads unless it is specifically authorized by the permit, and then only when it is demonstrated that leaving the material on the beach would be detrimental to shoreline resources.
- h. Gabions (wire mesh filled with concrete or rocks) shall not be used in bulkhead construction where alternatives more consistent with this Program are feasible, because of their limited durability and the potential hazard to shore users and the shoreline environment.
- i. Fill behind bulkheads shall meet the requirements in Section 40.460.560(B) for grading, fill, and excavation.

I. Revetments.

1. Revetments – General.

- a. Revetments must be in support of an allowable shoreline use that is in conformance with the provisions of this Program, unless it can be demonstrated that such activities are necessary and in the public interest for the maintenance of shoreline environmental resources.
- b. Design of revetments shall include and provide improved access to public shorelines whenever possible and appropriate. All forms of revetments shall be constructed and maintained in a manner that does not reduce water quality and/or fisheries habitat.
- c. Design of the proposed revetment shall incorporate proper consideration of:
  - (1) Data on local geophysical conditions;
  - (2) Data on stream flow, velocity, and/or flood capacity; and
  - (3) Effects on adjacent properties.
- d. Bank revetments, where permitted, shall be placed at the extreme edge or bank of the shoreline.
- e. Revetments shall only be used when habitat-friendly alternatives are not feasible.

2. Revetment Design.

- a. When permitted, the siting and design of revetments shall be performed using appropriate engineering principles, including guidelines of the Natural Resources Conservation Service and the USACOE.
- b. Revetments shall be constructed using techniques and materials that will enhance natural shoreline values and functions, including fish and wildlife habitat, water quality, vegetation, and aesthetics. The following techniques and materials shall be used:
  - (1) Riprap material shall consist of clean quarried rock, free of loose dirt and any pollutants, and shall be of sufficient size and weight to prevent movement by wave or current action. Tires,

automobile bodies, scrap metal paper products, and other inappropriate solid waste materials shall not be used for riprap.

(2) Use of downed logs, snags, or rock-work to enhance habitat and to provide a more natural appearance to the shoreline shall be incorporated into the design where appropriate.

(3) Where on-site environmental conditions allow, vegetation shall be integrated into the riprap design to reduce erosion, provide cover, shade and habitat, and improve the natural appearance of the shoreline, consistent with the applicable vegetation management provisions of this Master Program.

c. If an armored revetment is employed, the following design criteria shall be met:

(1) The size and quantity of the material shall be limited to only that necessary to withstand the estimated energy intensity of the hydraulic system;

(2) Filter cloth must be used to aid drainage and help prevent settling; and

(3) The toe reinforcement or protection must be adequate to prevent a collapse of the system from river scouring or wave action for the anticipated life of the project.

d. The area shall be restored as nearly as possible to pre-project condition, including replanting with native species and maintenance care until the newly planted vegetation is established.

J. Breakwaters, Jetties, Rock Weirs, and Groins.

1. Breakwaters, Jetties, Rock Weirs, and Groins – General.

a. Breakwaters, jetties, rock weirs, and groins are allowed only by conditional use and where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purposes such as protection from strong wave action. Applicants proposing groins, jetties, and solid breakwaters shall notify all shoreline landowners within the same drift sector. If it is not possible to make a reasonable determination of the drift sector, all shoreline landowners within one (1) mile of the project proposal shall be notified.

b. The effect of proposed breakwaters, jetties, rock weirs, and groins on sand movement shall be evaluated during permit review. The beneficiaries and/or owners of large-scale defense works that substantially alter, reduce, or block littoral drift, and cause new erosion of downdrift shores, shall be required to establish and maintain an adequate long-term beach feeding program either by artificially transporting sand to the downdrift side of an inlet with jetties or by artificial beach feeding in the case of groins, breakwaters, and rock weirs.

c. The effect of proposed breakwaters, jetties, rock weirs, and groins on bank margin habitat, channel migration, and floodplain processes should be evaluated during permit review.

2. Breakwaters, Jetties, Rock Weirs, and Groins Location.

a. Breakwaters shall be prohibited in lakes.

b. Jetty, rock weir, or groin development that would result in a net adverse impact on adjacent and nearby properties and shorelines is prohibited.

3. Breakwaters, Jetties, Rock Weirs, and Groins Design.

a. Proposed designs for new or expanded breakwaters, jetties, rock weirs, and groins shall be designed and certified by a registered civil engineer.

b. The design of breakwaters, jetties, rock weirs, and groins shall conform to all applicable requirements established by WDFW and the USACOE. Breakwaters, jetties, rock weirs, and groins shall

be designed and constructed in a manner that will prevent detrimental impacts on water circulation, sand movement, and aquatic life. The design shall also minimize impediments to navigation and to visual access from the shoreline.

c. The design of new breakwaters, groins, and jetties shall incorporate provisions for public access such as sightseeing and public fishing if it is determined such access is feasible and desirable. Open-pile or floating breakwaters shall be the only type allowed unless it can be shown that solid breakwaters will have no significant adverse effect on the aquatic biology and shore processes, or that such adverse effects can be adequately mitigated.

d. Materials used for the construction of breakwaters, jetties, rock weirs, and groins shall exhibit the qualities of long-term durability, ease of maintenance, and compatibility with local shore features, processes, and aesthetics. The use of solid waste, junk, or abandoned automobiles, asphalt, or any building demolition debris is prohibited.

e. Floating breakwaters shall be used in place of solid, rubble mound types wherever they can withstand anticipated wave action in order to maintain sand movement and protect fish and aquatic habitat.

(Added: Ord. 2012-07-16)

**40.460.700 Administration and Enforcement**

**40.460.705 General Provisions**

A. Except as specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to Chapter 90.58 RCW, the Act and this Program.

B. The requirements of this Program are only applicable within the county's shoreline jurisdiction.

C. Classification of a use or development as permitted does not necessarily mean the use/development is allowed. It means the use/development may be allowed subject to review and approval by the county and/or Ecology. The county may attach conditions of approval to any permitted use via a permit as necessary to assure consistency of a project with the Act and this Program.

D. To be authorized under this Program, all uses and developments shall be planned and carried out in a manner that is consistent with the county codes and this Program regardless of whether a shoreline substantial development permit, shoreline variance, or shoreline conditional use permit is required.

E. Applicants requesting review for permits under this Program have the burden to prove that the proposed development or activity is consistent with the criteria that must be met before a permit is granted.

F. The Shoreline Administrator has the authority under Section 40.100.050 to interpret and apply the provisions of this Program. The Shoreline Administrator shall consult with Ecology to ensure that any formal written interpretations are consistent with the purpose and intent of Chapter 90.58 RCW and the applicable guidelines.

G. The county shall not issue any permit for development within the shoreline jurisdiction until approval has been granted pursuant to this Program.

H. A development or use that does not comply with the bulk, dimensional, and/or performance standards of this Program shall require a shoreline variance even if the development or use does not require a substantial development permit.

I. A development or use that is listed as a conditional use pursuant to this Program, or is an unlisted use, must obtain a conditional use permit even if the development or use does not require a substantial development permit.

J. Issuance of a shoreline substantial development permit, shoreline variance or shoreline conditional use permit does not constitute approval pursuant to any other federal, state or county laws or regulations.

(Added: Ord. 2012-07-16)

**40.460.710 Administrative Authority and Responsibility**

**A. Shoreline Administrator and Shoreline Management Review Committee.**

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

**B. Clark County Planning Commission.**

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

1. Amendments to the Shoreline Master Program. Any of the provisions of this Program may be amended as provided for in WAC 173-26-100.
2. Review and Adjustments. Periodic review of this Program shall be conducted as required by state law and regulations (RCW 90.58.080(4)). Adjustments shall be made as necessary to reflect changing local circumstances, new information or improved data, and changes in state statutes and regulations. This review process shall be consistent with WAC 173-26-090 and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

**C. Board of County Commissioners.**

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

D. Ecology and the Attorney General.

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

E. Ecology Review.

1. Ecology shall be notified of any substantial development, conditional use or variance permit decisions made by the Shoreline Administrator, whether it is an approval or denial. The notification shall occur after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals has lapsed. When a substantial development permit and either conditional use or variance permit are required for a development, the submittal of the permits shall be made concurrently. The Shoreline Administrator shall file the following with Ecology and the Attorney General:
  - a. A copy of the complete application per WAC 173-27-180;
  - b. Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation, applicable Program policies and regulations and the consistency of the project with appropriate review criteria for the type of permit(s);
  - c. The final decision of the county;
  - d. The permit data sheet per WAC 173-27-990;
  - e. Affidavit of public notice; and
  - f. Where applicable, the Shoreline Administrator shall also file the applicable documents required by the State Environmental Policy Act (Chapter 43.21C RCW).
2. When the project has been modified in the course of the local review process, plans or text shall be provided to Ecology that clearly indicates the final approved plan.
3. If Ecology determines that the submittal does not contain all of the documents and information required by this section, Ecology shall identify the deficiencies and notify the county and the applicant in writing. Ecology will not act on conditional use or variance permit submittals until the material requested in writing is submitted to them.
4. Ecology shall convey to the county and applicant its final decision approving, approving with conditions, or disapproving the permit within thirty (30) days of the date of submittal by the county. The Shoreline Administrator will notify those interested persons having requested notification of such decision.
5. Ecology shall base its determination to approve, approve with conditions or deny a conditional use permit or variance permit on consistency with the policy and provisions of the Act and the criteria listed in this Program.
6. Appeals of Ecology decisions on conditional use and variance requests shall be made to the Shorelines Hearings Board as specified in Section 40.460.735(A).

F. Master Program Amendments.

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

(Added: Ord. 2012-07-16)

**40.460.715 Pre-Application Conference**

A pre-application conference is required prior to filing a permit application for a shoreline substantial development permit, variance, or conditional use permit decision.

(Added: Ord. 2012-07-16)

**40.460.720 Permit Submittal Requirements**

- A. The Shoreline Administrator shall provide written informational materials, procedures, instructions, and forms, required to submit an application for a shoreline substantial development permit, variance, or conditional use permit.
- B. These materials could include a plan cover sheet; JARPA form; SEPA checklist; fee schedule; review criteria; process and timelines to assist potential applicants and interested parties on the permit application submittal and review process.

(Added: Ord. 2012-07-16)

**40.460.725 Application Review Requirements**

- A. Upon receipt of a fully complete completed shoreline substantial development permit, shoreline variance, or shoreline conditional use permit application, the county will issue a notice of application as required for a Type III action pursuant to Section 40.510.030(E).
- B. The comment period for such applications shall be thirty (30) days.
- C. An application for a shoreline substantial development permit, shoreline variance, or shoreline conditional use permit shall be reviewed using the timelines for a Type III action pursuant to Section 40.510.030(F).
- D. To the fullest extent possible, the shoreline permit process shall be integrated with other planning and licensing procedures of this title. Shoreline applications may accompany another related application through the review process, and interested persons may present views thereon, but no formal public hearing is required.
- E. Proposed actions that would alter designated critical areas or their buffers, as established by this Program (Section 40.460.530) shall be reviewed for compliance with this Program. If required, the applicable critical area report and/or mitigation plan and/or habitat management plan shall be submitted as part of the development application. The critical area review shall be conducted and processed in conjunction with the highest threshold of review that is applicable to the primary development proposed:
  1. Review pursuant to Section 40.460.230 (list of exemptions);
  2. Land use permit or building permit;

3. Excavation, grading, clearing and erosion control permit;
4. SEPA threshold determination;
5. Shoreline substantial development permit;
6. Shoreline conditional use permit; or
7. Shoreline variance.

F. The county shall review restoration projects for consistency with this Program in an expeditious manner and shall issue its decision along with any conditions within forty-five (45) days of receiving all materials necessary to review the request for exemption from the applicant.

G. Issuance of shoreline permits approved by SMRC shall be the responsibility of the Shoreline Administrator.

H. All shoreline permits issued for development or use within shoreline jurisdiction shall include written findings prepared by the Shoreline Administrator, documenting compliance with bulk and dimensional policies and regulations of this Program. The Shoreline Administrator may attach conditions to the approval as necessary to assure consistency with Chapter 90.58 RCW and this Program. Such conditions may include a requirement to post a performance bond assuring compliance with permit requirements, terms and conditions.

(Added: Ord. 2012-07-16)

#### **40.460.730 Revisions to Permits**

A permit revision is required whenever the applicant proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, this Program and/or the policies and provisions of Chapter 90.58 RCW. Changes which are not substantive in effect do not require approval of a revision. All revisions shall be processed in accordance with WAC 173-27-100.

(Added: Ord. 2012-07-16)

#### **40.460.735 Appeals**

A. Appeals of any final permit decision may be made to the Shorelines Hearings Board as governed by the procedures established in RCW 90.58.180 (Appeals from Granting, Denying, or Rescinding Permits) and Chapter 461-08 WAC (Practice and Procedure, Review of the Granting, Denying or Rescinding of Substantial Development Permits, Hearings).

B. All appeals of any final permit decision must be made to the Shorelines Hearings Board within twenty-one (21) days after the county's or Ecology's final decision concerning the shoreline permit or formal approval to revisions of the permit.

(Added: Ord. 2012-07-16)

#### **40.460.740 Commencement of Development Activity and Permit Validity**

A. No construction pursuant to a substantial development permit, shoreline variance or shoreline conditional use authorized by this Program shall begin or be authorized and no building, grading or other construction permits shall be issued by county until twenty-one (21) days from the date the permit decision was filed or until all review proceedings are terminated.

B. Construction may be commenced no sooner than thirty (30) days after the date the appeal of the Shorelines Hearings Board's decision is filed if a permit is granted by the local government, and:

1. The granting of the permit is appealed to the Shorelines Hearings Board within twenty-one (21) days of the date of filing;

2. The Hearings Board approves the granting of the permit by the local government or approves a portion of the substantial development for which the local government issued the permit; and
3. An appeal for judicial review of the Hearings Board decision is filed pursuant to Chapter 34.05 RCW.

Any applicant who wishes to begin construction pursuant to this section prior to termination of all review proceedings does so at the applicant's own risk.

C. Construction activities shall be commenced, or where no construction activities are involved, the use or activity shall be commenced, within two (2) years of the effective date of a shoreline substantial development permit. The Shoreline Administrator may authorize a single extension for a period not to exceed one (1) year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of proposed extension is given to parties of record on the substantial development permit and to the department.

D. Authorization to conduct construction activities shall terminate five (5) years after the effective date of a substantial development permit. The Shoreline Administrator may authorize a single extension if it has been filed before the expiration date and notice of the proposed extension is given to parties of record and Ecology.

(Added: Ord. 2012-07-16)

#### **40.460.745 Enforcement**

##### **A. General Enforcement.**

1. The enforcement provisions of RCW 90.58.210 and WAC 173-27-240 through 173-27-310 shall apply.
2. The Shoreline Management Act calls for a cooperative enforcement program between local and state government. It provides for both civil and criminal penalties, orders to cease and desist, orders to take corrective action and permit rescission. The choice of enforcement action and the severity of any penalty should be based on the nature of the violation and the damage or risk to the public or to public resources. The existence or degree of bad faith of the persons subject to the enforcement action, the benefits that accrue to the violator, and the cost of obtaining compliance may also be considered.
3. The Shoreline Administrator, and/or authorized representative, shall have the authority to enforce the shoreline regulations of the county.
4. The Shoreline Administrator with the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued inspection warrant, may enter at reasonable times any building or premises subject to the consent or warrant to perform the duties imposed by this Program.
5. These shoreline regulations shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.
6. No provision of, or term used in, this code is intended to impose upon the county, or any of its officers or employees, any duty which would subject them to damages in a civil action.

##### **B. Investigation and Notice of Violation.**

1. An investigation shall be made of any structure or use which the county reasonably believes does not comply with the standards and requirements of this Program.
2. If, after an investigation, it is determined that the standards or requirements of this title have been violated, a notice of violation shall be served, by first class mail, upon the owner, tenant or other person responsible for the condition.
3. The compliance period shall not be less than two (2) weeks, except where substantial life safety issues exist.

##### **C. Penalties.**

Any person found to have willfully engaged in activities on the county's shorelines in violation of the Act or in violation of this Program, and rules or regulations adopted pursuant thereto, shall be subject to the penalty provisions of Title 32.

D. Violations – Subsequent Development and Building Permits.

No building permit or other development permit shall be issued for any parcel of land developed or divided in violation of this Program. All purchasers or transferees of property shall comply with provisions of the Act and this Program and each purchaser or transferee may recover damages from any person, firm, corporation, or agent selling, transferring, or leasing land in violation of the Act or this Program. Damages may include any amount reasonably spent as a result of inability to obtain any development permit and spent to conform to the requirements of the Act or this Program as well as costs of investigation, suit, and reasonable attorneys' fees occasioned thereby. Such purchaser, transferee, or lessor, as an alternative to conforming their property to these requirements, may rescind the sale, transfer, or lease and recover costs of investigation, litigation and reasonable attorneys' fees occasioned thereby from the violator.

(Added: Ord. 2012-07-16)

**40.460.750 Public and Private Redress**

A. Any person subject to the regulatory program of this Program who violates any provision of this Program or the provisions of a permit issued pursuant thereto shall be liable for all damages to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to such violation.

B. The County Prosecutor may bring suit for damages under this section on behalf of the county. Nothing in this section precludes private persons from bringing suit for damages on their own behalf. If liability has been established for the cost of restoring an area affected by violation, the court shall make provisions to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including monetary damages, the court, in its discretion, may award attorneys' fees and costs of the suit to the prevailing party.

(Added: Ord. 2012-07-16)

**40.460.755 Fees for Permits Obtained After Development**

A. Permits obtained following, rather than prior to, the commencement of a development or use shall be three (3) times the normal amount. This provision is in addition to the enforcement measures contained in this chapter and in Title 32.

B. Delinquent permit penalties shall be paid in full prior to resuming the use or activity.

(Added: Ord. 2012-07-16)

**40.460.760 Revocation of Permits**

A. Any permit may, after a hearing with adequate notice to the permittee and the public, be rescinded by the issuing authority upon the finding that a permittee has not complied with conditions of a permit. Noncompliance could result from either a failure to take corrective action in response to a violation, or a misrepresentation of the facts in the permit application. When required, corrective action shall be completed within ninety (90) days of the issuance of the order by the Shoreline Administrator.

B. If Ecology is of the opinion that noncompliance exists, the department shall provide written notice to the local government and the permittee. If Ecology is of the opinion that the noncompliance continues to exist thirty (30) days after the date of the notice, and the local government has taken no action to revoke the permit, Ecology may petition the Shorelines Hearings Board for a revocation of the permit upon written notice of the petition to the local government and the permittee if the request by Ecology is made to the Hearings Board within fifteen (15) days of the end of the thirty (30) day notice to the local government.

C. Revocation of a permit does not preclude the assessment of penalties in Section 40.460.745. Appeals of the revocation order shall be in accordance with Section 40.460.735.

(Added: Ord. 2012-07-16)

**40.460.800 Definitions**

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

Accessory structure	“Accessory structure” means a subordinate building incidental to the use of the main building.
Accessory use	“Accessory use” means any use or activity incidental and subordinate to a primary use or development.
Accretion	“Accretion” means the growth of a beach by the addition of material transported by wind and/or water. Included are such shore forms as barrier beaches, points, spits, hooks, and tombolos.
Act	“Act” means the Washington State Shoreline Management Act of 1971 (Chapter 90.58 RCW), as amended.
Adjacent lands	“Adjacent lands” means lands adjacent to the shorelines of the state (not in shoreline jurisdiction) (RCW 90.58.340).
Aggrieved person	“Aggrieved person” means a person who is suffering from an infringement or denial of legal rights or claims.
Agricultural activities	“Agricultural activities” means agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation.
Agricultural equipment and facilities	“Agricultural equipment” and “agricultural facilities” include, but are not limited to: <ul style="list-style-type: none"> <li>• 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;</li> <li>• Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;</li> <li>• Farm residences and associated equipment, lands, and facilities; and</li> <li>• Roadside stands and on-farm markets for marketing fruit or vegetables.</li> </ul>
Agricultural land	“Agricultural land” means those specific land areas on which agricultural activities are conducted as of the date of adoption of a local master program pursuant to these guidelines as evidenced by aerial photography or other documentation. After the effective date of this Program, land converted to agricultural use is subject to compliance with the requirements of this Program.
Agricultural products	“Agricultural products” includes, but is not limited to, horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty (20) years of planting; and livestock including both the animals themselves and animal products including, but not limited to, meat, upland finfish, poultry and poultry products, and dairy products.
Amendment	“Amendment” means a revision, update, addition, deletion, and/or re-enactment to an existing shoreline master program.
Appurtenance	“Appurtenance” means a structure or development normally and necessarily connected to a primary use.
Appurtenance, normal	“Appurtenance, normal” means appurtenances for residential uses limited to garages (up to three (3) cars), shops (up to one thousand (1,000) square feet), decks, driveways, utilities, and fences.
Aquaculture	“Aquaculture” means the cultivation or farming of fish, shellfish, or other aquatic plants and animals (WAC 173-26-020(6)).

Associated wetlands	“Associated wetlands” means those wetlands which are in proximity to and either influence or are influenced by waters of a lake, river or stream subject to the Shoreline Management Act.
Average grade level	“Average grade level” means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure. For structures to be built over water, average grade level shall be the elevation of the ordinary high water mark. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure (WAC 173-27-030(3)).
Beach enhancement	“Beach enhancement” means the process of restoring a beach to a state more closely resembling a natural beach, using beach feeding, vegetation drift sills, and other nonintrusive means as applicable.
Bedlands	“Bedlands” means those submerged lands, including tidelands where appropriate, underlying navigable waters.
Berm	“Berm” means: <ul style="list-style-type: none"> <li>• A linear mound or series of mounds of earth, sand and/or gravel generally paralleling the water at or landward of the line of ordinary high water; or</li> <li>• A linear mound used to screen an adjacent activity, such as a parking lot, from transmitting excess noise and glare.</li> </ul>
Best available science	“Best available science” means the most reliable and available scientific information, most often used in the context of local government compliance with the State Growth Management Act (RCW 36.70A.172) for developing policies and development regulations regarding critical areas (Chapter 365-195 WAC).
Best available technology	“Best available technology” means the most effective method, technique, or product available which is generally accepted in the field, and which is demonstrated to be reliable, effective, and preferably low maintenance.
Bioengineering	“Bioengineering” means project designs or construction methods which use live woody vegetation or a combination of live woody vegetation and specially developed natural or synthetic materials to establish a complex root grid within the existing bank which is resistant to erosion, provides bank stability, and maintains a healthy riparian environment with habitat features important to fish life. Use of wood structures or limited use of clean angular rock may be allowable to provide stability for establishment of the vegetation (WAC 220-110-020(12)).
Boat	“Boat” means any floating vessel or watercraft, including ships and barges, which is designed and used for navigation for commerce or recreation.
Boat house	“Boat house” means an over-water structure designed for storage of boats.
Boat launch facility	“Boat launch facility” means a facility or structure providing access in and out of the water for boats, such as ramps, rails, or lift stations.
Breakwater	“Breakwater” means a structure aligned parallel to shore, sometimes shore-connected, that provides protection from waves.
Buffer area	“Buffer area” means a tract or strip of land that is designed and designated to permanently remain vegetated in a natural condition to protect an adjacent aquatic or wetland site from upland impacts, improve water quality, and to provide habitat for wildlife.
Bulkhead	“Bulkhead” means a solid, open-pile, or irregular wall of rock, rip-rap, concrete, steel, or timber or combination of these materials erected parallel to and near ordinary high water mark to provide a protective vertical wall resistant to water and wave action.
Channel	“Channel” means an open conduit for water either naturally or artificially created, but does not include artificially created irrigation, return flow, or stock-watering channels (WAC 173-27-030(8b)).
Channel migration zone	“Channel migration zone” means the area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.
Clean Water Act	“Clean Water Act” means the primary federal law providing water pollution prevention and control, previously known as the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).
Commercial	“Commercial” means a business use or activity at a scale greater than a home business or cottage industry involving retail or wholesale marketing of goods and services. Examples of commercial uses include restaurants, offices, and retail shops.
Commercial fishing	“Commercial fishing” means the activity of capturing fish and other seafood under a commercial license.

Conditional use	“Conditional use” means a use, development, or substantial development which is classified as a conditional use, or is not classified within this Program, and requires a conditional use permit (WAC 173-27-030(4)).
Covered moorage	“Covered moorage” means a boat moorage, with or without walls, that has a roof to protect a boat.
Critical habitat	“Critical habitat” means specific geographical areas that possess physical or biological features that are essential to the conservation of federally listed species. These designated areas may require special management considerations or protection.
Date of filing	<p>“Date of filing” means the date of actual receipt by Ecology of the county’s decision.</p> <ul style="list-style-type: none"> <li>• For a variance or conditional use permit, the date of filing is the date Ecology’s decision is transmitted to the county.</li> <li>• For a variance or conditional use permit decision in conjunction with a shoreline substantial development permit decision, the date of filing is the date Ecology’s decision is transmitted to the county.</li> </ul>
Development regulations	“Development regulations” means the controls placed on development or land uses, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a shoreline master program other than goals and policies approved or adopted under Chapter 90.58 RCW, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto (WAC 173-26-020(8)).
Dike	“Dike” means an artificial embankment normally set back from the bank or channel in the floodplain for the purpose of keeping floodwaters from inundating adjacent land.
Dock	“Dock” means a landing or moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances.
Dredge material	“Dredge material” means material removed by dredging.
Dredging	“Dredging” means the removal or displacement of earth or sediments such as gravel, sand, mud, silt, or debris from below the OHWM.
Dredging, maintenance	“Maintenance dredging” means dredging for the purpose of maintaining a prescribed minimum depth previously authorized by a federal, state, and/or local permit as part of any specific waterway project. Maintenance dredging also includes dredging that maintains the previously authorized width of a channel, boat basin or berthing area.
Dredging, nonmaintenance	“Nonmaintenance dredging” means any dredging that is not maintenance dredging.
Drift sector	“Drift sector” means the extent of the littoral drift area downstream from and caused by a breakwater, jetty, rock weir or groin.
Ecology	“Ecology” means the Washington Department of Ecology.
Ecosystem-wide processes	“Ecosystem-wide processes” means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions (WAC 173-26-020(12)).
Effective date of permit	“Effective date of permit” means, for shoreline substantial development, conditional use, and variance permits, the date of filing as provided in RCW 90.58.140(6) which includes completion of all appeals or legal actions.
Emergency	“Emergency” means the unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with Chapter 173-27 WAC.
Enhancement	“Enhancement” means alterations performed to improve the condition of an existing degraded area so that shoreline functions provided are of a higher quality. Enhancements are to be distinguished from resource creation or restoration projects.
Erosion	“Erosion” means the general process or the group of processes whereby the materials of the earth’s crust are loosened, dissolved, or worn away, and simultaneously moved from one place to another, by natural forces that include weathering, solution, corrosion, and transportation, but usually exclude mass wasting.
Exempt/exemption	“Exempt/exemption” means developments that are not required to obtain a Shoreline Substantial Development Permit but which must otherwise comply with applicable provisions of the Act and this Program.

Fair market value	<p>“Fair market value” means the open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials (WAC 173-27-030(8)).</p>
Feasible	<p>“Feasible” means an action, such as a development project, mitigation, or preservation requirement, that meets all of the following conditions:</p> <ul style="list-style-type: none"> <li>• 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;</li> <li>• The action provides a reasonable likelihood of achieving its intended purpose; and</li> <li>• The action does not physically preclude achieving the project’s primary intended legal use.</li> </ul> <p>In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action’s infeasibility, the reviewing agency may weigh the action’s relative public costs and public benefits, considered in the short- and long-term time frames.</p>
Feeder bluff	<p>“Feeder bluff” means any bluff (or cliff) experiencing periodic erosion from waves, sliding, or slumping, whose eroded earth, sand, or gravel material is naturally transported (littoral drift) via a driftway to an accretion shore form. Feeder bluff exceptional segments lack a backshore, old or rotten logs, and coniferous bluff vegetation.</p>
Fill	<p>“Fill” means the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation of or creates dry land (WAC 173-26-020(16)).</p>
Fill, speculative	<p>“Speculative fill” means the placement of fill material not associated with an approved project.</p>
Fish and wildlife habitat conservation area	<p>“Fish and wildlife habitat conservation areas” means habitat for endangered, threatened and sensitive species; priority habitats and areas associated with priority species; habitats of local importance; and water bodies, and that are designated in Chapter 40.440.</p>
Float	<p>“Float” means a fixed platform structure anchored in and floating upon a water body that does not connect to the shore, and that provides landing for water-dependent recreation or moorage for vessels or watercraft.</p>
Floating home	<p>“Floating home” means a single-family dwelling unit constructed on a float that is moored, anchored, or otherwise secured in waters, and is not a boat, even though it may be capable of being towed.</p>
Flood hazard reduction	<p>“Flood hazard reduction” means measures taken to reduce flood damage or hazards. Flood hazard reduction measures may consist of nonstructural or indirect measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, bioengineering measures, and stormwater management programs; and of structural measures, such as dikes, levees, and floodwalls intended to contain flow within the channel, channel realignment, and elevation of structures consistent with the National Flood Insurance Program.</p>
Floodplain	<p>See “special flood hazard area.”</p>
Floodway	<p>“Floodway” means the area that has been established in Federal Emergency Management Agency flood insurance rate maps or floodway maps.</p>
Forb	<p>“Forb” means an herbaceous, nonwoody plant other than grass.</p>
Forest practices	<p>“Forest practices” means any activity conducted on or directly related to forest land and relating to growing, harvesting, or processing timber. These activities include but are not limited to: road and trail construction, final and intermediate harvesting, pre-commercial thinning, reforestation, fertilization, prevention and suppression of disease and insects, salvage of trees, and brush control (WAC 222-16-010(21)).</p>
Gabion	<p>“Gabion” means a structure composed of masses of rocks, rubble, or masonry held tightly together usually by wire mesh so as to form blocks or walls. They are sometimes used on heavy erosion areas to retard wave action, to reduce mass wasting, or as foundations for breakwaters or jetties.</p>
Geologic hazard area study	<p>“Geological hazard area study” means a scientific study or evaluation of geological, hydrological, geochemical and/or geomorphological aspects of a site conducted by a qualified expert that meets the requirements of Section 40.430.030(C)(4).</p>

Grassy swale	“Grassy swale” means a vegetated drainage channel that is designed to remove various pollutants from stormwater runoff through biofiltration.
Groin	“Groin” means a barrier-type structure extending from the backshore or stream bank into a water body for the purpose of the protection of a shoreline and adjacent upland by influencing the movement of water and/or deposition of material.
Height	“Height” means the distance measured from the average grade level to the highest point of a structure; provided, that television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where it obstructs the view of a substantial number of residences on areas adjoining such shorelines (or the Master Program provides otherwise); and provided further that temporary construction equipment is excluded in this calculation (WAC 173-27-030(9)).
Hook	“Hook” means a spit or narrow cape of sand or gravel which turns landward at its outer end.
Institutional use	“Institutional use” means a use and related structure(s) for the provision of educational, medical, cultural, public safety, social and/or recreational services to the community, including but not limited to schools, colleges, museums, community centers, and the relevant essential public facilities identified in WAC 365-196-550.
In-stream structure	“In-stream structure” means a structure placed by humans within a stream or river waterward of the ordinary high water mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose. A stormwater outfall is not an in-stream structure.
Interested party	“Interested party” means a person who has notified local government of their desire to receive a copy of the final order on a permit under WAC 173-27-030.
Invasive	“Invasive” means a non-native plant or animal species that: <ul style="list-style-type: none"> <li>• Causes or may cause significant displacement in range or significant reduction in abundance of native species; or</li> <li>• Threatens or may threaten natural resources or their use in the state; or</li> <li>• Causes or may cause economic damage to commercial or recreational activities that are dependent upon state waters; or</li> <li>• Threatens or harms human health (RCW 77.08.010(28)).</li> </ul>
Jetty	“Jetty” means a structure usually projecting out into the water for the purpose of protecting a navigation channel, a harbor, or to influence water currents.
Joint-use moorage facility	“Joint-use moorage facility” means a moorage for pleasure craft and/or landing for water sports for use in common by shoreline residents with adjoining lots, each with water frontage, or of a certain subdivision or community within shoreline jurisdiction or for use by patrons of a public park or quasi-public recreation area, including rental of nonpowered craft. A joint-use moorage facility is a marina if: <ul style="list-style-type: none"> <li>• It provides commercial goods or services;</li> <li>• It is of a large scale (more than ten (10) slips);</li> <li>• Moorage is proposed to be leased to upland property owners; or</li> <li>• The proposal includes a boat launching facility other than a ramp.</li> </ul>
Lake	“Lake” means a body of standing water in a depression of land or expanded part of a river, including reservoirs, of twenty (20) acres or greater in total area. A lake is bounded by the ordinary high water mark or, where a stream enters a lake, the extension of elevation of the lake’s ordinary high water mark within the stream (RCW 90.58.030(2)(c); WAC 173-20-030; WAC 173-22-030(4)).
Levee	“Levee” means a large dike or embankment, often having an access road along the top, which is designed as part of a system to protect land from floods.
Limited utility extension	“Limited utility extension” means the extension of a utility service that is categorically exempt under Chapter 43.21C RCW for natural gas, electricity, telephone, water or sewer to service an existing use and which will not extend more than twenty-five hundred (2,500) linear feet within the shorelines of the state.
Littoral	“Littoral” means the area of the shore from the OHWM waterward to a depth of two meters below

	ordinary low water or to the maximum extent of nonpersistent emergent plants.
Littoral drift	“Littoral drift” means the mud, sand, or gravel material moved parallel to the shoreline in the nearshore zone by waves and current.
Live-aboard	“Live-aboard” means a boat or vessel principally used as an over-water residence. Principal use as an over-water residence means that it is occupied in a single location for a period exceeding two (2) months in any one (1) calendar year. Live-aboards are licensed and designed for use as a mobile structure with detachable utilities or facilities, anchoring, and the presence of adequate self-propulsion and steering equipment to operate as a boat.
Local government	“Local government” means any county, incorporated city, or town which contains within its boundaries shorelines of the state subject to Chapter 90.58 RCW.
Log booming	“Log booming” means the placement in or removal of logs and log bundles from the water, and the assembly and disassembly of rafts for waterborne transportation.
Marina	<p>“Marina” means a water-dependent commercial use which consists of a system of piers, buoys, or floats that provides moorage for at least ten (10) boats. For the purposes of this Program, large community moorage facilities, yacht club facilities, and camp or resort moorage areas are also considered marinas. Boat launch facilities and supplies and services for small commercial or pleasure craft are often associated with marinas. Uses accessory to marinas may include fuel docks and storage, boating equipment sales and rental, repair services, public launching, bait and tackle shops, potable water, waste disposal, administration, parking, groceries, and dry goods.</p> <p>“Foreshore marinas” are marinas located waterward of the ordinary high water mark.</p> <p>“Backshore marinas” are marinas located landward of the ordinary high water mark. There are two (2) common types of backshore marinas:</p> <ul style="list-style-type: none"> <li>• A wet-moorage marina that is dredged out of the land artificially creating a basin; and</li> <li>• A dry-moorage marina which has upland storage with a hoist, marine travel lift, or ramp for water access.</li> </ul>
Marine railway	“Marine railway” means a set of steel rails running from the upland area into the water upon which a cart or dolly can carry a boat to be launched.
Marine travel lift	“Marine travel lift” means a mechanical device that can hoist vessels off trailers and transport them into the water. Often associated with dry land moorage.
May	“May” means the action is acceptable, provided it conforms to the provisions of this Program.
Merchantable trees	“Merchantable trees” means live trees, six (6) inches in diameter at breast height (DBH) and larger, unless documentation of current, local market conditions is submitted and accepted by the local jurisdiction indicating nonmarketability. “Merchantable trees” shall not include trees smaller than four (4) inches DBH.
Mining	“Mining” means the removal of sand, gravel, soil, minerals, and other earth materials for commercial and other uses (WAC 173-26-241).
Mitigation	“Mitigation” means to avoid, minimize or compensate for adverse impacts to shoreline ecological functions and processes.
Mixed-use project	“Mixed-use project” means a development which includes a combination of components, such as residential uses, hotels, marinas, habitat improvement actions, public access provisions, and other uses.
Moorage	“Moorage” means a pier, dock, buoy or float, either fixed or floating, to which boats may be secured.
Mooring buoy	“Mooring buoy” means a floating object anchored to the bottom of a water body that provides tie-up capabilities for boats or watercraft.
Multifamily dwelling	“Multifamily dwelling” means a building containing two (2) or more dwelling units including but not limited to duplexes, apartments, and condominiums.
Must	“Must” means a mandate; the action is required.
Navigable waters	“Navigable waters” means that a body of water is capable or susceptible of having been or being used for the transport of useful commerce. The state of Washington considers all bodies of water meandered by government surveyors as navigable unless otherwise declared by a court (WAC 332-30-106).
Navigational channels	“Navigational channels” means those routes on the waters of Clark County beyond the outer harbor line, commonly used by ships for useful commerce.

Nonconforming structure	“Nonconforming structure” means a structure that was lawfully constructed or established prior to the effective date of the applicable Act or Program provision, and that no longer conforms to the applicable shoreline provisions (WAC 173-27-080(1)).
Nonconforming use	“Nonconforming use” means a use or activity that was lawfully established prior to the effective date of the applicable Act or Program provision, and that no longer conforms to the applicable shoreline provisions. (WAC 173-27-080(1)).
Normal maintenance	“Normal maintenance” means those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition (WAC 173-27-040(2)(b)), except for maintenance that would cause substantial adverse effects to shoreline resources or environment; and, provided, that the replacement of demolished existing single-family residences and their appurtenances is not considered normal maintenance; and further provided, that maintenance of nonconforming structures and developments is subject to the provisions of Sections 40.420.010 and 40.460.250. See also “normal repair.” (Amended: Ord. 2015-12-12)
Normal repair	“Normal repair” means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except for repair that would cause substantial adverse effects to shoreline resources or environment; and, provided, that the replacement of a demolished existing single-family residence and its appurtenances is not considered normal repair; and further provided, that repair or replacement of nonconforming uses is subject to Sections 40.420.010 and 40.460.250. See also “normal maintenance.” (Amended: Ord. 2015-12-12)
Noxious weeds	“Noxious weeds” means non-native plants which are destructive, competitive, and difficult to control, as defined by the Washington State Noxious Weed Control Board.
Operation	“Operation” means an industrial, commercial, institutional, or residential activity that may be publicly or privately owned and operated, and may involve the use of stationary facilities, equipment, transport vehicles, or transfer equipment. To the extent allowed by state or federal law, this definition includes all federal, state, or local government entities.
Ordinary high water mark	“Ordinary high water mark” means that mark found by examining the bed and banks of a body of water and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or Ecology; provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the OHWM adjoining fresh water shall be the line of mean high water (RCW 90.58.030(2)(c) and WAC 173-22-030(6)).
Outer harbor line	“Outer harbor line” means the line located and established by the Department of Natural Resources in navigable waters that delineates the extent of water area that may be leased to private interests.
Over-water structure	“Over-water structure” means a structure or other construction located waterward of the ordinary high water mark (OHWM) or a structure or other construction erected on piling above the surface of the water, or upon a float.
Parking	“Parking” means the temporary storage of automobiles or other motorized vehicles. Accessory parking is that which directly serves an approved shoreline use.
Party of record	“Party of record” means all persons, agencies or organizations who have submitted written comments in response to a notice of application, made oral comments in a formal public hearing conducted on the application, or requested in writing to be a “party of record.” Notwithstanding any of the foregoing, no person shall be a party of record who has not furnished an accurate post office mailing address.
Permit	“Permit” means any substantial development, variance, conditional use permit, or revision authorized under Chapter 90.58 RCW.
Permitted use	“Permitted use” means a use which is allowed under the rules and regulations of this Program.
Person	“Person” means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated.
Pier	“Pier” means a fixed platform structure supported by piles in a water body that abuts the shore to provide landing for water-dependent recreation or moorage for vessels or watercraft and does not include above-water storage.

Pierhead line	"Pierhead line" means the waterward limit to which open pile work may be constructed as designated by the federal government.
Point	"Point" means a low profile shoreline promontory of more or less triangular shape, the top of which extends seaward. A point may be the wavecut shelf remnant of a headland bluff or a purely accretional deposit which began as a hooked spit and becomes a point by subsequently closing the lagoon gap between the headland and the tip of the hook. Points are characterized by converging berms that normally enclose a lagoon, marsh, or meadow, depending on the point's stage of development.
Port	"Port" means a municipal corporation which is a special purpose district of local government authorized by the Washington State Constitution and regulated by RCW Title 53.
Potentially harmful materials	<p>"Potentially harmful materials" means hazardous materials as defined in this section as well as other materials such as the following which, if discharged or improperly disposed, may present a risk to water resources:</p> <ul style="list-style-type: none"> <li>• Petroleum products including but not limited to petroleum fuel and petroleum based coating and preserving materials;</li> <li>• Oils containing PCBs;</li> <li>• Antifreeze and other liquid automotive products;</li> <li>• Metals, either in particulate or dissolved form, in concentrations above established regulatory standards; flammable or explosive materials;</li> <li>• Radioactive material;</li> <li>• Used batteries; corrosives, acids, alkalis, or bases;</li> <li>• Paints, stains, resins, lacquers or varnishes;</li> <li>• Degreasers;</li> <li>• Solvents;</li> <li>• Construction materials;</li> <li>• Drain cleaners and other toxic liquid household products;</li> <li>• Pesticides, herbicides, fungicides or fertilizers unless applied in accordance with local, state and federal standards;</li> <li>• Steam cleaning and carpet cleaning wastes;</li> <li>• Car wash water;</li> <li>• Laundry wastewater;</li> <li>• Soaps, detergents, ammonia;</li> <li>• Swimming pool backwash;</li> <li>• Chlorine, bromine, and other disinfectants;</li> <li>• Heated water;</li> <li>• Domestic animal wastes;</li> <li>• Sewage;</li> <li>• Recreational vehicle waste;</li> <li>• Animal carcasses, excluding salmonids;</li> <li>• Food wastes;</li> </ul>

	<ul style="list-style-type: none"> <li>• Collected lawn clippings, leaves or branches;</li> <li>• Trash or debris;</li> <li>• Silt, sediment, or gravel;</li> <li>• Dyes; and</li> <li>• Untreated or unapproved wastewater from industrial processes.</li> </ul>
Priority species	<p>“Priority species” means species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the following criteria:</p> <ul style="list-style-type: none"> <li>• State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the Department of Fish and Wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.</li> <li>• 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.</li> <li>• Species of recreational, commercial, and/or tribal importance. Native and non-native fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.</li> <li>• Species listed under the federal Endangered Species Act as proposed, threatened, or endangered (WAC 173-26-020(25)).</li> </ul>
Program (Shoreline Master Program)	<p>“Program” means the comprehensive use plan for the county’s shorelands, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020. As provided in RCW 36.70A.480, the goals and policies of a shoreline master program approved under Chapter 90.58 RCW shall be considered an element of Clark County’s comprehensive plan. All other portions of the Shoreline Master Program for Clark County adopted under Chapter 90.58 RCW, including use regulations, shall be considered a part of Clark County’s development regulations.</p>
Project area	<p>“Project area” means the area which will be directly physically affected by a proposed development.</p>
Provisions	<p>“Provisions” means policies, regulations, standards, guideline criteria, or environment designations.</p>
Public access	<p>“Public access” means the physical ability of the general public to reach, touch and enjoy the water’s edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations (WAC 173-26-221).</p>
Public interest	<p>“Public interest” means the interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected including, but not limited to, an effect on public property or on health, safety, or general welfare resulting from a use or development (WAC 173-27-030(14)).</p>
Qualified professional	<p>“Qualified professional” means a person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4).</p>
Recreational use	<p>“Recreational use” means a use and related structures for the provision of recreational activities, as follows:</p> <ul style="list-style-type: none"> <li>• Active recreational use/facility: involves a large number of participants or viewers; requires high levels of maintenance; or that results in high levels of noise. Examples are sports fields, golf courses, skate parks, and motorized boat launches.</li> <li>• Passive recreational use/facility: involves a small number of participants or viewers at any given time; requires low levels of maintenance; or that results in little noise generation. Examples are wildlife viewing areas, picnic tables, hand launch facilities and nonmotorized trails.</li> </ul>

Residential use	“Residential use” means the development of single-family and multifamily dwellings and their normal appurtenances, and the creation of new residential lots through land division.
Restoration	“Restoration” means to re-establish or upgrade impaired ecological processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.
Revetment	“Revetment” means a sloped wall constructed of riprap or other material placed on stream banks or other shorelines to retard bank erosion and minimize lateral stream movement. A revetment typically slopes waterward and has rough or jagged facing. The slope differentiates it from a bulkhead, which is a vertical structure.
Riprap	“Riprap” means a foundation or retaining wall of stones or rock placed along the water’s edge or on an embankment to prevent erosion.
Rock weir	See “groin.”
Setback	“Setback” means the distance an activity or structure must be located from the ordinary high water mark.
Shall	“Shall” means a mandate; the action must be done.
Shorelands	“Shorelands” means those lands extending landward for two hundred (200) feet in all directions as measured on a horizontal plane from the OHWM; floodways and contiguous floodplain areas landward two hundred (200) feet from such floodways; the full extent of floodplains; and all wetlands and river deltas associated with the streams and lakes and tidal waters that are subject to the provisions of this Program; the same to be designated as to location by Ecology.
Shoreline Administrator	“Shoreline Administrator” means the responsible official or his/her designee.
Shoreline designations	“Shoreline designations” means the categories of shorelines established by this Program in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas.
Shoreline ecological functions	“Shoreline ecological functions” means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline’s natural ecosystem (WAC 173-26-200(2)(c)).
Shoreline jurisdiction	“Shoreline jurisdiction” means all shorelines of the state and shorelands, as defined in RCW 90.58.030 and in Section 40.460.210(A) of this Program.
Shoreline modifications	“Shoreline modifications” means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.
Shoreline restoration project	“Shoreline restoration project” means a project designed to restore impaired ecological function of a shoreline.
Shoreline stabilization	“Shoreline stabilization” means actions taken to address erosion impacts to property and structures caused by processes such as current, flood, wind, or waves. Structural measures include but are not limited to bulkheads, revetments and rip-rap. Nonstructural measures include building setbacks, relocation of structures, and bioengineered methods that use vegetation or wood.
Shoreline substantial development permit	“Shoreline substantial development permit” means the permit required by this Program for uses that are substantial developments in shoreline jurisdiction.
Shorelines	“Shorelines” means all of the water areas of Clark County, including reservoirs, and their associated shorelands, together with the lands underlying them, except: (a) shorelines of statewide significance; (b) shorelines on segments of streams upstream of a point where the mean annual flow is twenty (20) cubic feet per second or less, and the wetlands associated with such upstream segments; and (c) shorelines on lakes less than twenty (20) acres in size and wetlands associated with such small lakes. (RCW 90.58.030(2)(e) and Chapters 173-18, 173-22 and 173-26 WAC).
Shorelines Hearings Board	“Shorelines Hearings Board” means the quasi-judicial body established by the Shoreline Management Act of 1971 to hear appeals by any aggrieved party on the issuance of substantial development permits, conditional uses, variance, or enforcement penalties.
Shorelines of statewide significance	“Shorelines of statewide significance” means a select category of shorelines of the state, defined in RCW 90.58.030(2)(f), where special policies apply, and as described below: <ul style="list-style-type: none"> <li>• Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand (1,000) acres or more, measured at the ordinary high water mark, and their associated shorelands; and</li> </ul>

	<ul style="list-style-type: none"> <li>Those natural rivers or segments thereof, downstream of a point where the mean annual flow is measured at one thousand (1,000) cubic feet per second or more, and their associated shorelands.</li> </ul>
Shoreline of the state	“Shorelines of the state” means the total of all “shorelines” and “shorelines of statewide significance” within the state.
Should	“Should” means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and Chapter 173-26 WAC, against taking the action.
Sign	“Sign” means any structure, device, advertisement, advertising device, or visual representation intended to advertise, identify, or communicate information to attract the attention of the public for any reason. Informational signs are noncommercial and intended to communicate safety, directional, navigation, educational, or interpretive information.
Significant vegetation removal	“Significant vegetation removal” means the removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, where it does not affect ecological functions, does not constitute significant vegetation removal (WAC 173-26-020(33)).
Solid waste facility	“Solid waste facility” means any land or structure where solid waste is stored, collected, transported, or processed in any form, whether loose, baled or containerized, including but not limited to the following: transfer stations, landfills, or solid waste loading facilities. Solid waste handling and disposal facilities do not include the following: handling or disposal of solid waste as an incidental part of an otherwise permitted use; and solid waste recycling and reclamation activities not conducted on the same site as and accessory to the handling and disposal of garbage and refuse.
Special flood hazard area	“Special flood hazard area” means the one hundred (100) year floodplain and refers to the land area susceptible to inundation with a one percent (1%) chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood hazard maps as adopted in Chapter 40.420 or a reasonable method which meets the objectives of the Act (WAC 173-26-020(15)).
Stormwater	“Stormwater” means runoff resulting from precipitation or snowmelt, including surface runoff, drainage, and interflow.
Substantial development	“Substantial development” means any development of which the total cost or fair market value exceeds five thousand seven hundred eighteen dollars (\$5,718), or as adjusted by the State Office of Financial Management, or any development which materially interferes with the normal public use of the water or shorelines of the state, except as specifically exempted pursuant to RCW 90.58.030(3)(e) and WAC 173-27-040.
Substantially degrade	“Substantially degrade” means to cause significant ecological impact (WAC 173-26-020(35)).
Surface water	“Surface water” means water that flows across the land surface, in channels, or is contained in depressions in the land surface, including but not limited to ponds, lakes, rivers, and streams.
Terrestrial	“Terrestrial” means of or relating to land as distinct from air and water.
Transmit	“Transmit” means to send from one person or place to another by mail or hand delivery. The date of transmittal for mailed items is the date that the document is certified for mailing or, for hand-delivered items, is the date of receipt at the destination (WAC 173-27-030(16)).
Transportation facility	“Transportation facility” means a road, railway, bridge, and related structures such as culverts, fills, and embankments, for the purpose of moving people or freight using motorized and nonmotorized means of transport, including the relevant essential public facilities identified in WAC 365-196-550.
Upland	“Upland” means generally the dry land area above and landward of the OHWM.
Variance	“Variance” means to grant relief from the specific bulk, dimensional or performance standards set forth in the applicable Master Program and not a means to vary a use of a shoreline. See RCW 90.58.160 and WAC 173-27-030(17).
Vegetation conservation	“Vegetation conservation” means activities to protect and restore vegetation along or near marine and freshwater shorelines that contribute to the ecological functions of shoreline areas. Vegetation conservation provisions include the prevention or restriction of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and non-native species (WAC 173-26-221).
Vessel	See “boat.”
View corridor	“View corridor” means a portion of a viewshed reserved through development regulations for the purpose of retaining the ability of the public to see a particular object (such as a mountain or body of water) or a landscape within a context which fosters appreciation of its aesthetic value.

Water-dependent use	“Water-dependent” means a use or a portion of a use which requires direct contact with the water and cannot exist at a nonwater location due to the intrinsic nature of its operations.
Water-enjoyment use	“Water-enjoyment use” means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public’s ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that foster shoreline enjoyment.
Water frontage	“Water frontage” means the portion of a parcel adjacent to the OHWM between property lines.
Water-oriented use	“Water-oriented use” means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.
Water quality	“Water quality” means the characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. (WAC 173-26-020(42)).
Water quantity	“Water quantity” means development and uses affecting water quantity, such as impermeable surfaces and stormwater handling practices. Water quantity, for purposes of this chapter, does not mean the withdrawal of groundwater or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340 (WAC 173-26-020(42)).
Water-related use	<p>“Water-related use” means a use or portion of use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:</p> <ul style="list-style-type: none"> <li>• Of a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or</li> <li>• 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.</li> </ul>
Watershed restoration project	<p>“Watershed restoration project” means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one (1) or more of the following activities (RCW 89.08.460):</p> <ul style="list-style-type: none"> <li>• A project that involves less than ten (10) miles of stream reach, in which less than twenty-five (25) cubic yards of sand, gravel, or soil are removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;</li> <li>• A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or</li> <li>• A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state; provided, that any structure, other than a bridge or culvert or in-stream habitat enhancement structure associated with the project, is less than two hundred (200) square feet in floor area and is located above the ordinary high water mark of the stream.</li> </ul>
Weir	“Weir” means a structure in a stream or river for measuring or regulating stream flow.

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