

Chapter 18.25

SHORELINE MASTER PROGRAM

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Date of Base Code: The Jefferson County Code is current through Ordinance 06-0817-20, passed August 17, 2020. The Jefferson County Shoreline Master Program is current through Ordinance 07-1216-13, passed December 16, 2013; the SMP became effective February 21, 2014. **Shading in Comment Flags:** 1) **Yellow** in response to public comments within Planning Commission Recommendations October 2021. 2) **Pink** changes in response to Ecology initial review and Planning Commission discussions in 2023. 3) **Blue** based on Planning Commission motions.

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112 Article I. **Introduction**

113 **18.25.010 Purpose and intent.**

114 (1) The purposes of this shoreline master program are to:

- 115 (a) Guide the future use and development of Jefferson County's shorelines in a positive, effective,
- 116 and equitable manner consistent with the Washington State Shoreline Management Act of 1971
- 117 (Chapter 90.58 RCW) as amended; and

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Commented [LG1]: Periodic Checklist 2007b

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118 (b) Promote the health, safety, and general welfare of the community by providing long range,
119 comprehensive policies and effective, reasonable regulations for use and development of Jefferson
120 County shorelines; and

121 (c) Ensure, at minimum, no net loss of shoreline ecological functions and processes; and

122 (d) Plan for restoring shorelines that have been impaired or degraded in the past; and

123 (e) Adhere to the policies contained in RCW 90.58.020 for shorelines of the state:

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

132 In the implementation of this policy the public's opportunity to enjoy the physical
133 and aesthetic qualities of natural shorelines of the State shall be preserved to the
134 greatest extent feasible consistent with the overall best interest of the State and the
135 people generally. To this end uses shall be preferred which are consistent with
136 control of pollution and prevention of damage to the natural environment or are
137 unique to or dependent upon use of the State's shoreline. Alterations of the natural
138 condition of the shorelines of the State, in those limited instances when authorized,
139 shall be given priority for single family residences, ports, shoreline recreational uses
140 including but not limited to parks, marinas, piers, and other improvements
141 facilitating public access to shorelines of the State, industrial and commercial
142 developments which are particularly dependent on their location on or use of the
143 shorelines of the State, and other development that will provide an opportunity for
144 substantial numbers of the people to enjoy the shorelines of the State.

145 Permitted uses in the shorelines of the State shall be designed and conducted in a
146 manner to minimize, insofar as practical, any resultant damage to the ecology and
147 environment of the shoreline area and any interference with the public's use of the
148 water.

149 [Ord. 7-13 Exh. A (Art. I § 1)]

150 **18.25.020 Applicability.**

151 (1) All proposed uses and development, as defined in Article II of this chapter, occurring within shoreline
152 jurisdiction shall comply with this program and Chapter 90.58 RCW. This program applies to all uses and
153 developments within shoreline jurisdiction whether or not a shoreline permit or statement of permit
154 exemption is required.

155 (2) This program's shoreline uses and developments shall be classified as follows:

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156 (a) Permitted Uses and Developments. Uses and developments that are consistent with this
157 program and Chapter 90.58 RCW. Such uses/developments shall require a shoreline substantial
158 development permit, a shoreline conditional use permit, a shoreline variance, and/or a statement
159 that the use/development is exempt from a shoreline substantial development permit.

160 (b) Prohibited Uses and Developments. Uses and developments that are inconsistent with this
161 program and/or Chapter 90.58 RCW and which cannot be allowed through any permit or variance.

162 (3) Classification of a use or development as permitted does not necessarily mean the use/development
163 is allowed. It means the use/development may be permitted subject to review and approval by the
164 county and/or the Department of Ecology. Many permitted uses/developments, including those that do
165 not require a substantial development permit, can individually or cumulatively affect adjacent
166 properties and/or natural resources and therefore must comply with this program in order to avoid or
167 minimize such adverse impacts. The county may attach conditions of approval to any permitted use via a
168 permit or statement of exemption as necessary to assure consistency of the project with the Shoreline
169 Management Act and this program.

170 (4) This program shall apply to:

171 (a) All of the lands and waters of Jefferson County that fall under the jurisdiction of Chapter 90.58
172 RCW, ~~and consistent with Article IV;~~

173 (b) Every person, individual, firm, partnership, association, organization, local or state governmental
174 agency, public or municipal corporation, or other nonfederal entity; and

175 (c) All nonfederal uses and developments undertaken on federal lands and on lands subject to
176 nonfederal ownership, lease, or easement, even though such lands may fall within the external
177 boundaries of federally owned lands¹; ~~and~~

178 (5) Federal agencies are subject to this program and Chapter 90.58 RCW, as provided by the Coastal
179 Zone Management Act (16 U.S.C. 1451 et seq. and WAC 173-27-060(1)).

180 (6) The provisions of this program shall not apply to lands held in trust by the United States for Indian
181 Nations, tribes or individuals. Where tribal concerns are expressed in relation to SMP jurisdiction, those
182 shall be resolved through appropriate government to government consultation in accordance with
183 Washington State Centennial Accord and the RCW. ~~{Ord. 7-13 Exh. A (Art. I § 2)}~~

184 (7) Areas and uses in those areas that are under exclusive federal jurisdiction as established through
185 federal or state statutes are not subject to the jurisdiction of chapter 90.58 RCW, including Olympic
186 National Park. {Ord. 7-13 Exh. A (Art. I § 2)}

187 **18.25.030 Governing principles of this master program.**

188 (1) The goals, policies and regulations of this program are based on the governing principles in WAC 173-
189 26-186 and the policy statements of RCW 90.58.020.

190 (2) Any inconsistencies between this program and Chapter 90.58 RCW must be resolved in accordance
191 with the RCW.

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192 (3) The planning policies of this program may be achieved by diverse means, one of which is regulation.
193 The county may also acquire land, implement capital projects and programs, encourage voluntary
194 measures, create incentive programs, or use other means to implement this program's planning policies.

195 (4) When regulating use and development of private property, the county's actions must be consistent
196 with all relevant legal limitations including constitutional limitations. This program must not
197 unconstitutionally infringe on private property rights or result in an unconstitutional taking of private
198 property.

199 (5) The regulatory provisions of this program are limited to shorelines of the state, whereas the planning
200 functions of this program may extend beyond shoreline jurisdiction.

201 (6) The policies and regulations of this program must be integrated and coordinated with the policies
202 and rules of the Jefferson County Comprehensive Plan (Comprehensive Plan) and its implementing
203 development regulations adopted under the Growth Management Act (Chapter 36.70A RCW).

204 (7) The policies and regulations of this program are intended to protect shoreline ecological functions
205 by:

206 (a) Requiring that current and potential ecological functions be identified and understood when
207 evaluating new uses and developments.

208 (b) Requiring adverse impacts to be mitigated in a manner that ensures no net loss of shoreline
209 ecological functions. Mitigation, as defined in Article II of this chapter, shall include avoiding first,
210 then minimizing, and then replacing/compensating for lost functions and/or resources.

211 (c) Ensuring that all uses and developments, including preferred uses and uses that are exempt from
212 a shoreline substantial development permit, will not cause a net loss of shoreline ecological
213 functions.

214 (d) Preventing, to the greatest extent practicable, cumulative impacts from individual
215 developments.

216 (e) Fairly allocating the burden of preventing cumulative impacts among development
217 opportunities.

218 (f) Including regulations and regulatory incentives to restore shoreline ecological functions where
219 such functions have been degraded by past actions. [Ord. 7-13 Exh. A (Art. I § 3)]

220 **18.25.040 Title.**

221 This document shall be known as the Jefferson County shoreline master program ("the master program"
222 or "this program"). [Ord. 7-13 Exh. A (Art. I § 4)]

223 **18.25.050 Adoption authority.**

224 This master program is adopted under the authority granted by Chapter 90.58 RCW and Chapter 173-26
225 WAC. [Ord. 7-13 Exh. A (Art. I § 5)]

Planning Commission Recommendations

18.25.060 Critical areas regulations adopted by reference.

(1) The Jefferson County critical areas regulations contained in Chapter 18.22 JCC are integral ~~and applicable to this program, and are hereby adopted by reference, except that:~~

~~(a) Nonconforming use and development within shoreline jurisdiction shall be subject to this program and not JCC 18.22.240.~~

~~(b) Exceptions to critical area and buffer standards shall be allowed as described in Article VI (detail at JCC 18.25.270(5)) of this program.~~

~~(c) Activities that are exempt from critical areas regulation per JCC 18.22.230 shall comply with this program. Such activities may require a shoreline substantial development permit, shoreline variance, or shoreline conditional use permit unless this program and RCW 90.58.030(3)(e) specifically indicate the activity is exempt from shoreline substantial development permit requirements. This provision shall not apply to agricultural activities on agricultural lands, which are exempt from both JCC 18.22.230 and this program.~~

~~(2) The provisions of Chapter 18.22 JCC shall apply to any use, alteration or development within shoreline jurisdiction whether or not a shoreline permit or written statement of exemption is required.~~

~~(3) Within shoreline jurisdiction, the regulations of Chapter 18.22 JCC shall be liberally construed together with this program to give full effect to the objectives and purposes of the provisions of this program and Chapter 90.58 RCW.~~

~~(4) All references to the critical areas ordinance are for the version adopted on March 17, 2008, as Ordinance No. 03-0317-08, and further amended on May 11, 2009, as Ordinance No. 06-0511-09.~~

~~(5) Ocean uses and activities conducted within Jefferson County's and the state of Washington's jurisdiction shall comply with Chapter 43.143 RCW (Ocean Resources Management Act) and WAC 173-26-360 (Ocean Management). Nothing in this subsection is intended to expand or modify the applicability of Chapter 43.143 RCW, WAC 173-26-360, or any subsections thereof, to ocean uses and activities not otherwise governed by those laws, administrative rules, or their subsections. [Ord. 7-13-Exh. A (Art. I § 6)]~~

18.25.070 Relationship to other plans and regulations.

(1) Uses and developments regulated by this program may also be subject to other provisions of the JCC, the Jefferson County Comprehensive Plan, the Washington State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC), and other local, state and federal laws.

(2) Project proponents are responsible for complying with all applicable laws prior to commencing any use, development or activity.

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

(4) In the event this program conflicts with other applicable county policies or regulations, all regulations shall apply and unless otherwise stated, the more restrictive provisions shall prevail. [Ord. 7-13 Exh. A (Art. I § 7)]

Commented [LG4]: 2016 b and 2011 a and c Periodic Checklist

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18.25.080 Liberal construction.

This program is exempt from the rule of strict construction; therefore this program shall be liberally construed to give full effect to its goals, policies and regulations. Liberal construction means that the interpretation of this document shall not only be based on the actual words and phrases used in it, but also by taking its deemed or stated purpose into account. Liberal construction means an interpretation that tends to effectuate the spirit and purpose of the writing. For purposes of this program, liberal construction means that the administrator shall interpret the regulatory language of this program in relation to the broad policy statement of RCW 90.58.020, and make determinations which are in keeping with those policies as enacted by the Washington State Legislature. [Ord. 7-13 Exh. A (Art. I § 8)]

18.25.090 Severability.

If any section or provision of this program is declared invalid it shall not affect the validity of this program as a whole. [Ord. 7-13 Exh. A (Art. I § 9)]

Article II. Definitions

18.25.100 Definitions.

These SMP definitions are derived from multiple sources. Definitions denoted with (*) are from this title. Definitions denoted with (**) are from Chapter 173-26 WAC. Definitions denoted with (***) are from Chapter 90.58 RCW. Definitions denoted with (****) are from the previously adopted county SMP (this chapter) and/or the proposed but not adopted 2000 Draft SMP. Definitions with no asterisk are derived from other sources or represent the best professional judgment of the authors.

(1) A Definitions.

(a) *"Abandon" means to terminate the use of a structure by an affirmative act such as changing to a new use; or to cease, terminate, or vacate a use or structure through nonaction. Except for ongoing agricultural activities, there shall be a presumption that a use has been abandoned if it is not undertaken, utilized, implemented or performed for a period of two years from the date of cessation/termination or vacation.

(b) *"Abutting" means adjoining with a common boundary line or any portion thereof.

(c) *"Accessory dwelling unit" means an additional dwelling unit either in or added to an existing single-family detached dwelling, or in a separate accessory structure on the same lot as the main structure, for use as a complete, independent living facility with provisions within the accessory dwelling unit for cooking, eating, sanitation and sleeping. Such a dwelling shall be considered an accessory use to the main dwelling and be clearly subordinate to the main dwelling.

(d) "Accessory structure" means any detached structure that is optional, incidental and subordinate to a primary use and located on the same lot as the primary use. Boathouses, barns, storage sheds, workshops, gazebos, docks, piers, floats, buoys, beach access structures and other similar structures are examples that are typically accessory to a primary use.

(e) *"Accessory use" means use of land or of a building or portion thereof incidental and subordinate to the principal use and located on the same lot with the principal use. Private

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- 300 moorage and other recreational uses are examples of uses that are accessory to residential
301 development.
- 302 (f) ****“Accretion” means the slow addition of land by the deposition of water-borne sediment
303 through the net effect of wave action and longshore drift.
- 304 (g) ***“Act” means the Shoreline Management Act of 1971 (Chapter 90.58 RCW) as amended.
- 305 (h) **“Adequate” means acceptable but not excessive.
- 306 (i) **“Adjacent” means (in addition to abutting) that which is near or close; for example, an industrial
307 district across the road or highway from a commercial district shall be considered as adjacent.
- 308 (j) **“Adjacent lands, shoreline” means lands adjacent to the shorelines of the state (outside of
309 shoreline jurisdiction). See RCW 90.58.340.
- 310 (k) **“Administrator” means the Jefferson County department of community development director
311 or a designated representative.
- 312 (l) **“Adverse impact or effect” means the result of a condition that creates, imposes, aggravates, or
313 leads to inadequate, impractical, unsafe, or unhealthy conditions or reduces ecological functions or
314 values.
- 315 (m) ****“Advertising” means publicly displayed messages or signs, billboards, placards, or buildings
316 that direct attention to promotion of a business, service, or product.
- 317 (n) **“Aggrieved party” means a party of record who can demonstrate the following:
- 318 (i) The land use decision will prejudice the person;
- 319 (ii) The asserted interests are among those the county is required by county code, federal or
320 state law or regulation to consider in making a land use decision; and
- 321 (iii) A decision on appeal in favor of the person would substantially eliminate or redress the
322 prejudice alleged to be caused by the land use decision.
- 323 (o) ***“Agricultural activities” means agricultural uses and practices including, but not limited to:
324 producing, breeding, or increasing agricultural products; rotating and changing agricultural crops;
325 allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left
326 unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse
327 agricultural market conditions; allowing land used for agricultural activities to lie dormant because
328 the land is enrolled in a local, state, or federal conservation program, or the land is subject to a
329 conservation easement; conducting agricultural operations; maintaining, repairing, and replacing
330 agricultural equipment; maintaining, repairing, and replacing agricultural facilities; provided, that
331 the replacement facility is no closer to the shoreline than the original facility; and maintaining
332 agricultural lands under production or cultivation.

- 333 (p) **“Agricultural land”** means those specific land areas on which agriculture activities are
334 conducted as of the date of adoption of this master program pursuant to the state guidelines
335 (Chapter 173-26 WAC) as evidenced by aerial photography or other documentation. After the
336 effective date of the master program, land converted to agricultural use is subject to compliance
337 with the requirements of the master program.
- 338 (q) **“Agriculture, existing and ongoing”** means any agricultural activity conducted on an ongoing
339 basis on lands enrolled in the open space tax program for agriculture or designated as agricultural
340 lands of long-term commercial significance on the official map of Comprehensive Plan land use
341 designations; provided, that agricultural activities were conducted on those lands at any time during
342 the five-year period preceding April 28, 2003. Agricultural use ceases when the area on which it is
343 conducted is converted to a nonagricultural use.
- 344 (r) **“Agriculture, new”** means agricultural activities proposed or conducted after April 28, 2003, and
345 that do not meet the definition of existing ongoing agriculture.
- 346 (s) **“Allowed use”** means uses allowed subject to the provisions of this program, including meeting
347 applicable performance and development standards; if a shoreline permit, building permit or other
348 development permit (e.g., stormwater permit) is required, the use is subject to the project review
349 and approval process.
- 350 (t) **“Alteration”** means any human induced change in an existing condition of a shoreline and/or its
351 buffer. Alterations include but are not limited to grading; filling; channelizing; dredging; clearing
352 (vegetation); draining; constructing structures; compaction, excavation, or any other activity that
353 changes the character of a site.
- 354 (u) **“Alteration, nonconforming structures”** means any change or rearrangement in the supporting
355 members of existing buildings, such as bearing walls, columns, beams, girders, or interior partitions,
356 as well as any changes in doors, windows, means of egress or ingress or any enlargement to or
357 diminution of a building or structure, horizontally or vertically, or the moving of a building from one
358 location to another. This definition excludes normal repair and maintenance, such as painting or
359 roof replacement, but includes more substantial changes.
- 360 (v) **“Alteration, nonconforming use”** means the expansion, modification or intensification of a use
361 that does not conform to the land use regulations of this program.
- 362 (w) **“Anadromous fish”** means fish species that spend part of their lifecycle in saltwater, but return
363 to freshwater to reproduce.
- 364 (x) **“Appeal”** means a request by an applicant or citizen that a decision made pursuant to this
365 program be reviewed for its correctness and legality by another person, agency or court of law
366 having jurisdiction to hear such an appeal.
- 367 (y) **“Applicant”** means the owner or owners of record of the property subject to a project permit
368 application under this program, or authorized representative thereof.

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Planning Commission Recommendations

(z) *"Application" means the forms, plans and accompanying documents required for any project permit approval under this code.

(aa) "Appurtenance, normal" means a structure or use that is necessarily connected to ~~a primary~~ the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark, and the perimeter of a wetland. Normal appurtenances ~~for residential development are~~ garages include a garage, attached deck, utilities, installation of a septic tank, tank and drainfield, drainfield, as well as driveways, walkways, and a driveway, front walk between the driveway and the home's main entry, fences, plus initial clearing and grading for a new residence which does not exceed 250 cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark.

Commented [LG6]: Response to ECY REQ-1 and Rec-1.

(bb) "Aquaculture" means the farming or culture of food fish, shellfish, or other aquatic plants or animals in freshwater or saltwater, and may include development such as structures, as well as use of natural spawning and rearing areas. Aquaculture does not include the harvest of wildstock geoduck on state-owned lands. Wildstock geoduck harvest is a fishery.

Commented [LG7]: Response to Comment: 12.1

Commented [LG8]: Staff Docket/Code Interpretations clarify deck and other appurtenances

(cc) *"Aquaculture activity" means actions directly pertaining to growing, handling, or harvesting of aquaculture produce. Examples include, but are not limited to, propagation, tank farms, hatcheries, incubators/nurseries, stocking, feeding, disease treatment, depuration facilities, waste disposal, water use, development of habitat and structures, sorting, wet storage, and staging. Excluded from this definition are related commercial or industrial uses such as wholesale and retail sales, final processing and freezing.

(dd) *"Aquaculture facility or farm" means any facility or tract of land used to culture aquatic products. Each geographically separate facility or tract of land used for aquaculture shall constitute a separate facility/farm; provided, that adjoining farms/facilities with separate operators shall be considered separate facilities/farms.

(ee) *"Archaeological" means having to do with the scientific study of material remains of past human life and activities.

(ff) "Archaeological resource/site" means a geographic locality including, but not limited to, submerged and submersible lands and the bed of the sea that contains physical evidence of an indigenous and subsequent culture including material remains of past human life, monuments, symbols, tools, facilities, graves, skeletal remains and technological byproducts:

(i) That are associated with events that have made a significant contribution to the broad patterns of our history; or

(ii) That are associated with the lives of significant persons in our past; or

(iii) That embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

(iv) That have yielded or may be likely to yield, information important in history or prehistory.

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406 (gg) "Archaeologist" is a person listed on the Washington State Department of Archaeology and
407 Historical Preservation list of qualified archaeologists.

408 (hh) "Associated wetlands" means wetlands that are in proximity to tidal waters, lakes, rivers or
409 streams that are subject to the Shoreline Management Act and either influence or are influenced by
410 such waters. Factors used to determine proximity and influence include but are not limited to:
411 location contiguous to a shoreline waterbody, formation by tidally influenced geohydraulic
412 processes, presence of a surface connection including through a culvert or tide gate, location in part
413 or whole within the 100-year floodplain of a shoreline, periodic inundation, and/or hydraulic
414 continuity.

415 (ii) "Average grade level" means the average of the natural or existing topography of the portion of
416 the lot, parcel, or tract of real property on that part of the lot to be occupied by the building or
417 structure as measured by averaging the elevations at the center of all exterior walls of the proposed
418 structure. In the case of structures to be built over the water, the average grade level shall be the
419 elevation of the ordinary high water.

420 (2) B Definitions.

421 (a) "Backshore" means the area landward of the high tide line wetted by storm tides but normally
422 dry. It may be a narrow gravel berm below a sea bluff or a broader complex of berms, marshes,
423 meadows, or dunes.

424 (b) "Barrier beach" means an accretion shore form of sand and gravel that has been deposited by
425 longshore drift in front of bluffs, bays, marshes, or estuaries, and functions like a storm barrier.

426 (c) "Bar" means a marine or river shore form similar to a spit or a hook, though generally not
427 attached to the mainland during periods of high water.

428 (d) "Base flood" means the flood having a one percent chance of being equaled or exceeded in any
429 given year; also known as the 100-year flood, as shown on the FIRM maps.

430 (e) "Base flood elevation" means the elevation for which there is a one percent chance in any
431 given year that flood levels will equal or exceed it.

432 ~~(df)~~ "Beach" means the zone of unconsolidated material that is moved by waves, wind and tidal
433 currents.

434 ~~(e)(eg)~~ "Beach access structure" means a structural pathway/walkway for purposes of providing
435 pedestrian access to a beach or shoreline area, not for motorized vehicle access. It often includes a
436 stairway, tram, stair tower, platform and/or elevated walkway anchored to the ground surface by
437 structural means.

438 ~~(fh)~~ "Beach restoration and enhancement" means the alteration of terrestrial and tidal shorelines
439 or submerged shorelines for the purposes of stabilization, recreational enhancement, or aquatic
440 habitat creation or restoration. The materials used depend upon the intended use. For instance, to
441 create a beach for recreational purposes, various grades of clean sand or pea gravel are often used.
442 To restore or recreate a shore feature or an underwater aquatic environment (e.g., a reef), a

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Commented [LG9]: PC Consensus 11/15/23: Lines 399 to 419 appear to not be in alphabetical order.

Commented [AS10]: Relocated definition per Ecology recommended change 10 (9/30/22)

combination of a rock matrix and sand or other materials may be used. To restore riparian habitat functions, native vegetation may be used.

~~(fg) *"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year; also known as the 100-year flood, as shown on the FIRM maps.~~

~~(gh) *"Base flood elevation" means the elevation for which there is a one percent chance in any given year that flood levels will equal or exceed it.~~

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

(i) "Beds of navigable waters" or "bedlands" means those lands lying waterward of and below the line of navigability on rivers and lakes not subject to tidal flow, or extreme low tide mark in navigable tidal waters, or the outer harbor line where harbor area has been created (RCW 79.105.060(2)).

(j) "Bedrock" means a general term for rock, typically hard, consolidated geologic material that underlies soil or other unconsolidated, superficial material or is exposed at the surface.

(k) "Berm" or "protective berm" means one or several accreted linear mounds of sand and gravel generally paralleling the shore at or landward of OHWM; berms are normally stable because of material size or vegetation, and are naturally formed by net-shore drift. Also, a linear mound used to screen an adjacent activity (e.g., a parking lot) from transmitting excess noise and glare.

(l) *"Best management practices (BMPs)" means systems of practices, schedules of activities, prohibitions, maintenance procedures, and management measures that prevent or minimize adverse impacts to the environment.

(m) ****"Bioengineering" or "biostabilization" means the practice of using natural vegetative materials to stabilize shorelines and prevent erosion. This may include use of bundles of stems, root systems, or other living plant material, soft gabions, fabric or other soil stabilization techniques, and limited rock toe protection where appropriate. Bioengineering projects often include habitat enhancement measures (e.g., anchored logs, root wads, etc.). Such techniques may be applied to creeks, rivers, lakes, reservoirs, and marine waters. Bioengineering may also be applied in upland areas away from the immediate shoreline.

(n) *"Board (BOCC)" means the board of county commissioners for Jefferson County. Also referenced as board of commissioners or county commissioners.

(o) *"Boat building and repair, commercial" means a commercial establishment where boats are constructed, dismantled, stored, serviced, or repaired, including maintenance work thereon.

(p) "Boating facilities" means any public or private facility for ~~storing~~ mooring, accessing, or launching vessels or watercraft ~~established as a primary use or accessory structure~~. This includes marinas, open water moorage and anchorage areas, boat launch ramps, boat lifts, mooring buoys,

Commented [AS11]: Relocated definition per Ecology recommended change 10/9/30/22

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480 piers, floats and docks, or any other similar single-user or shared-use facility for public recreational
481 use, commercial/industrial/port use, or private residential use. For purposes of this program,
482 boathouses, boat repair shops, and other upland boat storage structures are not considered boating
483 facilities.

484 (q) "Boathouse" means an enclosed structure designed and used exclusively for the storage of boats
485 and boating equipment and not used as a dwelling unit.

486 (r) ****"Boat launch" or "boat ramp" means a slab, pad, plank, rail, or graded slope used for
487 launching boats by means of a trailer, hand, or mechanical device.

488 (s) "Boat lift" is an in-water structure used for the dry berthing of vessels above the water level and
489 lowering of vessels into the water periodically. A boat lift as herein defined is used to berth and
490 launch a single vessel, suspended over the water's surface. A boat lift is generally a manufactured
491 unit without a canopy cover and may be placed in the water adjacent to a dock/pier or as a stand-
492 alone structure. A boat lift may be designed either for boats or personal watercraft. A boat lift is to
493 be differentiated from a hoist or crane used for the launching or haul-out of vessels.

494 (t) "Bottom culture" means all aquaculture systems that are set on or securely and rigidly attached
495 to the tidelands or bedlands and do not extend higher than six feet from the bottom (excluding
496 hoists and similar apparatus). Bottom culture includes but is not limited to geoduck tubes, oyster
497 longlines, clam netting, oyster rack and bags, and clam bags. Bottom culture does not include
498 aquaculture suspended from rafts or buoys or contained in floating net pens.

499 (u) ****"Breakwater" means an offshore structure that is generally built parallel to shore that may
500 or may not be connected to land, and may be floating or stationary. Their primary purpose is to
501 protect harbors, moorages and navigation activity from wave and wind action by creating stillwater
502 areas along shore. A secondary purpose is to protect shorelines from wave caused erosion. Most
503 breakwaters in the Pacific Coast are rip-rap mound construction.

504 (v) "Buffer" or "buffer zone, strip, or area" means the area adjacent to a shoreline or critical area
505 that separates and protects the area from adverse impacts associated with adjacent land uses. A
506 buffer is measured horizontally and perpendicularly from the ordinary high water mark, and
507 includes the three-dimensional airspace above.

508 (w) "Building" means any structure used or intended for supporting or sheltering any use or
509 occupancy as defined in the International Building Code.

510 (x) *"Building envelope" means:

511 (i) A three-dimensional space in which a building or structure may be built meeting septic
512 requirements;

513 (ii) A plat restriction for the purpose of defining building coverage areas for individual lots, or
514 for describing shoreline building setbacks;

515 (iii) The buildable area of a lot, tract or parcel after applicable setbacks, buffers, easements and
516 other restrictions on the lot, tract or parcel are taken into account.

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Commented [AS12]: Edits to definition made per Ecology
recommendation 2 (9/30/22).

517 (y) ****“Bulkhead” means a wall usually constructed parallel to the shore at, above, or near, the
518 ordinary high water mark with the primary purpose of containing and preventing the loss of soil
519 caused by erosion or wave action. Bulkheads are usually constructed of rock, poured-in-place
520 concrete, steel or aluminum sheet piling, wood or wood and structural steel combinations. They
521 may be either thin structures penetrating deep into the ground, or more massive structures resting
522 on the surface.

Commented [AS13]: Modified as part of response to WDFW comment provided in email dated 3.26.21

523 (3) C Definitions.

524 (a) *“Campground and camping facilities” means a facility in which sites are offered for persons
525 using tents or other personal, portable overnight shelters. Campgrounds are for short-term stays
526 and do not include trailer parks.

527 (b) “Canopy” means the collective branches and foliage of a single tree or group of trees, aggregate
528 or collective tree crowns. A canopy can be closed or partially closed as in a forest or woodland
529 stand, or composed of both individual trees and closed canopy groups as in an urban forest canopy.

530 (c) “Canopy cover” means the drip line area for an individual tree. For a stand of multiple trees it is
531 the sum of the drip line areas of each tree less any overlap.

532 (d) ****“Channel” means an open water either naturally or artificially created to convey water.

533 (e) *“Channel migration zone (CMZ)” means an area within the lateral extent of likely stream
534 channel movement that is subject to risk due to stream bank destabilization, rapid stream incision,
535 stream bank erosion and shifts in the location of stream channels.

536 “Channel migration zone” includes:

537 (i) The historic channel migration zone (which is the footprint of the active channel
538 documented through historical photographs and maps); and

539 (ii) The avulsion hazard zone (which is an area with the potential for movement of the main
540 river channel into a new location); and

541 (iii) The erosion hazard area (which is an area outside the historic channel migration zone and
542 the avulsion hazard zone, and includes an erosion setback for a 100-year period of time and a
543 geotechnical setback to account for slope retreat to a stable angle of repose).

544 (iv) “High channel migration hazard” (or “high risk CMZ”) for the Big Quilcene, Little Quilcene,
545 Dosewallips, Duckabush, and Lower Hoh Rivers means those nondisconnected portions of the
546 channel that are likely to migrate within a 50-year timeframe.

547 (v) For the Big Quilcene, Little Quilcene, Dosewallips, and Duckabush Rivers, “moderate channel
548 migration hazard” (or “moderate risk CMZ”) means those nondisconnected portions of the
549 channel that are likely to migrate within a 50- to 100-year timeframe; and “low channel
550 migration hazard” (or “low risk CMZ”) means those nondisconnected portions of the channel
551 that are likely to migrate beyond a 100-year timeframe.

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552 (vi) For the Lower Hoh River, “moderately high hazard” (or “moderately high risk CMZ”) means
553 those nondisconnected portions of the channel that are likely to migrate within a 50- to 100-
554 year timeframe, “moderate hazard” means those nondisconnected portions of the channel that
555 are likely to migrate beyond a 100-year timeframe, and “low hazard” means the
556 nondisconnected portions of the channel that are less likely to be affected by channel
557 migration, but is still at risk due to its location on the valley floor.

558 “Channel migration zone” does not include disconnected migration areas, which are areas that have
559 been disconnected from the river by legally existing artificial structure(s) that restrain channel
560 migration (such as levees and transportation facilities build above or constructed to remain intact
561 through the 100-year flood elevation), that are no longer available for migration by the river.

562 “Channel migration zone” may exclude areas that lie behind a lawfully established flood protection
563 facility that is likely to be maintained by existing programs for public maintenance consistent with
564 designation and classification criteria specified by public rule. When a natural geologic feature
565 affects channel migration, the channel migration zone width will consider such natural constraints.

566 (f) “Channelization” means the straightening, relocation, deepening or lining of stream channels,
567 including construction of continuous revetments or levees for the purpose of preventing gradual,
568 natural meander progression.

569 (g) “Clearing” means the destruction or removal, by hand or with mechanical means, of vegetative
570 ground cover, shrubs or trees. Clearing may or may not include removing root material or topsoil.

571 (h) “Cluster development” means a development design technique that groups or clusters buildings
572 in specific areas on a site to minimize environmental impacts related to impervious surface, clearing
573 and other impacts.

574 (i) “Commercial fish” means those species of fish that are classified under the Washington
575 Department of Fish and Wildlife Food Fish Classification as commercial fish (WAC 220-12-010).

576 (j) * “Commercial recreational facility” means a place designed and equipped for sports and leisure-
577 time activities that is operated as a business and open to the public for a fee.

578 (k) * “Commercial sign” means any object, device, display or structure that is used for attracting
579 attention to any commercial use, product, service, or activity.

580 (l) * “Commercial use” means a business use or activity at a scale greater than a home business or
581 cottage industry involving retail or wholesale marketing of goods and services. Examples of
582 commercial uses include offices and retail shops.

583 (m) “Community dock/pier/float” means a shared-use private boating facility composed of dock-
584 that serves multiple residential properties, pier, and/or float components established as:

585 (i) An accessory structure for five or more (5+) single-family residences, including upland and
586 waterfront and/or upland lots/parcels, in a subdivision, neighborhood, or similar community
587 setting- (comparable to “Community structure” per JCC 18.10.030); or

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- 588 (ii) An accessory structure for a multifamily residential use; or
- 589 (iii) A primary use recreational facility serving five or more (5+) single-family residences (e.g.,
590 community club).
- 591 A shared-use private boating facility that also provides related goods/services is considered a
592 marina. See also “Joint use dock/pier/float” and “Shared use.”
- 593 (n) * “Compatible” means uses or activities capable of existing together or in the vicinity of one
594 another without disharmony or without generating effects or impacts which are disruptive to the
595 normal use and enjoyment of surrounding property.
- 596 (o) “Compensatory mitigation” means replacing resources or functions, at an equivalent or greater
597 level, to offset unavoidable impacts that remain after all appropriate and practicable avoidance and
598 minimization measures have been implemented. “Compensatory mitigation” includes, but is not
599 limited to, creation, restoration, enhancement, preservation, and rehabilitation of wetlands,
600 buffers, and other habitats or resources.
- 601 (p) * “Comprehensive Plan” means the Jefferson County Comprehensive Plan.
- 602 (q) “Conditional use permit (CUP)” means a permit issued by the county stating that the proposed
603 land uses and development activities meet all criteria and all conditions of approval in accordance
604 with the procedural requirements of this code. The intent of requiring a CUP is to accommodate
605 site-specific allowances while ensuring program requirements are satisfied. As per Chapter 18.15
606 JCC, a CUP can be standard (C), administrative (C(a)), or discretionary (C(d)). For this program,
607 criteria are described in Article IX of this chapter and application review processes are described in
608 Article X of this chapter.
- 609 (r) “Conservation” means the prudent management of rivers, streams, wetlands, wildlife and other
610 environmental resources in order to preserve and protect them. This includes the careful use of
611 natural resources to prevent depletion or harm to the environment.
- 612 (s) * “Conservation district” means a special purpose district, like a fire district or school district,
613 organized in accordance with Chapter 89.08 RCW for the purpose of providing assistance to
614 landowners for the conservation of renewable resources.
- 615 (t) “Conservation easement” means a legal agreement that the property owner enters into to
616 restrict uses of the land for purposes of natural resources conservation. The easement is recorded
617 on a property deed, runs with the land, and is legally binding on all present and future owners of
618 the property.
- 619 (u) “Contaminant” means any chemical, physical, biological, or radioactive substance that does not
620 occur naturally in ground water, air, or soil or that occurs at concentrations greater than those in
621 the natural levels (Chapter 172-200 WAC).
- 622 (v) * “County” means Jefferson County, Washington, its board, commissions, and departments.

Commented [AS14]: Response to Comment 13: Edits made in response to Ecology concerns expressed in June 11, 2021 email regarding clarity of terminology and regulations surrounding requirements for shared dock facilities.

Commented [AS15R14]: Additional edits to definition made per Ecology recommendation 2 (9/30/22).

Commented [AS16]: Response to Comments 1-7: Per PC direction on 9/1 related to geoduck aquaculture, standard conditional use permit is now a new permit type in the SMP.

- 623 (w) ****~~Covered~~Cover ed moorage” means boat moorage, with or without walls, that has a roof to
624 protect the vessel.
- 625 (x) ****Creek. See “Stream.”
- 626 (y) “Critical areas” mean the following areas as designated in Chapter 18.22 JCC, as incorporated
627 into this program:
- 628 (i) Critical aquifer recharge areas.
- 629 (ii) Wetlands.
- 630 (iii) Geologically hazardous areas.
- 631 (iv) Frequently flooded areas.
- 632 (v) Fish and wildlife habitat conservation areas.
- 633 (z) “Critical habitat” means habitat areas with which endangered, threatened, sensitive or
634 monitored plant, fish, or wildlife species have a primary association (e.g., feeding, breeding, rearing
635 of young, migrating). Such areas are identified herein with reference to lists, categories, and
636 definitions promulgated by the Washington Department of Fish and Wildlife as identified in WAC
637 232-12-011 or 232-12-014; in the Priority Habitat and Species (PHS) program of the Department of
638 Fish and Wildlife; or by rules and regulations adopted by the U.S. Fish and Wildlife Service, National
639 Marine Fisheries Service, or other agency with jurisdiction for such designations. See also “Habitat
640 of special significance.”
- 641 (aa) “Cumulative impacts” or “cumulative effects” means the combined impacts of a proposed
642 development action along with past impacts and impacts of reasonably foreseeable future
643 development actions.
- 644 (bb) “Current deflector” means an angled stub-dike, groin, or sheet-pile structure which projects
645 into a stream channel to divert flood currents from specific areas, or to control downstream current
646 alignment.
- 647 (cc) * “Current use” means the use of land or improvements at the time of permit application.
- 648 (4) D Definitions.
- 649 (a) “Dam” means a barrier across a stream or river to confine or regulate flow or raise water levels
650 for purposes such as flood or irrigation water storage, erosion control, power generation, or
651 collection of sediment or debris.
- 652 (b) * “DCD” means the Jefferson County department of community development.
- 653 (c) “Deepwater habitats” means environments where surface water is permanent and often deep,
654 so that water, rather than air, is the principal medium in which the dominate organisms live.

Commented [AS17]: Edits to definition made per Ecology recommendation 15 and required change 4 (9/30/22)

- 655 (d) "Degrade" means to scale down in desirability or salability, to impair in respect to some physical
656 property or to reduce in structure or function.
- 657 (e) ****"Delta" or "river delta" means those lands formed as an aggradational feature by stratified
658 clay, silt, sand and gravel deposited at the mouths of streams where they enter a quieter body of
659 water. The upstream extent of a river delta is that limit where it no longer forms distributary
660 channels.
- 661 (f) *"Density" means the quantity per unit area, such as the number of dwelling units per acre.
- 662 (g) ***"Development" means a use consisting of the construction or exterior alteration of
663 structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals;
664 bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary
665 nature which interferes with the normal public use of the surface of the waters overlying lands
666 subject to this program at any state of water level. "Development" does not include dismantling or
667 removing structures if there is no other associated development or re-development.
- 668 (h) ****"Developed shorelines" means those shoreline areas that are characterized by existing uses
669 or structures located within shoreline jurisdiction.
- 670 (i) "Development agreement" means a binding legal agreement between a local government and a
671 property owner, managing agent or controlling entity that establishes the standards and other
672 provisions that apply to, govern and vest the development, use and mitigation of real property for
673 the specified duration of time, as consistent with local regulations and Chapter 36.70B RCW.
- 674 (j) "Diameter at breast height (DBH)" means the diameter of a tree at four and one-half feet above
675 the ground measured from the uphill side.
- 676 (k) "Dike" means an artificial embankment placed at a stream mouth or delta to hold back sea
677 water.
- 678 (l) *"Director" means, unless otherwise specified, the director of the county's department of
679 community development (DCD) or the director's designee.
- 680 (m) *"Division of land" means the creation of any new lot or lots for the purpose of sale, lease, or
681 transfer of ownership (see Chapter 18.35 JCC).
- 682 (n) "Dock" means a ~~fixed~~ platform structure that abuts the shore anchored in and floating upon a
683 water body ~~that abuts the shore~~ to provide landing for water-dependent recreation or moorage for
684 vessels or watercraft and does not include above water storage.
- 685 (o) *"Drainage" means surface water runoff; the removal of surface water or ground water from
686 land by drains, grading, or other means, which include runoff controls to minimize erosion and
687 sedimentation during and after construction or development.
- 688 (p) "Dredge material disposal" means the depositing of dredged materials on land or into water
689 bodies.

Commented [LG18]: 2017 b Periodic Checklist

Commented [AS19]: Edit to definition made per Ecology recommendation 2 (9/30/22). Also relocated "that abuts the shore" so it modifies the structure and not the water body.

690 (q) "Dredging" means the removal of earth from the bottom of a stream, river, lake, bay, or other
691 water body. This does not include de minimis removal of sediment during harvest of geoduck clams
692 or other shellfish.

693 (r) **"Drift cell, drift sector, or littoral cell" means a particular reach of marine shore in which
694 littoral drift may occur without significant interruption and which contains any natural sources of
695 such drift and also accretion shore forms accreted by such drift.

696 (s) "Drip line area" means the area measured from the trunk of the tree outward to a point at the
697 perimeter of the outermost branch structure of the tree.

698 (t) *"Driveway" means a strip of land which provides vehicular access to one or two lots.

699 (u) ****"Dune" means a hill or ridge of sand piled up by the wind and/or wave action.

700 (v) "Dwelling unit" means one or more rooms or structures designed for occupancy by an individual
701 or family for living and sleeping purposes.

702 (5) E Definitions.

703 (a) ***"Ecological functions" or "shoreline functions" means the work performed or role played by
704 the physical, chemical, and biological processes that contribute to the maintenance of the aquatic
705 and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-
706 ~~200~~201(2)(c). Functions include, but are not limited to, habitat diversity and food chain support for
707 fish and wildlife, ground water recharge and discharge, high primary productivity, low flow stream
708 water contribution, sediment stabilization and erosion control, storm and flood water attenuation
709 and flood peak desynchronization, and water quality enhancement through biofiltration and
710 retention of sediments, nutrients, and toxicants. These beneficial roles are not listed in order of
711 priority.

712 (b) ****"Ecologically intact shorelines" means those shoreline areas that retain the majority of their
713 natural shoreline functions and values, as evidenced by vegetation and shoreline configuration.
714 Generally, but not necessarily, ecologically intact shorelines are largely free of structural shoreline
715 modifications, structures, and intensive human activities.

716 (c) "Ecology" means Washington State Department of Ecology.

717 (d) **"Ecosystem processes" means the suite of naturally occurring physical and geologic processes
718 of erosion, transport, and deposition; and specific chemical processes that shape landforms within a
719 specific shoreline ecosystem and determine both the types of habitat and the associated ecological
720 functions.

721 (e) "Emergency activities" are those activities that require immediate action within a time too short
722 to allow full compliance with this program due to an unanticipated and imminent threat to public
723 health, safety or the environment (see WAC 173-27-040). Emergency construction does not include
724 development of new permanent protective structures where none previously existed. All
725 emergency construction shall be consistent with the policies of Chapter 90.58 RCW and this

- 726 program. As a general matter, flooding or other seasonal events that can be anticipated and may
727 occur but that are not imminent are not an emergency.
- 728 (f) *"Endangered species" means a species which is in danger of extinction throughout all or a
729 significant portion of its range, as classified by the Washington Department of Fish and Wildlife, the
730 Washington Department of Natural Resources, or the Federal Endangered Species Act.
- 731 (g) "Enhancement" means actions performed within an existing degraded shoreline and/or buffer to
732 intentionally increase or augment one or more functions or values of the existing area.
733 Enhancement actions include, but are not limited to, increasing plant diversity and cover, increasing
734 wildlife habitat and structural complexity (snags, woody debris), installing environmentally
735 compatible erosion controls, or removing non-indigenous plant or animal species.
- 736 (h) *"Erosion" means the detachment and movement of soil or rock by water, wind, ice, or gravity.
- 737 (i) *"Erosion hazard areas" means areas characterized by soils identified in the USDA Jefferson
738 County Soil Survey as having severe water erosion hazards.
- 739 (j) *"Essential public facilities" means those important and necessary facilities which provide
740 essential services that are typically difficult to site, such as airports, state educational facilities, state
741 or regional transportation facilities, state and local correctional facilities, solid waste handling
742 facilities, and in-patient facilities including substance-abuse facilities, mental health facilities, and
743 group homes (RCW 36.70A.200). They do not necessarily include all public facilities or services; they
744 may be, but are not necessarily, publicly owned. Essential public facilities in Jefferson County
745 include airports, large-scale transportation facilities, solid waste handling and disposal facilities,
746 correctional facilities, in-patient treatment facilities including substance-abuse facilities and mental
747 health facilities, state-owned educational facilities, and wastewater treatment plants.
- 748 (k) "Estuary" means a semi-enclosed coastal water body connected to a larger body of saltwater
749 with one or more streams/rivers flowing into it. Estuaries are typically the mouths of rivers and
750 have brackish water.
- 751 (l) *"Excavation" means the mechanical removal of earth, including soil, rocks, bedrock, and/or root
752 material from areas landward of the OHWM of a waterbody.
- 753 (m) "Exempt development" refers to activities which the legislature identified as not requiring
754 shoreline substantial development permits. Actions in shoreline jurisdiction not requiring such
755 permits are required to be consistent with all the relevant policies and regulations in RCW
756 90.58.030 and WAC 173-27(040). A letter from the county must be obtained certifying that the
757 development is exempt. Exempt uses may still require conditional use and/or variance permits.
- 758 (n) *"Existing use" means the use of a lot or structure or improvements at the time of the
759 enactment of this code, unless otherwise specified.
- 760 (o) "Experimental aquaculture" means aquaculture that cultivates new species, or uses growing
761 methods or harvesting techniques that have not previously been used in the state of Washington
762 and that differ significantly from common practice.

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763 (p) ***“Extraction”** means the commercial removal of naturally occurring materials from the earth,
764 excluding water.

765 (q) *****“Extreme low tide (ELT)”** means the lowest line of the land reached by a receding tide. This is
766 the line as estimated by the federal government below which it might reasonably be expected that
767 the tide would not ebb. In the Puget Sound area generally, this point is estimated by the federal
768 government to be a point in elevation 4.50 feet below the datum plane of mean lower low water
769 (0.0). Along the Pacific Ocean and in the bays fronting thereon and the Strait of Juan de Fuca, the
770 elevation ranges down to a minus 3.5 feet in several locations.

771 (6) F Definitions.

772 (a) ******“Fair market value (FMV)”** of a development means the open market bid price for
773 conducting the work, using the equipment and facilities, and purchase of the goods, services and
774 materials necessary to accomplish the development. This would normally equate to the cost of
775 hiring a contractor to undertake the development from start to finish, including the cost of labor,
776 materials, equipment and facility usage, transportation and contractor overhead and profit. The fair
777 market value of the development shall include the fair market value of any donated, contributed or
778 found labor, equipment or materials.

779 (b) *****“Feasible”** means, for the purpose of this program, that an action, such as a development
780 project, mitigation, or preservation requirement, meets all of the following conditions:

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

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

785 (iii) The action does not physically preclude achieving the project’s primary intended legal use.
786 In cases where these guidelines require certain actions unless they are infeasible, the burden of
787 proving infeasibility is on the applicant. In determining an action’s infeasibility, the reviewing
788 agency may weigh the action’s relative public costs and public benefits, considered in the short-
789 and long-term time frames.

790 (c) (i) ***“Feasible alternative”** means an alternative that:

791 (A) Meets the requirements of federal, state, and local laws and regulations;

792 (B) Attains most or all of the basic objectives of the project;

793 (C) Is technically and technologically possible;

794 (D) Can be accomplished at a reasonable cost;

795 (E) Can be accomplished in a reasonable amount of time; and

- 796 (F) Adverse environmental, health, and safety effects are no greater than those of the
797 original proposal.
- 798 (ii) A determination of what is reasonable or feasible is made by the decision-making body on a
799 case-by-case basis, taking into account the:
- 800 (A) Probable intensity, severity, and cumulative impacts of the original proposal and
801 alternative approaches, and opportunity for the avoidance or reduction in the number,
802 intensity, or severity of significant impacts, or of the aggregate adverse impact;
- 803 (B) Risk of upset conditions (i.e., the risk that the control and mitigation measures will fail,
804 be overwhelmed, or exceed allowed limits) and the potential severity of the impact should
805 control or mitigation measures be ineffective or fail;
- 806 (C) Capital and operating costs;
- 807 (D) Period of time to accomplish, costs of additional time or delay, and time constraints for
808 completion; and
- 809 (E) Location and site-specific factors, such as seasonal or topographic constraints,
810 environmentally sensitive areas and habitats, site accessibility, and local community
811 concerns.
- 812 (d) ****“Feeder bluff” means ~~any an eroding coastal headland or hill with a broad, steep face~~
813 ~~experiencing periodic erosion from waves, sliding or slumping bluff that, through natural~~
814 ~~transportation, delivers a significant amount of sediment to the beach over an extended period of~~
815 ~~time and contributes eroded earth, sand or gravel material via a driftway to an accretion~~
816 ~~shoreform to the local littoral sediment budget.~~
- 817 (e) “Fill” means the addition of solid or semi-solid material such as soil, sand, rock, gravel, sediment,
818 wood chips, mining overburden, earth retaining structure, or other material used to create any
819 structure or infrastructure or when placed changes the elevation or grade of a receiving site.
- 820 (f) “Fill material” means any solid or semi-solid material such as soil, sand, rock, gravel, sediment,
821 wood chips, mining overburden, earth retaining structure, or other material from mining or other
822 excavation activities, and materials used to create any structure or infrastructure, that when placed,
823 changes the grade or elevation of the receiving site.
- 824 (g) “Filling” means the act of transporting or placing by any manual or mechanical means fill
825 material from, to, or on any soil surface, including temporary stockpiling of fill material.
- 826 (h) “Finfish” means a vertebrate organism of the classes Osteichthyes, Agnatha, or Chondrichthyes
827 possessing a bony and/or cartilaginous inner skeleton, including all stages of development and the
828 bodily parts of the fish (RCW 77.08.22). Examples include, but are not limited to, salmon, trout, ling
829 cod, rock fish, halibut, sole, sablefish, perch, pollock, whiting, tilapia, carp, lamprey, sturgeon,
830 sharks, skates, and rays. In comparison, see “Shellfish.”

Commented [LG20]: Staff Docket/Code Interpretations
definition taken from
<https://fortress.wa.gov/ecy/publications/documents/1406016.pdf>

831 (i) "Fire hazard" means the accumulation of combustible materials in such a condition as to be
832 readily ignited and in such a quantity as to create a hazard from fire to nearby structures, life and
833 property.

834 (j) "Fish habitat" means a complex of physical, chemical, and biological conditions that provide the
835 life supporting and reproductive needs of a species or life stage of fish. Although the habitat
836 requirements of a species depend on its age and activity, the basic components of fish habitat in
837 rivers, streams, ponds, and nearshore areas include, but are not limited to, the following:

838 (i) Clean water and appropriate temperatures for spawning, rearing, and holding;

839 (ii) Adequate water depth and velocity for migrating, spawning, rearing, and holding, including
840 off-channel habitat;

841 (iii) Abundance of bank and in-stream structures to provide hiding and resting areas and
842 stabilize stream banks and beds;

843 (iv) Appropriate substrates for spawning and embryonic development. For stream and lake
844 dwelling fishes, substrates range from sands and gravel to rooted vegetation or submerged
845 rocks and logs. Generally, substrates must be relatively stable and free of silts or fine sand;

846 (v) Presence of riparian vegetation as defined in this article. Riparian vegetation creates a
847 transition zone, which provides large woody debris (LWD), shade, and food sources of aquatic
848 and terrestrial insects for fish;

849 (vi) Unimpeded passage (suitable gradient and lack of barriers) for upstream and downstream
850 migrating juveniles and adults.

851 (k) "Float" means a ~~fixed~~-platform structure that does not connect to the shore anchored in and
852 floating upon a water body ~~that does not connect to the shore~~, and that provides landing for water
853 dependent recreation or moorage for vessels or watercraft, and that does not include above water
854 storage.

855 (l) "Floating aquaculture" means aquaculture systems that suspend aquatic organisms in the water
856 column using buoys, rafts, docks, piers or other structure and that extend more than three feet
857 from the bottom into the water column. Floating aquaculture is synonymous with hanging
858 aquaculture.

859 (m) "Floating ~~house~~" dwelling ~~include the following:~~

860 (i) "Floating home" means a single-family dwelling unit constructed on a float, that is moored,
861 anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of
862 being towed.

863 (ii) "Floating on-water residence" means a vessel or ~~any~~ floating structure ~~that is other than a~~
864 floating home, that: (i) Is designed, or has been substantially and structurally remodeled or
865 redesigned, to serve primarily as a residence. "Floating houses" include house boats, house-
866 barges, or any floating structures that serve used primarily as a residence on the water and de-

Commented [AS21]: Edit to definition made per Ecology recommendation 2 (9/30/22). Also relocated "that does not connect to the shore" so it modifies the structure and not the water body.

Commented [LG22]: 2014.a Periodic Checklist

Commented [AS23]: Edit to definition made per Ecology recommendation 3 and required change 2 (9/30/22).

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Planning Commission Recommendations

867 ~~not qualify as a vessel. A floating structure that is used as a residence has detachable utilities;~~
868 ~~and is capable of navigation, but is not designed primarily for navigation, nor is normally capable~~
869 ~~of self-propulsion and (ii) whose owner or primary occupant has held an ownership interest in~~
870 ~~space in a marina, or has held a lease or sublease to use as a means of transportation, is a~~
871 ~~floating house, not a vessel per WAC 332-30-103.~~ space in a marina, since a date prior to July 1,
872 2014.

873

874 (n) *"Flood" or "flooding" means the temporary inundation of normally dry land areas from the
875 overflow of inland or tidal waters or from the unusual and rapid accumulation or runoff of surface
876 waters.

877 (o) "Flood control" means all development on rivers and streams designed to retard bank erosion,
878 to reduce flooding of adjacent lands, to control or divert stream flow, or to create a reservoir,
879 including but not limited to revetments, dikes, levees, channelization, dams, weirs, flood and tidal
880 gates. Excluded are water pump apparatus.

881 (p) ***"Floodplain" is synonymous with 100-year floodplain and means that land area susceptible to
882 inundation with a one percent chance of being equaled or exceeded in any given year. The limit of
883 this area shall be based upon flood ordinance regulation maps or a reasonable method which meets
884 the objectives of the Act.

885 (q) "Floodplain management" means a long-term program to reduce flood damages to life and
886 property and to minimize public expenses due to floods through a comprehensive system of
887 planning, development regulations, building standards, structural works, and monitoring and
888 warning systems.

889 (r) "Floodway" means the area ~~of a river valley that conveys flood waters with reasonable~~
890 ~~regularity, although not necessarily annually. At a minimum, the floodway is that which that~~ has
891 been established in Federal Emergency Management Act flood insurance rate maps or ~~Federal~~
892 ~~Emergency Management Act~~ floodway maps. ~~Other data and information, including topography,~~
893 ~~changes in soil or vegetation, and other indicators of past flooding, may be used to define and map~~
894 ~~a floodway that meets the objectives of the Shoreline Management Act, Chapter 90.58 RCW.~~ The
895 floodway ~~shall~~does not include ~~those~~ lands that can reasonably be expected to be protected from
896 ~~100-year~~ flood waters by flood control devices maintained by or maintained under license from the
897 federal government, the state, or a political subdivision of the state.

Commented [LG24]: 2007 a Periodic Checklist

898 (s) "Forest land" means all land that is capable of supporting a merchantable stand of timber and is
899 not being actively used, developed, or converted in a manner that is incompatible with timber
900 production.

901 (t) *"Forest management" means forest practices pertaining to protecting, producing, and
902 harvesting timber for economic use.

903 (u) *"Forest practice" means any activity conducted on or directly pertaining to forest land and
904 relating to growing or harvesting of timber, or the processing of timber, including but not limited to:

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905 road and trail construction and maintenance; harvest, final and intermediate; precommercial
906 thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of
907 trees; and brush control.

908 (v) *"Forest practice, conversion" means the conversion of land to an active use incompatible with
909 timber growing and where future nonforest uses will be located on currently forested land.

910 (w) *"Frequently flooded areas" means lands subject to a one percent or greater chance of flooding
911 in any given year.

912 (x) "Function assessment" or "functions and values assessment" means a set of procedures, applied
913 by a qualified consultant, to identify the ecological functions being performed in a shoreline or
914 critical area, usually by determining the presence of certain characteristics, and determining how
915 well the area is performing those functions. Function assessments can be qualitative or quantitative
916 and may consider social values potentially provided by an area. Function assessment methods must
917 be consistent with best available science.

918 (7) G Definitions.

919 (a) "Gabions" means works composed of masses of rock, rubble, or masonry tightly enclosed usually
920 by wire mesh so as to form massive blocks. They are used to form walls on beaches to retard wave
921 erosion or as foundations for breakwaters or jetties.

922 (b) "Game fish" means those species of fish that are classified by the Washington Department of
923 Fish and Wildlife as game fish (WAC 232-12-019).

924 ~~(c)~~ "Gangplank" means a structure between a pier and float/dock which can adjust its angle based
925 on changes in water elevation, allowing access to the float at all times; also called a gangway.

926 (d) "Genetically modified organism (GMO)" means a plant, animal or microorganism whose genetic
927 material has been manipulated by a molecular biological engineering technique (such as
928 recombinant DNA technology using transgenic or cisgenic methods) resulting in a genetically
929 distinct organism with an altered hereditary pattern of protein production by the chromosomes.
930 Selective breeding, cross breeding, and creation of polyploidy are not included.

931 ~~(de)~~ *"Geologically hazardous areas" means areas that because of their susceptibility to erosion,
932 sliding, earthquake, or other geological events are not suited to the siting of commercial,
933 residential, or industrial development consistent with public health or safety concerns.

934 (ef) "Geologically unstable" means the relative instability of a shoreform or land form for
935 development purposes over the long term or the intended life of any proposed structure. Soil,
936 slope, ground or surface water, other geologic conditions, vegetation and effects of development
937 are common factors that contribute to instability. Areas characterized by banks or bluffs composed
938 of unconsolidated alluvial or glacial deposits (till and drift material), severely fractured bedrock,
939 active and substantial erosion, substantially deformed trees and shrubs, or active or inactive earth
940 slides are likely to be considered geologically unstable.

941 (fg) "Geotechnical report" or "geotechnical analysis" means a scientific study or evaluation that
942 includes a description of the ground and surface hydrology and geology, the affected land form and
943 its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and
944 recommendations regarding the effect of the proposed development on geologic conditions, the
945 adequacy of the site to be developed, the impacts of the proposed development, alternative
946 approaches to the proposed development, and measures to mitigate potential site-specific and
947 cumulative geological and hydrological impacts of the proposed development, including the
948 potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall
949 conform to accepted technical standards and must be prepared by qualified engineers or geologists
950 who are knowledgeable about the regional and local geology.

951 (gh) *"Grade, existing" means the elevation of the ground or site prior to any work being done or
952 any changes being made to the ground or site.

953 (hi) *"Grade, finished" means the final elevation of the ground level after development.

954 (ij) "Gradient" means a degree of inclination, or a rate of ascent or descent, of an inclined part of
955 the earth's surface with respect to the horizontal; the steepness of a slope. It is expressed as a ratio
956 (vertical to horizontal), a fraction (such as meters/kilometers or feet/miles), a percentage (of
957 horizontal distance), or an angle (in degrees).

958 (jk) *"Grading" means stripping, cutting, filling, or stockpiling earth to create new grade.

959 (kl) "Groin" means a wall-like structure extending on an angle waterward from the shore. Its
960 purpose is to build or preserve an accretion shoreform or berm on its updrift side by trapping
961 littoral drift. Groins are relatively narrow in width but vary greatly in length. Groins are sometimes
962 built in series as a system, and may be permeable or impermeable, high or low, and fixed or
963 adjustable.

964 (lm) "Ground water" means all water that exists beneath the land surface or beneath the bed of any
965 stream, lake or reservoir, or other body of surface water within the boundaries of the state,
966 whatever may be the geological formation or structure in which such water stands or flows,
967 percolates or otherwise moves (Chapter 90.44 RCW).

968 (nn) *"Growth Management Act (GMA)" means the State of Washington Growth Management Act,
969 Chapter 36.70A RCW, as amended.

970 (oo) *****"Guidelines" means those standards adopted under Chapter 173-26 WAC, as amended, or
971 any successor regulations thereof, that serve as standards for implementation of the policy of
972 Chapter 90.58 RCW for regulations of uses of the shorelines, and that provide criteria to local
973 governments and the Department of Ecology in developing master programs.

974 (8) H Definitions.

975 (a) *"Habitat" means the place or type of site where a plant or animal naturally or normally lives
976 and grows.

- 977 (b) "Habitat of special significance" means eelgrass beds, kelp beds, rocky reef habitat, geoduck
978 beds, hardshell clam beds, habitat having significant populations of or which are important to the
979 feeding, reproduction or other life stages of Dungeness crabs, herring, lingcod/greenling, true cod,
980 soles and flounders, rock fishes, cabezon and other large sculpins, or sea perch, wildlife refuges and
981 habitats of endangered or threatened species, and other habitat that meets the 1986
982 Recommended Interim Guidelines for Salmon Net-Pen Culture in Puget Sound, as determined on a
983 case-by-case basis in consultation with Washington Department of Fish and Wildlife. See also
984 "Critical habitat."
- 985 (c) Hanging Aquaculture. See "Floating aquaculture."
- 986 (d) ****"Harbor area" means the area of navigable tidal waters as determined in Section 1 of
987 Article 15 of the Washington State Constitution, which is forever reserved for landings, wharves,
988 streets, and other conveniences of navigation and commerce. Harbor areas exist between the inner
989 and outer harbor lines as established by the state harbor line commission. Harbor areas are
990 managed by the Department of Natural Resources for the conveniences of navigation and
991 commerce (RCW 79.105.060(5)).
- 992 (e) "Hazard tree" means any tree that presents a risk to persons or property due to a high
993 probability of falling in the near future because of a debilitating disease, a structural defect, a root
994 ball significantly exposed, or having been exposed to windthrow within the past 10 years.
995 Hazardous trees include, but are not limited to, conditions where a permanent, primary structure or
996 appurtenant or accessory structure is within one and one-half tree lengths of the base of the trunk.
997 Where not immediately apparent to the administrator, the hazard tree determination shall be made
998 after review of a report prepared by a certified arborist or forester.
- 999 (f) "Hazardous area" means any shoreline area which is hazardous for intensive human use or
1000 structural development due to inherent and/or predictable physical conditions; such as but not
1001 limited to geologically hazardous areas, frequently flooded areas, and coastal high hazard areas.
- 1002 (g) "Hazardous materials" means any substance containing such elements or compounds which
1003 when discharged in any quantity in shorelines present an imminent and/or substantial danger to
1004 public health or welfare; including, but not limited to: fish, shellfish, wildlife, water quality, and
1005 other shoreline features and property.
- 1006 (h) * "Hazardous waste" means those solid wastes designated by 40 CFR Part 261, and regulated as
1007 hazardous waste by the United States Environmental Protection Agency.
- 1008 (i) "Hearings Board" means the State Shorelines Hearings Board referenced in RCW 90.58.170.
- 1009 (j) * "Height, building" means the vertical distance from grade plane to the average height of the
1010 highest roof surface (cf., International Building Code).
- 1011 (k) **** "Historic" means having considerable importance or influence in history; historical.
- 1012 (l) "Historic preservation professionals" means those individuals who hold a graduate degree in
1013 architectural history, art history, historic preservation, or closely related field, with coursework in

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1014 American architectural history, or a bachelor's degree in architectural history, art history, historic
1015 preservation or closely related field plus one of the following:

1016 (i) At least two years of full-time experience in research, writing, or teaching in American
1017 architectural history or restoration architecture with an academic institution, historical
1018 organization or agency, museum, or other professional institution; or

1019 (ii) Substantial contribution through research and publication to the body of scholarly
1020 knowledge in the field of American architectural history.

1021 (m) *"Historic site, structure or landmark" means a site, structure or building of outstanding
1022 archaeological, historical or cultural significance. This is shown by its designation as such by the
1023 National or Washington State Register of Historic Places, designation as an historic landmark, or any
1024 such structure or feature for which the State Historic Preservation Officer has made a
1025 determination of significance pursuant to Section 106 of the National Historic Preservation Act.

1026 (n) *"Hotel" (or "lodge") means a commercial building in which lodging is provided and offered to
1027 the public for compensation, and which is open to transient guests, and is not a motel or bed and
1028 breakfast inn.

1029 (o) *"Household" means one or more related or unrelated persons occupying a dwelling unit.

1030 (p) "Hydraulic project approval (HPA)" means a permit issued by the State Department of Fish and
1031 Wildlife for modifications to waters of the state in accordance with Chapter 75.20 RCW.

1032 (9) I Definitions.

1033 (a) *"Illegal use" means any use of land or a structure which is inconsistent with current codes
1034 and/or was inconsistent with previous codes in effect when the use or structure was established. An
1035 illegal use is different than a nonconforming use. (See also "Nonconforming.")

1036 (b) "Impervious surface" means a hard surface area that either prevents or retards the entry of
1037 water into the soil mantle. Common impervious surfaces include, but are not limited to, roof tops,
1038 walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads,
1039 packed earthen materials, and other surfaces. Open, uncovered retention/detention facilities shall
1040 not be considered impervious surfaces for purposes of this program. Open, uncovered
1041 retention/detention facilities shall be considered impervious surfaces for purposes of runoff
1042 modeling.

1043 ~~(c) "Important, Sensitive and Unique Areas (ISUs)" means specific areas in state waters that meet~~
1044 ~~one or more of the following criteria:~~

1045 ~~(i) Areas that are environmentally sensitive or contain unique or sensitive species or~~
1046 ~~biological communities that must be conserved and warrant protective measures [RCW~~
1047 ~~43.372.040(6)(c)].~~

1048 ~~(ii) Areas with known sensitivity and where the best available science indicates the potential~~
1049 ~~for offshore development to cause irreparable harm to the habitats, species, or cultural~~
1050 ~~resources.~~

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Commented [LG25]: Respond to October 2020 Ecology
Checklist addressing 2018 Marine Spatial Plan

- 1051 (iii) Areas with features that have limited, fixed and known occurrence.
- 1052 (iv) Areas with inherent risk or infrastructure (e.g. buoys or cables) that are incompatible
- 1053 with new ocean uses.
- 1054 ~~(d)~~ *“(Incidental)” means subordinate to, minor in significance, and bearing a reasonable relationship
- 1055 with the primary use.
- 1056 ~~(de)~~ *“(Incompatible)” means uses and activities that are not compatible.
- 1057 ~~(ef)~~ “Industrial development” means facilities for processing, manufacturing, and storage of finished
- 1058 or semi-finished goods, including but not limited to oil, metal or mineral product refining, power
- 1059 generating facilities, including hydropower, ship building and major repair, storage and repair of
- 1060 large trucks and other large vehicles or heavy equipment, related storage of fuels, commercial
- 1061 storage and repair of fishing gear, warehousing construction contractors’ offices and
- 1062 material/equipment storage yards, wholesale trade or storage, and log storage on land or water,
- 1063 together with necessary accessory uses such as parking, loading, and waste storage and treatment.
- 1064 Excluded from this definition are mining including on-site processing of raw materials, and off-site
- 1065 utility, solid waste, road or railway development, and methane digesters that are accessory to an
- 1066 agricultural use.
- 1067 ~~(fg)~~ “Industrial pier” means a fixed platform structure supported by piles in a water body that abuts
- 1068 the shore to provide access to or moorage of vessels or watercraft for industrial purposes, such as,
- 1069 but not limited to, mining, processing raw materials, manufacturing products from natural
- 1070 resources, and operations that include hazardous substances.
- 1071 ~~(gh)~~ *****“Industry” means the production, processing, manufacturing, or fabrication of goods or
- 1072 materials. Warehousing and storage of materials or production is considered part of the industrial
- 1073 process.
- 1074 ~~(hi)~~ *“(Infiltration)” means the downward entry of water into the immediate surface of soil.
- 1075 ~~(ij)~~ “Infrastructure” means existing installed facilities and services including capital facilities such as
- 1076 water supply, sewage disposal, and storm drainage systems, and transportation facilities such as
- 1077 public roads.
- 1078 ~~(jk)~~ *****“Inner harbor line” means a line located and established in navigable tidal waters between
- 1079 the line of ordinary high water and the outer harbor line, constituting the inner boundary of the
- 1080 harbor area-
- 1081 ~~(k)~~ *****“In-stream structure” means a human-made structure placed within a stream or river
- 1082 waterward of the ordinary high water mark that either causes or has the potential to cause water
- 1083 impoundment, or the diversion, obstruction, or modification of water flow. In-stream structures
- 1084 may include those for hydroelectric generation, irrigation, water supply, flood control,
- 1085 transportation, utility service, transmission, fisheries enhancement, or other purposes.
- 1086 (l) *“(Intensification of nonconforming use)” means any increase or expansion in the quality or
- 1087 quantity of products, goods, services, structures or adverse impacts upon parcels within the vicinity

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- 1088 of the nonconforming use produced, generated, served, created or performed at the site of the
1089 legal nonconforming use by the owner or occupant of that legal nonconforming use.
- 1090 (m) *"Intensive" means highly concentrated, very large, or considerable, in terms of Jefferson
1091 County standards and environment.
- 1092 (n) *"International Building Code (IBC)" means the building code officially adopted by Jefferson
1093 County.
- 1094 (o) ****"Intertidal" means the area waterward of the ordinary high water mark and landward of
1095 the line of extreme low tide.
- 1096 (p) "Invasive species" means a species that is (i) nonnative (or alien) to Jefferson County and (ii)
1097 whose introduction causes or is likely to cause economic or environmental harm or harm to human
1098 health. Invasive species can be plants, animals, and other organisms (e.g., microbes). Human actions
1099 are the primary means of invasive species introductions. Includes noxious weeds that, when
1100 established, are highly destructive, competitive, or difficult to control by cultural or chemical
1101 practices, as per RCW 17.10.010.
- 1102 (q) "In-water finfish aquaculture" means the farming or culture of vertebrate or cartilaginous food
1103 fish for market sale when raised in facilities located waterward of the ordinary high water mark in
1104 freshwater or saltwater water bodies, in either open-flow or contained systems. This includes net
1105 pens, sea cages, bag cages and similar floating/hanging containment structures and is intended to
1106 reflect the definition of "marine finfish rearing facilities" (RCW 90.48.220), but does not include
1107 temporary restoration/enhancement facilities used expressly to improve populations of native
1108 stocks and that meet the definition of "watershed restoration project" per RCW 89.08.460.
- 1109 (r) *****"Island" means a land mass completely surrounded by water.
- 1110 (10) J Definitions.
- 1111 (a) *****"Jetty" means a structure generally perpendicular to the shore, extending through or past
1112 the intertidal zone. Jetties are built singly or in pairs at a harbor entrance or river mouth mainly to
1113 prevent accretion from littoral drift in an entrance channel. Jetties also serve to protect channels
1114 from storm waves or cross currents and to stabilize inlets through barrier beaches. Most jetties are
1115 of rip-rapped mound construction.
- 1116 ~~(b) Joint Use Dock. See "Community dock."~~
- 1117 (b) "Joint use dock/pier/float" means a shared-use private boating facility composed of dock, pier,
1118 and/or float components established as an accessory structure for use by at least two (2) and no
1119 more than four (4) single-family residences, including adjacent waterfront and/or upland
1120 lots/parcels. A shared-use private boating facility that also provides related goods/services is
1121 considered a marina. See also "Community dock/pier/float" and "Shared use."
- 1122 (11) No K definitions.
- 1123 (12) L Definitions.

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Commented [AS26]: Response to Comment 13. Edits made in response to Ecology concerns expressed in June 11, 2021 email regarding clarity of terminology and regulations surrounding requirements for shared dock facilities.

Commented [AS27R26]: Additional edits to definition made per Ecology recommendation 2 (9/30/22).

- 1124 (a) "Lake" means a body of standing water in a depression of land or expanded part of a stream, of
1125 20 acres or greater in total area. A lake is bounded by the OHWM, or where a stream enters the
1126 lake, the extension of the lake's OHWM within the stream. A lake is generally distinguished from
1127 marshes, bogs, and swamps by its greater depth.
- 1128 (b) "Land disturbing activity" means any activity that results in movement of earth, or a change in
1129 the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land
1130 disturbing activities include, but are not limited to, clearing, grading, filling, compaction, and
1131 excavation.
- 1132 (c) Landfill. See "Filling."
- 1133 (d) "Landslide" means a general term covering a wide variety of mass movement landforms and
1134 processes involving the downslope transport, under gravitational influence, of soil and rock material
1135 en masse; included are debris flows, debris avalanches, earthflows, mudflows, slumps, mudslides,
1136 rock slides, and rock falls.
- 1137 (e) *"Landslide hazard" areas means areas potentially subject to risk of mass movement due to a
1138 combination of geologic, topographic, and hydrologic factors.
- 1139 (f) *"Landward" means to or toward the land.
- 1140 ~~(g)~~ (g) "Lateral" means of, at, toward, or from the side. Lateral expansion of a non-conforming
1141 structure is parallel to the ordinary high water mark (OHWM).
- 1142 (h) "Levee" means a natural or artificial embankment on the bank of a river or stream for the
1143 purpose of keeping floodwaters from inundating adjacent land. Some levees have revetments on
1144 their sides.
- 1145 ~~(h)~~ (i) "Liberal construction" means that the interpretation of this document shall not only be based
1146 on the actual words and phrases used in it, but also by taking its deemed or stated purpose into
1147 account.
- 1148 ~~(j)~~ (j) Lift. See "Boat lift."
- 1149 (k) "Live-aboard" means a seaworthy vessel that was designed primarily for navigation but is used
1150 as a residence. A boat or other floating structure is a residence if it is occupied 30 out of 45 days or
1151 90 out of 365 days while moored or anchored in the same area, or if the local government, the
1152 marina, or the occupant of the boat defines it as a residence. The phrase "in the same area" means
1153 within a radius of one mile of any location where the same vessel previously moored or anchored. A
1154 vessel that is occupied and is moored or anchored in the same area, but not for the number of days
1155 described in this subsection, is considered a recreational or transient vessel (WAC 332-30-106).
- 1156 ~~(j)~~ (j) "Log storage" means the water storage of logs in rafts or otherwise prepared for shipment in
1157 water-borne commerce, but does not include the temporary holding of logs to be taken directly into
1158 a vessel or processing facility (RCW 79.105.060(10)).

Commented [LG28]: Staff Docket/Code Interpretations
(18.25.100 Lateral)

Commented [LG29]: Response to ECY Rec-4

Commented [LG30]: Response to Comment: 12.2.

- 1159 (km) *"Logging" means activities related to and conducted for purposes of harvesting or processing
1160 timber. See also "Forest practices."
- 1161 (ln) *"Long-term commercial significance" means lands with the growing capacity, productivity, soil
1162 composition, and economic viability for long-term agricultural, mineral or silvicultural production.
- 1163 (mp) *"Lot" means a designated tract, parcel or area of land established by plat, subdivision, or as
1164 otherwise permitted by law, to be separately owned, and utilized. The area below the ordinary high
1165 water mark may not be considered a part of the lot area for all purposes.
- 1166 (np) *"Lot of record" means an undeveloped lot, tract or parcel of land shown on an officially
1167 recorded short plat or long plat or a parcel of land officially recorded or registered as a unit of
1168 property and described by platted lot number or by metes and bounds and lawfully established for
1169 conveyancing purposes on the date of recording of the instrument first referencing the lot. The
1170 term lot of record does not imply that the lot was created in conformity with the legal regulatory
1171 requirements for subdivision of property in accordance with Chapter 58.17 RCW or Chapter 18.35
1172 JCC.
- 1173 (eq) "Low intensity land use" means a land use that has limited impact upon the land, resources and
1174 adjoining properties in terms of the scale of development, and frequency, amount, or concentration
1175 of use. Low intensity uses are mostly passive uses that do not substantially consume resources or
1176 leave noticeable or lasting adverse effects.
- 1177 (13) M Definitions.
- 1178 (a) "Maintenance and repair" means work required to keep existing improvements in their existing
1179 operational state. This does not include any modification that changes the character, scope, or size
1180 of the original structure, facility, utility or improved area.
- 1181 (b) "Marina" means a wet moorage and/or dry storage facility for multiple pleasure crafts and/or
1182 commercial crafts where goods or services related to boating may be sold commercially. Launching
1183 facilities and covered moorage may also be included. Marinas may be open to the general public or
1184 restricted on the basis of property ownership or membership.
- 1185 ~~(c)~~ The Marine Spatial Plan for Washington's Pacific Coast (MSP) is a planning document designed
1186 to address new ocean use development off Washington's Pacific coast that had not been previously
1187 permitted or approved prior to the adoption of the plan in June 2018. The MSP uses a series of data
1188 maps, and analyses in combination with a management framework to evaluate potential impacts
1189 from new ocean use projects on existing uses and resources, based on the principles and criteria
1190 outlined in the Ocean Resources Management Act (ORMA) [RCW 43.143.030(2)] and the Ocean
1191 Management Guidelines [WAC 173-26-360]. It applies a coordinated decision-making process
1192 between various governments, tribes, and stakeholders, and includes additional siting
1193 recommendations and fisheries protection standards. These principles have been incorporated into
1194 this SMP. See Ecology Publication No. 17-06-027, Revised June 2018
1195 (<https://fortress.wa.gov/ecy/publications/documents/1706027.pdf> and <https://msp.wa.gov/>)

Commented [LG31]: Respond to October 2020 Ecology Checklist addressing 2018 Marine Spatial Plan

Planning Commission Recommendations

- 1196 (d) "Marine trades" include a variety of sectors including ship and boat
1197 building/maintenance/repair, passenger ship/ charter ship activities, fishing and seafood
1198 processing, marina and recreational boating, and maritime education and training.
- 1199 (e) "Mass wasting" means downslope movement of soil and rock material by gravity. This includes
1200 soil creep, erosion, and various types of landslides, not including bed load associated with natural
1201 stream sediment transport dynamics.
- 1202 (ef) *"Master planned resort (MPR)" means a self-contained and fully integrated planned unit
1203 development in a setting of significant natural amenities, with primary focus on destination resort
1204 facilities consisting of short-term visitor accommodations associated with a range of on-site indoor
1205 or outdoor recreational facilities. A master planned resort may include other residential uses within
1206 its boundaries, but only if the residential uses are integrated into and support the on-site
1207 recreational nature of the resort (cf., RCW 36.70A.360).
- 1208 (eg) "May" means the action is allowable, provided it conforms to the provisions of this program.
- 1209 (fh) "Mean annual flow" means the average flow of a river or stream (measured in cubic feet per
1210 second) from measurements taken throughout the year. If available, flow data for the previous 10
1211 years should be used in determining mean annual flow.
- 1212 (gi) "Minerals" means clay, coal, gravel, industrial minerals, metallic substances, peat, sand, stone,
1213 topsoil, and any other similar solid material or substance to be excavated from natural deposits on
1214 or in the earth for commercial, industrial, or construction use.
- 1215 (hj) (i) "Mining" or "mining operations" means, in accordance with RCW 78.44.031, all mine-related
1216 activities, exclusive of reclamation, that include, but are not limited to activities that affect noise
1217 generation, air quality, surface and ground water quality, quantity, and flow, glare, pollution, traffic
1218 safety, ground vibrations, and/or significant or substantial impacts commonly regulated under land
1219 use provisions. Mining specifically includes:
- 1220 (A) Extraction of rock, stone, gravel, sand, earth, and other minerals;
- 1221 (B) Blasting, equipment maintenance, sorting, crushing, and loading;
- 1222 (C) On-site mineral processing including asphalt or concrete batching, concrete recycling,
1223 and other aggregate recycling; and
- 1224 (D) All methods of transporting minerals to and from the mine (including conveyors, piers,
1225 and barges), on-site road maintenance, maintenance of roads used extensively for surface
1226 mining activities, traffic safety, and traffic control.
- 1227 (ii) Mining shall not include the following:
- 1228 (A) Excavation and grading at building construction sites where such construction is
1229 authorized by a valid building permit; or

Commented [LG32]: Task Force Scoping Item D

Commented [LG33R32]: Term is used elsewhere in SMP amendments. See checklist, added source link: <http://ptmta.org/wp/wp-content/uploads/2018/05/2018-Jefferson-County-Marine-Trades-Impact-Report.pdf>.

- 1230 (B) Excavation and grading in public rights-of-way for the purpose of on-site road
1231 construction, or in private rights-of-way for the same purpose if authorized by the county;
1232 or
- 1233 (C) Excavation and grading for the purpose of developing ponds or manure lagoons for
1234 agricultural purposes; or
- 1235 (D) Excavation and grading in connection with and at the site of any creek, river, or flood-
1236 control or storm drainage channel for the purpose of enlarging hydraulic capacity or
1237 changing the location or constructing a new channel or storm drain where such work has
1238 been approved by the county; or
- 1239 (E) Excavation and grading where the excavated material will be used on the same property
1240 or on property contiguous to and under the same ownership as the excavation.
- 1241 (~~h~~) *"Mitigation" means measures prescribed and implemented to avoid, minimize, lessen, or
1242 compensate for adverse impacts. Explicit in this definition is the following order of preference:
- 1243 (i) Avoiding an impact altogether by not taking a certain action or parts of actions;
- 1244 (ii) Minimizing impacts by limiting the degree or magnitude of an action and its
1245 implementation;
- 1246 (iii) Rectifying impacts by repairing, rehabilitating, or restoring the affected environment;
- 1247 (iv) Reducing or eliminating an impact over time by preservation and maintenance operations
1248 during the life of the action;
- 1249 (v) Compensating for an impact by replacing or providing substitute resources or environments;
1250 and
- 1251 (vi) Monitoring the mitigation and taking remedial action when necessary.
- 1252 (~~h~~) "Mitigation bank" means a site where wetlands or similar habitats are restored, created,
1253 enhanced, or in exceptional circumstances, preserved, expressly for the purpose of providing
1254 compensatory mitigation in advance of authorized impacts to aquatic resources.
- 1255 (~~h~~) "Mitigation plan" means a detailed plan indicating actions necessary to mitigate adverse
1256 impacts to shorelines and/or critical areas.
- 1257 (~~h~~) "Mixed use" means a combination of uses within the same building or site as a part of an
1258 integrated development project with functional interrelationships and coherent physical design.
- 1259 (~~h~~) *"Mobile home" means a factory-built dwelling built prior to June 15, 1976, to the standards
1260 other than the HUD Code, and acceptable under applicable state codes in effect at the time of
1261 construction or introduction of the home into the state. Mobile homes have not been built since
1262 the introduction of the HUD Manufactured Home Construction and Safety Standards Act. See also
1263 "Manufactured home" in Chapter 18.10 JCC.

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- 1264 (AP) *"Mobile home park" means a development with two or more improved pads or spaces with
1265 required improvements and utilities designed to accommodate mobile homes, according to RCW
1266 59.20.030(4).
- 1267 (eg) "Monitoring" means evaluating the effects of a development action on the biological,
1268 hydrological, pedological, and geological elements of natural systems and/or assessing the
1269 performance of required mitigation measures through data collection, analysis and reporting.
- 1270 (pr) *****"Mooring buoy" means an anchored floating device in a water body used for the landing of
1271 storage of a vessel or water craft.
- 1272 (es) *"Motel" means a commercial building or group of buildings in which lodging is provided to
1273 transient guests, offered to the public for compensation, and in which access to and from each
1274 room or unit is through an exterior door.
- 1275 (ft) *"Motor home" means a motor vehicle originally designed, reconstructed, or permanently
1276 altered to provide facilities for human habitation, which include lodging, cooking, and sewage
1277 disposal, and enclosed within a solid body shell with the vehicle, but excluding a camper or similar
1278 unit constructed separately and affixed to a motor vehicle (RCW 46.04.305).
- 1279 (su) *****"Must" means a mandate; the action is required.
- 1280 (tv) "Multifamily dwelling" means a single building, or portion thereof, designed for or occupied by
1281 three or more families living independently of each other in separate dwelling units on one lot of
1282 record and, for the purpose of this program, includes triplexes, fourplexes, apartment buildings, and
1283 residential condominiums.
- 1284 (14) N Definitions.
- 1285 (a) *"National Register of Historic Places" means the official federal list, established by the National
1286 Historic Preservation Act, of sites, districts, buildings, structures and objects significant in the
1287 nation's history and prehistory, or whose artistic or architectural value is unique.
- 1288 (b) *"Native vegetation" means plant species that are indigenous to Jefferson County.
- 1289 (c) "Nearshore" means the estuarine delta/marine shoreline and areas of shallow water from the
1290 top of the coastal bank or bluffs to the water at a depth of about 10 meters relative to mean lower
1291 low water.
- 1292 (d) "Net pens" are finfish culturing systems that generally consist of two nets – an interior net to
1293 keep fish in and an exterior net to exclude predators. Net pens are typically anchored to the
1294 waterbody floor and suspended from the surface with a floatation structure; the netting continues
1295 above the water to a degree to stop fish from jumping out. Fish pen structures solely and directly
1296 established and managed for purposes of salmon enhancement and/or restoration are not
1297 considered net pens for purposes of this program.
- 1298 (e) "No net loss (NNL)" means the maintenance of the aggregate total of the county shoreline
1299 ecological functions over time. The no net loss standard contained in WAC 173-26-186 requires that

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Planning Commission Recommendations

1300 the impacts of shoreline use and/or development, whether permitted or exempt from permit
1301 requirements, be identified and mitigated such that there are no resulting adverse impacts on
1302 ecological functions or processes.

1303 (f) *"Noise" means any sound not occurring in the natural environment which causes or tends to
1304 cause an adverse psychological or physiological effect on humans. This includes sounds arising from
1305 the amplification of noises generated by expected or permitted uses of a lot or structure.

1306 (g) "Nonconforming" means a use or development which conformed to the applicable codes in
1307 effect on the date of its creation but which no longer complies because of changes in code
1308 requirements. Nonconformity is different than and not to be confused with illegality (see "Illegal
1309 use").

1310 (h) "Nonconforming lot" means a legal lot of record in existence prior to the effective date of this
1311 program and any amendments thereto, on which it is not possible to construct a primary structure
1312 outside of/landward of the standard shoreline buffer ~~or which does not otherwise meet the~~
1313 ~~minimum due to insufficient lot size requirements as set forth in this program.~~ depth or width. Depth
1314 of lot is measured as the distance from ordinary high water mark to the inside edge ~~farthest~~
1315 landward property line. Where the side property lines are not equal in length, lot depth is
1316 calculated as the mean of the frontage setback, those two distances. A non-conforming depth is
1317 equal to the sum of:

1318 (i) Standard shoreline buffer per JCC 18.25.270(4)(d)
1319 (ii) Shoreline building setback per JCC 18.25.300(b)
1320 (iii) Common house depth, 40 feet¹
1321 (iv) Frontage setback, per JCC 18.30.050, Table 6-1.

1322 An example is: standard marine shoreline buffer 150 feet + shoreline building setback 10 feet +
1323 common house depth 40 feet + frontage setback 20 feet = 220 feet.

1324 (i) *"Nonconforming structure" means a structure which does not conform to the dimensional
1325 regulations of this program, including but not limited to setback, buffer, height, lot coverage,
1326 density, and building configuration.

1327 (j) *"Nonconsumptive use" means a use which does not permanently deplete, degrade, or destroy
1328 the resource involved.

Commented [LG34]: Response to Comment 12.3.

Commented [LG35]: Staff Docket/Code Interpretations and Code Interpretation #3

Commented [LG36]: Response to ECY Rec-5

¹ Note: Forty feet is based on an assumed depth of a home with a living room, bathroom, and bedroom. It is a little less than what a maximum might be if matching a dimension associated with the maximum buildable area of 2,500 square feet that is 50x50.

1329 (15) O Definitions.

1330 ~~(a) “Ocean disposal uses” means the deliberate deposition or release of material at sea, such as~~
1331 ~~solid wastes, industrial waste, radioactive waste, incineration, incinerator residue, dredged~~
1332 ~~materials, vessels, aircraft, ordinance, platforms, or other man-made structures.~~

Commented [LG37]: Respond to October 2020 Ecology Checklist addressing 2018 Marine Spatial Plan

1333 ~~(b) “Ocean energy production uses” means the production of energy in a usable form directly in or~~
1334 ~~on the ocean rather than extracting a raw material that is transported elsewhere to produce~~
1335 ~~energy in a readily usable form. Examples of these ocean uses are facilities that use wind, wave~~
1336 ~~action or differences in water temperature to generate electricity.~~

Commented [LG38]: Respond to October 2020 Ecology Checklist addressing 2018 Marine Spatial Plan

1337 ~~(c) “Ocean oil and gas uses and activities” involve the extraction of and exploration for oil and gas~~
1338 ~~resources from beneath the ocean.~~

Commented [LG39]: Response to ECY REQ-3.

1339 ~~(d) “Ocean mining” means such uses as the mining of metal, mineral, sand, and gravel resources~~
1340 ~~from the sea floor.~~

1341 ~~(e) “Ocean research activities” means scientific investigation for the purpose of furthering~~
1342 ~~knowledge and understanding. Investigation activities involving necessary and functionally related~~
1343 ~~precursor activities to an ocean use or development may be considered exploration or part of the~~
1344 ~~use or development.~~

Commented [LG40]: Respond to October 2020 Ecology Checklist addressing 2018 Marine Spatial Plan

1345 ~~(f) “Ocean salvage uses” share characteristics of other ocean uses and involve relatively small sites~~
1346 ~~occurring intermittently. Historic shipwreck salvage which combines aspects of recreation,~~
1347 ~~exploration, research, and mining is an example of such a use.~~

Commented [LG41]: Respond to October 2020 Ecology Checklist addressing 2018 Marine Spatial Plan

1348 ~~(g) “Ocean transportation” means such uses as: Shipping, transferring between vessels, and~~
1349 ~~offshore storage of oil and gas; transport of other goods and commodities; and offshore ports and~~
1350 ~~airports.~~

Commented [LG42]: Respond to October 2020 Ecology Checklist addressing 2018 Marine Spatial Plan

1351 ~~(h) “Ocean use, new” means uses and developments that have not occurred or were not permitted~~
1352 ~~within Washington’s Coastal waters prior to the completion of the Marine Spatial Plan for~~
1353 ~~Washington’s Pacific Coast, as adopted June 2018. New uses, as defined by the MSP, are in-water~~
1354 ~~uses, with potential adverse impacts to renewable resources or existing uses that have not been~~
1355 ~~previously reviewed or authorized/permitted within the MSP study area. The MSP anticipates new~~
1356 ~~ocean use proposals for activities such as renewable energy, dredged material disposal, mining,~~
1357 ~~marine product harvesting, and offshore aquaculture operations.~~

Commented [LG43]: Respond to October 2020 Ecology Checklist addressing 2018 Marine Spatial Plan

1358 ~~(i) “Ocean uses” mean activities or developments involving renewable and/or nonrenewable~~
1359 ~~resources that occur on Washington’s coastal waters and includes their associated off shore, near~~
1360 ~~shore, inland marine, shoreland, and upland facilities and the supply, service, and distribution~~
1361 ~~activities, such as crew ships, circulating to and between the activities and developments. Ocean~~
1362 ~~uses involving nonrenewable resources include such activities as extraction of oil, gas and minerals,~~
1363 ~~energy production, disposal of waste products, and salvage. Ocean uses which generally involve~~
1364 ~~sustainable use of renewable resources include commercial, recreational, and tribal fishing,~~
1365 ~~aquaculture, recreation, shellfish harvesting, and pleasure craft activity.~~

Commented [LG44]: Respond to October 2020 Ecology Checklist addressing 2018 Marine Spatial Plan

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- 1366 (j) "Off-premises sign" means a sign situated on premises other than those premises to which the
1367 sign's message is related.
- 1368 (bk) *****"Offshore" means the sloping subtidal area seaward from the low intertidal.
- 1369 (el) "Off-site mitigation" means to replace shoreline resources at a location away from the site that
1370 is impacted by development.
- 1371 (dm) "On-premises sign" means a sign situated on the premises to which the sign's message is
1372 related.
- 1373 (en) *****"On-site waste disposal" means any one of several means for disposal of sanitary waste on
1374 the property from which it is generated (e.g., septic tank and drainfield).
- 1375 (fo) *****"Open record hearing" means a hearing, conducted by a single hearing body or officer that
1376 creates the record through testimony and submission of evidence and information, under
1377 procedures prescribed by ordinance or resolution. An open record hearing may be held prior to the
1378 decision on a project permit and is to be known as an open record predecision hearing. An open
1379 record hearing may be held on an appeal, and is to be known as an open record appeal hearing, if
1380 no open record predecision hearing has been held on the project permit.
- 1381 (gp) *****"Open space" means lands committed to farming and forestry uses and any parcel, lot, or area
1382 of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public
1383 or private use or enjoyment.
- 1384 (hq) *****"Open space tax program" means a county program associated with property taxation. Land
1385 being used for agriculture may be enrolled in the tax program through the county assessor. The tax
1386 program is independent of land use designation (i.e., zoning) and these development regulations,
1387 except in the context of identifying existing and ongoing agriculture, as defined and regulated in this
1388 program.
- 1389 (ir) *****"Operator" means any person who is in actual physical or electronic control of a powered
1390 watercraft, motor vehicle, aircraft, off-highway vehicle, or any other engine driven vehicle.
- 1391 (js) *****"Ordinary high water mark" or "OHWM" means that mark that will be found by examining
1392 the bed and banks and ascertaining where the presence and action of waters are so common and
1393 usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from
1394 that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it
1395 may naturally change thereafter, or as it may change hereafter in accordance with permits issued
1396 by Jefferson County or the Department of Ecology. On a site-specific basis, Department of Ecology
1397 has the final authority on determining where the ordinary high water mark is located (RCW
1398 90.58.030).
- 1399 (kt) *****"Outer harbor line" means a line located and established in navigable waters as provided in
1400 Section 1 of Article 15 of the Washington State Constitution, beyond which the state shall never sell
1401 or lease any rights whatsoever to private persons.

1402 (u) *Owner means an individual, firm, business entity, trust, association, syndicate, partnership,
1403 or corporation having sufficient property interest to seek development of land.

1404 (mv) *Owner-occupied means the residential occupancy of a building or property by the owner.

1405 (16) P Definitions.

1406 (a) *Park means a tract of land designated for and used by the public for recreation.

1407 (b) *Parking lot means an off-street, ground level open area, usually improved, for the temporary
1408 storage of motor vehicles. This includes ancillary components to the parking lot such as lighting,
1409 signage, electric vehicle charging stations, bike racks/lockers, and passenger loading areas/seating.
1410 Primary use parking means parking as a primary use; accessory parking is parking that supports
1411 a specific authorized shoreline use or development.

1412 (c) *Parties of record means the land use permit applicant; persons who have testified at the
1413 open record hearing; and any persons who have submitted written comments concerning the
1414 application that form part of the public record (excluding persons who only signed petitions or
1415 mechanically produced form letters).

1416 (d) *Performance standard means a set of criteria or limits relating to certain characteristics that
1417 a particular use or process may not exceed.

1418 (e) *Permit center means the Jefferson County department of community development.

1419 (f) *Permit review means the process of reviewing applications for project permits for consistency
1420 with the requirements of this program.

1421 (g) *Permittee means the entity to whom a permit is granted.

1422 (h) *Person means any individual, owner, contractor, tenant, partnership, corporation, business
1423 entity, association, organization, cooperative, public or municipal corporation, agency of a state or
1424 local governmental unit however designated, public or private institution, or an employee or agent
1425 of any of the foregoing entities.

1426 (i) *Pervious surface means a surface that absorbs water.

1427 (j) Pier means a fixed platform structure supported by piles in a water body that abuts the shore
1428 to provide landing for water-dependent recreation or moorage for vessels or watercraft and does
1429 not include above water storage.

1430 (k) *Planned rural residential development (PRRD) means development characterized by a unified
1431 site design, clustered residential units, and areas of common open space pursuant to Article VI-M of
1432 Chapter 18.15 JCC.

1433 (l) *Planning department means the Jefferson County department of community development.

Commented [LG45]: Response to Comment: 14.

Commented [LG46]: Response to ECY Rec-6

- 1434 (m) *"Plat" means a map or representation of a subdivision or short subdivision of land showing the
1435 division of a parcel of land into lots, roads, dedications, common areas, restrictions and easements,
1436 as regulated by Chapter 58.17 RCW and this program.
- 1437 (n) *"Playing field" means a land area designed and used for outdoor games, such as baseball,
1438 football, soccer, track events and tennis. It includes public outdoor swimming pools.
- 1439 (o) "Port" means a legal entity established for purposes of acquiring, constructing, maintaining,
1440 operating, developing and regulating harbor improvements, rail or motor vehicle transfer and
1441 terminal facilities, water transfer and terminal facilities, air transfer and terminal facilities, or any
1442 combination of such transfer and terminal facilities, and other commercial transportation, transfer,
1443 handling, storage and terminal facilities, and industrial improvements.
- 1444 (p) *"Predecision hearing, open record" means a hearing, conducted by the hearing examiner, that
1445 creates the county's record through testimony and submittal of evidence and information, under
1446 procedures prescribed by the county by ordinance or resolution. An open record predecision
1447 hearing may be held prior to the county's decision on a project permit (RCW 36.70B.020).
- 1448 (q) *"Preliminary plat" means a neat and approximate drawing of a proposed subdivision showing
1449 the general layout of streets, lots, blocks (if applicable) and other elements of a subdivision
1450 consistent with the provisions of this program.
- 1451 (r) "Preservation" means actions taken to ensure the permanent protection of existing, ecologically
1452 important areas that the county has deemed worthy of long-term protection.
- 1453 (s) "Primary association" means the use of a habitat area by a listed or priority species for
1454 breeding/spawning, rearing young, resting, roosting, feeding, foraging, and/or migrating on a
1455 frequent and/or regular basis during the appropriate season(s) as well as habitats that are used less
1456 frequently/regularly but which provide for essential life cycle functions such as
1457 breeding/nesting/spawning.
- 1458 (t) *"Primary use" means the principal use of a property.
- 1459 (u) "Priority habitat" means a habitat type with unique or significant value to one or more species.
1460 An area classified and mapped as priority habitat must have one or more of the following attributes:
1461 comparatively high fish or wildlife density; comparatively high fish or wildlife species diversity; fish
1462 spawning habitat; important fish and wildlife breeding habitat; important fish or wildlife seasonal
1463 range; important fish or wildlife movement corridor; rearing and foraging habitat; refuge; limited
1464 availability; high vulnerability to habitat alteration; unique or dependent species; or shellfish bed. A
1465 priority habitat may be described by a unique vegetation type or by a dominant plant species that is
1466 of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A priority
1467 habitat may also be described by a successional stage (such as old growth and mature forests).
1468 Alternatively, a priority habitat may consist of a specific habitat element (such as talus slopes, caves,
1469 snags) of key value to fish and wildlife. A priority habitat may contain priority and/or nonpriority
1470 fish and wildlife (WAC 173-26-020(24)).

- 1471 (v) "Priority species" means wildlife species of concern due to their population status and their
1472 sensitivity to habitat alteration, as defined by the Washington Department of Fish and Wildlife.
- 1473 (w) "Prohibited use" means any use or activity which is specifically not allowed by this program. A
1474 prohibited use cannot be authorized through a variance or conditional use permit.
- 1475 (x) "Project" means any proposed or existing activity regulated by Jefferson County.
- 1476 (y) "Project area" means all areas at and around a proposed shoreline development that would
1477 be affected directly or indirectly by the proposal for which a project proponent is seeking approval
1478 under this master program, and not simply the immediate area involved in the project. That is, the
1479 project area may consist of an area larger than the affected lot or parcel. Direct effects are those
1480 caused by the proposed project and occur at the same time and place. Indirect effects are those
1481 caused by the proposed project and are later in time, but still are reasonably certain to occur. The
1482 shoreline administrator is vested with the authority to define the project area.
- 1483 (z) "Proof of ownership" means a photocopy of a recorded deed to property and/or a current title
1484 insurance policy insuring the status of an applicant as the owner in fee title to real property.
- 1485 (aa) "Proponent" means the owner, sponsor, authorized agent and/or permit applicant of any
1486 proposed use or development on or affecting shorelines of the state.
- 1487 (bb) "Provision" means any written language contained in this program, including without
1488 limitation any definition, policy, goal, regulation, requirement, standard, authorization, or
1489 prohibition.
- 1490 (cc) "Pruning" means the removal of any of a tree's living branches.
- 1491 (dd) "Public access" is a goal of the Shoreline Management Act that supports the public's right to
1492 get to, view and use the state's public waters, both saltwater and freshwater, the water/land
1493 interface and associated shoreline area. It includes physical access that is either lateral (areas
1494 paralleling the shore) or perpendicular (an easement or public corridor to the shore), and/or visual
1495 access facilitated by scenic roads and overlooks, viewing towers and other public sites or facilities.
1496 Public access can be established by easement or other means and may not always include a facility
1497 or structure. Public access is intended to connect people to public lands and waters, not to allow
1498 trespassing on private property.
- 1499 (ee) "Public facilities (and services)" means facilities which serve the general public including
1500 streets, roads, ferries, sidewalks, street and road lighting systems, traffic signals, community water
1501 systems, community sewage treatment systems, storm sewer systems, parks and recreational
1502 facilities, and libraries (see RCW 36.70A.030). Some public facilities are essential public facilities.
- 1503 (ff) "Public interest" means the interest shared by the citizens of the state or community at large in
1504 the affairs of government, or some interest by which their rights or liabilities are affected including,
1505 but not limited to, an effect on public property or on health, safety, or general welfare resulting
1506 from adverse effects of a use or development.
- 1507 (gg) "Public transportation systems" means public facilities for air, water, or land transportation.

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discussions in 2023. 3) **Blue** based on Planning Commission motions.

- 1508 (hh) "Public use" means the use of any land, water, or building by a public agency for the general
1509 public, or by the public itself.
- 1510 (ii) "Public utility" means a use owned or operated by a public or publicly licensed or franchised
1511 agency that provides essential public services such as telephone exchanges, electric substations,
1512 radio and television stations, wireless communications services, gas and water regulation stations
1513 and other facilities of this nature.
- 1514 (17) Q Definitions.
- 1515 (a) "Qualified professional" or "qualified consultant" means a person with experience and training
1516 with expertise appropriate for the relevant subject. A qualified professional/consultant must have
1517 obtained a B.S. or B.A. degree or have appropriate education and experience.
- 1518 (b) "Qualified geotechnical engineer" means a professional engineering geologist or geotechnical
1519 engineer, licensed in the state of Washington.
- 1520 (18) R Definitions.
- 1521 (a) *"Rare, endangered, threatened and sensitive species" means plant and animal species
1522 identified and listed by the Washington State Department of Natural Resources, Washington
1523 Natural Heritage Program, Washington State Department of Fish and Wildlife, or the U.S. Fish and
1524 Wildlife Service, as being severely limited or threatened with extinction within their native ranges.
- 1525 (b) *"RCW" means the Revised Code of Washington.
- 1526 (c) "Reach" means a section of shoreline and associated planning area that is mapped and described
1527 as a unit due to relatively homogenous characteristics that include land use and/or natural features,
1528 such as a drift cell location and other factors.
- 1529 (d) "Reasonably foreseeable," in the context of this program and the Comprehensive Plan, means
1530 predictable by an average person based on existing conditions, anticipated build-out, and
1531 approved/pending permits.
- 1532 (e) "Recharge" means the process involved in the absorption and addition of water from the
1533 unsaturated zone to ground water.
- 1534 (f) "Reclamation" means, in accordance with RCW 78.44.031, rehabilitation for the appropriate
1535 future use of disturbed areas resulting from surface mining.
- 1536 (g) *"Recording" means the filing of a document(s) for recordation with the county auditor.
- 1537 (h) *"Recreational development" means parks and facilities for camping, indoor and outdoor sports,
1538 and similar developments.
- 1539 (i) "Recreation, shoreline" means a **private, commercial,** or public activity intended for personal
1540 enjoyment and leisure. Most shoreline recreation occurs outdoors and can be either passive (such
1541 as observation or recording activities such as photography, painting, bird watching, viewing of water

Commented [AS47]: Edits made per Ecology recommended change 2 (9/30/22)

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- 1542 conditions or shoreline features, nature study and related activities) or active (such as: fishing,
1543 clamming, hunting, beach combing, rock climbing; boating, swimming, hiking, bicycling, horseback
1544 riding, camping, picnicking, and similar activities). Existing rules for health, safety and public
1545 conduct are not exempted by an action being deemed recreational.
- 1546 (j) "Reestablishment" means measures taken to intentionally restore an altered or damaged natural
1547 feature or process including:
- 1548 (i) Active steps taken to restore damaged wetlands, streams, protected habitat, and/or their
1549 buffers to the functioning condition that existed prior to an unauthorized alteration;
- 1550 (ii) Actions performed to reestablish structural and functional characteristics of the critical area
1551 that have been lost by alteration, past management activities, or other events; and
- 1552 (iii) Restoration can include restoration of wetland functions and values on a site where
1553 wetlands previously existed, but are no longer present due to lack of water or hydric soils.
- 1554 (k) ****"Rehabilitation" means a type of restoration action intended to repair natural or historic
1555 functions and processes. Activities could involve breaching a dike to reconnect wetlands to a
1556 floodplain or other activities that restore the natural water regime.
- 1557 (l) "Renovation" means to restore to an earlier condition as by repairing or remodeling.
1558 "Renovation" shall include any interior changes to the building and those exterior changes that do
1559 not substantially change the character of the existing structure.
- 1560 (m) "Resident fish" means a fish species that completes all stages of its life cycle within freshwater
1561 and frequently within a local area.
- 1562 (n) "Residential development" means development of land with dwelling units for nontransient
1563 occupancy including single-family, multifamily, and creation of new residential lots by land division.
1564 For the purposes of this program, accessory dwelling units, ~~garages, satellite bedrooms, sheds,~~
1565 ~~gazebo~~s and other similar structures accessory to a dwelling unit shall also be considered residential
1566 development (see also "Dwelling unit" and "Accessory dwelling unit").
- 1567 (o) *"Resource-based industrial" means a forest resource-based industrial land use designation that
1568 recognizes existing, active sawmills and related activities.
- 1569 (p) *"Resource lands" means agricultural, forest, and mineral lands that have long-term commercial
1570 significance.
- 1571 (q) *"Restoration" means the reestablishment or upgrading of impaired ecological shoreline
1572 processes or functions. This may be accomplished through measures including, but not limited to,
1573 revegetation, removal of fill, removal of intrusive shoreline structures and removal or treatment of
1574 toxic materials. Restoration does not imply a requirement for returning the shoreline area to
1575 aboriginal or pre-European settlement conditions.
- 1576 (r) *"Restriction" means a limitation placed upon the use of parcel(s) of land.

Commented [LG48]: Response to ECY Rec-1.

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- 1577 (s) "Revetment" means a sloped wall constructed of rip-rap or other suitable material placed on
1578 stream banks or other shorelines to retard bank erosion and minimize lateral stream movement.
- 1579 (t) "Rip-rap" means dense, hard, angular rock free from cracks or other defects conducive to
1580 weathering often used for bulkheads, revetments or similar slope/bank stabilization purposes.
- 1581 (u) "Riparian corridor, zone or area" means the area adjacent to a water body (stream, lake or
1582 marine water) that contains vegetation that influences the aquatic ecosystem, nearshore area
1583 and/or fish and wildlife habitat by providing shade, fine or large woody material, nutrients, organic
1584 debris, sediment filtration, and terrestrial insects (prey production). Riparian areas include those
1585 portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with
1586 aquatic ecosystems (i.e., zone of influence). Riparian zones provide important wildlife habitat. They
1587 provide sites for foraging, breeding and nesting; cover to escape predators or weather; and
1588 corridors that connect different parts of a watershed for dispersal and migration.
- 1589 (v) ****"River" means a large natural stream of water emptying into any ocean, lake, or other body
1590 of water, and usually fed along its course by converging tributaries.
- 1591 (w) *"Road" means an improved and maintained public or private right-of-way which provides
1592 vehicular access to abutting properties, and which may also include provision for public utilities,
1593 pedestrian access, cut and fill slopes, and drainage.
- 1594 (x) *"Runoff" means water originating from rainfall and other precipitation that is found in drainage
1595 facilities, rivers, streams, springs, seeps, ponds, lakes and wetlands as well as shallow ground water.
1596 In addition, that portion of rainfall or other precipitation that becomes surface flow and interflow.
- 1597 (y) *"Rural lands" means the class of land use designations which are intended to preserve the rural
1598 character of the county. Rural land designations include the following: rural residential, rural
1599 commercial, and rural industrial.
- 1600 (z) *"Rural residential designation" means the land use designation in the Comprehensive Plan
1601 designed to recognize existing residential development patterns of the rural landscape and provide
1602 for a variety of residential living opportunities at densities which maintain the primarily rural
1603 residential character of an area.
- 1604 (19) S Definitions.
- 1605 (a) *"Sale" means the conveyance for consideration of legal or beneficial ownership.
- 1606 (b) *"Saltwater intrusion" or "seawater intrusion" means the underground flow of salt water into
1607 wells and aquifers.
- 1608 (c) ****"Scientific and educational facilities" means those sites, structures, or facilities that provide
1609 unique insight into our natural and cultural heritage. Water-oriented facilities including but not
1610 limited to maritime education and training are part of scientific and educational facilities.
- 1611 (d) *"Screening" means a method of visually shielding or obscuring a structure or use from view by
1612 fencing, walls, trees, or densely planted vegetation-

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Commented [LG49]: Task Force D Marine trades and economic development.

- 1613 ~~1.~~(e) ***“Seaward” means to or toward the sea.
- 1614 (f) ****“Seawall” means a structure whose primary purpose is to protect the shore from erosion by
1615 water waves. Seawalls are similar but typically more massive than bulkheads because they are
1616 designed to resist the full force of waves.
- 1617 (g) “Sedimentation” means the process by which material is transported and deposited by water or
1618 wind.
- 1619 (h) “Setback” means the distance a building structure is placed behind a specified limit such as a lot
1620 line or shoreline buffer.
- 1621 (i) “Shared use” means a facility shared by two or more lots/parcels. This can apply to facilities for
1622 adjoining lots or facilities shared between waterfront and upland properties; ~~comparable to~~
1623 ~~“Community (e.g., beach access structure” per JCC 18.10.030, or boating facility).~~ See also
1624 “Community dock/~~pier/float~~” and “Joint-use dock/~~pier/float~~.”
- 1625 (j) “Shellfish” means invertebrate organisms of the phyla Arthropoda (class Crustacea), Mollusca
1626 (class Pelecypoda) and Echinodermata. Shellfish possess a full, partial or vestigial hard outer shell,
1627 carapace or exoskeleton. Examples include, but are not limited to, crabs and shrimp, clams, oysters,
1628 mussels and other bivalves, snails, limpets, abalone and other single-shelled gastropods, and sea
1629 urchins, sea cucumbers, sea stars.
- 1630 (k) “Shellfish habitat conservation areas” are all public and private tidelands suitable for shellfish, as
1631 identified by the Washington Department of Health classification of commercial growing areas, and
1632 those recreational harvest areas as identified by the Washington Department of Ecology as
1633 designated as shellfish habitat conservation areas pursuant to WAC 365-190-80. Any area that is or
1634 has been designated as a shellfish protection district created under Chapter 90.72 RCW is also a
1635 shellfish habitat conservation area.
- 1636 (l) “Shore armoring” or “structural shoreline armoring” refers to the placement of bulkheads and
1637 other hard structures on the shoreline to provide stabilization and reduce or prevent erosion
1638 caused by wave action, currents and/or the natural transport of sediments along the shoreline.
1639 Groins, jetties, breakwaters, revetments, sea walls are examples of other types of shoreline
1640 armoring.
- 1641 (m) ****“Shorelands” or “shoreland areas” means those lands extending landward for 200 feet in all
1642 directions as measured on a horizontal plane from and perpendicular to the ordinary high water
1643 mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all
1644 wetlands and river deltas associated with the streams, lakes and tidal waters which are subject to
1645 the provisions of Chapter 173-22 WAC, as may be amended; the same to be designated as to
1646 location by the Department of Ecology, as defined by Chapter 90.58 RCW.
- 1647 (n) ***“Shorelines” are all of the water areas of the state as defined in RCW 90.58.030, including
1648 reservoirs and their associated shorelands, together with the lands underlying them except the
1649 following, which are excluded:

Commented [AS50]: Edits to definition made per Ecology recommendation 2 (9/30/22).

Commented [LG51]: Response to Comment: 13.

- 1650 (i) Shorelines of statewide significance;
- 1651 (ii) Shorelines on segments of streams upstream of a point where the mean annual flow is 20
1652 cubic feet per second (20 cfs) or less and the wetlands associated with such upstream
1653 segments; and
- 1654 (iii) Shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes.
- 1655 (o) "Shoreline conditional use" means a use, development, substantial development, or unclassified
1656 use that, owing to some special characteristics attendant to its typical operation or installation, may
1657 be allowed in certain circumstances when consistent with criteria specified herein.
- 1658 (p) "Shoreline conditional use permit" means a permit issued by Jefferson County and approved by
1659 Ecology stating that the land uses and activities meet all criteria set forth in this program, and all
1660 conditions of approval in accordance with the procedural requirements of this program.
- 1661 (q) "Shoreline jurisdiction" means all shorelines of the state and shorelands.
- 1662 (r) "Shoreline Management Act (SMA)" means the Shoreline Management Act of 1971 (Chapter
1663 90.58 RCW), as amended.
- 1664 (s) "Shoreline master program" ("SMP" or "program") means the Jefferson County shoreline master
1665 program.
- 1666 (t) "Shoreline modification activities" means those actions that modify the physical configuration
1667 or qualities of the shoreline area, usually through the construction of a physical element such as a
1668 bulkhead, dock or other shoreline structure. They can include other actions, such as clearing,
1669 grading, or filling.
- 1670 (u) "Shoreline permit" means a shoreline substantial development permit (SSDP), a shoreline
1671 conditional use permit, or a shoreline variance, or any combination thereof issued by Jefferson
1672 County pursuant to Chapter 90.58 RCW.
- 1673 (v) "Shoreline stabilization" means nonstructural modifications to the existing shoreline intended to
1674 reduce or prevent erosion of uplands or beaches and/or influence wave action, currents and/or the
1675 natural transport of sediments along the shoreline. This includes use of bioengineering and other
1676 forms of vegetative stabilization.
- 1677 (w) "Shorelines of statewide significance (SSWS)" with respect to Jefferson County are
1678 identified as follows:
- 1679 (i) The area between the ordinary high water mark and the western boundary of the state,
1680 within Jefferson County and state of Washington jurisdiction, including harbors, bays, estuaries,
1681 and inlets.
- 1682 ~~(ii) The area between the ordinary high water mark and the western boundary of the state,~~
1683 ~~within Jefferson County and state of Washington jurisdiction, including harbors, bays, estuaries,~~
1684 ~~and inlets.~~

Commented [LG52]: Staff Docket/Code Interpretations
definition of SSWS

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Planning Commission Recommendations

- 1685 ~~(iii) The lakes, whether natural, artificial, or a combination thereof, with a surface acreage of~~
1686 ~~1,000 acres or more measured at the ordinary high water mark, including associated wetlands.~~
- 1687 ~~(iv)~~
- 1688 (ii) Those areas of Puget Sound and the Strait of Juan de Fuca between the ordinary high water
1689 mark and the line of extreme low tide, which are Hood Canal from Tala Point to Foulweather
1690 Bluff, south to the Mason-Jefferson County line, ~~including associated wetlands.~~
- 1691 ~~(viii)~~ Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt waters north
1692 to the Canadian line and lying seaward from the line of extreme low tide.
- 1693 ~~(viiv)~~ Those natural rivers or segments thereof downstream from a point where the mean
1694 annual flow is measured at 1,000 cubic feet per second or more. In Jefferson County these
1695 rivers include portions of the Bogachiel River, Clearwater River, Hoh River, and Quinault River.
- 1696 ~~(viii)~~ Those shorelands associated with the areas described in subsection (19)(w)~~(i)-(z)~~ ii, iii
1697 and ~~(iv)~~ of this definition.
- 1698 (x) ***"Shorelines of the state" means the total of all shorelines and shorelines of statewide
1699 significance within Washington State.
- 1700 (y) *"Short plat" means a neat and accurate drawing of a short subdivision, prepared for filing for
1701 record with the county auditor, and containing all elements and requirements set forth in Chapter
1702 18.35 JCC.
- 1703 (z) *"Should" means that the particular action is preferred unless there is a demonstrated,
1704 compelling reason, based on policy of the Act and this program, against taking the action (WAC 173-
1705 26-020(32)).
- 1706 (aa) *"Sign" means any object, device, display or structure, or part thereof, situated outdoors or
1707 indoors, which is used to advertise, identify, display, direct or attract attention to an object, person,
1708 institution, organization, business, product, service, event or location by any means, including
1709 words, letters, figures, design, symbols, fixtures, colors, illumination or projected images. Excluded
1710 from this definition are signs required by law, such as handicapped parking signs, and the flags of
1711 national and state governments.
- 1712 (bb) *"Sign, commercial or industrial" means a sign that directs attention to a business or
1713 profession, to a commodity or service sold, offered, or manufactured, or to an entertainment
1714 offered on the premises where the sign is located.
- 1715 (cc) "Significant vegetation removal" means the removal or alteration of trees, shrubs, and/or
1716 ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes
1717 significant impacts to ecological functions provided by such vegetation. The removal of invasive or
1718 noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree
1719 topping, where it does not affect ecological functions, does not constitute significant vegetation
1720 removal.

Commented [LG53]: Response to ECY Rec-7.

Planning Commission Recommendations

- 1721 (dd) *"Single-family residence" means a dwelling unit designed for and occupied by no more than
1722 one family.
- 1723 ~~(ee) "Site plan approval advance determination (SPAAD)" means a review of a proposed~~
1724 ~~development on a particular parcel for site requirements and constraints to allow prospective land~~
1725 ~~buyers, owners or developers a means to obtain a five-year authorization prior to obtaining building~~
1726 ~~permits for the development action. The intent is to reduce costs and aid financing and serves to~~
1727 ~~vest a proposed development to current regulations.~~
- 1728 (ee) Reserved.
- 1729 (ff) "Slope" means:
- 1730 (i) Gradient.
- 1731 (ii) The inclined surface of any part of the earth's surface, delineated by establishing its toe and
1732 top and measured by averaging the inclination over at least 10 feet of vertical relief.
- 1733 (gg) *"Small-scale" means of a size or intensity which has minimal impacts on the surrounding area
1734 and which makes minimal demands on the existing infrastructure.
- 1735 (hh) "Soil" means all unconsolidated materials above bedrock described in the Soil Conservation
1736 Service Classification System or by the Unified Soils Classification System.
- 1737 (ii) *"Solid waste" means all putrescible and nonputrescible solid and semi-solid wastes, except
1738 wastes identified in WAC 173-304-015, including, but not limited to, junk vehicles, garbage, rubbish,
1739 ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts
1740 thereof, and discarded commodities, but excluding agricultural wastes and crop residues returned
1741 to the soil at agronomic rates. This includes all liquid, solid and semi-solid materials which are not
1742 the primary products of public, private, industrial, commercial, mining and agricultural operations.
1743 Solid waste includes but is not limited to sludge from wastewater treatment plants and septage
1744 from septic tanks, wood waste, dangerous waste, and problem wastes. Unrecovered residues from
1745 recycling operations shall be considered solid waste.
- 1746 (jj) ****"Solid waste handling and disposal facilities" means any land or structure where solid waste
1747 is stored, collected, transported, or processed in any form, whether loose, baled or containerized,
1748 including but not limited to the following: transfer stations, landfills, or solid waste loading facilities.
1749 Solid waste handling and disposal facilities do not include the following: handling or disposal of solid
1750 waste as an incidental part of an otherwise permitted use; and solid waste recycling and
1751 reclamation activities not conducted on the same site as and accessory to the handling and disposal
1752 of garbage and refuse.
- 1753 (kk) *"Solid waste disposal" means the act or process of disposing of rubbish and garbage.
- 1754 ~~(ll) SPAAD. See "Site plan approval advance determination."~~
- 1755 (ll) Reserved.

Commented [LG54]: Response to Comment: 12.5.

Commented [LG55]: Response to Comment: 12.5.

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- 1756 (mm) "Spit" means an accretion shoreform that is narrow in relation to length and extends parallel
1757 to or curves outward from shore; spits are also characterized by a substantial wave-built sand and
1758 gravel berm on the windward side, and a more gently sloping silt or marsh shore on the lagoon or
1759 leeward side; curved spits are called hooks.
- 1760 (nn) *"Storage yard, outdoor" means an outdoor area used for the storage of equipment, vehicles
1761 or materials for periods exceeding 72 hours.
- 1762 (oo) ****"Stormwater" means rain or snow melt that does not naturally infiltrate into the ground
1763 but runs off surfaces such as rooftops, streets, or lawns, directly or indirectly, into streams and
1764 other water bodies or through constructed infiltration facilities into the ground.
- 1765 (pp) "Stream" means an area where surface waters produce a defined channel or bed. A defined
1766 channel or bed is an area that demonstrates clear evidence of the annual passage of water and
1767 includes, but is not limited to, bedrock channels, gravel beds, sand and silt beds, and defined
1768 channel swales. The channel or bed need not contain water year round. This definition includes
1769 drainage ditches or other artificial water courses where natural streams existed prior to human
1770 alteration, and/or the waterway is used by anadromous or resident salmonid or other fish
1771 populations.
- 1772 (qq) "Strict construction" means an interpretation that considers only the literal words of a writing,
1773 as compared to liberal construction.
- 1774 (rr) *"Structure" means a permanent or temporary edifice or building or any piece of work
1775 artificially built up or composed of parts joined together in some definite manner, whether installed
1776 on, above, or below the surface of the ground or water, except for vessels (WAC 173-27-030).
1777 Retaining walls, bulkheads, fences, landscaping walls/decorative rockeries, and similar
1778 improvements to real property are examples of structures. Geoduck tubes are not considered
1779 structures for purposes of this program.
- 1780 (ss) *"Subdivision" means the division or redivision of land into lots, tracts, parcels, sites or divisions
1781 for the purpose of sale, lease or transfer of ownership.
- 1782 (tt) "Substantial development" means any development of which the total cost or fair market value
1783 exceeds \$5,7188,504 or as adjusted by the state legislature, or any development which materially
1784 interferes with the normal public use of the water or shorelines of the state; except the classes of
1785 development listed (a) through (l) under RCW 90.58.030(3)(e).
- 1786 (uu) ****"Substantially degrade" means to cause damage or harm to an area's ecological functions.
1787 An action is considered to substantially degrade the environment under any of the following
1788 criteria:
- 1789 (i) The damaged ecological function or functions affect other related functions or the viability of
1790 the larger ecosystem; or
- 1791 (ii) The degrading action may cause damage or harm to shoreline ecological functions under
1792 foreseeable conditions; or

Commented [AS56]: Additional update per Ecology recommendation 8 (9/30/22).

Commented [LG57]: 2017 a Periodic Checklist: Ecology suggests changing value or changing to citation; approach up to County but Ecology would require a change as the County had explicitly stated the older value.

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- 1793 (iii) Scientific evidence indicates that the action may contribute to damage or harm to
1794 ecological functions as part of cumulative impacts from similar permitted development on
1795 nearby shorelines.
- 1796 (vv) ****“Subtidal” means the area waterward of the line of extreme low tide.
- 1797 (ww) **“Sustainable” means actions or activities which preserve and enhance resources for future
1798 generations.
- 1799 (20) T Definitions.
- 1800 (a) **“Threatened species” means a species that is likely to become an endangered species within
1801 the foreseeable future, as classified by the Washington Department of Fish and Wildlife, the
1802 Department of Natural Resources, Washington Natural Heritage Program, or the federal
1803 Endangered Species Act.
- 1804 (b) **“Threshold determination” means the decision by the responsible official under the State
1805 Environmental Policy Act (SEPA) regarding the likelihood that a project or other action (WAC 197-
1806 11-704) will have a probable significant adverse impact on an element of the environment.
- 1807 (c) “Toe” means the lowest part of a slope or cliff; the downslope end of an alluvial fan, landslide,
1808 etc.
- 1809 (d) ****“Tombolo” means a causeway-like accretion spit connecting an offshore rock or island with
1810 the main shore, such as the formation that connects Hood Head to the southern shore of Paradise
1811 Bay, near the Hood Canal Bridge.
- 1812 (e) “Topping” means the removal of any part of a tree’s main stem.
- 1813 (f) “Trimming” means the removal of living plant matter from any type of vegetation and includes
1814 limbing, thinning, shaping, tree pruning and topping.
- 1815 (21) U Definitions.
- 1816 (a) “Unavoidable” means adverse impacts that remain after all appropriate avoidance and
1817 minimization measures have been implemented.
- 1818 (b) **“Uplands” means dry lands landward of OHWM.
- 1819 (c) **“Urban growth area (UGA)” means an area designated by the county within which urban
1820 growth is to be encouraged and outside of which growth is not intended to be urban in nature (cf.,
1821 Chapter 36.70A RCW).
- 1822 (d) **“Use” means the purpose that land or building or structures now serve or for which they are or
1823 may be occupied, maintained, arranged, designed, or intended.
- 1824 (e) **“Utility distribution lines” means pipes, wires, and associated structural supports. This may
1825 include electric distribution.

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Commented [LG58]: Response to ECY Rec-9.

Commented [LG59]: Response to ECY Rec-9.

1826 ~~(f) * "Utility facilities" means facilities directly used for the distribution or transmission of services to~~
1827 ~~an area, excluding utility service offices.~~

1828 (f) * "Utilities" means services and facilities that produce, convey, store, or process power, gas,
1829 sewage, communications, oil, waste, and the like. On-site utility features serving a primary use, such
1830 as a water, sewer or gas line to a residence, stormwater facilities, or an electric vehicle charging
1831 station are "accessory utilities" and are considered a part of the primary use.

1832 (22) V Definitions.

1833 (a) * "Variance (or shoreline variance) permit" means a type of permit that can provide relief from
1834 the dimensional requirements of this program. A variance may only be granted when all of the
1835 criteria listed at WAC 173-27-170 are met. The variance is intended to allow only a minimum degree
1836 of variation from setback or other standards, just enough to afford relief and to allow a reasonable
1837 use of a property. Variances approved by Jefferson County must also be approved, denied, or
1838 approved with conditions by Ecology.

1839 (b) "Vegetation" means all live plant material, including native and nonnative, woody and
1840 herbaceous, deciduous and evergreen, trees and understory groundcover, aquatic and terrestrial.

1841 (c) "Vegetative debris" means all dead and downed plant material, naturally expired or portions of a
1842 plant removed intentionally, such as by trimming, resulting from native and nonnative, woody and
1843 herbaceous, deciduous and evergreen, trees and understory groundcover, aquatic and terrestrial
1844 source. Examples include, but are not limited to, leaves, needles, branches, limbs, annual
1845 herbaceous growth, and grass clippings. A standing tree snag is not considered vegetative debris for
1846 the purposes of this program.

1847 (d) "Vegetation removal" means physical extraction, including the whole plant plus its root
1848 structure, or trimming in excess of that which a plant can survive even though the root structure is
1849 left in place, or chemical expiration of plant material.

1850 (e) "Vessel" means a floating structure that is designed primarily for navigation, is normally capable
1851 of self propulsion and use as a means of transportation, and meets all applicable laws and
1852 regulations pertaining to navigation and safety equipment on vessels, including, but not limited to,
1853 registration as a vessel by an appropriate government agency as per WAC 332-30-103.

1854 (f) * "Vicinity" means, in rural and resource lands, the area within one mile of the exterior boundary
1855 of a given parcel (JCC 18.10.220).

1856 (g) **** "View protection" means protection of the visual quality of the shoreline resource and
1857 maintenance of view corridors to and from waterways and their adjacent shoreland features.

1858 (23) W Definitions.

1859 (a) * "WAC" means the Washington Administrative Code.

1860 ~~(b)(c)~~ **** "Waste disposal" means refuse composed of garbage, rubbish, ashes, dead animals,
1861 demolition wastes, automobile parts, and similar material.

Commented [LG60]: Staff Docket/Code Interpretations
"Utilities"
WAC 173-26-241 (3) (I)

Commented [LG61]: Response to Comment: 14.

Commented [AS62]: Definition removed per Ecology
recommendation 10 and the term (used only twice
elsewhere in code) will be altered (9/30/22).

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Planning Commission Recommendations

1862 (ed) ***“Water-dependent use” means a use or portion of a use that requires direct contact with the
1863 water and cannot exist at a nonwater location due to the intrinsic nature of its operations. Ferry
1864 terminals, public fishing piers, marinas, and shellfish aquaculture are examples of water-dependent
1865 uses. Residential development is not a water-dependent use but is a preferred use of shorelines of
1866 the state.

1867 (de) ***“Water-enjoyment use” means a recreational use or other use that facilitates public access
1868 to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or
1869 aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic
1870 of the use and which through location, design, and operation ensures the public’s ability to enjoy
1871 the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use,
1872 the use must be open to the general public and the shoreline-oriented space within the project
1873 must be devoted to the specific aspects of the use that fosters shoreline enjoyment. A restaurant or
1874 similar use may qualify as a water-enjoyment use, provided it includes public access to the
1875 shoreline.

1876 (ef) “Water-oriented use” means any one or a combination of water-dependent, water-related or
1877 water-enjoyment uses and serves as an all-encompassing definition for priority uses under the Act.

1878 (fg) “Water quality” means the characteristics of water, including flow or amount and related
1879 physical, chemical, aesthetic, recreation-related, and biological characteristics.

1880 (gh) ***“Water-related use” means a use or portion of a use that is not intrinsically dependent on a
1881 waterfront location but depends upon a waterfront location for economic viability because of one
1882 of the following:

1883 (i) A functional requirement for a waterfront location such as the arrival or shipment of
1884 materials by water or the need for large quantities of water; or

1885 (ii) The use provides a necessary service supportive of the water-dependent activities and the
1886 proximity of the use to its customers makes its services less expensive and/or more convenient.
1887 Water-related uses include manufacturers of ship parts large enough that transportation
1888 becomes a significant factor in the product’s cost; professional services for primarily water-
1889 dependent activities and storage of water-transported foods. Other examples of water-related
1890 uses may include the warehousing of goods transported by water, seafood processing plants,
1891 hydroelectric generating plants, gravel storage when transported by barge, oil refineries where
1892 transport is by tanker, and log storage for water-borne transportation.

1893 (hi) “Watershed” means a geographic region within which water drains into a particular river,
1894 stream or body of water.

1895 ~~(i)(j) “Water system” means purveyors serving connections and providing water capacity per WAC~~
1896 ~~246-290.~~

1897 (k) “Waterward” means towards the water, often referenced as the direction from an existing or
1898 proposed structure or development or from the ordinary high water mark (OHWM).

Commented [LG63]: Staff Docket/Code Interpretations
“water system”
WAC 173-26-241 (3) (l)

Commented [LG64]: Response to Comment 12.6.

1899 (l) ***“Wetlands” means areas that are inundated or saturated by surface water or ground water at
1900 a frequency and duration sufficient to support, and that under normal circumstances support, a
1901 prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally
1902 include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands
1903 intentionally created for nonwetland sites, including, but not limited to, irrigation and drainage
1904 ditches, grass lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds,
1905 and landscape amenities or those wetlands created after July 1, 1990, that were unintentionally
1906 created as a result of the construction of a road, street, or highway. Wetlands may include those
1907 artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of
1908 wetlands.

1909 (jm) “Windthrow” means a natural process by which trees are uprooted or sustain severe trunk
1910 damage by the wind. [Ord. 7-13 Exh. A (Art. II)]

1911 **Article III. Master Program Goals**

1912 **18.25.110 Purpose.**

1913 This article describes the overall goals of the master program, which apply to all uses and developments
1914 within shoreline jurisdiction regardless of the designated shoreline environment in which they occur.
1915 These goals are informed by Chapter 173-26 WAC and the governing principles described in Article I of
1916 this chapter. The general policies and regulations in Article VI of this chapter and the specific use policies
1917 and regulations in Articles VII and VIII of this chapter are the means by which these goals are
1918 implemented. Achievement of these goals shall be consistent with the state’s policies of avoiding
1919 cumulative impacts and ensuring no net loss of shoreline processes, functions, and values. These goals
1920 are not listed in order of priority. [Ord. 7-13 Exh. A (Art. III)]

1921 **18.25.120 Conservation.**

1922 (1) Purpose. As required by RCW 90.58.100(2)(f), the conservation goals address the protection of
1923 natural resources, scenic vistas, aesthetics, and vital shoreline areas for fisheries and wildlife for the
1924 benefit of present and future generations.

1925 (2) Goals.

1926 (a) Preserve, enhance and protect shoreline resources (i.e., wetlands, intertidal areas, and other fish
1927 and wildlife habitats) for their ecological functions and values, and aesthetic and scenic qualities.

1928 (b) Maintain and sustain natural shoreline formation processes through effective shoreline
1929 management.

1930 (c) Promote restoration and enhancement of areas that are biologically and/or aesthetically
1931 degraded while maintaining appropriate use of the shoreline.

1932 (d) Protect and enhance native shoreline vegetation to maintain water quality, fish and wildlife
1933 habitat, and other ecological functions, values and processes. ~~[Ord. 7-13 Exh. A (Art. III § 1)]~~

1934 (e) Foster environmental stewardship, preserve clean air and water, and protect fish and wildlife
1935 habitat. Anticipate and respond to climate change with mitigation and adaptation
1936 strategies.(County Comprehensive Plan Framework Goal VI) [Ord. 7-13 Exh. A (Art. III § 1)]

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Commented [LG65]: Comp. Plan Framework Goal VI
Environmental Conservation

Commented [LG66R65]: Task Force C

1937 **18.25.130 Economic development.**

1938 (1) Purpose. As required by RCW 90.58.100(2)(a), the economic development goals address the location
1939 and design of industries, transportation facilities, port facilities, tourist facilities, commerce and other
1940 developments that are particularly dependent on their location on or use of the shorelines.

1941 (2) Goals.

1942 (a) Encourage viable, orderly economic growth through economic activities that benefit the local
1943 economy and are environmentally sensitive. Such activities should not disrupt or degrade the
1944 shoreline or surrounding environment.

1945 (b) Accommodate and promote water-oriented industrial and commercial uses and developments,
1946 giving highest preference to water-dependent uses.

1947 (c) Encourage water-oriented recreational use as an economic asset that will enhance public
1948 enjoyment of the shoreline.

1949 (d) Encourage economic development in areas already partially developed with similar uses when
1950 consistent with this program and the Jefferson County Comprehensive Plan.

1951 (e) Promote the heritage and culture of marine trades in Jefferson County. [Ord. 7-13 Exh. A (Art. III
1952 § 2)]

1953 **18.25.140 Historic, archaeological, cultural, scientific and educational resources.**

1954 (1) Purpose. As required by RCW 90.58.100(2)(g), these goals address protection and restoration of
1955 buildings, sites and areas having historic, archaeological, cultural, scientific, or educational significance.

1956 (2) Goals.

1957 (a) Maintain finite and irreplaceable links to the past by identifying, preserving, protecting, and
1958 where appropriate, restoring historic, archaeological, cultural, scientific, and educational (HACSE)
1959 sites.

1960 (b) Protect HACSE sites and buildings identified on national, state or local historic registers from
1961 destruction or alteration, and from encroachment by incompatible uses.

1962 (c) Acquire, where feasible, HACSE sites to ensure their protection and preservation for present and
1963 future generations.

1964 (d) Foster greater appreciation for shoreline management, maritime activities, environmental
1965 conservation, natural history and cultural heritage by educating and informing citizens of all ages
1966 through diverse means.

1967 (e) Ensure that tribal organizations and the State Office of Archaeology and Historic Preservation
1968 are involved in the review of projects that could potentially affect such resources. [Ord. 7-13 Exh. A
1969 (Art. III § 3)]

1970 **18.25.150 Public access.**

1971 (1) Purpose. As required by RCW 90.58.100(2)(b), the public access goals address the ability of the public
1972 to reach, touch, and travel on the shorelines of the state and to view the water and the shoreline from
1973 adjacent locations.

1974 (2) Goals.

1975 (a) Develop, adopt, and implement a shoreline public access plan that incorporates public access
1976 into new shoreline development, unifies individual public access points into a comprehensive
1977 system, and seeks new waterfront access points that can be acquired for public use.

1978 (b) Evaluate potential public access opportunities when reviewing all shoreline development
1979 projects except for individual single-family residential development projects.

1980 (c) Acquire property (i.e., through purchase, donation or other agreement) to provide public access
1981 to the water's edge in appropriate and suitable locations.

1982 (d) Regulate shoreline use and development to minimize interference with the public's use of the
1983 water and protect the public's opportunity to enjoy the physical and aesthetic qualities of
1984 shorelines, including views of the water.

1985 (e) Expand opportunities for physical and visual public access to shorelines when such access can
1986 occur without human health, safety, and/or security risks, and without adverse effects on shoreline
1987 functions, processes, values, private property rights, and/or neighboring uses.

1988 (f) Incorporate educational and interpretive signage and other tools into public access facilities to
1989 enhance the public's understanding and appreciation of shoreline ecology, cultural history and
1990 maritime heritage. [Ord. 7-13 Exh. A (Art. III § 4)]

1991 **18.25.160 Recreation.**

1992 (1) Purpose. As required by RCW 90.58.100(2)(c), the recreation goals address the creation and
1993 expansion of water-oriented public recreational opportunities including, but not limited to, parks,
1994 tidelands, beaches, and ecological study areas.

1995 (2) Goals.

1996 (a) Encourage diverse recreational opportunities in shoreline areas that can support such use and
1997 development without human health, safety, and/or security risks, and without adverse effects on
1998 shoreline functions, processes, values, private property rights, and/or neighboring uses.

1999 (b) Plan for future shoreline recreation needs and acquire (i.e., through purchase, donation or other
2000 agreement) shoreline areas that have a high potential to provide recreation areas.

2001 (c) Provide for both active and passive recreational needs when developing recreational areas.

2002 (d) Support other governmental and nongovernmental efforts to acquire and develop additional
2003 shoreline properties for public recreational uses. [Ord. 7-13 Exh. A (Art. III § 5)]

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2004 **18.25.170 Restoration and enhancement.**

2005 (1) Purpose. As required by WAC 173-26-186, the restoration and enhancement goals address
2006 reestablishment, rehabilitation and improvement of impaired shoreline ecological functions, values
2007 and/or processes.

2008 (2) Goals.

2009 (a) Improve shoreline functions, processes, and values over time through regulatory, voluntary and
2010 incentive-based public and private programs and actions that are consistent with the shoreline
2011 master program restoration plan and other agency adopted restoration plans.

2012 (b) Encourage cooperative restoration programs between local, state, and federal public agencies,
2013 tribes, nonprofit organizations, and landowners.

2014 (c) Provide fundamental support to restoration work by various organizations by identifying
2015 shoreline restoration priorities, and by organizing information on available funding sources for
2016 restoration implementation.

2017 (d) Implement actions that restore shoreline ecological functions, values and processes as well as
2018 shoreline features, improve habitat for sensitive and/or locally important species, and are
2019 consistent with biological recovery goals for threatened salmon populations and other species
2020 and/or populations for which a recovery plan is available.

2021 (e) Integrate restoration efforts with other parallel natural resource management efforts including,
2022 but not limited to, shellfish closure response plans and water quality cleanup plans.

2023 (f) Increase the availability, viability and sustainability of shoreline habitats for salmon, shellfish,
2024 forage fish, shorebirds and marine seabirds, and other species. [Ord. 7-13 Exh. A (Art. III § 6)]

2025 **18.25.180 Shoreline use.**

2026 (1) Purpose. As required by RCW 90.58.100(2)(e), the shoreline use goals address the general
2027 distribution, location, and extent of housing, business, industry, transportation, agriculture, natural
2028 resources, aquaculture, recreation, education, navigation, and other categories of public and private
2029 land use.

2030 (2) Goals.

2031 (a) Ensure that shoreline use patterns are compatible with the ecological functions and values of the
2032 shoreline and avoid disruption of natural shoreline processes.

2033 (b) Increase protection of shoreline ecological resources by properly siting and regulating water-
2034 dependent and residential uses that have preferred status for use of waterfront lands.

2035 (c) Encourage appropriate sustainable, low impact, and cluster development practices whenever
2036 feasible.

2037 (d) Encourage uses that allow for or include restoration so that areas affected by past activities or
2038 catastrophic events can be improved.

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- 2039 (e) Ensure that all new development is consistent with the Land Use and Rural Element and other
2040 pertinent sections of the Comprehensive Plan and the Growth Management Act (Chapter 36.70A
2041 RCW).
- 2042 (f) Limit development intensity in ecologically sensitive and fragile areas.
- 2043 (g) Reduce health and safety risks by limiting development in areas subject to flooding, erosion,
2044 landslides, channel migration, and other hazards.
- 2045 (h) Reserve aquatic lands including tidelands for water-dependent uses.
- 2046 (i) Protect tidelands and bedlands that were acquired and retained under the Bush and Callow Acts
2047 by not permitting unrelated uses on these tidelands.
- 2048 (j) Encourage all use and development to address potential adverse effects of global climate change
2049 and sea level rise.
- 2050 (k) Allow residential, commercial, and industrial development in a manner that minimizes risk from
2051 flooding, earth movement, shoreline erosion, sea level rise, and other natural hazards. (County
2052 Comprehensive Plan Policy LU-P-7.2)
- 2053 (l) Ensure that land use decisions consider climate change, and are based on land use ordinances
2054 which are in compliance with the Critical Areas Ordinance and all applicable state environmental
2055 laws. (Comprehensive Plan Policy LU-P-7.1)
- 2056 (m) Develop information and action plans regarding impacts to land use from climate change,
2057 including protecting or moving infrastructure from inundation areas; review of hydrologic budgets
2058 and water impoundment and conservation measures for changing precipitation patterns; and
2059 protection of water quality from seawater intrusion or other pollutants to drinking water quality.
2060 (Comprehensive Plan Policy LU-P-7.3)
- 2061 (n) Promote climate change adaptation measures that:
- 2062 (i) prioritize retreat measures for new development or new infrastructure investments and allow
2063 for feasible planned relocations or realignments of existing development and infrastructure;
- 2064 (ii) accommodate shoreline uses and activities that are saltwater and flood tolerant;
- 2065 (iii) protect existing development and infrastructure that is consistent with this SMP and is
2066 infeasible to be relocated or realigned. [Ord. 7-13 Exh. A (Art. III § 7)]
- 2067 **18.25.190 Transportation, utilities and essential public facilities.**
- 2068 (1) Purpose. As required by RCW 90.58.100(2)(d), the transportation and essential public facilities goals
- 2069 address circulation and the general location and extent of thoroughfares, transportation routes,
- 2070 terminals, and other public utilities and facilities.
- 2071 (2) Goals.

Commented [LG67]: Comp Plan Policy: LU-P-7.2

Commented [LG68R67]: Task Force C

Commented [LG69]: Comp Plan Policy LU-P-7.1

Commented [LG70R69]: Task Force C

Commented [LG71]: Comp Plan Policy LU-P-7.3

Commented [LG72R71]: Task Force C

Commented [LG73]: See research. Retreat,
accommodate, and protect.

Commented [LG74R73]: Task Force C

2072 (a) Develop efficient and economical transportation systems and other essential public facilities in a
2073 manner that assures the safe movement of people and goods and that effectively provides other
2074 essential services without adverse effects on shoreline use and development or shoreline ecological
2075 functions, processes, or values.

2076 (b) Provide and/or enhance physical and visual public shoreline access along public roads (i.e.,
2077 turnouts, viewpoints and rest areas) in accordance with the public access provisions of this
2078 program.

2079 (c) Provide for alternative modes of travel when developing circulation systems and ensure
2080 consistency with the Jefferson County nonmotorized transportation and recreational trails plan.

2081 (d) Locate, construct and maintain new transportation and other essential public facilities in areas
2082 that do not require shoreline stabilization, dredging, extensive cut/fill and other forms of shoreline
2083 alteration.

2084 (e) Identify road and public infrastructure developments that interfere with natural processes,
2085 require shoreline armoring, or have exorbitant maintenance needs. Prioritize relocation of such
2086 facilities to more environmentally sustainable and economically sensible locations.

2087 (f) Consider potential effects of climate change when making siting decisions for capital facilities,
2088 also with consideration of the land use and environment goals and policies of the Comprehensive
2089 Plan. (Comprehensive Plan Policy CF-P-4.3)

2090 [Ord. 7-13 Exh. A (Art. III § 8)]

Commented [LG75]: Comp Plan Policy CF-P-4.3

Commented [LG76R75]: Task Force C

2091 **Article IV. Shoreline Jurisdiction and Environment Designations**

2092 **18.25.200 Shoreline jurisdiction and mapping.**

2093 (1) The provisions of this program shall apply to all shorelines of the state in unincorporated Jefferson
2094 County including all freshwater and saltwater shorelines, shorelines of statewide significance and all
2095 shorelands as defined in Article II of this chapter and RCW 90.58.030-also listed at JCC 18.25.890. These
2096 areas are collectively referred to herein as "shorelines." The official shoreline map adopted with this
2097 program ~~(Appendix A attached to the ordinance codified in this chapter) shows the general location and~~
2098 approximate extent of such shorelines. At JCC 18.25.870 shows the general location and approximate
2099 extent of such shorelines. As further described below, in the event discrepancies exist between the
2100 mapping and text of this program, the site-specific application of definitions shall prevail to determine
2101 precise and jurisdictional extent. County shall also rely on technical information in the Shoreline
2102 Inventory & Characterization Report (ICR), such as location of the 20 cfs upstream extent, especially for
2103 West End creeks/streams/rivers depicted in ICR Maps 1C and 31. The County has not opted to extend
2104 jurisdiction to include land for buffers for critical areas or additional portions of the 100-year floodplain,
2105 per RCW 90.58.030(d).

Commented [LG77]: Response to ECY Rec 11 and 37

2106 (2) The official shoreline map shows the environment designations that apply to each segment of the
2107 shoreline planning area. The official shoreline map is for planning purposes only. It does not necessarily
2108 identify or depict the precise lateral extent of shoreline jurisdiction or all associated wetlands. The
2109 lateral extent of the shoreline jurisdiction at the parcel level shall be determined on a case-by-case basis

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2110 at the time a shoreline development is proposed. The actual extent of shoreline jurisdiction requires a
2111 site-specific evaluation to identify the location of the ordinary high water mark and any associated
2112 wetlands.

2113 (3) The county shall maintain a Geographic Information Systems (GIS) database that depicts the
2114 coordinates for locating the upstream extent of shoreline jurisdiction (that is, the location where the
2115 mean annual stream flow is at least 20 cubic feet per second). The database shall also show the limits of
2116 the floodplain, floodway, and channel migration zones, and such information shall be used, along with
2117 site-specific information on the location of the ordinary high water mark and associated wetlands, to
2118 determine the precise lateral extent of shoreline jurisdiction on a parcel-by-parcel basis. The database
2119 shall be updated regularly as new information is made available and the public shall have access to the
2120 database upon request.

Commented [LG78]: Response to ECY Rec-11.

2121 (4) All areas within shoreline jurisdiction that are not mapped and/or not designated shall be designated
2122 conservancy until the area is redesignated through a master program amendment, except:

2123 (a) within the Quinault Indian Nation reservation where the upland designation shall be natural
2124 and the waterward designation shall be priority aquatic.

2125 (b) The shoreline environment designation in ocean coastal areas waterward of the ordinary
2126 high water mark (OHWM) extending to the westernmost boundary of the state of Washington
2127 shall be priority aquatic.

2128 (c) Riverine, stream and creek shorelines of the state in the west end shall be aquatic below the
2129 OHWM, and the upland designation shall be conservancy landward of OHWM.

Commented [LG79]: Staff Docket/Code Interpretations
west end rivers clarification

2130 (5) If disagreement develops as to the exact location of a shoreline environment designation boundary
2131 line shown on the official shoreline map, the following rules shall apply:

2132 (a) Boundaries indicated as approximately following lot, tract, or section lines shall be so construed.

2133 (b) Boundaries indicated as approximately following roads or railways shall be respectively
2134 construed to follow their centerlines.

2135 (c) Boundaries indicated as approximately parallel to or extensions of features indicated in
2136 subsections (5)(a) and (b) of this section.

2137 (d) Whenever existing physical features are inconsistent with boundaries on the official shoreline
2138 map, the administrator shall interpret the boundaries, with deference to actual conditions. Appeals
2139 of such interpretations may be filed pursuant to the applicable appeal procedures described in
2140 Article X of this chapter. [Ord. 7-13 Exh. A (Art. IV § 1)]

2141 **18.25.210 Shoreline environment designations – Purpose and criteria.**

2142 (1) Shoreline environment designations have been developed as a part of this program in accordance
2143 with WAC 173-26-211. The designations provide a systematic, rational, and equitable basis upon which
2144 to guide and regulate use and development within specific shoreline planning areas.

- 2145 (2) Shoreline environment designations are based on the following general factors, not listed in order of
2146 priority:
- 2147 (a) The ecological functions and processes that characterize the shoreline, together with the degree
2148 of human alteration as determined by the November 2008 Final Shoreline Inventory and
2149 Characterization Report and subsequent technical analyses; and
- 2150 (b) The county's goal of having coordinated planning for open space, public access and other
2151 aspects of shoreline management; and
- 2152 (c) Existing and planned development patterns, including county Comprehensive Plan designations;
2153 and
- 2154 (d) The county Comprehensive Plan goals for shorelines; and
- 2155 (e) The requirements outlined in WAC 173-26-211; and
- 2156 (f) Public demand for state-owned wilderness beaches, ecological study areas, and public access
2157 and recreational activities.
- 2158 (3) Shorelines in Jefferson County shall have one or more of the following designations:
- 2159 (a) Priority Aquatic (PA).
- 2160 (i) Purpose. The priority aquatic designation protects to the highest degree possible and, where
2161 feasible, restores waters and their underlying bedlands deemed vital for salmon and shellfish.
- 2162 (ii) Designation Criteria. The priority aquatic designation is assigned to the most vital salmon
2163 streams and nearshore areas and the highest value marine shellfish habitats waterward of the
2164 ordinary high water mark. These shorelines have one or more of the following qualities:
- 2165 (A) Documented Endangered Species Act-listed salmonid streams and marine habitats
2166 (summer chum, chinook, and steelhead);
- 2167 (B) Estuaries that support Endangered Species Act-listed salmonid rearing;
- 2168 (C) Other freshwater shorelines that provide habitat for salmonid species (coho, fall chum,
2169 pink, and cutthroat) and are relatively undeveloped;
- 2170 (D) Intact drift cell processes (i.e., sediment source, transport, and deposition);
- 2171 (E) Documented forage fish spawning habitats (herring, surf smelt, sandlance); and/or
- 2172 (F) Important intertidal and subtidal shellfish areas (clam, oyster, crab, shrimp, and
2173 geoduck).
- 2174 (b) Aquatic (A).

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- 2175 (i) Purpose. The aquatic designation protects, manages, and, where feasible, restores lake,
2176 stream, and marine waters and their underlying bedlands that are not designated as priority
2177 aquatic.
- 2178 (ii) Designation Criteria. The aquatic designation is assigned to all stream, lake and marine
2179 shoreline areas waterward of the ordinary high water mark if the area does not meet the
2180 criteria for the priority aquatic designation.
- 2181 (c) Natural (N).
- 2182 (i) Purpose. The natural designation protects from harm or adverse impact shoreline areas that
2183 are intact, have minimally degraded functions and processes, or are relatively free of human
2184 influence.
- 2185 (ii) Designation Criteria. The natural designation is assigned to shoreline areas landward of the
2186 ordinary high water mark if any of the following characteristics apply:
- 2187 (A) The shoreline is mostly ecologically intact and therefore currently performing an
2188 important or irreplaceable function or process that would be damaged by human activity; or
- 2189 (B) The shoreline, whether minimally disturbed or intact, represents an ecosystem type or
2190 geologic feature that is of particular scientific and/or educational interest; or
- 2191 (C) The shoreline contains undisturbed wetlands, estuaries, feeder bluffs, unstable slopes,
2192 coastal dunes, and/or accretional spits; or
- 2193 (D) The shoreline is unable to support new development or uses without significant adverse
2194 impacts to ecological functions or processes; or
- 2195 (E) The shoreline has the potential to regain natural conditions with minimal or no
2196 restoration activity; or
- 2197 (F) The shoreline possesses serious development limitations or human health and safety
2198 risks due to the presence of environmental hazards related to flooding, channel migration,
2199 erosion or landslides and similar occurrences.
- 2200 (d) Conservancy (C).
- 2201 (i) Purpose. The conservancy designation provides for sustained use of resource lands and
2202 other relatively undeveloped shorelines while protecting ecological functions, conserving
2203 natural, historic and cultural resources, and providing recreational opportunities.
- 2204 (ii) Designation Criteria. A conservancy designation is assigned to shoreline areas landward of
2205 the ordinary high water mark if they do not meet the criteria for the natural designation and if
2206 any of the following characteristics apply:
- 2207 (A) The shoreline is relatively undeveloped or currently supporting resource-based uses; or
- 2208 (B) The shoreline can support low impact outdoor recreational activities; or

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- 2209 (C) The shoreline is predominantly low density rural residential use (RR 1:10, RR 1:20); or
- 2210 (D) The shoreline can support low density residential development and low intensity water-
- 2211 oriented uses, including some commercial and industrial uses, without significant adverse
- 2212 impacts to shoreline functions or processes; or
- 2213 (E) The shoreline is a good candidate for ecological restoration.
- 2214 (e) Shoreline Residential (SR).
- 2215 (i) Purpose. The shoreline residential designation accommodates residential development and
- 2216 accessory structures that are properly located and designed, in areas where high density
- 2217 residential developments and services exist or are planned.
- 2218 (ii) Designation Criteria. The shoreline residential designation is assigned to shoreline areas
- 2219 landward of the ordinary high water mark if they do not meet the criteria for the natural,
- 2220 conservancy or high intensity environments, and if any of the following characteristics apply:
- 2221 (A) The shoreline is within an urban growth area (UGA); or master planned resort (MPR); or
- 2222 designated high density rural residential area (RR 1:5); or
- 2223 (B) The shoreline is predominantly high density (RR 1:5) single-family or multifamily
- 2224 residential development or is planned and platted for high density (RR 1:5) residential
- 2225 development.
- 2226 (f) High Intensity (HI).
- 2227 (i) Purpose. The high intensity designation ensures continued use of shorelines that are either
- 2228 presently used for commercial, industrial, or other high intensity nonresidential purposes or
- 2229 provide future economic development or recreational opportunities at a higher scale and
- 2230 intensity than can be achieved in more ecologically sensitive areas.
- 2231 (ii) Designation Criteria. The high intensity designation is assigned to shorelines landward of the
- 2232 ordinary high water mark if they do not meet the criteria for the natural, conservancy or
- 2233 shoreline residential environments if any of the following characteristics apply:
- 2234 (A) The shoreline is within an urban growth area (UGA), rural commercial area, or rural
- 2235 industrial area and is suitable for high intensity uses; or
- 2236 (B) The shoreline is currently used for industrial, commercial or other high intensity
- 2237 nonresidential uses and is suitable for ongoing high intensity use. [Ord. 7-13 Exh. A (Art. IV §
- 2238 2)]
- 2239 **18.25.220 Uses allowed in each shoreline environment designation.**
- 2240 (1) Each shoreline environment designation shall be managed in accordance with its designated purpose
- 2241 as described in this section. Table 18.25.220 shows the permitted uses, conditional uses and prohibited
- 2242 uses for each environment designation. The requirements governing each use are described in Articles
- 2243 VI, VII and VIII of this program. The permit criteria are described in Article IX of this chapter and the

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Commented [LG80]: Response to ECY Rec-12

Planning Commission Recommendations

2244 administrative standards including the review procedures are described in Article X of this chapter. Table
2245 18.25.220 is intended to illustrate the text of the master program. In the event discrepancies exist, the
2246 text shall govern.

2247 **Table 18.25.220 – Permitted, Conditional and Prohibited Uses by Shoreline Environment Designation**
2248

P = Use may be permitted subject to policies and regulations of program. May require shoreline substantial development permit or statement of exemption approval. See Articles VI, VII, VIII, IX, <u>X</u> and/or <u>XII</u> of this chapter for details. <u>C</u> = Standard Conditional use. See Articles II, IX, <u>X</u>, and <u>XII</u> of this chapter for definition, criteria and process details. C(a) = Conditional use administrative. See Articles II, IX, <u>X</u>, and <u>XII</u> of this chapter for definition, criteria and process details. C(d) = Conditional use discretionary. See Articles II, IX, <u>X</u>, and <u>XII</u> of this chapter for definition, criteria and process details. <u>See the criteria at JCC 18.40.520 (2)(a) for determining whether a C(d) will be an administrative or hearing examiner process.</u> X = Prohibited use. * = Exceptions and limitations may apply as noted in this program. See specific section for details.						
Shoreline Uses	Environment Designations					
	Waterward of OHWM		Landward of OHWM			
	Priority Aquatic	Aquatic	Natural	Conservancy	Shoreline Residential	High Intensity
Agriculture	X	X	X*	P	P	P
Aquaculture:						
Aquaculture activities other than geoduck, in-water finfish, and upland finfish.	P	P	P	P	P	P
Geoduck - new, expansion, or conversion from non-geoduck to geoduck	<u>PC*</u>	<u>PC*</u>	<u>C(d)*</u>	<u>C(d)*</u>	<u>C(d)*</u>	<u>PC(d)*</u>
<u>Geoduck - expansion or conversion from non-geoduck to geoduck</u>	<u>C*</u>	<u>C(d)*</u>	<u>C*</u>	<u>C(d)*</u>	<u>C(d)*</u>	<u>C(d)*</u>
In-water finfish (including net pens)	X	C(d)	X*/C(d)	X	X	C(d)
Upland finfish	X	C(d)	X	C(d)	X	C(d)
Beach Access Structures:	<u>P</u>	<u>P</u>	<u>C(a)</u>	<u>P</u>	<u>P</u>	<u>P</u>
Public	C(a)*	<u>C(a)*P</u>	C(a)*	<u>C(a)P</u>	<u>C(a)P</u>	<u>C(a)P</u>

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Commented [AS81]: Response to Comments: 1-7. Per PC direction on 9/1 related to geoduck aquaculture, standard conditional use permit is now a new permit type in the SMP.

Commented [LG82]: Based on PC Discussion about C(d) process at 10/18/23 deliberations.

Commented [LG83]: 2011 b Periodic Checklist

Commented [LG84R83]: Responses to Comments; 1-7.

Commented [LG87]: If upland designation is Natural then the aquatic permit level would be C* standard. Otherwise C(d)*

Commented [LG85]: PC motion 10/18/23. Move SMP forward with edits. This would match the approach of using SMP environment designations to identify areas where geoduck aquaculture would be allowed, particularly the different aquatic environments. See 2009 Shellfish Aquaculture Regulatory Committee Recommendations

Commented [LG86R85]: PC Motion 11/15: Maintain approach in 11/1/23 draft with a mix of standard and discretionary CUPs for new, conversion, or expansions depending on shoreline environment designation.

Commented [LG88]: Task Force A, Staff Docket/Code Interpretations

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Planning Commission Recommendations

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Shoreline Uses	Environment Designations					
	Waterward of OHWM		Landward of OHWM			
	Priority Aquatic	Aquatic	Natural	Conservancy	Shoreline Residential	High Intensity
Private, accessory to single-family residential development	X	C(a)*	X	C(a)	C(a) P	P C(a)
<u>Private, other</u>	<u>C(a)</u>	<u>C(a)</u>	<u>X</u>	<u>X</u>	<u>C(a)</u>	<u>C(a)</u>
Boating Facilities:						
Boat launches (nonresidential)	P*	P*	C(a)*	P C(a)	P	P
Boat launches (residential)	X*	P*	C(a)*	C(a)	P	P
Docks, piers, floats, lifts (nonresidential)	P*	P*	C(d)*	C(a)*	P*	P
Docks, piers, floats, lifts (residential)	X*	P*	X	C(a)	P	P
Float plane moorage	X	C(d)	X	C(a)	C(a)	P
Industrial piers	P*	P*	X	X	X	P
Marinas	X	P*	X	C(d)	C(d)	P
Mooring <u>buoys</u>	P*	P*	C(a)*	C(a) P	P C(a)	P
Commercial Development:						
Water-dependent (recreation)	C(d)	P	C(d)	C(d)	P	P
Water-dependent or water-related (nonrecreation)	X	X	X	C(d)	P	P
Water-related (recreation)	X	P	X	X	P	P

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Commented [LG82]: Based on PC Discussion about C(d) process at 10/18/23 deliberations.

Commented [GU89]: AJS: Proposed edition of "Private, other" to pick up any potential private beach access structures that are not associated with SFR. Allowances are very conservative.

Commented [LG90]: Task Force B

Planning Commission Recommendations

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Shoreline Uses	Environment Designations					
	Waterward of OHWM		Landward of OHWM			
	Priority Aquatic	Aquatic	Natural	Conservancy	Shoreline Residential	High Intensity
Water-enjoyment	X	X	X	C(d)	P	P
Non-water-oriented	X	X	X	X*	C(d)	C(d)
Dredging	C(d)	C(d)	X*	C(d)	C(d)	P
Dredge Disposal	C(d)	C(d)	X*	C(d)	C(d)	C(d)
Filling and Excavation	C(d)	C(d)	X*	C(d)	P	P
Flood Control Structures	C(d)	C(d)	X	C(d)	C(d)	C(d)
Forest Practices	X	X	P	P	P	P
In-Stream Structures	C(d)	C(d)	X*	C(d)	C(d)	C(d)
Industrial and Port Development:						
Water-oriented	X	C(d)	X	C(d)	C(d)*	P
Non-water-oriented	X	X	X	X*	X*/C(d)	C(d)
Mining	X	X	X*	X*	X*	C(d)
Parking:						
Accessory to permitted use	X	X	X*	P/C(d)	P/C(d)	P/C(d)
Primary use	X	X	X	X	X	X
Recreation:						
Water-oriented	p*	p*	p*	p*	P	P

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Shoreline Uses	Environment Designations					
	Waterward of OHWM		Landward of OHWM			
	Priority Aquatic	Aquatic	Natural	Conservancy	Shoreline Residential	High Intensity
Non-water-oriented	X	X	X	X	C(d)	X
Underwater parks	C(a)	C(a)	N/A	N/A	N/A	N/A
Residential:						
Single-family (and normal appurtenances)	X	X	C(a)	P	P	P
Accessory structures associated with single-family development (other than beach access structures, boating facilities, and boathouses)	X	X	X	C(a)	P	P
Boathouses accessory to single-family residences	X	X	X	C(a)	C(a)	C(a)
Multifamily	X	X	X	P*	P	P
Restoration and Enhancement	P	P	P	P	P	P
Shore Armor/Stabilization:						
Nonstructural Shoreline stabilization (nonstructural), including bioengineering and biostabilization	P	P	P	P	P	P
Structural Shore armoring, (structural), river and marine – nonresidential	C(a)*	C(a)*	C(a)*	C(a)*	C(a)*	C(a)*

Commented [LG91]: Suggestions to better match the terminology of the definitions/regs

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Shoreline Uses	Environment Designations					
	Waterward of OHWM		Landward of OHWM			
	Priority Aquatic	Aquatic	Natural	Conservancy	Shoreline Residential	High Intensity
<u>Structural Shore</u> armoring, <u>(structural)</u> , river and marine – residential	X	X	X	C(a)*	C(a)*	C(a)*
<u>Structural Shore (structural)</u> armoring, lakes	X	X	X	X	X	X
Signs	P*	P*	X*	P	P	P
Transportation:						
Serving an allowed use	C(d)	C(d)	X*	P	P	P
Not serving a specific allowed use	C(d)	C(d)	X*	C(d)*	C(d)*	C(d)*
Utilities:						
<u>Stormwater facilities, appurtenant to shoreline uses or in support of shoreline development</u>	<u>C(a)*</u>	<u>C(a)*</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>
Essential public facilities	C(d)*	C(d)	X*	C(d)	P	P
Oil, gas and natural gas transmission lines	C(d)*	C(d)	X*	P*	P*	P
Power/tidal energy generation facilities	X	C(d)	X	C(d)	C(d)	C(d)
Desalinization plants	X*	X*	X	C(d)	C(d)	C(d)

Commented [AS81]: Response to Comments: 1-7. Per PC direction on 9/1 related to geoduck aquaculture, standard conditional use permit is now a new permit type in the SMP.

Commented [LG82]: Based on PC Discussion about C(d) process at 10/18/23 deliberations.

Commented [LG92]: Added for clarity. Allows for such modifications to support shoreline uses or development. If it needs to be in a buffer there are standards added in buffer exceptions (*).

Date of Base Code: The Jefferson County Code is current through Ordinance 06-0817-20, passed August 17, 2020. The Jefferson County Shoreline Master Program is current through Ordinance 07-1216-13, passed December 16, 2013; the SMP became effective February 21, 2014. **Shading in Comment Flags:** 1) **Yellow** in response to public comments within Planning Commission Recommendations October 2021. 2) **Pink** changes in response to Ecology initial review and Planning Commission discussions in 2023. 3) **Blue** based on Planning Commission motions.

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P = Use may be permitted subject to policies and regulations of program. May require shoreline substantial development permit or statement of exemption approval. See Articles VI, VII, VIII, IX, X and/or XII of this chapter for details.

C = Standard Conditional use. See Articles II, IX, X, and XII of this chapter for definition, criteria and process details.

C(a) = Conditional use administrative. See Articles II, IX, X, and XII of this chapter for definition, criteria and process details.

C(d) = Conditional use discretionary. See Articles II, IX, X, and XII of this chapter for definition, criteria and process details. See the criteria at JCC 18.40.520 (2)(a) for determining whether a C(d) will be an administrative or hearing examiner process.

X = Prohibited use.

* = Exceptions and limitations may apply as noted in this program. See specific section for details.

Shoreline Uses	Environment Designations					
	Waterward of OHWM		Landward of OHWM			
	Priority Aquatic	Aquatic	Natural	Conservancy	Shoreline Residential	High Intensity
Sewage systems	X*	X*	X*	C(d)	C(d)	P
Water systems	X*	X*	X*	C(d)	C(d)	P
Electrical and communication lines	C(d)	C(d)	X*	P*	P*	P
Ocean Uses:						
Ocean energy	<u>C(d)</u>	<u>N/A</u>	<u>X</u>	<u>C(d)</u>	<u>C(d)</u>	<u>C(d)</u>
Ocean disposal	<u>C(d)</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Ocean mining	<u>C(d)</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Ocean oil and gas	<u>X</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Ocean research	<u>C(d)</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Ocean salvage	<u>C(d)</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Ocean transportation	<u>C(d)</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>

Commented [AS81]: Response to Comments: 1-7. Per PC direction on 9/1 related to geoduck aquaculture, standard conditional use permit is now a new permit type in the SMP.

Commented [LG82]: Based on PC Discussion about C(d) process at 10/18/23 deliberations.

Commented [CS93]: Made recommended change in response to Ecology Rec-13

2249
2250 [Ord. 7-13 Exh. A (Art. IV § 3)]

2251 Article V. Shorelines of Statewide Significance

2252 18.25.230 Adoption of policy.

2253 (1) In accordance with RCW 90.58.020, the county shall manage shorelines of statewide significance in
2254 accordance with this section and in accordance with this program as a whole. Preference shall be given
2255 to uses that are consistent with the statewide interest in such shorelines. Uses that are not consistent

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2256 with this section or do not comply with the other applicable policies and regulations of this program
2257 shall not be permitted on shorelines of statewide significance.

2258 (2) In managing shorelines of statewide significance, Jefferson County shall give preference to uses in
2259 the following order of preference:

2260 (a) Recognize and protect the statewide interest over local interest;

2261 (b) Preserve the natural character of the shoreline;

2262 (c) Seek long-term benefits over short-term benefit;

2263 (d) Protect the resources and ecology of the shoreline;

2264 (e) Increase public access to publicly owned areas of the shoreline;

2265 (f) Increase recreational opportunities for the public in the shoreline; and

2266 (g) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.
2267 [Ord. 7-13 Exh. A (Art. V § 1)]

2268 **18.25.240 Designation of shorelines of statewide significance.**

2269 ~~In accordance~~ As defined herein and consistent with RCW 90.58.030(2)(~~ef~~), the following Jefferson
2270 County shorelines are designated shorelines of statewide significance:

2271 (1) ~~Shorelines of natural rivers or segments thereof, including Pacific Ocean – all areas from the northern~~
2272 County boundary near Teawhit Head to the southern County boundary near Queets extending seaward
2273 to the Washington western boundary; and

2274 (2) ~~Rivers – portions of the Bogachiel, Clearwater, Hoh, and Quinault Rivers, that are downstream from~~
2275 at the point where the mean annual flow equals of 1,000 cubic feet per second or more mean annual flow,
2276 including shorelands; and

2277 (2) ~~The waters of~~ (3) Hood Canal – all areas south of the line from Tala Point and Foulweather Bluff,
2278 between the ordinary high water mark and the line of extreme low tide south of the line between Tala
2279 Point and Foulweather Bluff, including shorelands; and

2280 (3) ~~Those areas of~~ (4) Puget Sound and the Strait of Juan de Fuca and adjacent salt waters – all areas
2281 extending north to the Canadian line and lying boundary that are seaward from of the line of extreme low
2282 tide. [Ord. 7-13 Exh. A (Art. V § 2)]

2283 **18.25.250 Use preference Optimum Implementation.**

2284 ~~To ensure that statewide interests are protected over local interests~~ To ensure optimum implementation
2285 of the Act, including special emphasis on statewide objectives, consultation with state agencies, the
2286 variety of state interests, and a greater imperative for managing ecosystem-wide processes and
2287 ecological functions that sustain resources of statewide importance, the county shall review all
2288 development proposals within shorelines of statewide significance for consistency with RCW

Commented [LG94]: Response to ECY Rec-14

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- 2289 90.58.030020, WAC 173-26-251, this program, and the following management principles, which are ~~not~~
2290 listed in ~~priority~~ the order of preference established by JCC 18.25.230:
- 2291 ~~(1) When shoreline development or redevelopment occurs, it shall include restoration and/or~~
2292 ~~enhancement of ecological conditions if such opportunities exist;~~
- 2293 ~~(2) State~~ (1) To recognize and protect the statewide interest over local interest:
- 2294 (a) Consult state and federal resource agencies, co-managers, and tribes, ~~shall be consulted about~~
2295 their applicable policies, programs, and recommendations for development proposals that affect
2296 anadromous fish, shellfish, marine birds, and other shoreline resources;
- 2297 ~~(3) Areas that are~~ (b) Solicit comments, opinions, and advice from individuals with expertise in
2298 ecology, oceanography, geology, limnology, aquaculture, and other scientific fields pertinent to a
2299 shoreline proposal's nature, scale, or rarity.
- 2300 (2) To preserve the natural character of the shoreline:
- 2301 (a) Include restoration and/or enhancement of ecological conditions, if such opportunities exist, for
2302 shoreline development or redevelopment;
- 2303 (b) Reforest areas subject to commercial timber harvest ~~pursuant to~~ under the Forest Practices Act
2304 and RCW 90.58.150 ~~should be reforested~~ as soon as possible and in accordance with the Forest
2305 Practices Act and the Forest and Fish Report;
- 2306 ~~(4) Uses~~ (c) Prefer uses that are sustainable, that do not deplete natural resources, and that are
2307 compatible with other approved uses ~~shall be preferred~~ over uses that do not have these qualities;
- 2308 ~~(5) Uses that provide long-term benefits shall be preferred over uses that provide only short-term gains;~~
- 2309 ~~(6) Uses that preserve aesthetic qualities shall be preferred over uses that impact aesthetic qualities;~~
- 2310 ~~(7) Uses that~~ (d) Promote the upgrade and redevelopment of those areas where intensive
2311 development already exists, in order to reduce their adverse impact on the environment and to
2312 accommodate future growth rather than allowing high intensity uses to extend into low intensity use
2313 or underdeveloped areas.
- 2314 (3) To seek long-term over short-term benefits:
- 2315 (a) Preserve the range of options for shoreline use to the maximum possible extent for succeeding
2316 generations. Do not permit development that consumes valuable, scarce or irreplaceable natural
2317 resources if alternative sites are available.
- 2318 (b) Evaluate the short-term economic gain or convenience of developments in relationship to long-
2319 term and potentially costly impairments to the natural environment.
- 2320 (c) Actively promote aesthetic considerations when contemplating new development,
2321 redevelopment of existing facilities, or for the general enhancement of shoreline areas.

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2322 (4) To protect the shoreline resources and ecology:

2323 (a) Prefer uses that require a shoreline location ~~shall be preferred~~ over non-water-
2324 ~~related dependent~~ uses. ~~Non-locate non-water-related oriented~~ uses ~~should be located~~ outside the
2325 shoreline jurisdiction or in areas where they will not interfere with or displace preferred uses or
2326 public access;

2327 ~~(8) Commercial~~ (b) Protect commercial shellfish beds, areas that support recreation and tourism, and
2328 other economic resources of statewide importance ~~shall be protected~~;

2329 ~~(9) Uses~~ (c) Strictly regulate uses that have the potential to cause significant erosion and
2330 sedimentation due to excavation, land clearing, or other activities ~~shall be strictly regulated~~ to
2331 prevent adverse impacts to shoreline functions and processes;

2332 ~~(10) All~~ (5) To increase public access to publicly owned areas of the shoreline:

2333 (a) Design all public access and recreation use and development ~~shall be designed~~ to protect the
2334 ecological resources upon which such activities depend; and

2335 ~~(11) Public~~ (b) Encourage public and private development ~~shall be encouraged~~ to provide trails,
2336 viewpoints, water access points and water-related recreation opportunities where conditions are
2337 appropriate for such uses. ~~{Ord. 7-13 Exh. A (Art. V § 3)}~~

2338 (6) To increase public shoreline recreational opportunities:

2339 (a) Encourage development of water-dependent facilities for recreational use of the shorelines.

2340 (b) Locate development not requiring a waterside or shoreline location inland so that lawful public
2341 enjoyment of shorelines is enhanced.

2342 **Article VI. General Policies and Regulations**

2343 **18.25.260 Applicability.**

2344 The policies and regulations in this article apply to all uses and developments in all shoreline
2345 environments. The policies and regulations are not listed in order of priority. These policies and
2346 regulations:

2347 (1) Help to implement the master program goals in Article III of this chapter; and

2348 (2) Are informed by the governing principles in Article I of this chapter; and

2349 (3) Work in concert with all the other policies and regulations contained in this program; and

2350 (4) Are based on the state shoreline guidelines (Chapter 173-26 WAC). [Ord. 7-13 Exh. A (Art. VI)]

2351 **18.25.270 Critical areas, shoreline buffers, and ecological protection.**

2352 (1) Policies.

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- 2353 (a) All shoreline use and development should be carried out in a manner that avoids and minimizes
2354 adverse impacts on the shoreline environment. Uses and developments that may cause the future
2355 ecological condition to become worse than current condition should not be allowed. Use and
2356 development in areas that are ecologically valuable, hazardous, and/or possess rare or fragile
2357 natural features should be discouraged. Critical areas within shoreline jurisdiction should be
2358 protected to a level that assures no net loss of shoreline ecological functions necessary to sustain
2359 shoreline natural resources.
- 2360 (b) In assessing the potential for new uses and developments to cause adverse impacts, the county
2361 should take into account all of the following:
- 2362 (i) Effects on ecological functions and ecosystem processes; and
- 2363 (ii) Effects that occur on site and effects that may occur off site; and
- 2364 (iii) Immediate effects and long-term effects; and
- 2365 (iv) Direct effects of the project and indirect effects; and
- 2366 (v) Individual effects of the project and the incremental or cumulative effects resulting from the
2367 project added to other past, present, and reasonably foreseeable future actions; and
- 2368 (vi) Compensatory mitigation actions that offset adverse impacts of the development action
2369 and/or use.
- 2370 (c) The county should recognize and honor buffers and setbacks established by existing plats,
2371 preliminary plats, issued permits, binding site plans (BSPs) and ~~site plan approval advance~~
2372 ~~determinations (SPAADs), and~~ by development agreements that are consistent with Chapter 36.70B
2373 RCW.
- 2374 (d) The county should work with other local, state, and federal regulatory agencies and resource
2375 management agencies to ensure that mitigation actions carried out in support of this program are
2376 likely to be successful and achieve beneficial ecological outcomes. This includes assisting
2377 applicants/proponents in planning, designing and implementing mitigation.
- 2378 (e) Single-family residential development on nonconforming lots should not substantially impair the
2379 view of the adjacent residences.
- 2380 (2) Regulations – No Net Loss and Mitigation.
- 2381 (a) All shoreline use and development, including preferred uses and uses that are exempt from
2382 permit requirements, shall be located, designed, constructed, conducted, and maintained in a
2383 manner that maintains shoreline ecological processes and functions.
- 2384 (b) Uses and developments that cause a net loss of ecological functions and processes shall be
2385 prohibited. Any use or development that causes the future ecological condition to become worse
2386 than current condition shall be prohibited.

Commented [LG95]: Checklist 2010.a

Commented [LG96]: Response to Comment: 12.5.

- 2387 (c) Proponents of new shoreline use and development shall employ measures to mitigate adverse
2388 impacts on shoreline functions and processes.
- 2389 (d) Mitigation shall include the following actions in order of priority:
- 2390 (i) Avoiding the impact altogether by not taking a certain action or parts of an action;
- 2391 (ii) Minimizing impacts by limiting the degree or magnitude of the action and its
2392 implementation by using appropriate technology or by taking affirmative steps to avoid or
2393 reduce impacts;
- 2394 (iii) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- 2395 (iv) Reducing or eliminating the impact over time by preservation and maintenance operations;
- 2396 (v) Compensating for the impact by replacing, enhancing, or providing substitute resources or
2397 environments;
- 2398 (vi) Monitoring the impact and the compensation projects and taking appropriate corrective
2399 measures.
- 2400 (e) Mitigation actions shall not have a significant adverse impact on other shoreline uses fostered by
2401 the policies of the Shoreline Management Act.
- 2402 (f) When compensatory mitigation measures are required, all of the following shall apply:
- 2403 (i) The quality and quantity of the replaced, enhanced, or substituted resources shall be the
2404 same or better than the affected resources; and
- 2405 (ii) The mitigation site and associated vegetative planting shall be nurtured and maintained
2406 such that healthy native plant communities can grow and mature over time; and
- 2407 (iii) The mitigation shall be informed by pertinent scientific and technical studies, including but
2408 not limited to the Shoreline Inventory and Characterization Report (Final – Revised November
2409 2008), the Shoreline Restoration Plan (Final October 2008)¹, and other background studies
2410 prepared in support of this program; and
- 2411 (iv) The mitigation shall replace the functions as quickly as possible following the impacts to
2412 ensure no net loss; and
- 2413 (v) The mitigation activity shall be monitored and maintained to ensure that it achieves its
2414 intended functions and values. The monitoring timeframes shall be consistent with JCC the
2415 shoreline critical area provisions of this program, including JCC 18.22.740.
- 2416 (vi) The county shall require the applicant/proponent to post a bond or provide other financial
2417 surety equal to the estimated cost of the mitigation in order to ensure the mitigation is carried
2418 out successfully. The bond/surety shall be refunded to the applicant/proponent upon
2419 completion of the mitigation activity and any required monitoring.

Commented [AS97]: Edit made per Ecology recommendation 15 (9/30/22).

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- 2420 (g) Mitigation credit. To encourage shoreline property owners to remove bulkheads and perform
2421 other beneficial shoreline restoration actions in advance of shoreline development or
2422 redevelopment, the county may give mitigation credit to any beneficial restoration action that
2423 occurred within five years of the proposed development/redevelopment activity; provided, that:
- 2424 (i) The applicant/property owner can provide conclusive evidence of the pre- and post-
2425 restoration conditions using photographs, reports, plans, affidavits, or similar evidence;
- 2426 (ii) The county can confirm via site inspection, photographs, affidavits or other evidence that
2427 the restoration actions have improved shoreline conditions; and
- 2428 (iii) The applicant/property owner provides assurances that the restoration area will be
2429 maintained in perpetuity. The assurance can be in the form of a notice on title, conservation
2430 easement, or similar mechanism.
- 2431 (h) Compensatory mitigation measures shall occur in the vicinity of the impact or at an alternative
2432 location within the same watershed or appropriate section of marine shoreline (e.g., reach or drift
2433 cell) that provides greater and more sustainable ecological benefits. When determining whether
2434 off-site mitigation provides greater and more sustainable benefits, the county shall consider limiting
2435 factors, critical habitat needs, and other factors identified by the locally adopted shoreline
2436 restoration plan (October 2008 or as updated), or an approved watershed or comprehensive
2437 resource management plan. The county may also approve use of alternative mitigation practices
2438 such as in-lieu fee programs, certified mitigation banks, and other similar approaches, provided they
2439 have been approved and sanctioned by the Department of Ecology, the Puget Sound Partnership,
2440 the Washington Department of Fish and Wildlife or the U.S. Army Corps of Engineers.
- 2441 (i) Land that is constrained by critical areas and/or buffers shall not be subdivided to create parcels
2442 that are only buildable through a shoreline variance or would be considered nonconforming.
- 2443 (3) Regulations – Cumulative Impacts.
- 2444 (a) The county shall consider the cumulative impacts of individual uses and developments, including
2445 preferred uses and uses that are exempt from permit requirements, when determining whether a
2446 proposed use or development could cause a net loss of ecological functions.
- 2447 (b) The county shall have the authority to require the applicant/proponent to prepare special
2448 studies, assessments and analyses as necessary to identify and address cumulative impacts
2449 including, but not limited to, impacts on fish and wildlife habitat, public access/use, aesthetics, and
2450 other shoreline attributes.
- 2451 (c) Proponents of shoreline use and development shall take the following factors into account when
2452 assessing cumulative impacts:
- 2453 (i) Current ecological functions and human factors influencing shoreline natural processes; and
- 2454 (ii) Reasonably foreseeable future use and development of the shoreline; and

Commented [LG98]: Clarification per WDFW responses.

Commented [LG99]: 2009 b Periodic Checklist

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2455 (iii) Beneficial effects of any established regulatory programs under other local, state, and
2456 federal laws; and

2457 (iv) Mitigation measures implemented in conjunction with the proposed project to avoid,
2458 reduce and/or compensate for adverse impacts.

2459 (d) The county shall prohibit any use or development that will result in unmitigated cumulative
2460 impacts.

2461 (4) Regulations – Critical Areas and Shoreline Buffers:

2462 (a) Critical areas provisions of Chapter 18.22 JCC, dated March ~~17, 2008~~ 10, 2020 (Ordinance No. ~~03-0317-08~~,
2463 ~~and further amended in May 2009 (Ordinance No. 06-0511-09), and August 2010-~~
2464 ~~(Ordinance No. 04-0809-1005-0310-20)~~ are hereby incorporated by reference to become shoreline
2465 provisions of this program; however, the following exceptions shall prevail for actions occurring
2466 within shoreline jurisdiction:

2467 ~~(i) All provisions listed in subsections (4)(b) through (i) and (5)(a) through (d) of this section~~
2468 ~~(e.g., building setback, buffers, CASPs, reasonable use, nonconforming lots, water-oriented~~
2469 ~~use/development) and provisions found in JCC 18.25.660 (i.e., nonconforming development),~~
2470 ~~shall be governed by this program and not Chapter 18.22 JCC; and~~

2471 ~~(ii) Sections of Chapter 18.22 JCC, Article II of this chapter and other sections of JCC Title 18~~
2472 ~~regarding permit process, administrative, nonconforming use, appeal, and enforcement~~
2473 ~~provisions within shoreline jurisdiction shall be governed by this program and not Chapter~~
2474 ~~18.22 JCC.~~

2475 (i) JCC 18.22.230 (General exemptions) shall only apply in shoreline jurisdiction as allowed by
2476 JCC 18.25.560 (Exemptions listed) and other applicable provisions of this program;

2477 (ii) JCC 18.22.240 (Nonconforming uses and structures) shall only apply in shoreline jurisdiction
2478 as allowed by JCC 18.25.270 (Critical areas, shoreline buffers, and ecological protection), JCC
2479 18.25.660 (Nonconforming development), and other applicable provisions of this program;

2480 (iii) JCC 18.22.250 (Variance) shall only apply in shoreline jurisdiction as allowed by JCC
2481 18.25.580 (Variance permit criteria) and other applicable provisions of this program;

2482 (iv) JCC 18.22.260 (Reasonable economic use exceptions) shall not apply in shoreline
2483 jurisdiction; deviation from required buffers shall only be as specifically allowed by applicable
2484 provisions of this program or by shoreline variance per JCC 18.25.580;

2485 (v) JCC 18.22.530(8)(b) (Geologically hazardous areas, building setback) shall not apply in
2486 shoreline jurisdiction, and is replaced by JCC 18.25.270(4)(d) and other applicable provisions of
2487 this program;

2488 (vi) JCC 18.22.630(5)(b) (Fish and wildlife habitat conservation areas, prescriptive buffers) Table
2489 18.22.630(1): Stream Buffers for Type “S” - Shoreline Streams, and Table 18.22.630(2): Buffers

Commented [LG100]: Staff Docket/Code Interpretations
- SMP/CAO clarification

Commented [LG101]: Response to Comment: 12.7

Commented [AS102]: Edits to (4)(a) and (b) made per
Ecology recommendation 15 and required change 4
(9/30/22)

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2490 for Other FWHCAs (i.e. shoreline lakes, and marine waters) shall not apply, and are replaced by
2491 the standard buffers in JCC 18.25.270(4)(e) and other applicable provisions of this program;

2492 (vii) JCC 18.22.710(1) (Wetland delineation) shall only apply in shoreline jurisdiction when in
2493 accordance with the approved federal wetland delineation manual and applicable regional
2494 supplements. (b) In the event the shoreline critical area development or performance standards
2495 established in Chapter 18.22 JCC(4)(a) above are internally inconsistent with other standards and
2496 requirements in this program, this program shall govern the provisions most protective of shoreline
2497 and critical area resources and/or that best implement the policies of the SMA shall prevail.

2498 (c) Unless otherwise specified in this program, a shoreline buffer zone shall be established landward
2499 of all shorelines of the state to protect and maintain ecological functions and processes and to
2500 minimize risks to human health and safety. Critical area buffers shall apply to all critical areas
2501 located in the shoreline jurisdiction. All buffers shall be maintained in a predominantly natural,
2502 undisturbed, undeveloped, and vegetated condition. ~~Buffers shall not extend across lawfully~~
2503 ~~established paved roads or hardened surfaces to include areas which are functionally isolated from~~
2504 ~~the shoreline or critical area. When a buffer extends across lawfully established paved roads or~~
2505 ~~hardened surfaces, it may be considered functionally isolated from the shoreline or critical area~~
2506 ~~such that it provides insignificant biological or hydrological function. For any given situation, the~~
2507 ~~administrator may make that determination or require a special report to assess whether the buffer~~
2508 ~~on the upland side of the road or surface is functionally isolated from the shoreline or critical area.~~
2509 ~~If the report concludes and the administrator agrees that the upland buffer area provides~~
2510 ~~insignificant biological or hydrological function, then the road or surface edge closest to the~~
2511 ~~shoreline or critical area shall be the outer limit of a reduced buffer. See Section JCC 18.25.300 for~~
2512 ~~required building setbacks from shoreline and critical area buffers. See Section JCC 18.25.300 for~~
2513 ~~required building setbacks from shoreline and critical area buffers.~~

2514 (d) Building Setback. As established in Chapter 18.22 JCC, all new uses and developments, including
2515 preferred uses and uses exempt from shoreline permit requirements, shall be located landward of
2516 the standard buffer plus a 10-foot wide building setback unless otherwise specified in this program

2517 (e) Standard Buffer. The standard (d) Standard Shoreline Buffer. The standard shoreline buffer shall
2518 be measured landward in a horizontal direction perpendicular to the ordinary high water mark
2519 (OHWM) of the shoreline water body, and is a three dimensional space that includes the airspace
2520 above, as follows:

2521 (i) Marine Shores. A minimum buffer of 150 feet shall be maintained in all shoreline
2522 environments.

2523 (ii) Lake Shores. A minimum buffer of 100 feet shall be maintained in all shoreline
2524 environments.

2525 (iii) Stream/River Shores. A minimum buffer of 150 feet shall be maintained in all shoreline
2526 environments.

2527 (f)(e) Pre-existing Shoreline Buffer/Setback. The county shall recognize and apply a .buffer and/or
2528 setback specifically established for the subject lot/parcel by ~~an~~ legal existing plat, preliminary plat,

Commented [AS103]: Proposed changes in response to public comment made during several PC meetings, including the recent 6/29 and 8/2/23 meetings.

Commented [AS104]: Edit made to reduce redundant establishment of building setback (also in 300(2)) per Ecology recommended change 16 (9/30/22)

Commented [AS105]: 4(d) relocated per Ecology recommended change 16 (9/30/22)

Commented [LG106]: Staff Docket/Code Interpretations refer to shorelines to avoid confusion with critical area buffers

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2529 ~~unexpired~~ issued permit, binding site plan (BSP), ~~site plan approval advance determination (SPAAD),~~
2530 or a development agreement that is consistent with Chapter 36.70B RCW shall prevail over the
2531 ~~standard buffer and/or setback required by this program. When less than the standard distance, a~~
2532 ~~pre-existing buffer may be averaged as allowed by this program, but not be further reduced without~~
2533 ~~a variance.~~

Commented [LG107]: Response to Comment 12.5.

Commented [AS108]: Edits made per Ecology recommended change 16 (9/30/22)

2534 (ef) Multiple Buffers. In the event that buffers for any shorelines and/or critical areas are contiguous
2535 or overlapping, the landward-most edge of all such buffers and setbacks shall apply.

2536 (hg) Buffer Condition. The area within a required shoreline buffer shall be kept in a sufficiently
2537 vegetated condition so as to ensure it protects and maintains the existing ecological functions.
2538 Existing native vegetation shall be retained, and planting of native vegetation is preferred.

2539 (ih) Buffer Usage. When located to avoid areas of noted sensitivity and habitat, an area shall be
2540 permitted for "active use" within an approved buffer, provided the area does not exceed the
2541 greater of 20 percent of the required buffer area or ~~is configured to span at least 15~~ linear feet of
2542 the water frontage, ~~whichever is greater.~~ "Active use" of a buffer may include minor vegetation
2543 alteration for lawn, views, or a pervious trail/pathway per JCC 18.25.310, and necessarily sited
2544 portions of an accessory utility, boating facility or beach access structure per JCC 18.25.270(5)(d)
2545 and other applicable provisions. "Active use" does not include a patio, detached deck, gazebo,
2546 outdoor kitchen, garden hardscaping, shed/storage, or other impervious surfaces or structural
2547 improvements. Such allowed "active use" features should be clustered to minimize buffer impacts.
2548 This regulation shall not apply retroactively to legal pre-existing uses or structures except when new
2549 use or development is proposed. ~~Applicant shall clearly describe any proposed "active use" features~~
2550 ~~and accurately depict them in the site plan.~~

Commented [LG109]: Response to Comment: 15.

Commented [AS110]: Edits made per Ecology recommended change 16 (9/30/22)

2551 (ji) Buffer Reduction or Averaging. Proposals that request a decrease in the standard shoreline
2552 buffer of this program shall not require a shoreline variance if all of the shoreline critical area
2553 approval criteria in JCC 18.22.640(1) and (2) are met, ~~with the addition of a 50% maximum buffer~~
2554 ~~reduction in JCC 18.22.640(1)(b) when a special report is prepared by a qualified professional.~~ All
2555 other shoreline buffer reduction or shoreline buffer averaging proposals shall require a shoreline
2556 variance.

Commented [AS111]: Edits made per Ecology recommended change 14 (9/30/22)

Commented [LG112R111]: Added 50% reduction in response to comments Summer 2023.

2557 (ki) Increased Buffers. An increase in buffer width shall be required upon determination that the
2558 development would be:

Commented [LG113]: PC Motion 11/15/23: Clarify that a 25% reduction of the standard buffer is the standard per the critical area regulations and 50% is a maximum if preparing a special report.

- 2559 (i) Susceptible to severe erosion resulting in adverse impacts to the shoreline; or
- 2560 (ii) Susceptible to health and safety risks caused by stream or river channel migration; or
- 2561 (iii) Susceptible to health and safety risks caused by flooding – from sea, river/stream; or
- 2562 (iv) On steeply sloped (greater than 25 percent) land adjacent to the ordinary high water mark.

2563 (hk) Alternative Protection via Critical Areas Stewardship Plans (CASPs). If a proponent of a shoreline
2564 use or development proposes to modify the standard shoreline buffer width ~~requirement of an~~
2565 ~~SMA-regulated waterbody~~ using the CASP standards of this program described in Article IX of

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2566 ~~Chapter~~JCC 18.22-JCC.965, such buffer modification shall require a shoreline variance. If the
2567 proposed CASP buffer modification is for a wetland or fish and wildlife habitat conservation area
2568 that is physically separated from the SMA-regulated waterbody, no shoreline variance shall be
2569 required.

2570 (5) Regulations – Exceptions to ~~Critical Area and~~ Shoreline Buffer Standards.

2571 (a) Nonconforming Lots – Development Allowed without a Variance (Modest Home Provision). ~~New~~
2572 ~~single~~Single-family development, ~~either new or replaced, on any legal a nonconforming lot in~~
2573 ~~shoreline jurisdiction that is nonconforming with respect to the required buffer standards may be~~
2574 ~~allowed encroach into the standard shoreline buffer~~ without a shoreline variance ~~when:~~

2575 (i) The ~~lot is nonconforming as defined by this program at JCC 18.25.100 (14)(h) and the~~ depth
2576 of the lot ~~(distance from the ordinary high water mark to the inside edge of the frontage~~
2577 ~~setback)~~ is equal to or less than the standard shoreline buffer ~~as indicated in, setbacks, and~~
2578 ~~dimensions required by~~ subsection JCC 18.25.100(14)(h) and (4)(e) of this section; and

2579 (ii) The building area ~~lying landward of the shoreline buffer and interior to required sideyard~~
2580 ~~setbacks as defined in JCC 18.25.100(x)(iii)~~ is not more than 2,500 square feet ~~and, the~~
2581 driveway is not more than 1,100 square feet ~~-, and both meet required side yard and/or~~
2582 ~~frontage setbacks unless varied under (v) below. The driveway may traverse the frontage~~
2583 ~~setback to provide access in a practicable and efficient manner.~~ The building area means the
2584 entire area that will be disturbed to construct the home, normal appurtenances (except
2585 drainfields), and landscaping; and

2586 (iii) ~~All single family residences approved under this section shall not extend waterward of the~~
2587 ~~common line buffer; and~~

2588 (iv) ~~(iii)~~ Appropriate measures are taken to mitigate all adverse impacts, including using low
2589 impact development measures such as pervious pavement for driveways and other hard
2590 surfaces; and

2591 (v) Opportunities to ~~average or reduce the standard shoreline buffer per (4)(i) above, and/or~~
2592 ~~to~~ vary the side yard and/or frontage setbacks are implemented to ~~alleviate or~~ reduce the
2593 nonconformity when doing so will not create a hazardous condition or a condition that is
2594 inconsistent with this program and Chapter 18.30 JCC; and

2595 (vi) The residence is located in the least environmentally damaging location relative to the
2596 shoreline and any critical areas; and

2597 (vii) There is no opportunity to consolidate lots under common ownership that will alleviate
2598 the nonconformity; and

2599 (viii) ~~The lot is not subject to geologic hazards; and~~

2600 (ix) ~~All~~(vii) The lot is not subject to geologic hazards, or the proposed development is
2601 ~~demonstrated in a report prepared by a qualified geotechnical engineer to neither be at risk~~

Commented [AS114]: Edits made per Ecology recommended change 17 and required changes 4 and 5 (9/30/22).

Commented [AS115]: Edits to (5)(a) made per Ecology recommended change 18 (9/30/22).

Commented [LG116]: Staff Docket/Code Interpretations

Commented [LG117]: Response to Comment: 12.3 (related / similar language).

Commented [LG118]: Consultant suggestion - refer to building envelope definition under which building area is defined.

Commented [LG119]: Consultant comment: Added since a driveway has to cross to provide access.

Commented [CS120]: Consultant comment: What if there is a nonconforming lot between one or two conforming lots? The common line buffer might be 100 feet, for example, but still much too big for the nonconforming lot. Further edits made by SMP Team after additional analysis

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2602 from nor to increase risk of landslides or erosion on and off the site, and is not a no-bank
2603 marine shoreline at risk for impacts of sea level rise; and

2604 (viii) The standard shoreline buffer is reduced by the minimum necessary to ensure that all
2605 structures are as far landward as possible and not closer than 30 feet from the ordinary high
2606 water mark. The standard building setback of JCC 18.25.300 still applies to the reduced buffer;
2607 and

2608 (ix) At least 80 percent of the remaining buffer area between the structures and the shoreline
2609 and/or critical area is maintained in a naturally vegetated condition or, if not fully vegetated,
2610 enhanced by planting native vegetation per the applicable planting standards of JCC 18.25.660(11).

2611 (b) Nonconforming-Conforming Lots – Common Line Buffer.

2612 Option A – Remove Common Line.

2613 Option B – Amend the Standards.

2614 (i) For the purpose of accommodating shoreline views to be adequate and comparable to adjacent
2615 residences, but not necessarily equivalent, the administrator may reduce the standard buffer for a
2616 new single-family residence on nonconforming lots consistent with the following criteria: conforming
2617 lots, as defined by this program at JCC 18.25.100, up to the greater of the common line buffer or 30
2618 feet, plus the standard building setback per JCC 18.25.300, if demonstrated through a special
2619 report prepared by a qualified professional that there will be no net loss of shoreline ecological
2620 function consistent with the following criteria:

2621 (i) (A) Applicants shall first demonstrate in the special report that buffer reduction or averaging
2622 consistent with subsection (4)(i) would not provide adequate and comparable shoreline views,
2623 and that the proposed reduction is the minimum necessary. The report must also address other
2624 applicable criteria and requirements in JCC 18.22.640.

2625 (B) The proposed residence must be located within 300¹⁵⁰ feet of an adjacent legally
2626 established single-family residential primary structure constructed prior to adoption of this
2627 program that encroaches on the standard buffer. The mere presence of nearby shacks, sheds or
2628 dilapidated buildings does not constitute the existence of a residence, nor can such structures
2629 be used to determine a common line buffer. The nearest corners of the adjacent residences are
2630 those closest to the side-yard property line of the proposed residence.

2631 (ii) Existing Homes on Both Sides. Where there are existing residences adjacent on both sides
2632 of the proposed residence, the buffer shall be determined as the greater of either (A) a
2633 common line drawn between the nearest corners of each adjacent residence (see Figure
2634 18.25.270(1)), or (B) a common line calculated by the average of both adjacent residences'
2635 existing setbacks (i.e., (y+z)/2=x buffer; see Figure 18.25.270(2)).

² Similar to Ecology Shoreline Handbook and other example SMPs:
<https://apps.ecology.wa.gov/publications/parts/1106010part11.pdf>.

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Commented [LG121]: PC Motion 11/15/23: Implement Option B like in hearing draft, which allows common line with conforming lots whereas modest home is for nonconforming lots.

Commented [AS122]: Edits to (5)(b) made per Ecology recommended change 19 (9/30/22).

Commented [CS123R122]: Consultant comment: Further edits made by the SMP Team after additional analysis and discussion with Staff.

(iii) Existing Home on One Side. Where there is only one existing residence adjacent to the proposed residence, the common line buffer shall be determined as the greater of either (A) a common line drawn between nearest corner of the foundation for the adjacent residence and the nearest point of the standard buffer on the adjacent vacant lot (see Figure 18.25.270(3)), or (B) a common line calculated by the average of the adjacent residence's setback and the standard buffer for the adjacent vacant lot (i.e., $(y+z)/2=x$ buffer; see Figure 18.25.270(4)).

~~(iv)~~ (E) At least 80 percent of the remaining buffer area between the structures and the shoreline and/or critical area is maintained in a naturally vegetated condition or, if not fully vegetated, enhanced by planting native vegetation per the applicable planting standards of JCC 18.25.660(11). Applicants may reduce the percent of remaining buffer that must be vegetated only if it is demonstrated in the special report how the no net loss standard is met.

(F) Figures 18.25.270(1) through (4) illustrate examples of the common line buffer allowance. When discrepancy between the text and the graphic exists, the text shall govern. Graphics are for illustration only; buffer shall be measured perpendicularly from the ordinary high water mark as per this section.

Figures 18.25.270(1) – (4)

Figure 18.25.270(1)

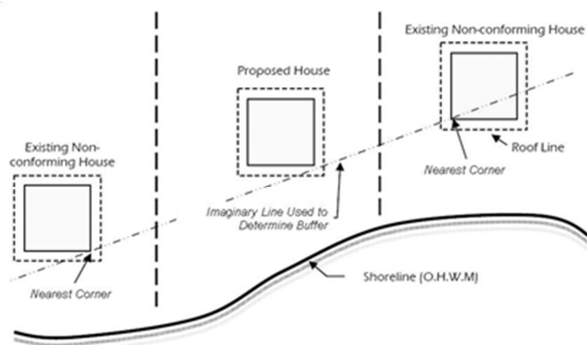


Figure 18.25.270(2)

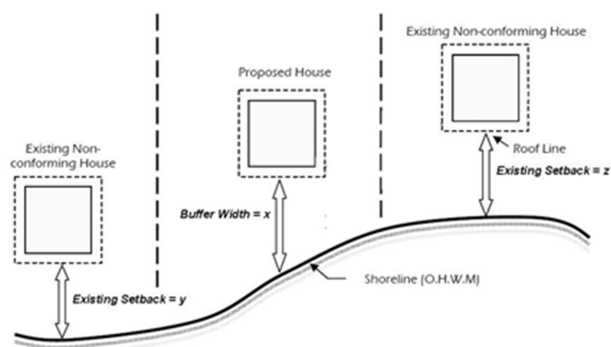
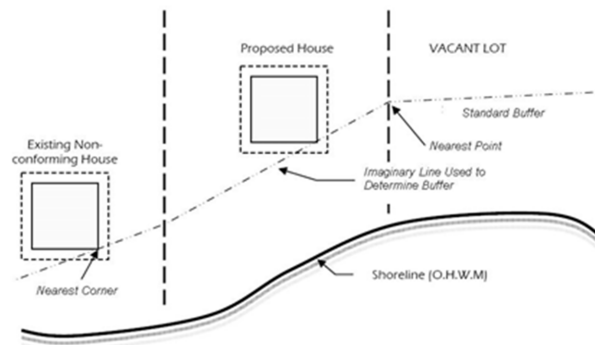
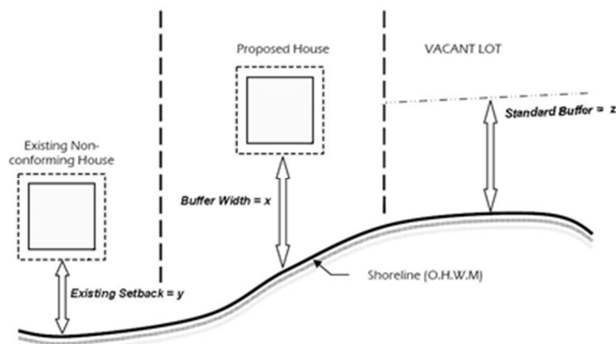


Figure 18.25.270(3)



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Figure 18.25.270(4)



(c) **Nonconforming Lots**—Development Requiring a Variance. Development on **nonconforming** lots that do not meet the requirements of subsection (5)(a) or (b) of this section require a shoreline variance.

(d) Water-Oriented Uses/Development. When otherwise consistent with this program ~~and Chapter 18.22 JCC~~, the following water-oriented uses/developments may be permitted within a shoreline buffer without a shoreline variance. The amount and extent of buffer modification shall be the minimum needed to accommodate the allowed use/development. This allowance for water-oriented uses/developments within shoreline buffers without a shoreline variance may apply to the primary use and/or to the following accessory uses/structures:

(i) Primary uses and structures that meet the definition of a water-dependent or water-related use/development as defined in Article II of this chapter.

(ii) Boating facilities accessory to a single-family residential development including rails, docks, piers and floats;

(iii) Boathouses accessory to a single-family residential development; provided, that all of the following are met:

(A) The boathouse is used to store watercraft and shall not be used as or converted to a dwelling unit. The county shall require a notice on title indicating such; and

(B) The boathouse has a maximum footprint of 300 square feet and a maximum height of 15 feet above average grade; and

(C) The primary doorway/entryway faces the water; and

(D) The structure is located entirely landward of the ordinary high water mark.

Commented [AS124]: Edit made per Ecology required change 4 (9/30/22).

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2681 (iv) Public or private beach access structures accessory to residential, commercial, industrial,
2682 port or other allowed uses/development; and

2683 (v) Public access structures, including but not limited to docks, piers, floats; and

2684 (vi) Certain utilities and essential public facilities as allowed by the shoreline critical area
2685 provisions specified in JCC 18.25.530. [Ord. 7-13 Exh. A (Art. VI § 1~~1~~)]

2686 (e) Nonconforming Septic Replacement. The replacement of an existing on-site sewage (OSS; or
2687 'septic') system located in the buffer may be authorized as normal repair and maintenance if all the
2688 following criteria are met:

2689 (i) The existing OSS system qualifies as a legal nonconforming structure as defined in this
2690 Program;

2691 (ii) The proposed replacement is necessary to prevent the decline, lapse, or cessation from a
2692 lawfully established condition;

2693 (iii) New tank, drainfield, and reserve drainfield areas are sited to pose the least intrusive
2694 location given system design constraints and site constraints, including but not limited to
2695 existing legal development, critical areas, and topographical constraints;

2696 (iv) The new OSS system is for replacement of a damaged/failed OSS system with the equivalent
2697 capacity of the nonconforming system and is comparable in size, shape, and configuration; and

2698 (iv) The replacement system does not increase the degree of nonconformity, except when
2699 design elements are necessary to improve environmental conditions; and

2700 (vi) The footprint of the replacement system, including all components such as tank, drainfield,
2701 and reserve area, is counted toward the 'active use area' of the buffer per subsection (4)(i) of
2702 this section.

2703 (f) Stormwater Facilities. Stormwater facilities are development and may be considered part of the
2704 primary use when located on site as an accessory utility feature, as defined by this program. When
2705 location outside the shoreline buffer is infeasible, Administrator may allow stormwater facilities to
2706 locate in the buffer only as follows:

2707 (i) Applicant must demonstrate:

2708 A. The stormwater facility is either: a normal appurtenance for an SDP exempt single-
2709 family residential structure; or a utility serving a new, existing legal, or legal-
2710 nonconforming primary use; and

2711 B. Conveyance, discharge and/or infiltration cannot be accommodated on site landward
2712 of the buffer consistent with shoreline critical area protection standards for erosion
2713 control. This shall be substantiated by a geotechnical report and/or engineered
2714 stormwater plan. Per JCC 18.30.070(a), a stand-alone engineered stormwater plan
2715 prepared by a geotechnical professional who meets the qualifications in JCC 18.10.070
2716 may be accepted by the administrator; and

Commented [AS125]: Edits made per Ecology required change 4 (9/30/22)

Commented [LG126]: Code Interpretation #1

Commented [LG127]: Response to Comment: 12.10.

Commented [LG128]: Response to ECY REQ-6 and Rec-20

Commented [LG129]: Response to ECY REQ-7 and Rec-15 and -21

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2717 C. Any stormwater improvement is otherwise consistent with shoreline critical area
2718 protection standards. This shall be substantiated by a critical areas special report
2719 approved by the administrator; and
2720 D. The footprint of the new or improved stormwater facility is counted toward the
2721 'active use area' of the buffer per subsection (4)(i) of this section.
2722 (ii) Conveyance/Discharge – Stormwater tightline and outfall pipes shall be designed and
2723 installed to meet the following criteria:
2724 A. Qualified Professional. Location within the shoreline buffer and/or within a
2725 geologically hazardous area buffer if a qualified geotechnical or stormwater
2726 engineer submits a signed and stamped report with supporting analysis that
2727 recommends locating such development within the buffer;
2728 B. Above Ground. Installation to be principally above ground and landward of the
2729 ordinary high water mark; and
2730 C. Minimize vegetation and soil disturbance. Installation shall include restoration or
2731 enhancement of native vegetation and limit the use of surface anchors. Use of hard
2732 armor shall be prohibited to ensure scour protection.
2733 (iii) Improvements to Existing – Improvements to retrofit or replace an existing stormwater
2734 facility in the buffer that is failing, damaged, substandard, or non-conforming may be authorized
2735 as normal repair when all of the following criteria are met:
2736 A. Applicant demonstrated that replacement is the needed repair, and how retrofitting
2737 or a comparable replacement will improve consistency with current stormwater
2738 standards, especially low impact development techniques, and avoid future
2739 shoreline erosion, vegetation disturbance, and habitat damage;
2740 B. Redesign and reconstruction ensure the replacement will not further encroach the
2741 shoreline buffer or a critical area buffer specified by a geotechnical report; and
2742 C. When a replacement is processed per JCC 18.25.550, such as statements of
2743 exemption shall contain conditions and/or mitigating performance measures per
2744 JCC 18.25.270 to achieve consistency and compliance with the provisions of this
2745 program and Act.
2746 (iv) When allowed to located in the buffer as described above:
2747 A. The footprint shall count towards the 'active use' area allowed by JCC
2748 18.25.270(4)(i) Buffer Usage; and
2749 B. The stormwater facility may also locate in and/or pass through the required building
2750 setback.

18.25.280 Historic, archaeological, cultural, scientific and educational resources.

(1) Policies.

2754 (a) Historic, archaeological, cultural, scientific and educational (HACSE) sites and resources should
2755 be protected, preserved, and where possible, restored. All use and development on sites containing
2756 HACSE resources should be planned and carried out so as to prevent adverse impacts to the
2757 resource(s).

- 2758 (b) To prevent adverse impacts on HACSE resources, proponents of all new shoreline use and
2759 development should consult the county department of community development prior to beginning
2760 any project or activity.
- 2761 (c) Tribal, federal, state, educational institutions and local governments should cooperate to
2762 maintain an inventory of all known significant local HACSE sites and resources.
- 2763 (d) The location of historic, cultural and/or archaeological sites/resources should not be disclosed to
2764 the general public, consistent with applicable state and federal laws.
- 2765 (e) When HACSE sites/resources occur on public lands they should be accessible to the public and
2766 used for research or educational purposes consistent with the public access provisions of this
2767 program and applicable tribal access policies. Private owners of HACSE sites/resources are
2768 encouraged to provide access and educational opportunities when appropriate.
- 2769 (f) If development is proposed adjacent to an identified HACSE site/resource, then the proposed
2770 development should be designed and operated so as to be compatible with continued protection of
2771 the site/resource.
- 2772 (2) Regulations – General Regulations.
- 2773 (a) Proponents of new shoreline use and development, including preferred uses and uses exempt
2774 from permit requirements, shall:
- 2775 (i) Preserve and protect historic, archaeological and cultural resources that are recorded by the
2776 Washington State Department of Archaeology and Historic Preservation and resources that are
2777 inadvertently discovered during use or development activities; and
- 2778 (ii) Consult the county department of community development, the Washington State
2779 Department of Archaeology and Historic Preservation, affected tribes, and/or other
2780 appropriate agencies prior to beginning development so there is ample time to assess the site
2781 and make arrangements to preserve historical, cultural and archaeological resources; and
- 2782 (iii) Comply with all state and federal regulations pertaining to archaeological sites.
- 2783 (b) All feasible means shall be employed to ensure that data, structures, and sites having historical,
2784 archaeological, cultural, scientific, or educational significance are preserved, extracted, or used in a
2785 manner commensurate with their importance.
- 2786 (c) Excavations for archaeological investigations or data recovery may be permitted subject to the
2787 provisions of this program.
- 2788 (d) The county shall prohibit any use or development that poses a threat to a HACSE resource.
2789 Alternatively the county shall require the development to be postponed to allow for:
- 2790 (i) Coordination with potentially affected tribes and/or the State Department of Archaeology
2791 and Historic Preservation; and/or

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- 2792 (ii) Investigation of public acquisition potential; and/or
- 2793 (iii) Retrieval and preservation of significant artifacts.
- 2794 (3) Regulations – Procedural Requirements.
- 2795 (a) When the county receives a permit application or request for a statement of exemption for
- 2796 development on a property within 500 feet of a known or probable historic, archaeological, or
- 2797 cultural site, the county shall:
- 2798 (i) Notify and inform affected tribes and agencies such as the State Department of Archaeology
- 2799 and Historic Preservation of the proposed activity including timing, location, scope, and
- 2800 resources affected; and
- 2801 (ii) Require the applicant to provide a cultural resource site assessment prior to development
- 2802 unless the administrator determines that the proposed development activities do not include
- 2803 any ground disturbing activities and will not impact a known HACSE site/resource.
- 2804 (b) If a cultural resource site assessment identifies the presence of significant historic or
- 2805 archaeological resources, a cultural resource management plan (CRMP) shall be required. The plan
- 2806 shall include:
- 2807 (i) An analysis of actions to be taken by the property owner, developer, archaeologist, or
- 2808 historic preservation professional, in the event that an inadvertent discovery of historic,
- 2809 archaeological, or cultural sites or artifacts occurs during site development; and
- 2810 (ii) An explanation of why the proposed activity requires a location on, or access across and/or
- 2811 through, a significant historic or archaeological resource; and
- 2812 (iii) A description of the historic/archaeological resources affected by the proposal; and
- 2813 (iv) An assessment of the historic/archaeological resource and an analysis of the potential
- 2814 adverse impacts as a result of the activity; and
- 2815 (v) Recommended measures to prevent adverse impacts; and
- 2816 (vi) Comments from the Washington State Department of Archaeology and Historic
- 2817 Preservation, and affected tribes.
- 2818 (c) Site assessments and CRMPs required by this section shall be prepared by a professional
- 2819 archaeologist or historic preservation professional, as applicable. The landowner or project
- 2820 proponent shall be responsible for any professional service fees.
- 2821 (d) The administrator may reject or request revision of the conclusions reached in a CRMP when
- 2822 she/he can demonstrate that the assessment is inaccurate or does not fully address the
- 2823 management concerns involved.
- 2824 (e) Where public access is provided to any private or publicly owned building or structure of
- 2825 historic, archaeological or cultural significance, a public access management plan shall be developed

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- 2826 in consultation with the Washington State Department of Archaeology and Historic Preservation,
2827 affected tribes and/or other agencies, to address the following:
- 2828 (i) The type and/or level of public access that is consistent with the long-term protection of
2829 both historic resource values and shoreline ecological functions and processes; and
- 2830 (ii) Types and location of interpretative signs, displays and other educational materials; and
- 2831 (iii) Site- and resource-specific conditions, including hours of operation, interpretive and/or
2832 directional signage, lighting, pedestrian access, and/or traffic and parking.
- 2833 (f) If any phenomena of possible historic, archaeological and/or cultural interest are inadvertently
2834 discovered during any new shoreline use or development, the proponent shall immediately stop
2835 work and comply with all of the following:
- 2836 (i) Notify the county department of community development, Washington State Department of
2837 Archaeology and Historic Preservation, affected tribes, and other appropriate agencies;
- 2838 (ii) Prepare a site assessment pursuant to this section to determine the significance of the
2839 discovery and the extent of damage to the resource;
- 2840 (iii) Distribute the site assessment to the Washington State Department of Archaeology and
2841 Historic Preservation and affected tribes for a 30-day review to determine the significance of
2842 the discovery;
- 2843 (iv) Maintain the work stoppage until the county determines that the site is considered
2844 significant by the above listed agencies or governments, or if the above listed agencies or
2845 governments have failed to respond within the applicable review period following receipt of
2846 the site assessment; and
- 2847 (v) Prepare a CRMP pursuant to this section if the county determines that the site is significant.
- 2848 (g) Upon inadvertent discovery of human remains, the county sheriff, coroner, and State
2849 Department of Archaeology and Historic Preservation (DAHP) must be immediately notified.
- 2850 (h) In the event that unforeseen factors constituting an emergency as defined in RCW 90.58.030
2851 necessitate rapid action to retrieve or preserve historic, archaeological and/or cultural resources,
2852 the project may be exempted from the requirement to obtain a permit. The county shall notify the
2853 State Department of Ecology, the State Attorney General's Office, potentially affected tribes, and
2854 the State Department of Archaeology and Historic Preservation of such a waiver within 30 days of
2855 such action. [Ord. 7-13 Exh. A (Art. VI § 2)]
- 2856 **18.25.290 Public access.**
2857 (1) Policies.
- 2858 (a) Providing public access to public shorelines is a primary goal of the Shoreline Management Act.
2859 Jefferson County actively supports public and private efforts making better use of existing
2860 facilities/opportunities. Strategic efforts to find and fund new shoreline public access are

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- 2861 encouraged to meet increasing demands by a growing populace. Increasing all types of public
2862 access is a priority for the county.
- 2863 (b) The county should prepare a comprehensive shoreline public access plan in cooperation with
2864 appropriate local, state, tribal and nongovernmental agencies/organizations, and the general public.
- 2865 (c) The county should work with appropriate agencies and individuals to acquire lands that can
2866 provide physical access to public waters for public use.
- 2867 (d) Shoreline development by public entities, such as local governments, port districts, state
2868 agencies, and public utility districts, should provide public access as part of each development
2869 project, unless such access is shown to be incompatible with this program due to reasons of safety,
2870 security, or adverse impacts to shoreline functions and processes.
- 2871 (e) Shoreline development by private entities should provide public access when the development
2872 would either generate a demand for one or more forms of such access, and/or would impair
2873 existing legal access opportunities or rights.
- 2874 (f) Single-family residential developments with four or fewer lots/units should not be required to
2875 provide public access.
- 2876 (g) Public health and safety concerns associated with public access sites should be adequately
2877 mitigated and appropriate precautions taken to prevent adverse impacts on shoreline ecological
2878 functions and/or processes.
- 2879 (h) Efforts to implement the public access provisions of this section should be consistent with all
2880 relevant constitutional and other legal limitations on regulation of private property.
- 2881 (i) Public access requirements on privately owned lands should be commensurate with the scale and
2882 character of the development and should be reasonable, effective and fair to all affected parties
2883 including but not limited to the landowner and the public.
- 2884 (j) Where feasible, providers of shoreline public access should:
- 2885 (i) Locate and design public access improvements in a manner that is compatible with the
2886 natural shoreline character and avoids adverse impacts to shoreline ecological functions and
2887 processes; and
- 2888 (ii) Ensure public access improvements and amenities are safe, respect individual privacy, and
2889 avoid or minimize visual impacts from neighboring properties; and
- 2890 (iii) Provide maps and orientation information to inform the public of the presence and location
2891 of privately held tidelands, especially those adjacent to public access and recreational areas;
2892 and
- 2893 (iv) Incorporate programs, signage and informational kiosks into public access locations, where
2894 appropriate, to enhance public education and appreciation of shoreline ecology and areas of
2895 historical or cultural significance.

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2896 (2) Regulations.

- 2897 (a) Single-family residential developments consisting of four or fewer residential lots or dwelling
2898 units shall not be required to provide public access.
- 2899 (b) Opportunities to provide visual and/or physical public access shall be considered during the
2900 review and conditioning of all proposed commercial and industrial shoreline developments and
2901 residential developments involving more than four residential lots or dwelling units.
- 2902 (c) Physical public access shall be incorporated into all development proposals on public lands, all
2903 public and private commercial and industrial uses/developments, and all residential subdivisions of
2904 greater than four lots unless the project proponent demonstrates that any of the following
2905 conditions exist:
- 2906 (i) Unavoidable public health or safety hazards exist and cannot be prevented through
2907 reasonable means; or
- 2908 (ii) The use/development has inherent security or cultural sensitivity requirements that cannot
2909 be mitigated through reasonable design measures or other solutions; or
- 2910 (iii) The cost of providing the access, easement or an alternative amenity is disproportionate to
2911 the total long-term cost of the proposed development; or
- 2912 (iv) The public access will cause unacceptable environmental impacts that cannot be mitigated;
2913 or
- 2914 (v) The access would create significant, undue, and unavoidable conflicts with adjacent uses
2915 that cannot be mitigated.
- 2916 (d) To be exempt from the public access requirements in subsection (2)(c) of this section, the
2917 project proponent must demonstrate that all feasible alternatives have been considered, including,
2918 but not necessarily limited to:
- 2919 (i) Regulating access through means such as maintaining a gate and/or limiting hours of use;
2920 and
- 2921 (ii) Separating uses and activities (e.g., fences, terracing, use of one-way glazing, hedges,
2922 landscaping, etc.).
- 2923 (e) When physical public access is deemed to be infeasible based on considerations listed in
2924 subsection (2)(c) of this section, the proponent shall provide visual access to the shore or provide
2925 physical access at an off-site location geographically separated from the proposed
2926 use/developmental (e.g., a street end, vista, or trail system).
- 2927 (f) Public access shall be located and designed to be compatible with the natural shoreline
2928 character, to avoid adverse impacts to shoreline ecological functions and processes, and to ensure
2929 public safety.

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- 2930 (g) When otherwise consistent with this program, public access structures shall be exempt from the
2931 shoreline buffer requirements of this program, meaning that such structures shall be allowed to
2932 encroach into the shoreline buffer when necessary to provide physical and/or visual access to the
2933 water's edge.
- 2934 (h) Public shoreline access provided by public road ends, public road rights-of-way, public utilities
2935 and rights-of-way shall not be diminished by the county, neighboring property owners, or other
2936 citizens, unless the property is zoned for industrial uses in accordance with RCW 36.87.130.
- 2937 (i) Public access sites shall be directly connected to the nearest public street and shall include
2938 improvements that conform to the requirements of the Americans with Disabilities Act (ADA) when
2939 feasible and appropriate.
- 2940 (j) Opportunities for boat-in public access and access to primitive shorelines not accessible by
2941 automobile shall be provided where feasible and appropriate.
- 2942 (k) When required for public land, commercial, port or industrial use/development as per
2943 subsections (2)(b) and (c) of this section, public access sites shall be fully developed and available
2944 for public use prior to final occupancy of such use or development.
- 2945 (l) Public access easements and permit conditions shall be recorded on the deed of title and/or the
2946 face of a short or long plat as a condition running, at a minimum, for a period contemporaneous
2947 with the duration of the authorized land use. Recordation shall occur at the time of final plat
2948 approval or prior to final occupancy.
- 2949 (m) The location of new public access sites shall be clearly identified. Signs with the appropriate
2950 agency's logo shall be constructed, installed and maintained by the project proponent in
2951 conspicuous locations at public access sites and/or along common routes to public access sites. The
2952 signs shall indicate the public's right of access, the hours of access, and other information as needed
2953 to control or limit access according to conditions of approval. [Ord. 7-13 Exh. A (Art. VI § 3)]
- 2954 **18.25.300 Shoreline setbacks and height.**
2955 (1) Policies.
- 2956 (a) Standards for density, setbacks, height, and other provisions should ensure no net loss of
2957 shoreline ecological functions and/or processes and preserve the existing character of the shoreline
2958 consistent with the purpose of the applicable shoreline environment designation.
- 2959 (b) Proponents of a development on no-bank or low bank marine shorelines are encouraged to
2960 locate the bottom of a structure's foundation higher than the level of expected future sea-level rise.
- 2961 (2) Regulations.
- 2962 (a) A building setback of 10 feet shall be established on the landward edge of ~~the~~all shoreline
2963 buffers required by this program. A building setback of 10 feet shall also apply to the shoreline
2964 critical area buffers, as established by JCC 18.25.270(4)(c).

Commented [AS130]: Edits made to (2) per Ecology recommended change 22 (9/30/22).

Commented [LG131R130]: Suggestion to include "of 10-feet" because the cross reference JCC 18/25/270(4)(5) no longer includes that information about a 10- foot building setback from edge of a critical area or critical area buffer.

Commented [LG132]: Cross ref - restoration 80% as rationale.

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Planning Commission Recommendations

2965 (b) Sideyard setbacks shall be measured from all property lines that intersect the shoreline side of a
2966 lot or tract. ~~Five feet of the total required sideyard setbacks may be provided on one side and the~~
2967 ~~balance on the other side. Sideyards shall be consistent in depth with underlying zoning~~
2968 ~~requirements.~~

Commented [LG133]: Staff Docket/Code Interpretations

2969 (c) Height. Pursuant to RCW 90.58.320, no permit may be issued for any new or expanded building
2970 or structure more than 35 feet above average grade level ~~when such. The Administrator may allow~~
2971 ~~a greater height will obstruct when the view of a substantial number of residences on or adjoining~~
2972 ~~such shorelines. Height is measured according to the definition in Article II of this chapter. The~~
2973 ~~project proponent shall be responsible for providing~~ provides sufficient information to the
2974 ~~administrator to determine that such development will not obstruct views as~~
2975 ~~described demonstrate the taller building/structure:~~

2976 (i) will not obstruct the view of a substantial number of residences on or areas adjoining such
2977 shorelines;

2978 (ii) will serve the overriding consideration of the public interest; and

2979 (iii) is not expressly prohibited by this program.

2980 Height is measured according to the definition in Article II of this chapter.

2981 (d) Applicants seeking building heights greater than 35 feet in order to address sea level rise shall
2982 demonstrate that:³

Commented [LG134]: SSDP instead 7/12/22, clarify new
v existing

2983 (i) it is infeasible to otherwise retreat, accommodate, or protect the structure;

2984 (ii) the added height is no greater than that necessary to accommodate the projected sea level
2985 rise as determined by a qualified professional to the satisfaction of the Shoreline Administrator;
2986 and

2987 (iii) the added height will not obstruct the view of a substantial number of residences on or
2988 areas adjoining such shorelines. The County may require a visual impact analysis of views from
2989 various locations to determine if the shoreline view for adjacent properties will be significantly
2990 obstructed as part of a development proposal; and

2991 (iv) overriding consideration of the public interest will be served.

³ Add similar edit to zoning code:

18.30.050 Table 6-1. Density, Dimension and Open Space Standards

Building Height^{7,8,20} (feet)

20. An applicant may request an increase in height above 35 feet as a Type III decision considering
variance permit criteria in order to address sea level rise in shoreline jurisdiction per JCC 18.25.300.

- 2992 (d) Power poles and transmission towers associated with allowed uses and developments are not
2993 subject to height limits but shall not be higher than necessary to achieve the intended purpose.
2994 [Ord. 7-13 Exh. A (Art. VI § 4)]
- 2995 **18.25.310 Vegetation conservation.**
2996 (1) Policies.
- 2997 (a) Maintaining native shoreline vegetation is an important goal of this program. The policies and
2998 regulations of this section are intended to ensure well-vegetated, stable shorelines that provide
2999 habitat and other ecological benefits and resemble natural, unaltered shorelines.
- 3000 (b) New uses and/or developments should be designed to preserve native shoreline vegetation to
3001 maintain shoreline ecological functions and processes and prevent direct, indirect and/or
3002 cumulative impacts of shoreline development.
- 3003 (c) New uses and/or developments should establish native shoreline vegetation such that the
3004 composition, structure, and density of the plant community resemble a natural, unaltered shoreline
3005 as much as possible.
- 3006 (d) Maintaining well-vegetated shorelines is preferred over clearing vegetation to create views or
3007 provide lawns. Limited and selective clearing for views and lawns may be allowed when slope
3008 stability and ecological functions are not compromised, but landowners should not assume that an
3009 unobstructed view of the water is guaranteed. Trimming and pruning are generally preferred over
3010 removal of native vegetation. Property owners are strongly encouraged to avoid or minimize the
3011 use of fertilizers, herbicides and pesticides.
- 3012 (e) Shoreline landowners are encouraged to preserve and enhance native woody vegetation and
3013 native groundcovers to stabilize soils and provide habitat. Maintaining native plant communities is
3014 preferred over nonnative ornamental plantings because native plants have greater ecological value.
3015 Nonnative vegetation that requires use of fertilizers, herbicides and/or pesticides is discouraged.
- 3016 (f) Prior to granting a shoreline permit or determining that a proposed use/development is exempt
3017 from permitting, the county should evaluate site plans to determine the extent to which the
3018 vegetation is conserved. As needed, the county may require special reports regarding vegetation
3019 and shall condition approval of new developments to ensure the following:
- 3020 (i) Native plant communities on marine, river, and lake shorelines are preserved; and
- 3021 (ii) Overhanging trees along shorelines are kept intact to provide shading and other ecological
3022 functions; and
- 3023 (iii) Established areas of native plants are preserved to maintain slope stability and prevent
3024 surface erosion; and
- 3025 (iv) Structures and associated development are placed in areas that avoid disturbance of
3026 established native plants, especially trees and shrubs; and

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Planning Commission Recommendations

- 3027 (v) Clearing and grading near bluff edges and other erosion- or landslide-prone areas are
3028 minimized to prevent slope instability; and
- 3029 (vi) Shoreline development proposals should incorporate provisions for removing invasive or
3030 nonnative species and planting native species when doing so would improve ecological
3031 functions and processes.
- 3032 (2) Regulations.
- 3033 (a) Unless otherwise specified, all shoreline use and development, including preferred uses and uses
3034 exempt from permit requirements, shall comply with ~~the~~all shoreline and critical area buffer
3035 provisions of this program ~~and Chapter 18.22 JCC~~ to protect and maintain shoreline vegetation.
- 3036 (b) Proponents of all ~~new~~ shoreline uses or developments shall demonstrate that site designs and
3037 layouts are consistent with the policies of this section to ensure shoreline functions, values, and
3038 processes are maintained and preserved. A shoreline permit or written statement of exemption
3039 shall not mandate, nor guarantee, unobstructed horizontal or lateral visibility of the water,
3040 shoreline or any specific feature near or ~~far~~.
- 3041 (c) View Maintenance. Proponents of all ~~new~~ shoreline uses or developments shall use all feasible
3042 techniques to maximize retention of existing native shoreline vegetation while allowing for
3043 shoreline ~~views~~.
- 3044 (i) Vegetation Trimming. Techniques shall include selective pruning, windowing and other
3045 measures that preserve native plant composition and structure. No more than 25 percent of a
3046 single tree's leaf bearing crown may be removed and no more than 25 percent of the canopy
3047 cover of any stand of trees may be removed for view preservation. If additional trimming is
3048 requested in subsequent years, the cumulative removal may not exceed 25 percent. Limbing or
3049 crown thinning shall comply with Tree Care Industry Association pruning standards, unless the
3050 tree is a hazard tree as defined by this program. Tree topping is prohibited when main
3051 stem/trunk is over three inches diameter at breast height (DBH).
- 3052 (ii) Vegetation Removal. All vegetation removal within the buffer area must comply with JCC
3053 18.25.270(4)(h). In no instance shall vegetation removal exceed 20 percent of the required
3054 buffer area or 15 linear feet of the water frontage, whichever is greater. Outside the buffer,
3055 vegetation removal shall be the minimum necessary for maintaining shoreline views from the
3056 primary structure ~~and to provide lawns or ground cover,~~ and must comply with other
3057 applicable requirements such as clearing and grading, forest practices, and protection
3058 standards for fish and wildlife habitat.
- 3059 (iii) The administrator may deny a request or condition approval of vegetation management
3060 proposals for view maintenance if it is determined the action will result in an adverse effect to
3061 any of the following:
- 3062 (A) Slope stability;
- 3063 (B) Habitat value;

Commented [AS135]: Edit made per Ecology required change 4 (9/30/22).

Commented [LG136]: Staff Docket/Code Interpretations

Commented [LG137]: Staff Docket/Code Interpretations

Commented [LG138]: Staff Docket/Code Interpretations
This phrase seems out of place in this View Maintenance sub-section.

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Planning Commission Recommendations

- 3064 (C) Health of surrounding vegetation;
- 3065 (D) Risk of wind damage to surrounding vegetation;
- 3066 (E) Nearby surface or ground water; or
- 3067 (F) Water quality of a nearby water body.
- 3068 (d) Proponents of all ~~new~~ shoreline uses or developments shall ~~maintain~~retain existing native
3069 shoreline vegetation to the maximum extent practicable, except that the following activities shall be
3070 ~~exempt~~excluded from this requirement:
- 3071 (i) Existing and ongoing agricultural activities on agricultural lands enrolled in the open space
3072 tax program for agriculture or on lands designated as agricultural lands of long-term
3073 commercial significance on the official map of Comprehensive Plan land use designations;
- 3074 (ii) Buffer enhancement by removal of noxious weeds, based on consultation with the Jefferson
3075 County noxious weed board, and/or planting native vegetation;
- 3076 (iii) ~~Maintenance~~Normal maintenance of existing ~~residential~~ landscaping, such as lawns and
3077 gardens, ~~pursuant to consistent with all applicable provisions of this Program, including JCC~~
3078 ~~18.25.560 and JCC 18.22.230(4)(m)). Expansion of landscaping into a buffer area or other area~~
3079 ~~of existing native vegetation is not normal maintenance~~;
- 3080 (iv) Maintenance trimming of the limbs or branches on a tree or shrub that has a main stem
3081 less than three inches in diameter at breast height (DBH); ~~for purposes other than view~~
3082 maintenance;
- 3083 (v) Construction of pervious surface trails for nonmotorized use, provided the trail is no wider
3084 than five feet and the vegetation trimming is limited to five feet on either side of the trail
3085 except where an arborist report indicates that additional vegetation trimming or removal is
3086 required for safety reasons;
- 3087 (vi) Harvest of wild crops that does not significantly affect the viability of the wild crop, or
3088 adversely affect shoreline functions of the area;
- 3089 (vii) Removal of a hazard tree, as defined in Article II of this chapter, where trimming is not
3090 sufficient to address the hazard. In such cases, the downed tree shall be retained on site to
3091 provide wildlife habitat and enhance in-stream or marine habitat if present. The location of
3092 retained materials placed on site shall reflect firewise program guidance for defensible space
3093 and fire safety. Where not immediately apparent to the administrator, the hazard tree
3094 determination shall be made after review of a report prepared by an arborist or forester.
- 3095 (e) The county may impose conditions on ~~new~~ shoreline use and/or development as needed to
3096 prevent the introduction and spread of aquatic weeds. Aquatic weed removal and disposal shall
3097 occur in a manner that minimizes and mitigates adverse impacts to native plant communities and
3098 shoreline ecological functions.

Commented [AS139]: Edits made per Ecology
recommended change 23 (9/30/22)

Commented [LG140]: Staff Docket/Code Interpretations

Commented [AS141]: Edits made per Ecology
recommended change 15 (9/30/22)

Commented [LG142]: Staff Docket/Code Interpretations

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- 3099 (f) When restoring or enhancing shoreline vegetation, proponents shall use native species approved
3100 by the county that are of a similar diversity, density, and type to that occurring in the general
3101 vicinity of the site prior to any shoreline alteration. The vegetation shall be nurtured and
3102 maintained to ensure establishment of a healthy and sustainable native plant community over time.
- 3103 (g) The vegetation conservation regulations of this program do not apply to commercial forest
3104 practices as defined by Article II of this chapter when such activities are covered under the
3105 Washington State Forest Practices Act (Chapter 76.09 RCW). Where such activities are associated
3106 with a conversion of forest lands to other uses or other forest practice activities, the vegetation
3107 conservation requirements shall apply.
- 3108 (h) Vegetation conservation standards shall not apply retroactively to existing uses and
3109 developments, although property owners are strongly encouraged to voluntarily improve shoreline
3110 vegetation conditions over the long term.
- 3111 (i) Vegetative debris shall be properly managed by mulching/leaving in place as habitat and soil
3112 amendment, composting on-site, or removing and disposing of off-site. The dumping of vegetative
3113 debris, including grass clippings and yard waste, in shoreline areas is strongly discouraged,
3114 especially when slope stability and water quality would be threatened.
- 3115 (j) Vegetative debris in the buffer that creates a fire hazard to existing structures may be reduced by
3116 chipping if the chipped material is returned to the original location. Fallen tree trunks may not be
3117 removed or chipped. [Ord. 7-13 Exh. A (Art. VI § 5)]
- 3118 **18.25.320 Water quality and quantity.**
3119 (1) Policies.
- 3120 (a) The location, construction, operation, and maintenance of all shoreline uses and developments
3121 should maintain or enhance the quantity and quality of surface and ground water over the long
3122 term.
- 3123 (b) Shoreline use and development should minimize, through effective education, site planning and
3124 maintenance, the need for chemical fertilizers, pesticides, herbicides or other similar chemical
3125 treatments that could contaminate surface or ground water or cause adverse effects on shoreline
3126 ecological functions and values.
- 3127 (c) Appropriate buffers along all wetlands, streams, lakes, and marine water bodies should be
3128 provided and maintained in a manner that avoids the need for chemical treatment.
- 3129 (d) Potential adverse effects of agricultural activities on water quality should be minimized by
3130 implementing best management practices, buffers and other appropriate measures.
- 3131 (e) Effective erosion control and water-runoff treatment methods should be provided for all
3132 shoreline development and use in accordance with JCC 18.30.070.
- 3133 (f) Encourage pervious materials and other appropriate low impact development techniques where
3134 soils and geologic conditions are suitable and where such practices could reduce stormwater runoff.

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3135 (2) Regulations.

3136 (a) All shoreline uses and activities shall use effective erosion control methods during both project
3137 construction and operation. At a minimum, effective erosion control methods shall require
3138 compliance with the current edition of the Department of Ecology's Stormwater Management
3139 Manual, NPDES General Permit requirements, and the stormwater management provisions of JCC
3140 18.30.070.

3141 (b) To avoid water quality degradation by malfunctioning or failing septic systems located within
3142 shoreline jurisdiction, on-site sewage systems shall be located and designed to meet all applicable
3143 water quality, utility, and health standards.

3144 (c) All materials that may come in contact with water shall be composed of nontoxic materials, such
3145 as wood, concrete, approved plastic composites or steel, that will not adversely affect water quality
3146 or aquatic plants or animals. Materials used for decking or other structural components shall be
3147 approved by applicable state agencies for contact with water to avoid discharge of pollutants from
3148 wave splash, rain, or runoff. Wood treated with creosote, copper chromium arsenate or
3149 pentachlorophenol is prohibited in shoreline water bodies.

3150 (d) Solid and liquid wastes and untreated effluents shall not be allowed to enter any ground water
3151 or surface water or to be discharged onto land. The release of oil, chemicals, genetically modified
3152 organisms or hazardous materials onto land or into the water is prohibited. [Ord. 7-13 Exh. A (Art.
3153 VI § 6)]

3154 **Article VII. Shoreline Modifications Policies and Regulations**

3155 **18.25.330 Applicability – Purpose.**

3156 The policies and regulations in this article apply to all types of shoreline modification, with specific
3157 standards defined for each shoreline environment. They are not listed in order of priority. These policies
3158 and regulations:

3159 (1) Help to implement the master program goals in Article III of this chapter; and

3160 (2) Are informed by the guiding principles in Article I of this chapter; and

3161 (3) Work in concert with all the other policies and regulations contained in this program; and

3162 (4) Are based on the state shoreline guidelines (Chapter 173-26 WAC). [Ord. 7-13 Exh. A (Art. VII)]

3163 **18.25.335 General Policies**

3164 The following general policies apply to all shoreline modifications:

3165 (1) Structural modifications should only be allowed where demonstrated as necessary:

3166 (a) To support or protect an allowed primary structure or a legally existing shoreline use that is in
3167 danger of loss or substantial damage; or

3168 (b) For reconfiguration of the shoreline for mitigation or enhancement purposes.

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Commented [AS143]: New section added per Ecology recommended change 24 (9/30/22).

- 3169 (2) To reduce adverse effects, modifications should be limited in number and extent as much as
3170 possible.
- 3171 (3) Only allow modifications appropriate to the specific type of shoreline and environmental conditions
3172 for which they are proposed, including consideration of appropriate scientific and technical information
3173 and analysis of drift cells for marine waters or reach conditions for river and stream systems.
- 3174 (4) Modifications should not individually or cumulatively result in a net loss of ecological functions.
3175 Preference should be given to those types of modifications that have a lesser impact on ecological
3176 functions and identified impacts should be mitigated.
- 3177 (5) County should plan for the enhancement of impaired ecological functions where feasible and
3178 appropriate while accommodating permitted uses. As modifications occur, all feasible measures to
3179 protect ecological shoreline functions and ecosystem-wide processes should be incorporated.
- 3180 **18.25.340 Beach access structures.**
3181 (1) Policies.
- 3182 (a) Beach access structures, as defined in Article II of this chapter, should be located, designed and
3183 maintained in a manner that minimizes adverse effects on shoreline ecology.
- 3184 (b) Jefferson County recognizes a balance has to be found between enabling pedestrian access to
3185 beach areas and protecting fragile shoreline ecosystems.
- 3186 (c) Neighboring property owners are encouraged to combine resources to collectively propose
3187 beach access structures in appropriate locations for shared use.
- 3188 (d) Beach access structures should not be permitted until and unless their adverse effects on
3189 stream, lake or marine shoreline functions and processes, including any significant adverse effects
3190 on adjoining lands and properties, are fully evaluated and mitigated. All proposals for structures
3191 that link upland areas with adjacent beaches shall be carefully evaluated by the criteria and
3192 regulations in this section.
- 3193 (e) Beach access structures may not be appropriate in some areas because of safety hazards or
3194 sensitive ecological conditions. The county should not permit these structures in areas where there
3195 are expected risks to human health and safety or adverse effects on shoreline functions and
3196 processes. Some properties will have view-only access to the neighboring waters.
- 3197 (f) Beach access structures should conform to the existing topography, minimize adverse impacts on
3198 shoreline aesthetics, and minimize clearing and grading to the maximum extent feasible.
- 3199 (g) Beach access structures should not be allowed if there is a reasonable likelihood that they will
3200 require erosion control structures or armoring in the future.
- 3201 (h) Beach access structures should be designed to minimize the amount of clearing, grading,
3202 excavation, and other forms of shoreline alteration so that they don't require substantial bank or
3203 slope modifications.

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Planning Commission Recommendations

3204 (i) Beach access structures should only be allowed where it provides access to a publicly owned
3205 beach or where the same party owns both the uplands and adjoining tidelands or an easement is
3206 granted by the tideland owner to the upland owner for access.

3207 (2) Uses and Activities Prohibited Outright. Beach access structures shall be prohibited from marine
3208 feeder bluffs in all environment designations.

3209 (3) Shoreline Environment Regulations.

3210 (a) Priority Aquatic. Public beach access structures may be permitted as a conditional use, provided
3211 they are associated with a water-dependent use that includes public access to the shoreline, and
3212 provided they are consistent with policies and regulations of this program and are allowed in the
3213 adjoining upland designation. Private beach access structures ~~accessory to single-family residential~~
3214 development shall be prohibited.

3215 (b) Aquatic. Public beach access structures may be permitted, provided they are associated with a
3216 water-oriented use that includes public access to the shoreline, and provided they are consistent
3217 with policies and regulations of this program in the adjoining upland designation. Private beach
3218 access structures may be permitted as a conditional use when they are allowed in the adjoining
3219 upland designation.

3220 (c) Natural. (b) Aquatic—Public beach access structures may be permitted as a conditional use,
3221 provided they are associated with a water-dependent use that includes public access to the
3222 shoreline, and provided they are consistent with policies and regulations of this program in the
3223 adjoining upland designation. Private beach access structures accessory to single-family residential
3224 development may be permitted oriented as a conditional use when they are allowed in the adjoining
3225 upland designation.

3226 (c) Natural. Public beach access structures may be permitted as a conditional use, provided they are
3227 associated with a water-dependent use that includes public access to the shoreline, and provided
3228 they are consistent with policies and regulations of this program. Private beach access structures
3229 accessory to single-family residential development shall be prohibited.

3230 (d) Conservancy. Public ~~and private~~ beach access structures may be permitted ~~as, provided they are~~
3231 associated with a conditional water-oriented use that includes public access to the shoreline. Private
3232 beach access structures may be permitted accessory to single-family residential development,
3233 provided they are consistent with the provisions policies and regulations of this program. Other
3234 private beach access structures are prohibited.

3235 (e) Shoreline Residential. Public beach access structures and private beach access structures
3236 accessory to single-family residential development may be permitted as a conditional use, provided
3237 they are consistent with the ~~provisions~~ policies and regulations of this program.

3238 (f) High Intensity. Public and Other private beach access structures may be permitted as a
3239 conditional use, provided they are consistent with the ~~provisions~~ policies and regulations of this
3240 program.

Commented [GU144]: AJS: additional edits proposed to cover possibility of private beach access structures that might not be associated with SFR.

- 3241 (f) High Intensity. Public beach access structures and private beach access structures accessory to
3242 single-family residential development may be permitted, provided they are consistent with the
3243 policies and regulations of this program. Other private beach access structures may be permitted as
3244 a conditional use, provided they are consistent with the policies and regulations of this program.
- 3245 (4) Regulations.
- 3246 (a) Beach access structures may be permitted only when consistent with the provisions of this
3247 program.
- 3248 (b) Public beach access structures shall be subject to this section, JCC 18.25.290 (Public access) of
3249 this program, and conform to Americans with Disabilities Act (ADA) standards.
- 3250 (c) When permitted, beach access structures shall be located, designed and operated to avoid
3251 critical areas and prevent a net loss of shoreline ecological functions or processes, including, but not
3252 limited to:
- 3253 (i) Habitat;
- 3254 (ii) Slope stability;
- 3255 (iii) Sediment transport; and
- 3256 (iv) Water quality.
- 3257 (d) The county shall have the authority to require specific design standards based on the
3258 configuration of the site including existing topography, vegetation, soils, drainage and other factors.
- 3259 (e) When allowed, beach access structures may be located within the shoreline buffer; provided,
3260 that:
- 3261 (i) The clear width of any walkway, staircase, tower or tram shall be at least three feet, and not
3262 exceed five feet; and
- 3263 (ii) The structure shall not extend more than 12 vertical feet above the ~~bank or slope~~top of the
3264 bank or slope, and is located to minimize native vegetation removal and prioritize tree
3265 preservation; and
- 3266 ~~(iii)~~ There is no other available public beach access within 500 feet of the proposed access site.
- 3267 (f) No portion of a beach access structure shall be constructed waterward of the ordinary high
3268 water mark unless there is no other feasible alternative.
- 3269 (g) When in-water or over-water construction is allowed in accordance with this section it shall be
3270 limited to a small pier or pile-supported pedestrian landing platform of 25 square feet or less that is
3271 otherwise consistent with the provisions of this program.

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- 3272 (h) New residential subdivisions of more than four units or lots shall include a restriction on the face
3273 of the plat prohibiting individual beach access structures. Shared access structures may be
3274 permitted in these subdivisions when consistent with the provisions of this program.
- 3275 (i) Existing lawfully constructed nonconforming beach access structures may be repaired or replaced
3276 in kind as a nonconforming use as consistent with other provisions of this program.
- 3277 (j) ~~Beach~~In addition to the prohibition stated in subsection (2) of this section, beach access
3278 structures shall also be prohibited if any of the following apply:
- 3279 (i) The structure would adversely impact a critical area or ~~marine feeder bluff, or~~ increase
3280 landslide or erosion hazards; or
- 3281 (ii) The structure is likely to interfere with natural erosion and accretion processes; or
- 3282 (iii) The bank slope where the structure is placed is likely to require shoreline
3283 stabilization/structural shoreline ~~defense works~~armoring in the future; or
- 3284 (iv) Substantial bank or slope modification is required.
- 3285 (k) Prior to approving a permit for a beach access structure, the county shall require the project
3286 proponent to demonstrate that the project is consistent with this program. Information to be
3287 provided by the proponent will include, but not be limited to:
- 3288 (i) Existing conditions at the site related to erosion, slope stability, drainage, vegetation, and
3289 coastal processes; and
- 3290 (ii) Probable effects of the access structure on the stability of the site over time; and
- 3291 (iii) Potential effects of the access structure on shoreline processes such as net-shoreline drift,
3292 sediment transport, mass wasting, and erosion; and
- 3293 (iv) Methods for maintaining the structure over time that will preclude the need for a bulkhead
3294 or other type of stabilization in the future; and
- 3295 (v) Potential effects on fish and wildlife habitats and other shoreline ecological functions; and
- 3296 (vi) Measures needed to ensure/maintain slope stability, maintain coastal processes, ~~and~~
3297 prevent erosion in the long term-and mitigate any impacts to shoreline ecological functions.
- 3298 (l) The county may require proposals for pedestrian beach access structures to include geotechnical
3299 analysis prepared by a licensed professional engineer or geologist and/or biological analysis
3300 prepared by a qualified biologist. [Ord. 7-13 Exh. A (Art. VII § 1)]
- 3301 **18.25.350 Boating facilities – Boat launches, docks, piers, floats, lifts, marinas, and mooring buoys.**
3302 (1) Policies.

Commented [LG145]: Typo Correction

Commented [GU146]: AJS: added specific mitigation requirement for clarity.

Commented [LG147]: Task Force B and E

- 3303 (a) Boating facilities as defined in Article II of this chapter should be located, designed, constructed
3304 and operated with appropriate mitigation to avoid adverse effects on shoreline functions and
3305 processes and to prevent conflicts with other allowed uses.
- 3306 (b) Boating facilities should not be located or expanded where they would:
- 3307 (i) Impact critical habitats; or
- 3308 (ii) Substantially interfere with currents and/or net-shoreline drift; or
- 3309 (iii) Cause significant adverse effects on aquatic habitat, biological functions, water quality,
3310 aesthetics, navigation, and/or neighboring uses.
- 3311 (c) Docks and piers should not be allowed where shallow depths require excessive overwater
3312 length.
- 3313 (d) The county should protect the natural character of the shoreline and prevent adverse ecological
3314 impacts caused by in-water and overwater structures by limiting the number of new
3315 docks/piers/floats and by controlling how they are designed and constructed and where they are
3316 located. Wood coated or treated with toxic materials should not be allowed.
- 3317 (e) To prevent the impacts associated with private docks, piers, floats, lifts and launch ramps and
3318 rails accessory to residential development:
- 3319 (i) Mooring buoys are generally preferred over docks, piers or floats; and
- 3320 (ii) SharedCommunity or joint-use docks/piers/floats serving multiple properties are preferred |
3321 over single-user docks/piers/floats serving a single property or parcel; and
- 3322 (iii) Public boat launches are preferred over private launch facilities. Rail and track launch
3323 systems are preferred over ramps.
- 3324 (f) Boating facilities associated with commercial, industrial, or port uses, residential subdivisions and
3325 multifamily housing should include public access and contribute to the public's ability to view,
3326 touch, and travel on the waters of the state in accordance with JCC 18.25.290 (Public access).
- 3327 (g) The county should identify areas that are suitable for development and/or expansion of marinas
3328 and public boat launches and prevent them from being developed with non-water-dependent uses
3329 having less stringent site requirements. This should be accomplished in a timely manner.
- 3330 (h) Development of new marinas and public boat launch facilities should be coordinated with public
3331 access and recreation plans and should be co-located with port or other compatible water-
3332 dependent uses where feasible. Affected parties and potential partners should be included in the
3333 planning process.
- 3334 (i) When reviewing proposals for new or expanded marinas and public boat launches, the county
3335 should seek comment from public recreation providers, adjacent cities/counties, port districts,
3336 Washington State Parks, and the Washington State Departments of Ecology, Fish and Wildlife,

Commented [LG148]: Response to Comment: 13

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- 3337 Health, and Natural Resources, and area tribes to ensure that local as well as regional recreation
3338 needs are addressed.
- 3339 (j) The county should support the use of innovative and effective methods for protecting,
3340 enhancing, and restoring shoreline ecological functions and processes during the design,
3341 development and operation of new or expanded boating facilities. Such methods may include public
3342 facility and resource planning, education, voluntary protection and enhancement projects, and
3343 incentive programs.
- 3344 (2) Shoreline Environment Regulations.
- 3345 (a) Priority Aquatic.
- 3346 (i) Boat Launches – Nonresidential. Only public and private launches serving water-dependent
3347 commercial, industrial, port or other primary uses may be permitted if the primary use is
3348 permitted in the adjacent upland shoreline environment subject to the provisions of this
3349 program.
- 3350 (ii) Docks, Piers, Floats and Lifts – Nonresidential. Only public and private docks, piers, floats
3351 and lifts serving water-dependent commercial, industrial, port or other primary uses are
3352 allowed subject to policies and regulations of this program if the primary use is permitted in the
3353 adjacent upland shoreline environment.
- 3354 (iii) Boat Launches, Docks, Piers, Floats, and Lifts – Residential. Single-user docks, piers, floats,
3355 lifts and boat launches accessory to residential ~~or private recreational~~ development are
3356 prohibited. unless an applicant can demonstrate that a joint-use or community structure is not
3357 feasible. Shared boating facilities, such as joint-use docks/piers/floats or community
3358 docks/piers/floats, accessory to residential ~~or private recreational~~ development may be
3359 permitted.
- 3360 (iv) Marinas are prohibited.
- 3361 (v) Moorage used for float planes is prohibited.
- 3362 (vi) Mooring buoys are allowed subject to the adjacent upland shoreline designation and the
3363 policies and regulations of this program.
- 3364 (b) Aquatic.
- 3365 (i) Public and private boat launches are allowed subject to policies and regulations of this
3366 program if allowed in the adjacent upland shoreline environment.
- 3367 (ii) Public and private docks, piers, floats, and lifts are allowed if allowed in the adjacent upland
3368 shoreline environment.
- 3369 (iii) Marinas are allowed subject to policies and regulations of this program if allowed in the
3370 adjacent upland shoreline environment.

Commented [AS149]: Response to Comment 13: Edits made in response to Ecology concerns expressed in June 11/14, 2021 emails regarding clarity of terminology and regulations surrounding requirements for shared dock facilities.

Commented [AS150]: Edits made per Ecology recommended change 26 (9/30/22).

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- 3371 (iv) Moorage used for float planes may be allowed with a conditional use permit if permitted in
3372 the adjacent upland designation.
- 3373 (v) Mooring buoys are allowed subject to the adjacent upland shoreline designation and the
3374 policies and regulations of this program.
- 3375 ~~(e)(c)(i)~~ Natural.
- 3376 (i) Boat launches for hand launching of small watercraft (such as kayaks, small sailboats, and
3377 other nonmotorized watercraft) may be allowed with a conditional use permit, subject to
3378 policies and regulations of this program, if materials and design are compatible with the site.
- 3379 (ii) A public dock, pier or float for recreational use may be allowed with a conditional use
3380 permit.
- 3381 (iii) Mooring buoys that are accessory to water-dependent uses such as aquaculture may be
3382 allowed with a conditional use permit (C(a)).
- 3383 (iv) All other boating facilities, including boating facilities accessory to residential development,
3384 are prohibited.
- 3385 (d) Conservancy.
- 3386 (i) ~~Boat~~Residential boat launches may be allowed with a conditional use permit subject to
3387 policies and regulations of this program.
- 3388 ~~##(ii)~~ Non-residential boat launches are allowed subject to policies and regulations of this
3389 program.
- 3390 ~~(iii)~~ Docks, piers, floats and lifts may be allowed with a conditional use permit subject to policies
3391 and regulations of this program, except industrial piers are prohibited.
- 3392 ~~###(iv)~~ Marinas may be permitted as a conditional use.
- 3393 ~~(iv)~~ Moorage used for float planes may be permitted as a conditional use.
- 3394 ~~(v)~~ Mooring buoys are allowed ~~with a conditional use permit (C(a))~~ subject to policies and
3395 regulations of this program.
- 3396 (e) Shoreline Residential.
- 3397 (i) Boat launches are allowed subject to policies and regulations of this program.
- 3398 (ii) Docks, piers, floats and lifts are allowed subject to policies and regulations of this program,
3399 except industrial piers are prohibited.
- 3400 (iii) Marinas may be permitted as a conditional use.
- 3401 (iv) Moorage used for float planes may be permitted as a conditional use.

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- 3402 (v) Mooring buoys are allowed ~~with a conditional use permit (C(a))~~ subject to policies and
3403 regulations of this program.
- 3404 (f) High Intensity. All boating facilities are allowed subject to policies and regulations of this
3405 program.
- 3406 (3) Regulations – Boat Launches ~~—Public.~~
- 3407 (a) ~~Public boat~~Boat launches may be permitted when they are located, designed and constructed in
3408 a manner that minimizes adverse impacts on coastal or fluvial processes, biological functions,
3409 aquatic and riparian habitats, water quality, navigation, and/or neighboring uses. Rail and track
3410 systems shall be preferred over concrete ramps or similar facilities.
- 3411 (b) When permitted, ~~public~~ boat launches shall be:
- 3412 (i) Located in areas where there is adequate water mixing and flushing action;
- 3413 (ii) Designed so as not to retard or reduce natural shoreline flushing characteristics;
- 3414 (iii) Designed and constructed using methods/technology that have been recognized and
3415 approved by state and federal resource agencies as the best currently available; To the
3416 existent feasible, boat launches in marine waters shall follow the design and construction
3417 standards in WAC 220-660-390(3 and 4) and in fresh waters shall follow the design and
3418 construction standards in WAC 220-660-150(3 and 4);
- 3419 (iv) Designed so that existing or potential public access along beaches is not blocked or made
3420 unsafe, and so that public use of the surface waters is not unduly impaired; and
- 3421 (v) Developed and maintained to support waterfront access for watercraft. In those limited
3422 instances where separate or associated uses are permitted, other than restrooms and/or
3423 sewer/septic facilities, only uses that are water-dependent and/or afford public access uses
3424 shall be approved.
- 3425 (c) ~~Public boat~~Boat launches on river shores shall be located downstream of accretion shoreforms,
3426 or on stable banks where no or minimal current deflections will be necessary.
- 3427 (d) ~~Public~~Nonresidential boat launches shall provide adequate restroom and sewage and solid
3428 waste disposal facilities in compliance with applicable health regulations.
- 3429 (e) When overwater development is proposed in association with a ~~public nonresidential~~ boat
3430 launch facility, it may be permitted only where such use requires direct water access, and/or where
3431 such facilities will significantly increase public opportunities for water access.
- 3432 (f) ~~Public boat~~Boat launches shall be located and designed to prevent traffic hazards and minimize
3433 traffic impacts on nearby access streets.

Commented [AS151]: Language added in response to WDFW comment provided in letter dated 11/23/2020.

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3434 (g) ~~Public~~Nonresidential boat launch sites shall include parking spaces for boat trailers
3435 commensurate with projected demand and shall comply with the transportation provisions of this
3436 program.

3437 ~~(4) Regulations – Boat Launches (Ramps and Rails) – Private.~~

3438 ~~(a) Private~~Residential boat launches shall be allowed only when ~~public~~publicly accessible
3439 nonresidential boat launches are unavailable within a reasonable distance.

3440 ~~(b) When permitted, private boat launches including launches accessory to residential development~~
3441 ~~shall be designed and constructed using methods/technology that have been recognized and~~
3442 ~~approved by state and federal resource agencies as the best currently available. Rail and track~~
3443 ~~systems shall be preferred over concrete ramps or similar facilities.~~

3444 ~~(e)(i)~~ No more than one private boat launch facility or structure shall be permitted on a single parcel
3445 or residential lot.

3446 ~~(5)~~ Regulations – Docks, Piers and Floats – Nonresidential.

3447 (a) Docks, piers and floats, as defined in Article II of this chapter, associated with commercial,
3448 ~~(including private recreational use by hotel, motel, campground, tours/rentals),~~ industrial, port or
3449 public recreational developments should only be allowed when ecological impacts are mitigated in
3450 accordance with this program, and:

3451 (i) The dock/pier/float is required to accommodate a water-dependent use; and/or

3452 (ii) The dock/pier/float provides opportunities for the public to access the shoreline.

3453 (b) New commercial, industrial, port or public recreational docks, piers and floats shall be designed
3454 and constructed to avoid or, if that is not possible, to minimize the impacts to nearshore habitats
3455 and processes.

3456 (c) The length, width and height of nonresidential docks, piers and floats shall be no greater than
3457 that required for safety and practicality for the primary use. If a public, commercial, industrial or
3458 port entity involving water-dependent uses has performed a needs analysis or comprehensive
3459 master plan projecting the future needs for pier or dock space, and if the plan or analysis is
3460 approved by the county and consistent with this program, it may serve as the necessary justification
3461 for pier design, size, and construction.

3462 (d) New and substantially expanded nonresidential docks, piers and floats shall be constructed of
3463 materials that will not adversely affect water quality or aquatic plants and animals over the long
3464 term. Materials for any portions of the dock, pier, float, framing, or decking that come in contact
3465 with water shall be approved by applicable state agencies for use in water. For example, wood
3466 treated with creosote, pentachlorophenol or other similarly toxic materials is not allowed.

3467 (e) To minimize adverse effects on nearshore habitats and species caused by overwater structures
3468 that reduce ambient light levels, the following shall apply:

Commented [AS152]: Edit made per Ecology
recommended change 26 (9/30/22).

Commented [AS153]: *** Edits made consistent with
WAC 173-26-(3)(b). Ecology recommended in its 9/30/22
comments adding demonstration of need requirements for
residential docks. However, the WAC seems to require that
only for non-residential docks so language from the WAC
has been added to this provision (c) instead.

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- 3469 (i) The width of docks, piers and floats shall be the minimum necessary. Materials that will
3470 allow light to pass through the deck may be required where width exceeds four feet; and
- 3471 (ii) Grating to allow light passage or reflective panels to increase light refraction shall be used
3472 on walkways/decking or gangplanks in nearshore areas; and
- 3473 (iii) The maximum structure height above water shall be employed, consistent with safety and
3474 usability.
- 3475 (f) Commercial, industrial, port or public recreational docks, piers and floats shall be spaced and
3476 oriented to shoreline in a manner that avoids or minimizes:
- 3477 (i) Hazards and obstructions to navigation, fishing, swimming and pleasure boating; and
- 3478 (ii) Shading of beach substrate below; and
- 3479 (iii) Any "wall" effect that would block or baffle wave patterns, currents, littoral drift, or
3480 movement of aquatic life forms. A north-south orientation is generally optimal.
- 3481 (g) Fill waterward of OHWM shall be limited to the minimum necessary to match the upland with
3482 the elevation of the nonresidential dock or pier when consistent with JCC 18.25.370 (Filling and
3483 excavation).
- 3484 (h) Dredging shall be limited to the minimum necessary to allow boat access to a nonresidential
3485 dock or pier when consistent with JCC 18.25.360 (Dredging).
- 3486 (i) Covered moorage associated with nonresidential docks, piers, and floats shall be prohibited.
- 3487 **(65)** Regulations – Docks, Piers, Floats and Lifts – Accessory to Residential Development.
- 3488 (a) Docks, piers, floats and lifts accessory to residential development/use shall only be allowed
3489 when:
- 3490 (i) Ecological impacts are mitigated in accordance with this program; and
- 3491 (ii) The moorage platform is designed for access to private watercraft; and applicant shall
3492 demonstrate need by providing documentation of the vessel/watercraft to be
3493 moored/accessed, including a current vessel title and registration, or for exempt vessels (e.g.,
3494 canoes, kayaks, or strictly human-powered watercraft with no motor or sail) a photograph,
3495 written description, and bill of sale to confirm ownership; and
- 3496 (iii) The cumulative effects of dock, pier, float and lift proliferation have been identified and
3497 shown to be negligible.
- 3498 (b) If allowed under this program, no more than one dock/pier and one float and one boat/ski lift
3499 may be permitted on a single lot owned for residential use or private recreational use.
- 3500 (c) In-water fixed platform structures supported by piles that do not abut the shoreline shall be
3501 prohibited.

Commented [AS154]: Edit made per Ecology recommended change 10 (9/30/22)

Commented [GU155]: AJS: ***Edits to (ii) made per Ecology recommended change 26 (9/30/22). **HOWEVER**, WAC 173-26-231(3)(b) says: "New pier or dock construction, *excluding docks accessory to single-family residences [emphasis added]*, should be permitted only when the applicant has demonstrated that a specific need exists to support the intended water-dependent uses." The WAC doesn't require demonstration of need for SFR, so recommend County discussion. This provision may also be difficult to verify/enforce and seems relatively easy to skirt. What if applicants want to build a dock before they buy a boat? What if they submit pictures of someone else's exempt vessel? What if they buy a boat, build the dock, and immediately sell it?

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- 3502 (d) If permitted, new docks, piers, floats, lifts accessory to residential development/use shall be:
- 3503 (i) Designed and constructed to avoid or, if that is not possible, to minimize shading and other
- 3504 impacts on nearshore habitats and processes; and
- 3505 (ii) Constructed of materials that will not adversely affect water quality or aquatic plants and
- 3506 animals over the long term. Materials for portions of the dock, pier, float, framing and decking
- 3507 in contact with water shall be approved by applicable state agencies for use in water. For
- 3508 example, wood treated with creosote, pentachlorophenol or other similarly toxic materials is
- 3509 not allowed; and
- 3510 (iii) Spaced and oriented to shoreline in a manner that minimizes hazards and obstructions to
- 3511 navigation, fishing, swimming, and pleasure boating; and
- 3512 (iv) Designed to avoid the need for maintenance dredging. The moorage of a boat larger than
- 3513 provided for in original moorage design shall not be grounds for approval of dredging; and
- 3514 (v) Spaced and oriented to minimize shading and avoid a “wall” effect that would block or
- 3515 baffle wave patterns, currents, littoral drift, or movement of aquatic life forms. A north-south
- 3516 orientation is generally optimal.
- 3517 (e) The length of docks and piers accessory to residential use/development shall be the minimum
- 3518 demonstrated necessary for safety and practicality for the residential use. The maximum length for
- 3519 residential docks or piers shall be limited to 100 feet as measured horizontally from the ordinary
- 3520 high water mark.
- 3521 The administrator may approve a different dock or pier length when needed to:
- 3522 (2) (i) Avoid known eelgrass beds, forage fish habitats, or other sensitive nearshore resources;
- 3523 or
- 3524 (ii) Accommodate shared use.
- 3525 (f) Floats accessory to residential use shall not exceed 200 square feet in area or three feet in height
- 3526 as measured from the mean lower low water (MLLW).
- 3527 (g) Floats shall only be used where there is sufficient water depth to prevent grounding at low tide.
- 3528 The county may require the use of stoppers or other measures to ensure compliance with this
- 3529 standard.
- 3530 (h) To avoid and minimize adverse effects on nearshore habitats and species caused by overwater
- 3531 structures that reduce ambient light levels, the following shall apply:
- 3532 (i) The width of docks and floats shall be the minimum necessary. Materials that will allow light
- 3533 to pass through the deck may be required where width exceeds four feet; and
- 3534 (ii) Grating to allow light passage or reflective panels to increase light refraction shall be used
- 3535 on walkwaysdecking or gangplanks in nearshore areas; and

Commented [AS156]: Edit made per Ecology recommended change 10 (9/30/22)

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Planning Commission Recommendations

3536 (iii) The maximum structure height above water should be employed, consistent with safety
3537 and usability.

3538 (i) ~~Residential developments with more than four lots joint use or dwelling units may be granted~~
3539 ~~permits for community docks that are /piers/floats to provide shared by at least moorage/launching~~
3540 ~~are required for new residential development of two or more dwellings rather than allow individual~~
3541 ~~docks for each residence, unless an applicant can demonstrate that a shared-use facility is not~~
3542 ~~feasible. follows:~~

3543 (i) A joint-use facility is required when there is a proposal for a new facility on a waterfront lot
3544 that has at least one other owner, (1) and up to (3) adjacent waterfront and/or upland lots that
3545 also lack a facility. No more than one dock/pier or float may be permitted for each three
3546 adjacent waterfront lots.

3547 (ii) A community facility is required when there is a proposal for a new facility on a waterfront
3548 lot that has more than four (4) adjacent waterfront and/or upland lots in the same subdivision
3549 that also lack a facility. No more than one dock/pier/float may be permitted for each three
3550 adjoining adjacent waterfront lots.

3551 (i) A joint use facility is required when:

3552 (A) Shared by at least two (2) and no more than four (4) adjacent waterfront lots;

3553 (B) Shared by five (5) or more adjacent waterfront lots where at least three (3) adjacent lots
3554 must share one boating facility;

3555 (ii) A community facility is required when shared by at least two (2) adjacent waterfront lots,
3556 and at least one (1) upland lot in the same subdivision;

3557 (iii) Where an existing dock/pier/float facility is located on an adjacent lot/parcel, the applicant
3558 shall first seek to establish a shared use agreement. When documented in writing that the
3559 adjacent owner refuses to allow shared use of their facility, then a single-user facility may be
3560 allowed, consistent with necessary the provisions of this program.

3561 (iv) All joint-use or community docks/piers/floats require a legally enforceable shared use and
3562 access easements to be agreement recorded at the time of permitting, and shall at minimum
3563 address the following:

3564 (A) Apportionment of expenses for construction and maintenance of both the
3565 facility/structure and the access area;

3566 (B) Access easements and liability; and

3567 (C) Use restrictions.

3568 (j) Existing Subdivisions. Single-user docks, piers and floats for individual residential lots may be
3569 permitted in existing subdivisions approved on or before January 28, 1993, only where a shared

Commented [GU157]: AJS: *** Partial edit made per Ecology recommended change 26. However, Ecology suggested edit said "Both existing and new residential development of two or more dwellings, shall provide joint use or community dock facilities..." The WAC says "master programs should contain provisions to require new residential development of two or more dwellings to provide joint use or community dock facilities, when feasible..." Therefore these edits omit the application to existing development. Should discuss whether County would like to require for existing development? Application to existing development (at least one scenario) is addressed in (j) below.

Commented [GU158]: AJS: This provision (i) and (ii) are potential alternative provisions - for comparison to Ecology recommended (i) and (ii) provisions below. May require further discussion.

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3570 facility has not already been developed. Prior to development of such a new single-user
3571 dock/pier/float for ~~a single~~ an individual residential lot, the applicant shall demonstrate that:

3572 (i) Existing facilities in the vicinity, including marinas and ~~shared moorage~~ joint-use or
3573 community docks/piers/floats, are not adequate or feasible for use; and

3574 (ii) On marine shorelines, alternative moorage, such as one or more mooring buoys or a buoy in
3575 combination with a small dock sized to accommodate a tender vessel, (i.e., skiff or dinghy), are
3576 not adequate or feasible.

3577 (k) Single-user moorage for private/recreational float planes may be permitted as a conditional use
3578 where construction of such moorage:

3579 (i) Is limited to the smallest size necessary to accommodate the float plane.

3580 (ii) Will not adversely affect shoreline functions or processes, including wildlife use.

3581 (iii) Includes ecological restoration, in addition to mitigation, to compensate for the greater
3582 intensity of use associated with the float plane moorage.

3583 (l) Covered moorage associated with single-family residential development shall be prohibited,
3584 except that the county may allow a small covered area up to 100 square feet in size, maximum
3585 height of 10 feet, and with vertical walls on up to three sides on the overland portion of a dock/pier
3586 only.

3587 (m) Single-user docks/piers/floats shall be located within side yard setbacks for residential
3588 development (both onshore and offshore); provided, that a ~~shared~~ joint-use or community
3589 dock/pier/float may be located adjacent to or upon a shared side property line upon filing of an
3590 agreement by the affected property owners.

3591 (n) Fill waterward of OHWM shall be limited to the minimum necessary to match the upland with
3592 the elevation of the residential dock or pier when consistent with JCC 18.25.370 (Filling and
3593 excavation).

3594 (o) Dredging for construction or maintenance of docks, piers and floats accessory to residential use
3595 shall be prohibited waterward of OHWM.

3596 (p) No single-user, joint-use, or ~~shared~~ community dock/pier/float may be constructed to within 200
3597 feet of OHWM on the opposite shoreline of any lake or semi-enclosed body of water such as a bay,
3598 cove, or natural channel.

3599 (q) Boating facilities shall be marked with reflectors, or otherwise identified to prevent
3600 unnecessarily hazardous conditions for water surface users during day or night. Exterior finish shall
3601 be generally nonreflective.

3602 (r) Boating facilities shall be constructed and maintained so that no part of them creates hazardous
3603 conditions nor damages other shoreline property or natural features during flood conditions.

Commented [AS159]: Edits made per Ecology recommended change (9/30/22).

Commented [LG160]: Related to **Response to Comment 13**: Edits made in response to Ecology concerns expressed in June 11/14, 2021 emails regarding clarity of terminology and regulations surrounding requirements for shared dock facilities.

Commented [AS161]: Edits made per Ecology recommended change (9/30/22).

Commented [LG162]: Response to Comment: 13

Commented [LG163]: Response to Comment: 13

- 3604 (s) No dock, pier, float, or watercraft moored thereto shall be used for a residence.
- 3605 (t) Storage of fuel, oils, and other toxic materials is prohibited on residential docks, piers and floats
3606 except in portable containers that have secondary containment.
- 3607 ~~(76)~~ Regulations – Marinas.
- 3608 (a) Marinas may be permitted on marine and river shorelines when they are consistent with this
3609 program and when the proponent demonstrates to the county's satisfaction that all of the following
3610 conditions are met:
- 3611 (i) The proposed location is the least environmentally damaging alternative; and
- 3612 (ii) Potential adverse impacts on shoreline processes and ecological functions are mitigated to
3613 achieve no net loss; and
- 3614 (iii) The project includes ecological restoration measures to improve baseline conditions over
3615 time; and
- 3616 (iv) The area has adequate water circulation and flushing action; and
- 3617 (v) The proposed location will not require dredging or excavation/filling of wetlands; and
- 3618 (vi) Suitable public infrastructure is available or can be made available to support the marina.
- 3619 (b) Marinas shall be prohibited in all of the following locations:
- 3620 (i) Lake shores; and
- 3621 (ii) River point and channel bars or other accretional beaches; and
- 3622 (iii) Areas of active channel migration; and
- 3623 (iv) Where a flood hazard will be created or exacerbated; and
- 3624 (v) Shorelines with a priority aquatic environmental designation; and
- 3625 (vi) River mouths.
- 3626 (c) Where marinas are permitted they shall be designed, constructed and operated according to the
3627 following:
- 3628 (i) Open pile or floating breakwater designs shall be used unless the proponent demonstrates
3629 that there are specific safety considerations that warrant alternative approaches or unless rip-
3630 rap or other solid construction is shown to have fewer impacts on shoreline ecology over the
3631 short and long term.
- 3632 (ii) Shoreline armoring shall be limited to the minimum necessary to protect marina
3633 infrastructure and shall consist of softshore bio-stabilization unless such stabilization is
3634 demonstrated by a geotechnical analysis to be infeasible or inadequate to protect the site.

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- 3635 (iii) Floating structures shall be designed to prevent grounding on tidelands. Floats shall only be
3636 used where there is sufficient water depth to prevent grounding at low tide. The county may
3637 require the use of stoppers or other measures to ensure compliance with this standard.
- 3638 (iv) Piers and other structures shall be located, sized and designed to minimize shading of
3639 nearshore aquatic habitats and species.
- 3640 (v) Solid structures shall be designed to provide fish passage through and along the shallow
3641 water fringe.
- 3642 (vi) Floating piers shall be required in rivers unless the proponent can demonstrate that fixed
3643 piers will cause substantially less impact on geo-hydraulic processes.
- 3644 (vii) Marinas shall be sited to prevent restrictions in the use of commercial and recreational
3645 shellfish beds and in compliance with Washington Department of Health guidelines and
3646 National Shellfish Sanitation Program (NSSP) standards.
- 3647 (viii) Marina development shall generally be required to include public access amenities.
3648 Consistent with JCC 18.25.290 (Public access), public access siting and design shall be
3649 determined based on what is appropriate to a given location and the needs/desires of the
3650 surrounding community. Public access shall be designed to be environmentally sound,
3651 aesthetically compatible with adjacent uses, and safe for users.
- 3652 (ix) Live-aboard vessels may occupy up to 20 percent of the slips at a marina. Marinas that
3653 accommodate live-aboards shall provide and maintain adequate facilities and programs to
3654 address waste disposal and sanitary disposal.
- 3655 (x) New or expanded marina development may include fill waterward of the ordinary high
3656 water mark only when necessary for the water-dependent portions of the marina facility. Such
3657 fill activities shall conform to JCC 18.25.370 (Filling and excavation) and this section. Filling
3658 solely for the creation of marina parking areas shall be prohibited.
- 3659 (xi) If new or expanded marina facilities adversely affect net shoreline drift or other coastal
3660 processes to the detriment of nearby beaches or habitats, the county may require the marina
3661 operator to replenish the substrate in these areas periodically or take other measures to offset
3662 adverse impacts.
- 3663 (d) New or expanded development appurtenant to marinas shall be designed and constructed to
3664 avoid and, where avoidance is not possible, minimize impacts on shoreline functions and processes.
3665 Facilities shall be clustered and located in the least environmentally damaging portion of the site to
3666 reduce clearing and grading impacts.
- 3667 (e) To meet the regulations in subsection (76)(d) of this section, the following standards shall apply
3668 to new or expanded development appurtenant to marinas:
- 3669 (i) Accessory uses at marinas shall be limited to water-oriented uses and uses that provide
3670 physical or visual shoreline access for substantial numbers of the general public. Accessory

- 3671 development includes, but is not limited to, parking, open air storage, waste storage and
3672 treatment, stormwater management facilities, utility and upland transportation development.
- 3673 (ii) Water-oriented accessory uses reasonably related to marina operation may be located over
3674 water or near the water's edge by conditional use permit if an overwater or water's-edge
3675 location is essential to the operation of the use and if opportunities are provided for substantial
3676 numbers of people to access the shoreline.
- 3677 (iii) Parking shall be located away from the water's edge and landward of shoreline buffers
3678 prescribed by this program unless no feasible alternative location exists.
- 3679 (iv) Parking areas shall meet county stormwater management standards and shall, where
3680 feasible, incorporate low impact development practices such as pervious surfaces and
3681 bioswales.
- 3682 (v) Dry moorage and other storage areas shall be landscaped with native vegetation to provide
3683 a visual and noise buffer for adjoining uses.
- 3684 (vi) Pump-out, holding, and/or waste treatment facilities and services shall be provided at all
3685 marinas. Pump-out facilities shall be conveniently located and sited to ensure easy access,
3686 prevent lengthy queues and allow full compliance with waste disposal regulations. Vessel-
3687 mounted pump-out services and hard-plumbed stations at each slip shall be preferred over
3688 portable pump-out equipment.
- 3689 (vii) Marinas shall provide adequate restroom and sewage disposal facilities in compliance with
3690 applicable health regulations. Restrooms shall be available 24 hours a day for use by any patron
3691 of the marina facility; the need for restrooms shall be determined based on the number of slips
3692 and percentage of live-aboard vessels within the marina.
- 3693 (viii) Garbage and recycling receptacles shall be provided and maintained by the marina
3694 operator at several locations convenient to users.
- 3695 (ix) Marina operators shall post all regulations pertaining to handling and disposal of waste,
3696 sewage, fuel, and oil or toxic materials where all users may easily read them.
- 3697 (x) Boat washing facilities shall be provided to minimize transfer of invasive aquatic species
3698 between water bodies.
- 3699 (f) When reviewing proposals for new or expanded marina facilities, the county shall require the
3700 proponent to prepare and implement appropriate technical studies and plans that are not already
3701 required via another regulatory review process. Examples of studies and plans that may be required
3702 include, but are not limited to:
- 3703 (i) A maintenance plan for maintaining pump-out and waste/sewage disposal facilities and
3704 services.
- 3705 (ii) A spill response plan for oil and other spilled products. Compliance with federal or state law
3706 may fulfill this requirement.

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3707 (iii) An operational plan that, at a minimum, describes procedures for fuel handling and
3708 storage; measures, including signage, for informing marina users of applicable regulations;
3709 measures for collecting garbage and recyclables; measures and equipment for ensuring public
3710 safety.

3711 (iv) A visual assessment of views from surrounding residential properties, public viewpoints,
3712 and the view of the shoreline from the water surface.

3713 (v) An assessment of existing water-dependent uses in the vicinity including but not limited to,
3714 navigation, fishing, shellfish production and harvest, swimming, beach walking, and picnicking
3715 and shall document potential impacts and mitigating measures. The county shall evaluate
3716 impacts on these resources and impose specific conditions to mitigate impacts as necessary.

3717 (8v) Consistency with all applicable federal and state laws, including Chapter 246-282 WAC, the
3718 current National Shellfish Sanitation Program (NSSP) standards, and other applicable standards.

3719 (7) Regulations – Mooring Buoys.

3720 (a) Commercial or recreational mooring buoys may be permitted; provided, that they are consistent
3721 with this program and that individually or cumulatively:

3722 (i) They do not impede the ability of other landowners to access private property; and

3723 (ii) They do not pose a hazard to or obstruct navigation or fishing; and

3724 (iii) They do not contribute to water quality or habitat degradation; and

3725 (iv) They do not pose a threat to a commercial shellfish growing area classification or reduce
3726 the ability to upgrade the classification.

3727 (b) The installation and use of mooring buoys (including commercial and recreational buoys) in
3728 marine waters shall be consistent with all applicable state laws, including Chapter 246-282 WAC,
3729 the current National Shellfish Sanitation Program (NSSP) standards, and other State Departments of
3730 Fish and Wildlife, Health, ~~and/sand~~ or Natural Resources standards.

3731 (c) Private recreational mooring buoys on state-owned aquatic lands shall not be used for
3732 residential (living on the boat) or commercial purposes.

3733 (d) Mooring buoys shall be located to:

3734 (i) Avoid, to the extent feasible, and minimize disturbance of eelgrass ~~beds~~ and other valuable
3735 aquatic and nearshore habitat areas; and

3736 ~~(ii) (E)(ii)~~ Prevent obstruction to navigation.

3737 (e) Mooring buoys shall use neutral buoyancy rope, mid-line float, helical anchors, or other state-
3738 approved designs that have minimal adverse effects on aquatic ecosystem and fish. Only if the
3739 substrate prohibits use of embedded anchors, may a Corps-approved alternative anchor (i.e.,
3740 concrete block) be used.

Commented [LG164]: Added in response to comments Summer 2023.

Commented [LG165]: Task Force B

Commented [AS166]: Recovered the "Avoid" and rearranged to address WDFW's comment in e-mail dated 3/25/21.

Commented [LG167]: @Lisa Grueter undo similar changes

Commented [LG168]: This language consistent with WDFW, WDNR, and USACE regs.

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- 3741 (f) Mooring buoys shall not be allowed on lake shorelines of the state.
- 3742 (g) Mooring buoys shall be clearly marked and labeled with the owner's name and contact
3743 information and permit number(s).
- 3744 (h) The county shall plan for and coordinate with other agencies to control the placement and
3745 number of mooring buoys within bays and other areas to protect water quality and/or habitat and
3746 ensure that transit channels are maintained.
- 3747 (i) Applicants are encouraged to consult with and obtain a permit from the U.S. Army Corps of
3748 Engineers prior to pursuing state and county permits to minimize applicant effort and conflicts
3749 with differing agency standards.
- 3750 (ii) Under no circumstances shall mooring buoy density exceed State Department of Health
3751 guidelines and National Shellfish Sanitation Program (NSSP) standards.
- 3752 (iii) Residential lots may have up to two buoys to support moorage of a single boat if necessary
3753 to stabilize the boat and minimize damage to ecological resources or other boats.
- 3754 (iv) Mooring buoys shall comply with any county-approved management plans.
- 3755 (i) The capacity of each mooring buoy may not exceed one boat and its appurtenant shore access
3756 craft. [Ord. 7-13 Exh. A (Art. VII § 2)]
- 3757 **18.25.360 Dredging.**
3758 (1) Policies.
- 3759 (a) Dredging, as defined in Article II of this chapter, and disposal of dredge material should only be
3760 allowed when alternatives are infeasible and when the dredging/dredge disposal is:
- 3761 (i) Necessary to support an existing legal use or a proposed water-dependent use or essential
3762 public infrastructure/facility; or
- 3763 (ii) Part of a clean-up program required under the Model Toxics Control Act or Comprehensive
3764 Environmental Response, Compensation, and Liability Act; or
- 3765 (iii) Part of an approved ecological restoration or enhancement project; or
- 3766 (iv) Part of an approved beach nourishment project; or
- 3767 (v) Required to provide public access for a substantial number of people; or
- 3768 (vi) Required to provide water-oriented public recreation for a substantial number of people.
- 3769 (b) When required to support an allowed use or development, dredging/dredge disposal should be
3770 the minimum needed to accommodate the allowed use or development for a reasonably
3771 foreseeable period of time.

Commented [AS169]: Added per comment provided by WDFW in letter dated 11/23/2020.

Commented [LG170]: Added in response to comments Summer 2023.

- 3772 (c) When allowed, dredging and disposal operations should be planned, timed and implemented to
3773 minimize:
- 3774 (i) Adverse impacts to shoreline ecology; and
- 3775 (ii) Adverse impacts to in-water and adjacent upland uses; and
- 3776 (iii) Interference with navigation.
- 3777 (d) Dredging and dredge disposal should be consistent and coordinated with appropriate local, state
3778 and federal regulations to minimize duplication during the review process.
- 3779 (e) Dredging and dredge disposal should not occur where they would interfere with existing or
3780 potential ecological restoration activities.
- 3781 (f) Dredging and dredge disposal should occur where they will provide ecological benefits.
- 3782 (2) Shoreline Environment Regulations.
- 3783 (a) Priority Aquatic. Dredging and dredge disposal may be permitted subject to a conditional use
3784 permit if allowed in the adjacent upland environment.
- 3785 (b) Aquatic. Dredging and dredge disposal may be permitted subject to a conditional use permit if
3786 allowed in the adjacent upland environment.
- 3787 (c) Natural. Dredging and dredge disposal are prohibited except dredging and dredge disposal may
3788 be permitted as an essential element of an approved shoreline restoration project/program.
- 3789 (d) Conservancy. Dredging and dredge disposal may be permitted subject to a conditional use
3790 permit.
- 3791 (e) Shoreline Residential. Dredging and dredge disposal may be permitted subject to a conditional
3792 use permit.
- 3793 (f) High Intensity. Dredging may be permitted subject to the policies and regulations of this
3794 program. Dredge disposal may be allowed with a conditional use permit.
- 3795 (3) Regulations – Dredging.
- 3796 (a) Proponents of new development shall locate and design such development to avoid or, if
3797 avoidance is not possible, to minimize the need for new dredging and maintenance dredging.
- 3798 (b) The county may permit dredging only when the project proponent demonstrates the activity is
3799 consistent with this program and that there are no feasible alternatives to dredging.
- 3800 (c) Dredging shall only be allowed when necessary to support the following uses and developments:
- 3801 (i) Approved harbors, marinas, ports, and water-dependent industries;
- 3802 (ii) Development or maintenance of essential public infrastructure and facilities;

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- 3803 (iii) Environmental clean-up activities required by the Model Toxics Control Act or
3804 Comprehensive Environmental Response, Compensation, and Liability Act;
- 3805 (iv) Underground utility installation requiring trenches when boring, directional drilling, and
3806 other installation methods are not feasible;
- 3807 (v) Maintenance dredging for the purpose of restoring a lawfully established use or
3808 development;
- 3809 (vi) Maintenance dredging for the purpose of restoring previously permitted or authorized
3810 hydraulic capacity of a stream or river;
- 3811 (vii) Maintenance of existing irrigation reservoirs, drains, canals, or ditches;
- 3812 (viii) Establishing, expanding, relocating or reconfiguring navigation channels and basins where
3813 necessary to assure the safety and efficiency of existing navigational uses;
- 3814 (ix) Ecological restoration and enhancement projects benefiting water quality and/or fish and
3815 wildlife habitat; or
- 3816 (x) Public access and public water-oriented recreational developments/uses, including
3817 construction of public piers and docks that benefit substantial numbers of people.
- 3818 (d) The county may permit dredging for flood management purposes only when the project
3819 proponent demonstrates that:
- 3820 (i) The dredging is a required component of a county-approved comprehensive flood
3821 management plan; or
- 3822 (ii) The dredging has a long-term benefit to public health and safety and will not cause a net
3823 loss of ecological functions and processes.
- 3824 (e) When conducting reviews of dredging proposals, the county shall first consider how the
3825 proposed activity has been regulated by other agencies, note same as a reference, and then
3826 establish what further information is needed for local review. The county may require information
3827 to ensure:
- 3828 (i) The project is designed, located, and timed to mitigate impacts on legally established
3829 neighboring uses and developments; and
- 3830 (ii) Appropriate measures are taken to ensure the activity will not interfere with fishing or
3831 shellfishing; and
- 3832 (iii) Appropriate measures are taken to minimize adverse effects on recreation, public access,
3833 and navigation; and
- 3834 (iv) The activity shall not adversely impact natural processes such as channel migration, marine
3835 bluff erosion and/or net-shoreline drift; and

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- 3836 (v) Appropriate best management practices are employed to prevent water quality impacts or
3837 other forms of environmental degradation; and
- 3838 (vi) Upstream and upgradient sediment sources that create the need for dredging have been
3839 investigated and where feasible, mitigated; and
- 3840 (vii) Appropriate measures are employed to protect public safety and prevent adverse impacts
3841 on other approved shoreline uses; and
- 3842 (viii) The proposed activity complies with applicable federal, state, and other local regulations.
- 3843 (f) Dredging for the primary purpose of obtaining material for landfill, upland construction, or beach
3844 nourishment shall be prohibited.
- 3845 (g) Maintenance dredging may not be approved under exemption except within the existing
3846 footprint in accordance with previous approved plans.
- 3847 (4) Regulations – Dredge Disposal.
- 3848 (a) The county may permit disposal of dredge material only when the project proponent
3849 demonstrates the activity is consistent with this program and that there are no feasible alternatives
3850 to dredge disposal.
- 3851 (b) When dredge material is deposited on land it shall be considered fill and subject to all applicable
3852 fill regulations.
- 3853 (c) All unconfined, open water dredge disposal activities shall comply with the Puget Sound Dredged
3854 Disposal Analysis (PSDDA) criteria and guidelines and other applicable local, state and federal
3855 regulations.
- 3856 (d) When consistent with this program, disposal of dredged materials in water areas other than
3857 PSDDA sites may only be allowed for the following reasons:
- 3858 (i) To restore or enhance habitat; or
- 3859 (ii) To reestablish substrates for fish and shellfish resources; or
- 3860 (iii) To nourish beaches that are starved for sediment; or
- 3861 (iv) To remediate contaminated sediments.
- 3862 (e) Proposals for dredged material disposal shall be evaluated for their potential to cause adverse
3863 environmental impacts. Dredged material disposal shall be permitted only when the proponent
3864 demonstrates all of the following:
- 3865 (i) The proposed action will not cause significant and/or ongoing damage to water quality, fish,
3866 shellfish and/or other biological resources; and

- 3867 (ii) The proposed action will not adversely alter natural drainage, water circulation, sediment
3868 transport, currents, or tidal flows or significantly reduce floodwater storage capacities; and
- 3869 (iii) The proposed action includes all feasible mitigation measures to protect marine, estuarine,
3870 freshwater and terrestrial species and habitats. [Ord. 7-13 Exh. A (Art. VII § 3)]
- 3871 **18.25.370 Filling and excavation.**
3872 (1) Policies.
- 3873 (a) Filling, as defined in Article II of this chapter, should only be allowed waterward of the ordinary
3874 high water mark when alternatives are infeasible and when the filling is:
- 3875 (i) Necessary to support an approved water-dependent use or essential public
3876 infrastructure/facility; or
- 3877 (ii) Part of an approved ecological restoration or enhancement project; or
- 3878 (iii) Part of an approved aquaculture operation when the fill is required to improve production;
3879 or
- 3880 (iv) Part of an approved beach nourishment project; or
- 3881 (v) Required to provide public access for a substantial number of people; or
- 3882 (vi) Required to provide water-oriented public recreation for a substantial number of people.
- 3883 (b) Filling and excavation should not be allowed where structural shoreline stabilization would be
3884 required to maintain the materials placed or excavated.
- 3885 (c) When allowed, filling and excavation should be conducted so that water quality, habitat,
3886 hydrology, natural erosion rates, and runoff/drainage patterns are not adversely affected.
- 3887 (2) Shoreline Environment Regulations.
- 3888 (a) Priority Aquatic. Filling may be permitted subject to a conditional use permit if allowed in the
3889 adjacent upland environment.
- 3890 (b) Aquatic. Filling may be permitted subject to a conditional use permit if allowed in the adjacent
3891 upland environment.
- 3892 (c) Natural. Filling and excavation is prohibited, except filling and excavation may be permitted as an
3893 essential element of an approved shoreline restoration project/program.
- 3894 (d) Conservancy. Filling and excavation may be permitted subject to the policies and regulations of
3895 this program and a conditional use permit.
- 3896 (e) Shoreline Residential. Filling and excavation may be permitted subject to the policies and
3897 regulations of this program.

Date of Base Code: The Jefferson County Code is current through Ordinance 06-0817-20, passed August 17, 2020. The Jefferson County Shoreline Master Program is current through Ordinance 07-1216-13, passed December 16, 2013; the SMP became effective February 21, 2014. **Shading in Comment Flags:** 1) **Yellow** in response to public comments within Planning Commission Recommendations October 2021. 2) **Pink** changes in response to Ecology initial review and Planning Commission discussions in 2023. 3) **Blue** based on Planning Commission motions.

- 3898 (f) High Intensity. Filling and excavation may be permitted subject to the policies and regulations of
3899 this program.
- 3900 (3) Regulations.
- 3901 (a) Filling and/or excavation shall only be allowed as part of an approved shoreline use and/or
3902 development activity and shall be subject to the requirements of the primary use/development.
- 3903 (b) Excavation below the ordinary high water mark shall be considered dredging and shall be subject
3904 to JCC 18.25.360 (Dredging).
- 3905 (c) When allowed, filling and/or excavation shall be located, designed, and carried out in a manner
3906 that:
- 3907 (i) Minimizes adverse impacts on the shoreline environment; and
- 3908 (ii) Blends in physically and visually with natural topography, so as not to interfere with
3909 appropriate use, impede public access, or degrade the aesthetic qualities of the shoreline; and
- 3910 (iii) Does not require shoreline armoring or stabilization to protect materials placed unless it is
3911 part of an approved shoreline restoration project and shoreline armoring or stabilization
3912 measures are needed to keep the material in place.
- 3913 (d) Fill materials placed within shoreline jurisdiction shall be from an approved source and shall
3914 consist of clean sand, gravel, soil, rock or similar material. The use of contaminated material or
3915 construction debris shall be prohibited.
- 3916 (e) Fill placed waterward of the ordinary high water mark shall only be permitted when alternatives
3917 are infeasible and when the filling/excavation is necessary to support one or more of the following:
- 3918 (i) Approved marinas, ports, and other water-dependent industries where upland alternatives
3919 or structural solutions including pile or pier supports are infeasible.
- 3920 (ii) Development or maintenance of essential public infrastructure and facilities.
- 3921 (iii) Environmental clean-up activities required by MTCA and CERCLA.
- 3922 (iv) Maintenance of a lawfully established use or development.
- 3923 (v) Ecological restoration and enhancement projects benefiting water quality and/or fish and
3924 wildlife habitat.
- 3925 (vi) Public access and public water-oriented recreation projects benefiting substantial numbers
3926 of people.
- 3927 (vii) Part of an approved shoreline stabilization, flood control or in-stream structure project
3928 when consistent with this program.

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- 3929 (f) Filling in areas of special flood hazard shall conform to the flood damage prevention provisions of
3930 Chapter 15.15 JCC.
- 3931 (g) The following information shall be required for all proposals involving fill or excavation unless
3932 the county determines that issues are adequately addressed via another regulatory review process:
- 3933 (i) A description of the proposed use of the fill area; and
- 3934 (ii) A description of the fill material, including its source, and physical, chemical and biological
3935 characteristics; and
- 3936 (iii) A description of the method of placement and compaction; and
- 3937 (iv) A description of the location of the fill relative to natural and/or existing drainage patterns;
3938 and
- 3939 (v) A description and map of the fill area and depth relative to the ordinary high water mark
3940 (OHWM); and
- 3941 (vi) A description of proposed means to control erosion and stabilize the fill; and
- 3942 (vii) A temporary erosion and sediment control (TESC) plan; and
- 3943 (viii) A description of proposed surface runoff control measures. [Ord. 7-13 Exh. A (Art. VII § 4)]
- 3944 **18.25.380 Flood control structures.**
- 3945 (1) Policies.
- 3946 (a) The county should prevent the need for flood control works by limiting new development in
3947 flood-prone areas.
- 3948 (b) New or expanded development or uses in the shoreline, including subdivision of land, that
3949 would likely require flood control structures within a stream, channel migration zone, or floodway
3950 should be prohibited.
- 3951 (c) Construction of new flood control structures should only be allowed where there is a
3952 documented need to protect an existing structure and mitigation is applied, consistent with this
3953 program. New development should be designed and located to preclude the need for such flood
3954 control structures.
- 3955 (d) When evaluating the need for flood control structures such as traditional levees and/or dams,
3956 opportunities to remove or relocate existing developments and structures out of flood-prone areas
3957 should be pursued to the maximum extent feasible. Alternative measures, such as overflow
3958 corridors and setback levees, that may have less adverse impact on shoreline ecology should be
3959 considered before structural flood control measures can be approved.
- 3960 (e) Probable effects on ecological functions and processes should be fully evaluated for consistency
3961 with this program before flood control structures are permitted.

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- 3962 (f) Flood control structures are a necessary and appropriate means of protecting existing
3963 development only when all of the following are met:
- 3964 (i) The primary use being protected is consistent with this program; and
- 3965 (ii) Nonstructural flood hazard reduction measures are infeasible; and
- 3966 (iii) Where such structures can be developed in a manner that is compatible with multiple use
3967 of streams; and
- 3968 (iv) Where shoreline resources such as fish and wildlife habitat and recreation are protected in
3969 the long term.
- 3970 (g) When proven necessary, flood control structures should be located, designed, and maintained in
3971 a manner that:
- 3972 (i) Minimizes adverse effects on shoreline ecology; and
- 3973 (ii) Is compatible with navigation and recreation, especially in shorelines of statewide
3974 significance; provided, that public safety and ecological protection are fully addressed; and
- 3975 (iii) Incorporates native vegetation to enhance ecological functions, creates a more natural
3976 appearance, improves ecological processes, and provides more flexibility for long-term
3977 shoreline management.
- 3978 (iv) Nonregulatory methods to protect, enhance, and restore shoreline ecological functions and
3979 processes and other shoreline resources should be encouraged as an alternative to flood
3980 control structures. Nonregulatory methods may include public facility and resource planning,
3981 land or easement acquisition, education, voluntary protection and enhancement projects, or
3982 incentive programs.
- 3983 (h) The county should continue to develop long-term, comprehensive flood hazard management
3984 plans in cooperation with other applicable agencies and persons to prevent flood damage, maintain
3985 the natural hydraulic capacity of streams and floodplains, and conserve or restore valuable, limited
3986 resources such as fish, water, soil, and recreation and scenic areas.
- 3987 (i) Planning and design of flood control structures should be consistent with and incorporate
3988 elements from adopted watershed management plans, restoration plans and/or surface water
3989 management plans.
- 3990 (2) Shoreline Environment Regulations.
- 3991 (a) Priority Aquatic. Flood control structures may be permitted subject to the policies and
3992 regulations of this program and a conditional use permit if allowed in the adjacent upland
3993 environment.
- 3994 (b) Aquatic. Flood control structures may be permitted subject to the policies and regulations of this
3995 program and a conditional use permit if allowed in the adjacent upland environment.

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- 3996 (c) Natural. Flood control structures are prohibited.
- 3997 (d) Conservancy. Flood control structures may be permitted subject to the policies and regulations
3998 of this program and a conditional use permit.
- 3999 (e) Shoreline Residential. Flood control structures may be allowed subject to the policies and
4000 regulations of this program and a conditional use permit.
- 4001 (f) High Intensity. Flood control structures may be permitted subject to the policies and regulations
4002 of this program and a conditional use permit.
- 4003 (3) Regulations.
- 4004 (a) Flood control structures shall be permitted only when there is credible engineering and scientific
4005 evidence that:
- 4006 (i) They are necessary to protect existing, lawfully established development; and
- 4007 (ii) They are consistent with Chapters 15.15 and 18.30 JCC and the county Comprehensive Plan;
4008 and
- 4009 (iii) Nonstructural flood hazard reduction measures are infeasible; and
- 4010 (iv) Proposed measures are consistent with an adopted comprehensive flood hazard
4011 management plan if available.
- 4012 (b) When permitted, flood control structures shall be:
- 4013 (i) Constructed and maintained in a manner that does not degrade the quality of affected
4014 waters or the habitat value associated with the in-stream and riparian area; and
- 4015 (ii) Placed landward of the OHWM except for weirs, current deflectors and similar structures
4016 whose primary purpose is to protect public bridges and roads; and
- 4017 (iii) Placed landward of associated wetlands and designated habitat conservation areas, except
4018 for structures whose primary purpose is to improve ecological functions; and
- 4019 (iv) Designed based on engineering and scientific analyses that provide the highest degree of
4020 protection to shoreline ecological functions or processes; and
- 4021 (v) Designed to allow for normal ground water movement and surface runoff. Natural in-stream
4022 features such as snags, uprooted trees, or stumps should be left in place unless they are
4023 actually causing bank erosion or higher flood stages; and
- 4024 (vi) Designed to allow streams to maintain point bars and associated aquatic habitat through
4025 normal accretion so that the stream can maintain normal meander progression and maintain
4026 most of its natural storage capacity.

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- 4027 (c) When permitted, dikes and levees shall be limited to that height required to protect adjacent
4028 lands from the predictable annual flood unless it can be demonstrated through hydraulic modeling
4029 that a greater height is needed and will not adversely impact shoreline ecological functions and
4030 processes.
- 4031 (d) Flood control works are prohibited on estuary or embayment shores, on point and channel bars,
4032 and in salmon and trout spawning areas, except for the purpose of fish or wildlife habitat
4033 enhancement or restoration.
- 4034 (e) Flood control structures and stream channelization projects that damage fish and wildlife
4035 resources, recreation or aesthetic resources, or create high flood stages and velocities shall be
4036 prohibited.
- 4037 (f) Use of solid waste such as motor vehicles, derelict vessels, appliances, or demolition debris;
4038 construction of flood control works is prohibited.
- 4039 (g) Flood control structures shall not adversely affect valuable recreation resources and aesthetic
4040 values such as point and channel bars, islands, and braided banks.
- 4041 (h) The county shall require flood control structures to be professionally engineered and designed
4042 prior to final approval. The design shall be consistent with the Department of Fish and Wildlife
4043 Aquatic Habitat Guidelines and other applicable guidance and regulatory requirements.
- 4044 (i) No flood control structure shall be installed or constructed without the developer having
4045 obtained all applicable federal, state, and local permits and approvals, including but not limited to a
4046 Hydraulic Project Approval (HPA) from the Department of Fish and Wildlife.
- 4047 (j) Removal of beaver dams to control or limit flooding shall be allowed; provided, that the project
4048 proponent coordinates with the Department of Fish and Wildlife and obtains all necessary permits
4049 and approvals from the state.
- 4050 (k) To determine that the provisions of this section are fully addressed, the county may require one
4051 or more technical studies/reports at the time of permit application for flood control structures
4052 unless the county determines that issues are adequately addressed via another regulatory review
4053 process. Technical reports required pursuant to this section shall address the following:
- 4054 (i) An analysis of the flood frequency, duration and severity and expected health and safety
4055 risks as a rationale and justification for the proposed structure.
- 4056 (ii) A hydraulic analysis prepared by a licensed professional engineer that describes anticipated
4057 effects of the project on stream hydraulics, including potential increases in base flood
4058 elevation, changes in stream velocity, and the potential for redirection of the normal flow of
4059 the affected stream.
- 4060 (iii) A biological resource inventory and analysis prepared by a qualified professional biologist
4061 that describes the anticipated effects of the project on fish and wildlife resources.

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4062 (iv) Proposed provisions for accommodating public access to and along the affected shoreline,
4063 as well as any proposed on-site recreational features.

4064 (v) A description of any proposed plans to remove vegetation and revegetate the site following
4065 construction.

4066 (l) To ensure compliance with the no net loss provisions of this program, the county may require the
4067 proponent to prepare a mitigation plan that describes measures for protecting shoreline and in-
4068 stream resources during construction and operation of a flood control structure. The required
4069 mitigation shall be commensurate with the value and type of resource or system lost. Mitigation
4070 activities shall be monitored by the proponent to determine the effectiveness of the mitigation
4071 plan. In instances where the existing mitigation measures are found to be ineffective, the
4072 proponent shall take corrective action that satisfies the objectives of the mitigation plan. [Ord. 7-13
4073 Exh. A (Art. VII § 5)]

4074 **18.25.390 In-stream structures.**

4075 (1) Policies.

4076 (a) Large-scale in-stream structures such as hydroelectric dams and related facilities are discouraged
4077 in Jefferson County. Such facilities should not be permitted except in the rare instance where there
4078 is clear evidence that the benefits to county residents outweigh any potential adverse ecological
4079 impacts.

4080 (b) In-stream structures should be approved only when associated with and necessary for an
4081 ecological restoration project, a fish passage project, or an allowed shoreline use/development such
4082 as a utility or industrial facility.

4083 (c) When necessary, in-stream structures should be located, designed, operated and maintained in
4084 a manner that minimizes adverse effects on the stream functions and processes.

4085 (d) Proposals for new in-stream structures should be evaluated for their potential adverse effects
4086 on the physical, hydrological, and biological characteristics as well as effects on species that inhabit
4087 the stream or riparian area.

4088 (e) When necessary, in-stream structures should be planned and designed to be compatible with
4089 navigation and recreation, especially in shorelines of statewide significance; provided, that public
4090 safety and ecological protection are fully addressed.

4091 (2) Shoreline Environment Regulations.

4092 (a) Priority Aquatic. In-stream structures may be allowed subject to the policies and regulations of
4093 this program and a conditional use permit if allowed in the adjacent upland environment.

4094 (b) Aquatic. In-stream structures may be allowed subject to the policies and regulations of this
4095 program and a conditional use permit if allowed in the adjacent upland environment.

- 4096 (c) Natural. In-stream structures are prohibited, except that in-stream structures (such as large
4097 woody debris) whose primary purpose is restoration of shoreline ecological conditions may be
4098 permitted subject to the provisions of this program.
- 4099 (d) Conservancy. In-stream structures may be allowed subject to the policies and regulations of this
4100 program and a conditional use permit.
- 4101 (e) Shoreline Residential. In-stream structures may be allowed subject to the policies and
4102 regulations of this program and a conditional use permit.
- 4103 (f) High Intensity. In-stream structures may be allowed subject to the policies and regulations of this
4104 program and a conditional use permit.
- 4105 (3) Regulations.
- 4106 (a) Dams and associated power generating facilities shall not be permitted except in the rare
4107 instance where there is clear evidence that the benefits to county residents outweigh any potential
4108 adverse ecological impacts. The criteria for approving such facilities will depend on the specific
4109 location including its particular physical, cultural, and ecological conditions. Prior to approving or
4110 denying such facilities, the county shall consult citizens and appropriate agencies to evaluate in-
4111 stream structure proposals.
- 4112 (b) In-stream structures whose primary purpose is flood control shall be subject to JCC 18.25.380
4113 (Flood control structures) and this section. In-stream structures whose purpose is power generation
4114 shall be subject to the policies and regulations for JCC 18.25.470 (industrial use) and this section.
- 4115 (c) When permitted, in-stream structures and their support facilities shall be:
- 4116 (i) Constructed and maintained in a manner that does not degrade the quality of affected
4117 waters or the habitat value associated with the in-stream and riparian area; and
- 4118 (ii) Located and designed based on reach analysis to avoid the need for structural shoreline
4119 armoring.
- 4120 (d) All in-water diversion structures shall be designed to permit the natural transport of bedload
4121 materials. All debris, overburden and other waste materials from construction shall be disposed of
4122 in such a manner that prevents their entry into a water body.
- 4123 (e) In-stream structures shall not impede upstream or downstream migration of anadromous fish.
- 4124 (f) Small-scale power generating microturbines may be placed in streams, provided they do not
4125 create impoundments and there are no adverse effects on shoreline functions and processes,
4126 including but not limited to, stream flow, habitat structure, temperature, and/or water quality. The
4127 county shall take appropriate measures and precautions to prevent the proliferation of small-scale
4128 power generating apparatus as necessary to prevent cumulative adverse impacts.
- 4129 (g) The county shall require any proposed in-stream structure to be professionally engineered and
4130 designed prior to final approval.

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- 4131 (h) No in-stream structure shall be installed without the developer having obtained all applicable
4132 federal, state, and local permits and approvals, including but not limited to a Hydraulic Project
4133 Approval (HPA) from the State Department of Fish and Wildlife.
- 4134 (i) The county shall require the proponent of any in-stream structure proposal to provide the
4135 following information prior to final approval unless the county determines that the issues are
4136 adequately addressed via another regulatory review process:
- 4137 (i) A site suitability analysis that provides the rationale and justification for the proposed
4138 structure. The analysis shall include a description and analysis of alternative sites, and a
4139 thorough discussion of the environmental impacts of each; and
- 4140 (ii) A hydraulic analysis prepared by a licensed professional engineer that describes anticipated
4141 effects of the project on stream hydraulics, including potential increases in base flood
4142 elevation, changes in stream velocity, and the potential for redirection of the normal flow of
4143 the affected stream; and
- 4144 (iii) A biological resource inventory and analysis prepared by a qualified professional biologist
4145 that describes the anticipated effects of the project on fish and wildlife resources; and
- 4146 (iv) For hydropower facilities, the proposed location and design of powerhouses, penstocks,
4147 accessory structures and access and service roads; and
- 4148 (v) Proposed provisions for accommodating public access to and along the affected shoreline,
4149 as well as any proposed on-site recreational features; and
- 4150 (vi) A description of any plans to remove vegetation and/or revegetate the site following
4151 construction; and proposed mitigation plan that describes, in detail, provisions for protecting
4152 in-stream resources during construction and operation, and measures to compensate for
4153 impacts that resources that cannot be avoided.
- 4154 (vii) A description of sites proposed for the depositing of debris, overburden, and other waste
4155 materials generated during construction. [Ord. 7-13 Exh. A (Art. VII § 6)]
- 4156 **18.25.400 Restoration.**
4157 (1) Policies.
- 4158 (a) Protection of existing resources is the best way to ensure the long-term health and well-being of
4159 Jefferson County shorelines. Restoration should be used to complement the protection strategies
4160 required by this program to achieve the greatest overall ecological benefit.
- 4161 (b) This program recognizes the importance of restoring shoreline ecological functions and
4162 processes. Jefferson County supports cooperative restoration efforts by strategically organizing
4163 programs between local, state, and federal public agencies, tribes, nonprofit organizations, and
4164 landowners to improve shorelines with impaired ecological functions and/or processes.

4165 (c) Restoration actions should restore shoreline ecological functions and processes as well as
4166 shoreline features and should be targeted toward meeting the needs of sensitive and/or regionally
4167 important plant, fish and wildlife species.

4168 (d) Restoration should be integrated with and should support other natural resource management
4169 efforts in Jefferson County and in the greater Puget Sound region.

4170 (e) Priority should be given to restoration actions that meet the goals and objectives contained in
4171 JCC 18.25.170 (Restoration and enhancement).

4172 (f) When prioritizing restoration actions, the county should give highest priority to measures that
4173 have the greatest chance of reestablishing ecosystem processes and creating self-sustaining
4174 habitats.

4175 (2) Shoreline Environment Regulations.

4176 (a) Priority Aquatic. Restoration may be permitted subject to provisions of this program.

4177 (b) Aquatic. Restoration may be permitted subject to provisions of this program.

4178 (c) Natural. Restoration may be permitted subject to provisions of this program.

4179 (d) Conservancy. Restoration may be permitted subject to provisions of this program.

4180 (e) Shoreline Residential. Restoration may be permitted subject to provisions of this program.

4181 (f) High Intensity. Restoration may be permitted subject to provisions of this program.

4182 (3) Regulations. Restoration shall be carried out in accordance with an approved restoration plan and in
4183 accordance with the policies and regulations of this program. [Ord. 7-13 Exh. A (Art. VII § 7)]

4184 (4) The County may grant relief from shoreline master program development standards and use
4185 regulations resulting from shoreline restoration projects within urban growth areas consistent with
4186 criteria and procedures in WAC 173-27-215.

4187 **18.25.410 Structural shoreline armoring and shoreline stabilization.**

4188 (1) Policies.

4189 (a) The county should take active measures to preserve natural unarmored shorelines and prevent
4190 the proliferation of bulkheads and other forms of shoreline armoring.

4191 (b) Nonstructural stabilization measures including relocating structures, increasing buffers,
4192 enhancing vegetation, managing drainage and runoff and other measures are preferred over
4193 structural shoreline armoring.

4194 (c) Structural shoreline armoring should only be permitted when necessary to support a primary
4195 structure associated with an approved shoreline use/development, public infrastructure, and/or
4196 essential public facilities when other alternatives are infeasible.

Commented [AS171]: Eliminated the bold.

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- 4197 (d) Where beach erosion threatens an existing use or development, proposals for new structural
4198 shoreline armoring should evaluate a range of options and designs. On a reach-specific basis, causes
4199 of erosion as well as effects should be evaluated. Beach management issues such as sediment
4200 conveyance, geohydraulic processes, and ecological relationships all should be considered in
4201 arriving at a design to minimize disturbance.
- 4202 (e) Shoreline stabilization and shoreline armoring for the purpose of leveling or extending property
4203 or creating or preserving residential lawns, yards or landscaping should not be allowed.
- 4204 (f) When structural shoreline armoring is determined necessary to protect public infrastructure and
4205 primary structures, it should be located, designed, and maintained in a manner that minimizes
4206 adverse effects on shoreline ecology, including effects on the project site, adjacent properties, and
4207 sediment transport to downdrift areas.
- 4208 (g) Before approving shoreline armoring structures, the county should require the proponent to
4209 identify, address and mitigate probable effects on shoreline processes and functions.
- 4210 (h) Shoreline armoring structures should be located and designed based on an understanding of
4211 long-term physical shoreline processes. The structural shoreline armoring should fit the physical
4212 character and hydraulic energy of a specific shoreline reach, which may differ substantially from
4213 adjacent reaches.
- 4214 (i) Vertical concrete or rock walls should be avoided whenever possible and only be used to protect
4215 shorelines as a last resort and only when extreme measures are required.
- 4216 (j) Structural shoreline armoring should not interfere with existing or future public access to public
4217 shorelines nor with other appropriate shoreline uses such as navigation, seafood harvest, or
4218 recreation.
- 4219 (k) When seeking approval for new structural shoreline armoring, the project proponent should
4220 include public access that is consistent with JCC 18.25.290 (Public access).
- 4221 (l) Proponents of new structural shoreline armoring should coordinate with other affected property
4222 owners and public agencies to address ecological and geo-hydraulic processes, sediment
4223 conveyance and beach management issues for the whole drift sector (net shoreline-drift cell) or
4224 shoreline reach where feasible.
- 4225 (m) Where feasible, any failing, harmful, unnecessary, or ineffective structural shoreline armoring
4226 should be removed, and shoreline ecological functions and processes should be restored using
4227 nonstructural methods.
- 4228 (n) In addition to conforming to the regulations in this program, nonregulatory methods to protect,
4229 enhance, and restore shoreline ecological functions and other shoreline resources should be
4230 encouraged. Nonregulatory methods may include public facility and resource planning, technical
4231 assistance, education, voluntary enhancement and restoration projects, land acquisition and
4232 restoration, or other incentive programs.

4233 (2) Shoreline Environment Regulations.

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- 4234 (a) Priority Aquatic. Shoreline stabilization may be permitted subject to the provisions of this
4235 program. New structural shoreline armoring is prohibited, except to protect existing public
4236 transportation infrastructure and essential public facilities, in which case it may be allowed as a
4237 conditional use.
- 4238 (b) Aquatic. Shoreline stabilization may be permitted subject to the provisions of this program.
4239 Structural shoreline armoring to protect existing public transportation infrastructure and existing
4240 essential public facilities may be allowed as a conditional use if allowed in the adjacent upland
4241 environment. Structural shoreline armoring to protect new residential developments is prohibited.
- 4242 (c) Natural. Shoreline stabilization may be permitted subject to the provisions of this program.
4243 Structural shoreline armoring is prohibited except that structural shoreline armoring to protect
4244 existing public transportation infrastructure and existing essential public facilities may be allowed as
4245 a conditional use.
- 4246 (d) Conservancy. Shoreline stabilization may be permitted subject to the provisions of this program.
4247 Shoreline armoring structures may be permitted as a conditional use.
- 4248 (e) Shoreline Residential. Shoreline stabilization may be permitted subject to the provisions of this
4249 program. Shoreline armoring structures may be permitted as a conditional use.
- 4250 (f) High Intensity. Shoreline stabilization may be permitted subject to the provisions of this program.
4251 Shoreline armoring structures may be permitted as a conditional use.

4252 (3) Regulations – Existing Structural Shoreline Armoring.

- 4253 (a) Existing structural shoreline armoring, as defined in Article II of this chapter, which can no longer
4254 adequately serve its purpose may be replaced in kind if there is a demonstrated need to protect
4255 public transportation infrastructure, essential public facilities, and primary structures from erosion
4256 caused by currents, tidal action, or waves and all of the following apply:

- 4257 (i) The replacement structure is designed, located, sized, and constructed to assure no net loss
4258 of ecological functions.
- 4259 (ii) The replacement structure performs the same stabilization function of the existing structure
4260 and does not require additions to or increases in size.
- 4261 (iii) The replacement structure shall not encroach waterward of the ordinary high water mark
4262 or existing structure unless the residence was occupied prior to January 1, 1992, and there are
4263 overriding safety or environmental concerns. In such cases, the replacement structure shall
4264 abut the existing shoreline stabilization structure.
- 4265 (b) Removal of older structures is required as new ones are put in place. Exceptions may be made
4266 by the administrator only in cases where removal would cause more ecological disturbance than
4267 leaving the remnant structure in place.

4268 (4) Regulations – Subdivisions and Existing Lots without Structures.

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Commented [AS173]: Edit made per Ecology required change 8 (9/30/22)

Planning Commission Recommendations

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- 4269 (a) Land subdivisions shall be designed using geotechnical analysis to assure that future
4270 development or use of the established lots will not require structural shoreline armoring or
4271 shoreline stabilization.
- 4272 (b) Use of a bulkhead, revetment or similar shoreline armoring to protect a platted lot where no
4273 primary use or structure presently exists shall be prohibited. Where such shoreline armoring
4274 already exists, property owners are strongly encouraged to remove it.
- 4275 (c) Structural shoreline armoring or shoreline stabilization for the sole purpose of leveling or
4276 extending property or creating or preserving residential lawns, yards, or landscaping shall be
4277 prohibited. Where such shoreline armoring already exists, property owners are strongly encouraged
4278 to remove it.
- 4279 (5) Regulations – New or Expanded Structural Shoreline Armoring, When Allowed.
- 4280 (a) Structural shoreline armoring shall be prohibited in or adjacent to lakes and other low energy
4281 environments such as bays, and accreting marine shores. Where such shoreline armoring already
4282 exists, property owners are strongly encouraged to remove it.
- 4283 (b) New structural shoreline armoring may be permitted and existing structural shoreline armoring
4284 may be expanded only when one or more of the following apply:
- 4285 (i) When necessary to support a project whose primary purpose is enhancing or restoring
4286 ecological functions.
- 4287 (ii) As part of an effort to remediate hazardous substances pursuant to Chapter 70.105 RCW.
- 4288 (iii) When necessary to protect public transportation infrastructure or essential public facilities
4289 and other options are infeasible.
- 4290 (iv) When necessary to protect an existing, lawfully established primary structure or support a
4291 water-oriented use, including a dependent development or new non-water-dependent
4292 development, including a single-family residence but not including a boathouse ~~or for~~ other
4293 accessory structure, that is in imminent danger of loss or substantial damage from erosion
4294 caused by tidal action, currents, or waves.
- 4295 (c) Proposals for new or expanded structural shoreline armoring allowed under subsection (5)(b) of
4296 this section shall clearly demonstrate all of the following before a permit can be issued:
- 4297 (i) The erosion is not being caused by upland conditions, such as the loss of vegetation or poor
4298 drainage.
- 4299 (ii) The structural shoreline armoring design is the least environmentally damaging alternative.
- 4300 (iii) The shoreline armoring complies with the flood damage prevention regulations in Chapter
4301 15.15 ~~JCC 18.30.070~~.

Commented [LG174]: added per WAC 173-26-231(3)(a)(iii)(A)

Commented [AS175]: Edits made per Ecology required change 8 (9/30/22).

Commented [LG176]: Staff Docket/Code Interpretations

Commented [LG177]: Response to Comment: 12.15

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Planning Commission Recommendations

- 4302 (iv) Adverse impacts are fully mitigated according to the prescribed mitigation sequence such
4303 that there is no net loss of shoreline ecological functions or processes.
- 4304 (v) Alternatives to structural shoreline armoring including vegetative shoreline stabilization,
4305 flexible/natural materials and methods, beach nourishment and other forms of bioengineering
4306 are determined to be infeasible or insufficient.
- 4307 (d) When evaluating the need for new or expanded structural shoreline armoring, the applicant
4308 shall consider the range of options described in the most current technical guidance, including but
4309 not limited to *Soft Shoreline Stabilization* (Ecology, 2014), *Marine Shoreline Design Guidelines*
4310 (WDFW 2014), and similar. The administrator shall require the applicant to ~~examine and~~ implement
4311 alternatives to structural shoreline armoring in the following order of preference:
- 4312 (i) No action (allow the shoreline to retreat naturally).
- 4313 (ii) ~~Increased Nonstructural measures including increased buffers/~~building setbacks,
4314 ~~drainage/runoff management,~~ and/or relocated structures.
- 4315 (iii) Use of ~~flexible/~~natural, ~~soft or hybrid~~ materials and methods, vegetation
4316 ~~enhancement/stabilization,~~ beach nourishment, protective berms, or bioengineered shoreline
4317 stabilization. ~~Soft approaches shall be used unless demonstrated not to be sufficient to protect~~
4318 ~~primary structures, dwellings, and businesses.~~
- 4319 (e) The county shall require applicants for new or expanded structural shoreline armoring to
4320 provide credible evidence of erosion in a geotechnical analysis as the basis for documenting that the
4321 primary structure is in imminent danger from shoreline erosion caused by tidal action, currents, or
4322 waves. The ~~evidence~~geotechnical analysis shall:
- 4323 (i) Demonstrate that the erosion is not due to landslides, sloughing or other forms of shoreline
4324 erosion unrelated to water action at the toe of the slope; and
- 4325 (ii) ~~Include an assessment of~~Demonstrate that the erosion is not due to on-site drainage and
4326 vegetation characteristics, ~~and their effects cannot be addressed through~~ on-slope stability site
4327 ~~drainage improvements or vegetation planting;~~ and
- 4328 (iii) Be prepared by a licensed professional engineer or geologist or other qualified professional
4329 with appropriate credentials.
- 4330 (6) Regulations – New or Expanded Shoreline Armoring, Design Standards.
- 4331 (a) New or expanded shoreline armoring shall be designed by a state licensed professional
4332 geotechnical engineer and/or engineering geologist and constructed according to applicable U.S.
4333 Army Corps of Engineers requirements and/or State Department of Fish and Wildlife Aquatic
4334 Habitat Guidelines.
- 4335 (b) The size of structural shoreline armoring shall be limited to the minimum necessary to protect
4336 the primary use or structure that it is intended to protect.

Commented [AS178]: Edits made per Ecology recommended change 27 (9/30/22).

Commented [LG179]: Added per WAC 173-26-231(3)(a)(iii)(E)

Commented [LG180]: Sea Level Rise reference: Similar to SMPs for South Bend

Commented [LG181]: Added per WAC 173-26-231(3)(a)(iii)(B)(II)

- 4337 (c) When shoreline armoring is permitted, ~~is it~~ shall be constructed of erosion resistant,
4338 environmentally safe and durable materials that are easy to maintain.
- 4339 (d) Shoreline armoring shall be designed and constructed with gravel backfill and weep holes so that
4340 natural downward movement of surface or ground water may continue without ponding or
4341 saturation that could compromise the surrounding soil stability.
- 4342 (e) All forms of structural shoreline armoring shall be constructed and maintained in a manner that
4343 does not degrade the quality of affected waters. The county may require setbacks, buffers, and/or
4344 other measures to achieve these objectives.
- 4345 (f) Shoreline ~~defense structures~~ ~~armoring~~ shall not be constructed with waste materials such as
4346 demolition debris, derelict vessels, tires, concrete or any other materials which might have adverse
4347 toxic or visual impacts on shoreline areas.
- 4348 (g) Gabions are prohibited as a means of stabilizing shorelines because of their limited durability
4349 and the potential hazard to shoreline users and the shoreline environment.
- 4350 (h) Proposals, other than single-family residential developments of ~~more than four~~ ~~or fewer~~ lots,
4351 that involve new or expanded shoreline armoring shall incorporate public access features consistent
4352 with JCC 18.25.290 (Public access).||
- 4353 (7) Regulations – Bulkheads.
- 4354 (a) Bulkheads shall comply with the regulations noted in subsections (2) through (6) of this section.
- 4355 (b) Bulkheads shall meet all of the following criteria:
- 4356 (i) They shall be located generally parallel to the shoreline. Adequate bank toe protection shall
4357 be provided to ensure bulkhead stability without relying on additional rip-rap; and
- 4358 (ii) They shall be located so as to tie in flush with existing bulkheads on adjoining properties,
4359 except when adjoining bulkheads do not comply with the design or location requirements set
4360 forth in this program.
- 4361 (8) Regulations – Revetments.
- 4362 (a) Revetments shall comply with the regulations noted in subsections (2) through (6) of this
4363 section.
- 4364 (b) Revetments shall meet all of the following criteria:
- 4365 (i) Revetments shall be placed landward of associated wetlands; and
- 4366 (ii) Revetments shall be located sufficiently landward of the stream channel to allow streams to
4367 maintain point bars and associated aquatic habitat through ~~normal~~ ~~small~~ ~~normal~~ accretion; and
- 4368 (iii) Revetments shall be prohibited on estuarine shores, in wetlands, on point and channel
4369 bars, and in salmon and trout spawning areas.

Commented [LG182]: Staff Docket/Code Interpretations

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- 4370 (c) Revetments or similar structures that have already cut off point bars from the stream shall be
4371 relocated if feasible.
- 4372 (d) When requesting a permit for a revetment along a stream or river, the applicant shall provide a
4373 geotechnical analysis of stream geomorphology both upstream and downstream of the proposed
4374 revetment site to assess the physical character and hydraulic energy potential of the specific stream
4375 reach and adjacent upstream or downstream reaches. The purpose of such analysis is to assure that
4376 the physical integrity of the stream corridor is maintained, that stream processes are not adversely
4377 affected, and that the revetment will not cause significant damage to other properties or shoreline
4378 functions and processes.
- 4379 (9) Regulations – Breakwaters, Jetties, and Seawalls.
- 4380 (a) Breakwaters, jetties, and seawalls shall comply with the regulations noted in subsections (2)
4381 through (6) of this section.
- 4382 (b) Breakwaters, jetties, and seawalls shall only be allowed when shown to be necessary:
- 4383 (i) For purposes of navigation, or fisheries or habitat enhancement; or
- 4384 (ii) To protect from strong wave action public water-dependent uses such as a harbor, marina,
4385 or port that are located seaward of the existing shoreline; or
- 4386 (iii) When adverse impacts on water circulation, sediment transport, fish and wildlife migration,
4387 shellfish, and aquatic vegetation can be effectively mitigated.
- 4388 (c) Open-pile, floating, portable, or submerged breakwaters, or several smaller discontinuous
4389 structures that are anchored in place, shall be preferred over fixed breakwaters.
- 4390 (10) Regulations – Shoreline Stabilization (including bioengineering and biostabilization). New,
4391 expanded, or replacement proposals for shoreline stabilization shall comply with applicable policies and
4392 regulations in subsections (1), (2), (4) and (11) of this section. If a stabilization proposal also includes
4393 hard armoring, the proposal shall be reviewed under applicable policies and regulations in subsections
4394 (1) through (9) and (11) of this section. Soft shoreline stabilization measures that provide restoration of
4395 shoreline ecological functions may be permitted waterward of the ordinary high-water mark.
- 4396 (11) Regulations – Application Requirements. To verify that the provisions of this section are fully
4397 addressed, the county may require information to support a permit application for any type of structural
4398 shoreline armoring or shoreline stabilization. Application information required pursuant to this section
4399 shall address the urgency and risks associated with the specific site characteristics and shall include:
- 4400 (a) A scaled site plan showing: (i) existing site topography ~~and (ii); (ii) the height, length, and width of~~
4401 existing and proposed armoring or stabilization; and (iii) the location of existing and proposed
4402 shoreline stabilization, shoreline armoring structures, and any fill including dimensions indicating
4403 distances ~~to the OHWM and compass bearing between the face of the proposed armoring or~~
4404 stabilization and the OHWM, appropriate tidal elevation, and permanent benchmarks; and

Commented [AS183]: Edits made per Ecology recommended change 27 (9/30/22).

Commented [AS184]: edits made in response to WDFW comment letter dated 11/23/2020

4405 (b) A description of the processes affecting the site and surrounding areas, including but not limited
4406 to: tidal action and/or waves; slope instability or mass wasting; littoral drift; channel migration; and
4407 soil erosion, deposition, or accretion; and

4408 (c) A description of alternatives to structural approaches, and a thorough discussion of the
4409 environmental impacts of each alternative; and

4410 (d) A description of any proposed vegetation removal and a plan to revegetate the site following
4411 construction; and

4412 (e) A hydraulic analysis prepared by a licensed professional engineer that describes anticipated
4413 effects of the project on water and wave elevations and velocities; and

4414 ~~(f)~~ If required per subsections (4) and (5) above, a geotechnical report prepared by a licensed
4415 geotechnical engineer or engineering geologist. The report shall address the necessity for shoreline
4416 stabilization or structural shoreline armoring to protect a primary structure by estimating time
4417 frames and rates of erosion and assessing the urgency associated with the specific situation. As a
4418 general matter, hard armoring solutions should not be authorized except when a report confirms
4419 that there is a significant possibility that such a structure will be damaged within three years as a
4420 result of shoreline erosion in the absence of such hard armoring measures, or where waiting until
4421 the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on
4422 ecological functions. Thus, where the geotechnical report confirms a need to prevent potential
4423 damage to a primary structure, but the need is not as immediate as three years, that report may
4424 still be used to justify more immediate authorization to protect against erosion using soft measures.

4425 (g) A biological resource inventory and analysis prepared by a qualified professional biologist that
4426 describes the anticipated effects of the project on fish and wildlife resources; and

4427 (gh) A description of opportunities for providing public access to and along the affected shoreline,
4428 as well as any proposed on-site recreational features if applicable; and

4429 (hi) A description of any waste and debris disposal sites for materials generated during construction;
4430 and

4431 (ij) Any other information that may be required to demonstrate compliance with the review criteria
4432 referenced in this section. [Ord. 7-13 Exh. A (Art. VII § 8)]

4433 **Article VIII. Use-Specific Policies and Regulations**

4434 **18.25.420 Purpose.**

4435 This article describes policies and regulations that apply to specific uses and developments in the
4436 shoreline jurisdiction. The policies and regulations are intended to work in concert with the master
4437 program goals (Article III of this chapter) and the general policies and regulations (Article IV of this
4438 chapter). Policies and regulations that address specific shoreline modifications (e.g., bulkheads, piers,
4439 dredging, etc.) that may be associated with, or accessory to, a specific use are in Article VII of this
4440 chapter. [Ord. 7-13 Exh. A (Art. VIII)]

Commented [AS185]: Edit made per Ecology recommended change 27 (9/30/22)

Commented [LG186]: added per WAC 173-26-231(3)(a)(iii)(D)

Commented [LG187]: Staff Docket/Code Interpretations

4441 **18.25.430 Agriculture.**

4442 (1) Policies.

4443 (a) Agriculture is important to the long-term economic viability of Jefferson County. Consistent with
4444 WAC 173-26-241(3)(a)(ii), this program should not modify or limit ongoing agricultural activities
4445 occurring on agricultural lands.

4446 (b) New agricultural uses and development, as defined in Article II of this chapter, proposed on land
4447 not currently in agricultural use, and conversion of agricultural lands to non-agricultural uses,
4448 should conform to this program.

4449 (c) New agricultural use and development should be managed to:

4450 (i) Prevent livestock intrusion into the water;

4451 (ii) Control runoff;

4452 (iii) Prevent water quality contamination caused by nutrients and noxious chemicals;

4453 (iv) Minimize clearing of riparian areas;

4454 (v) Prevent bank erosion; and

4455 (vi) Assure no net loss of ecological functions and avoid adverse effects on shoreline resources
4456 and values.

4457 (d) New agricultural use and development should preserve and maintain native vegetation between
4458 tilled lands and adjacent water bodies. The width of the native vegetation zone should vary
4459 depending on site conditions with the overall goal being to limit clearing of riparian corridors.

4460 (e) Intensive residential, industrial and commercial uses and uses that are unrelated to agriculture
4461 should be located so as not to create conflicts with agricultural uses.

4462 (f) The county should promote cooperative arrangements between farmers and public recreation
4463 agencies so that public use of shorelines does not conflict with agricultural operations.

4464 (g) Existing and new agricultural uses are encouraged to use best management practices to prevent
4465 erosion, runoff, and associated water quality impacts.

4466 (h) The county recognizes the importance of local food production, both on land and in water areas,
4467 when properly managed to control pollution and prevent environmental damage. As consistent
4468 with the Jefferson County Comprehensive Plan, RCW 36.70A.030, and 90.58.065, upland finfish
4469 aquaculture is considered agricultural production. However, for purposes of this program, upland
4470 finfish aquaculture should instead be managed as aquaculture and aquaculture activities, as defined
4471 in Article II of this chapter.

4472 (i) Collaborate with partners such as North Olympic Development Council (NODC), Washington
4473 State University (WSU), and Jefferson County Conservation District to assess likely impacts of

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- 4474 climate change on agriculture and to develop mitigation and adaptation strategies suited to
4475 Jefferson County's soils and farm economy. (Comprehensive Plan Policy NR-P-8.6)
- 4476 (2) Shoreline Environment Regulations.
- 4477 (a) Priority Aquatic. New agricultural activities are prohibited, except upland finfish aquaculture per
4478 the aquaculture policies and regulations of this program.
- 4479 (b) Aquatic. New agricultural activities are prohibited, except upland finfish aquaculture per the
4480 aquaculture policies and regulations of this program.
- 4481 (c) Natural. New agricultural activities are prohibited, except that low intensity agricultural activities
4482 such as grazing may be allowed subject to policies and regulations of this program; provided, that
4483 such low intensity agriculture does not expand or alter agricultural practices in a manner
4484 inconsistent with the purpose of this designation. All other agricultural activities are prohibited,
4485 except upland finfish aquaculture per the aquaculture policies and regulations of this program.
- 4486 (d) Conservancy. New agricultural activities may be allowed subject to policies and regulations of
4487 this program.
- 4488 (e) Shoreline Residential. New agricultural activities may be allowed subject to policies and
4489 regulations of this program.
- 4490 (f) High Intensity. New agricultural activities may be allowed subject to policies and regulations of
4491 this program.
- 4492 (3) Regulations.
- 4493 (a) In accordance with RCW 90.58.065, this program shall not restrict existing ~~agriculture~~agricultural
4494 activities on agricultural land.
- 4495 (b) New agricultural use and development on lands not meeting the definition of agricultural land
4496 shall comply with this program and all of the following regulations:
- 4497 (i) Manure spreading shall be conducted in a manner that prevents animal wastes from
4498 entering water bodies or wetlands adjacent to water bodies. Manure spreading shall not be
4499 allowed within the floodway or within 25 feet of the ordinary high water mark of any shoreline,
4500 whichever is greater.
- 4501 (ii) Confinement lots, feeding operations, lot wastes, manure storage or stockpiles, and storage
4502 of noxious chemicals shall not be allowed within floodways or within 200 feet of the ordinary
4503 high water mark of any shoreline, whichever is greater.
- 4504 (iii) A buffer of naturally occurring or planted native vegetation shall be maintained between
4505 the shoreline and areas used for crops or intensive grazing. The width of the buffer on marine,
4506 river, and lake shorelines shall correspond to the standards of this program.

Commented [LG188]: Comp Plan: Policy NR-P-8.6

Commented [LG189R188]: Task Force C

Commented [AS190]: Edits made per Ecology required change 9 and recommended change 27 (9/30/22)

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- 4507 (iv) Bridges, culverts and/or ramps shall be used to enable livestock to cross streams without
4508 damaging the streambed or banks.
- 4509 (v) Stock watering facilities shall be provided so that livestock do not need to access streams or
4510 lakes for drinking water.
- 4511 (vi) Fencing or other grazing controls shall be used as appropriate to prevent bank compaction,
4512 bank erosion, or the overgrazing of, or damage to, shoreline buffer vegetation.
- 4513 (c) Upland finfish aquaculture use and development shall be subject to the Aquaculture policies and
4514 regulations (JCC 18.25.440). [Ord. 7-13 Exh. A (Art. VIII § 1)]
- 4515 **18.25.440 Aquaculture.**
4516 (1) Policies.
- 4517 (a) Aquaculture is a preferred, water-dependent use of regional and statewide interest that is
4518 important to the long-term economic viability, cultural heritage and environmental health of
4519 Jefferson County.
- 4520 (b) The county should support aquaculture uses and developments that:
- 4521 (i) Protect and improve water quality; and
- 4522 (ii) Minimize damage to important nearshore habitats; and
- 4523 (iii) Minimize interference with navigation and normal public use of surface waters; and
- 4524 (iv) Minimize the potential for cumulative adverse impacts, such as those resulting from in-
4525 water structures/apparatus/equipment, land-based facilities, and substrate
4526 disturbance/modification (including rate, frequency, and spatial extent).
- 4527 (c) When properly managed, aquaculture can result in long-term ecological and economic benefits.
4528 The county should engage in coordinated planning to identify potential aquaculture areas and
4529 assess long-term needs for aquaculture. This includes working with the Washington Department of
4530 Fish and Wildlife (DFWWDFW), the Department of Natural Resources (DNR), area tribes and
4531 shellfish interests to identify areas that are suitable for aquaculture and protect them from uses
4532 that would threaten aquaculture's long-term sustainability.
- 4533 (d) Aquaculture use and development should locate in areas where biophysical conditions, such as
4534 tidal currents, water temperature and depth, will minimize adverse environmental impacts.
4535 Individual aquaculture uses and developments should be separated by a sufficient distance to
4536 ensure that significant adverse cumulative effects do not occur.
- 4537 (e) The county should support tideland aquaculture use and development when consistent with this
4538 program and protect tidelands and bedlands that were acquired and retained under the Bush and
4539 Callow Acts by not permitting non-aquaculture use and development on these tidelands.

- 4540 (f) Intensive residential uses, other industrial and commercial uses, and uses that are unrelated to
4541 aquaculture should be located so as not to create conflicts with aquaculture operations.
- 4542 (g) The county should promote cooperative arrangements between aquaculture growers and public
4543 recreation agencies so that public use of public shorelines does not conflict with aquaculture
4544 operations.
- 4545 (h) Experimental forms of aquaculture involving the use of new species, new growing methods or
4546 new harvesting techniques should be allowed when they are consistent with applicable state and
4547 federal regulations and this program.
- 4548 (i) The county should support community restoration projects associated with aquaculture when
4549 they are consistent with this program.
- 4550 (j) Commercial and recreational shellfish areas including shellfish habitat conservation areas are
4551 critical habitats. Shellfish aquaculture activities within all public and private tidelands and bedlands
4552 are allowed uses. Such activities include but are not limited to bed marking, preparation, planting,
4553 cultivation, and harvest.
- 4554 (k) Chemicals and fertilizers used in aquaculture operations should be used in accordance with state
4555 and federal laws, and this program.
- 4556 (l) The county recognizes upland finfish aquaculture is considered a type of agricultural production
4557 by the Jefferson County Comprehensive Plan, RCW 36.70A.030, and 90.58.065. However, for
4558 purposes of this program, upland finfish aquaculture should instead be managed as aquaculture
4559 and aquaculture activities, as defined in Article II of this chapter.
- 4560 (m) Finfish aquaculture that uses or releases herbicides, pesticides, antibiotics, fertilizers,
4561 pharmaceuticals, non-indigenous species, parasites, viruses, genetically modified organisms, feed,
4562 or other materials known to be harmful into surrounding waters should not be allowed unless
4563 significant impacts to surrounding habitat and conflicts with adjacent uses are effectively mitigated.
- 4564 (n) The county should prefer all finfish aquaculture use and development (in-water and upland) that
4565 operates with fully contained systems that treat effluent before discharge to local waters over open
4566 systems.
- 4567 (o) The county should allow in-water finfish aquaculture in the open waters of the Strait of Juan de
4568 Fuca only when the area seaward of the ordinary high water mark (OHWM) which is subject to the
4569 county's jurisdiction extends a considerable distance, and when consistent with other provisions of
4570 this program.
- 4571 (p) The county should prohibit in-water finfish aquaculture in waters of Jefferson County where
4572 there are habitat protection designations in place and/or water quality issues documented.
- 4573 (2) Uses and Activities Prohibited Outright.

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4574 (a) In-water finfish aquaculture use/development, including net pens as defined in Article II of this
4575 chapter, shall be prohibited in the following areas due to established habitat protection
4576 designations and/or water quality issues:

- 4577 (i) Protection Island aquatic reserve or within 1,500 feet of the boundary;
4578 (ii) Smith and Minor Islands aquatic reserve or within 1,500 feet of the boundary;
4579 (iii) Discovery Bay, south of the boundary of the Protection Island aquatic reserve;
4580 (iv) South Port Townsend Bay mooring buoy management plan area; and
4581 (v) Hood Canal, south of the line extending from Tala Point to Foulweather Bluff, including
4582 Dabob and Tarboo Bays.

4583 (3) Shoreline Environment Regulations.

4584 (a) Priority Aquatic. Aquaculture activities, except for new geoduck aquaculture, may be allowed
4585 subject to the use policies and development regulations of the adjacent upland shoreline
4586 environment this program, except all finfish aquaculture (in-water and upland) is prohibited. New or
4587 expanded geoduck aquaculture and conversion of existing non-geoduck aquaculture to geoduck
4588 aquaculture may be allowed with a standard conditional use permit (C).

4589 (b) Aquatic. Aquaculture activities, except for new geoduck aquaculture, may be allowed subject to
4590 the use policies and development regulations of the adjacent upland shoreline environment this
4591 program. New geoduck aquaculture may be allowed with a standard conditional use permit (C).
4592 Expanded geoduck aquaculture or conversion of existing non-geoduck aquaculture to geoduck
4593 aquaculture may be allowed with a discretionary conditional use permit (C(d)), except when
4594 adjacent to the natural environment, in which case it may be allowed with a standard conditional
4595 use permit (C).

4596 (c) Natural. Aquaculture activities, except for geoduck aquaculture, may be allowed subject to
4597 policies and regulations of this program. Geoduck New or expanded geoduck aquaculture and
4598 conversion of existing non-geoduck aquaculture to geoduck aquaculture may be allowed with a
4599 standard conditional use permit (C(d)). All finfish aquaculture is prohibited, except in-water finfish
4600 aquaculture may be allowed with a discretionary conditional use permit (C(d)) where the area
4601 within the county's jurisdiction extends seaward more than eight miles from the OHWM, as
4602 measured perpendicularly from shore. This does not require facilities to locate eight miles offshore;
4603 see other provisions of this section for siting requirements and supplemental maps for additional
4604 information.

4605 (d) Conservancy. Aquaculture activities, except for geoduck aquaculture, may be allowed subject to
4606 policies and regulations of this program. Geoduck New or expanded geoduck aquaculture,
4607 conversion of existing non-geoduck aquaculture to geoduck aquaculture, may be allowed with a
4608 standard conditional use permit (C) and upland finfish aquaculture may be allowed with a
4609 discretionary conditional use permit (C(d)). In-water finfish aquaculture is prohibited.

Commented [LG191]: 2011 b Periodic Checklist

Commented [LG192]: PC Motion 11/15/23: Amend line 4580 and 4585 (re: upland regulations) to match 4591.

Commented [GU193]: AIS: Requirements for CUP for new commercial geoduck aquaculture added per WAC 173-26-241(3)(b)(iv)(A)

Commented [AS194R193]: Response to Comments 1-7: Per PC direction on 9/1, standard conditional use permit is now required.

Commented [LG195]: PC motion to move SMP forward with amendments 10/18/23. Edits made to (3) consistent with use matrix edits above that respond to WAC rules, extensive public and producer comment, and the suggested designation-specific approach included in the 2009 Shellfish Aquaculture Regulatory Committee Recommendations.

Commented [LG196]: PC Motion 11/15/23: Amend line 4580 and 4585 (re: upland regulations) to match 4591: 8 yea, 0 nay, 1 abstention; motion passes

Planning Commission Recommendations

4610 (e) Shoreline Residential. Aquaculture activities, except for geoduck aquaculture, may be allowed
4611 subject to policies and regulations of this program. ~~Geoduck~~New or expanded geoduck aquaculture
4612 and conversion of existing non-geoduck aquaculture to geoduck aquaculture may be allowed with a
4613 ~~standard~~discretionary conditional use permit (C(d)(d)). All finfish aquaculture (in-water and
4614 upland) is prohibited.

4615 (f) High Intensity. Aquaculture activities may be allowed subject to policies and regulations of this
4616 program, except all finfish aquaculture (in-water and upland), new or expanded geoduck
4617 aquaculture and conversion of existing non-geoduck aquaculture to geoduck aquaculture may be
4618 allowed with a discretionary conditional use permit (C(d)). ~~and new geoduck aquaculture may be~~
4619 ~~allowed with a standard conditional use permit (C).~~

4620 (g) For a summary ~~and graphic approximation~~ of the above shoreline environment regulations
4621 allowance of in-water finfish aquaculture, see Figure 18.25.440. Also see illustrative maps in JCC
4622 18.25.880.

Figure 18.25.440 – Summary ~~and Maps~~ of SED Allowance for In-Water Finfish Aquaculture

	Shoreline Environment Designations (SEDs)						
	Waterward			Landward			
	Priority Aquatic	Aquatic		Natural	Conservancy	Shoreline Residential	High Intensity
Would in-water finfish aquaculture be allowed to locate in this SED?	No	Yes	OHWM	No	No	No	Yes
Notes		But only when the adjacent upland SED allows		Except when there is 8+ miles of seaward jurisdiction			

- Geographic Limitations:**
- 1 Not within the Protection Island Aquatic Reserve, the Smith and Minor Islands Aquatic Reserve or within 1,500 feet of their boundary
 - 2 Not in Discovery Bay, south of the boundary for the Protection Island Aquatic Reserve, due to significant water quality concerns

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- 3 Not within the South Port Townsend Bay mooring buoy management plan area or within 1,500 feet of the boundary, due to significant water quality concerns
- 4 Not in Hood Canal, south of the line from Tala Point to Foulweather Bluff (Kitsap County), due to significant water quality concerns

Possible Siting Locations:

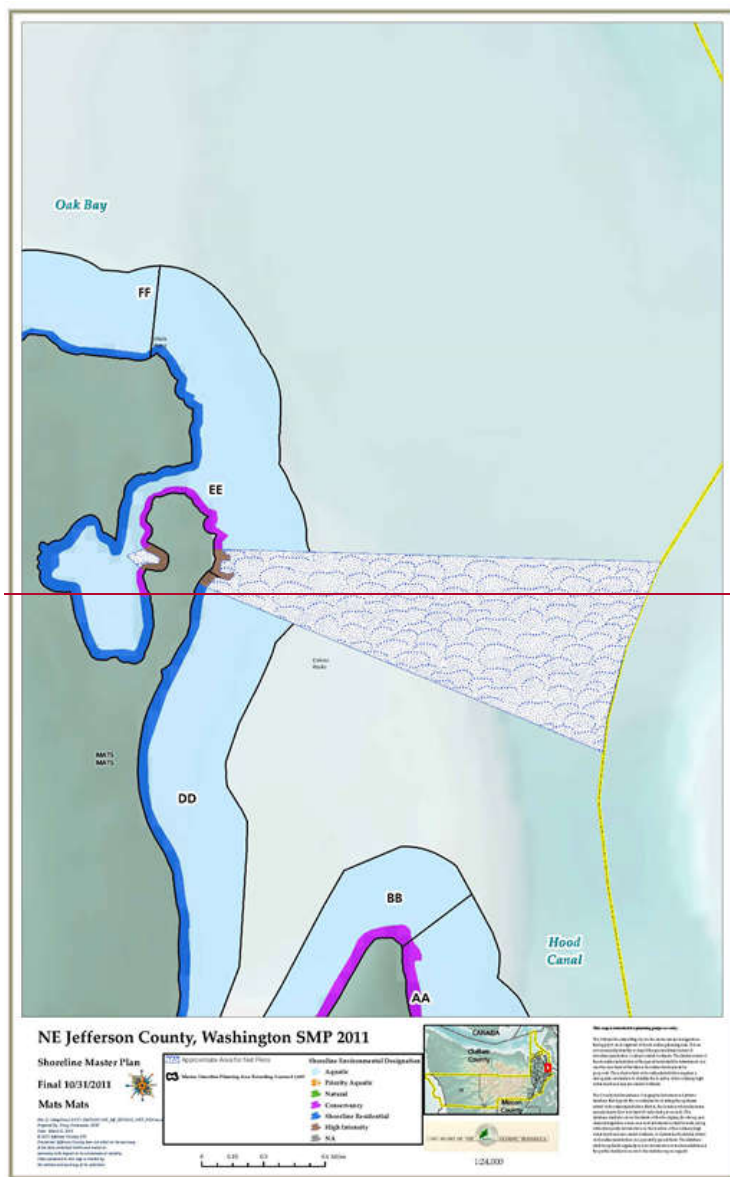
- 1 Strait of Juan de Fuca
- 2 Glen Cove
- 3 Mats Mats
- 4 Port Ludlow

4626

4627 NOTE: Proposals also have to meet all conditional use permit (CUP) performance standards and other
4628 applicable provisions of this program.

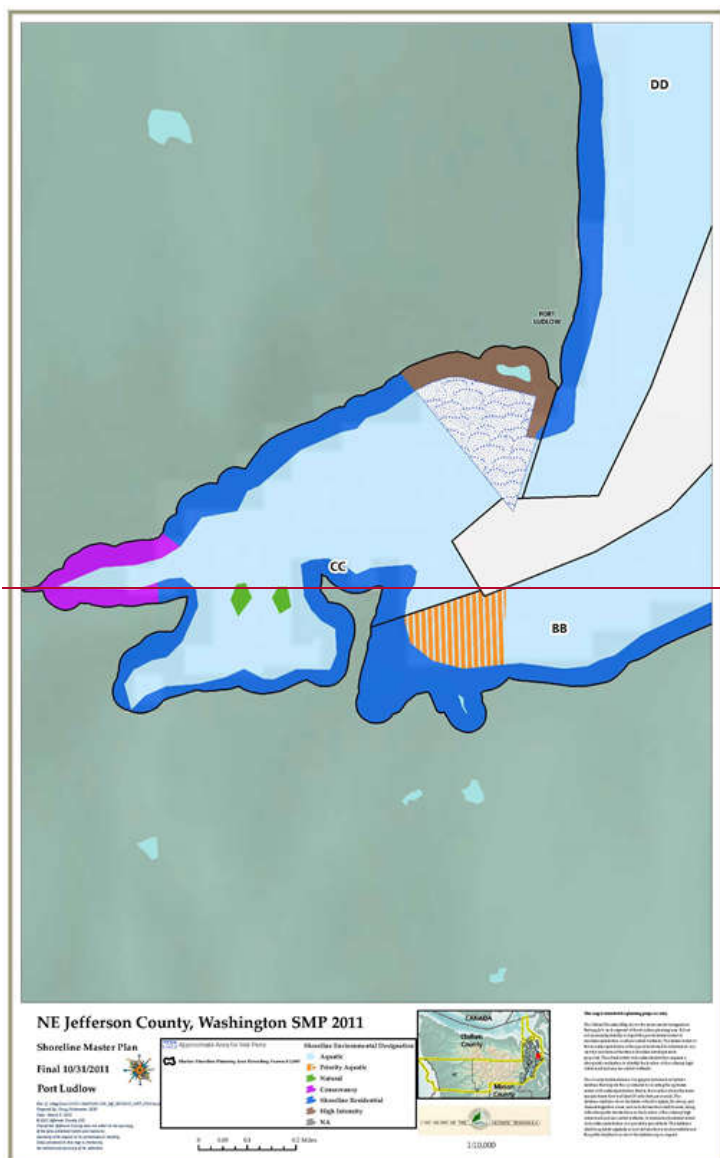
4629 ~~Approximate siting locations are illustrated in the following [moved] four maps [to 18.25.880]:~~

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4632

Date of Base Code: The Jefferson County Code is current through Ordinance 06-0817-20, passed August 17, 2020. The Jefferson County Shoreline Master Program is current through Ordinance 07-1216-13, passed December 16, 2013; the SMP became effective February 21, 2014. **Shading in Comment Flags:** 1) **Yellow** in response to public comments within Planning Commission Recommendations October 2021. 2) **Pink** changes in response to Ecology initial review and Planning Commission discussions in 2023. 3) **Blue** based on Planning Commission motions.



4633

4634 (4) Regulations – General.

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4635 (a) When a shoreline permit is issued for a new aquaculture use or development, that permit shall
4636 apply to the initial siting, construction, and/or planting or stocking of the facility or farm. If the
4637 initial approval is a shoreline substantial development permit, it shall be valid for a period of five
4638 years with a possible one-year extension. If the initial approval is a conditional use permit, it shall be
4639 valid for the period specified in the permit.

4640 (b) Ongoing maintenance, harvest, replanting, restocking of or changing the species cultivated in
4641 any existing or permitted aquaculture operation is not considered new use/development, and shall
4642 not require a new permit, unless or until:

4643 (i) ~~The For non-geoduck aquaculture, the~~ physical extent of the facility or farm is expanded by
4644 more than 25 percent ~~or more than 25 percent of the facility/farm changes~~
4645 ~~operational/cultivation methods compared to the conditions that existed as of the effective~~
4646 ~~date of this program or any amendment thereto.~~ If the amount of expansion ~~or change in~~
4647 ~~cultivation method~~ exceeds 25 percent in any 10-year period, the entire operation shall be
4648 considered new aquaculture and shall be subject to applicable permit requirements of this
4649 section; ~~or. This calculation of 25% expansion applies separately and cumulatively to both in-~~
4650 ~~water and above OHWM development (e.g., the in-water expansion cannot exceed 25% of the~~
4651 ~~original in-water area, the above OHWM development cannot exceed 25% of the original above~~
4652 ~~OHWM development area, nor can the combined in-water and above OHWM expansion~~
4653 ~~exceed 25% of the original combined area). Any expansions of existing geoduck aquaculture~~
4654 ~~operations require a permit for the expanded area if the existing operation is already permitted~~
4655 ~~or for the entire operation if not already permitted; or~~

4656 (ii) ~~The facility proposes to cultivate species not previously cultivated in the state of~~
4657 ~~Washington.~~

4658 (ii) ~~The facility proposes to cultivate non-native species not previously cultivated in the state of~~
4659 ~~Washington. State law does not allow non-native marine finfish aquaculture on state-owned~~
4660 ~~aquatic lands except under leases that were in effect on June 7, 2018, and only until those~~
4661 ~~leases expire. Project applicants proposing to introduce non-native aquatic species other than~~
4662 ~~marine finfish that have not previously been cultivated in Washington State are responsible for~~
4663 ~~pursuing required state and federal approvals relating to the introduction of such species, as~~
4664 ~~determined by applicable state and federal agencies. A plan for monitoring and adaptive~~
4665 ~~management shall also be submitted for county review, unless the operation is conducted in a~~
4666 ~~fully contained system with no water exchange to the shoreline. The county shall provide~~
4667 ~~notice and time to comment for appropriate agencies in accordance with county procedural~~
4668 ~~requirements, and shall circulate the monitoring and adaptive management plan. Upon~~
4669 ~~approval, the plan shall become a condition of project approval.~~

4670 (c) Aquaculture uses and activities involving hatching, seeding, planting, cultivating, raising and/or
4671 harvesting of planted or naturally occurring shellfish shall not be considered development, as
4672 defined in Article II of this chapter, and shall not require a shoreline substantial development
4673 permit, unless:

4674 (i) The activity substantially interferes with normal public use of surface waters; or

Commented [LG197]: Staff Docket/Code Interpretations and Response to Comments 1-7.

Commented [AS198]: Amended: "non-native" added per JST comment letter (7.21.23)

Commented [AS199R198]: Check this - if non-native already prohibited by new laws, could strike all of this. Check 2020+ legislation.... (or reference law, and then keep language in case law changes)

Commented [AS200R198]: Checked - the law only prohibits introduction of non-native fish for marine finfish. Added a reference to state law.

Commented [AS201]: Response to Comments 1-7: Language incorporated from Kitsap County Code per PC direction on 9/1/21.

- 4675 (ii) The activity involves placement of any structures as defined in Article II of this chapter; or
- 4676 (iii) The activity involves dredging using mechanical equipment such as clamshell, dipper, or
- 4677 scraper; or
- 4678 (iv) The activity involves filling of tidelands or bedlands.
- 4679 (d) The county shall assess the potential for interference described in subsection ~~(34)(c)-(i)~~ of this
- 4680 section on a case-by-case basis. All proposed new aquaculture uses or developments shall submit a
- 4681 joint aquatic resources permit application (JARPA) and SEPA checklist to enable assessment by the
- 4682 county. Activities shall not be considered to substantially interfere with normal public use of surface
- 4683 waters, unless:
- 4684 (i) They occur in, adjacent to or in the immediate vicinity of public tidelands; and
- 4685 (ii) They involve the use of floating ropes, markers, barges, floats, or similar apparatus on a
- 4686 regular basis and in a manner that substantially obstructs public access, or passage from public
- 4687 facilities such as parks or boat ramps; or they exclude the public from more than one acre of
- 4688 surface water on an ongoing or permanent basis.
- 4689 (e) Aquaculture activities not listed in subsection (4)(c) of this section and listed activities that fail to
- 4690 meet any of the criteria in subsection (1)(b) of this section shall require a shoreline substantial
- 4691 development permit (SDP) or conditional use permit (CUP), and shall be subject to all of the
- 4692 following regulations:
- 4693 (i) Subtidal, intertidal, floating, and upland structures and apparatus associated with
- 4694 aquaculture use shall be located, designed and maintained to avoid adverse effects on
- 4695 ecological functions and processes.
- 4696 (ii) The county shall consider the location of proposed aquaculture facilities/farms to prevent
- 4697 adverse cumulative effects on ecological functions and processes and adjoining land uses. The
- 4698 county shall determine what constitutes acceptable placement and concentration of
- 4699 commercial aquaculture in consultation with state and federal agencies and tribes based on the
- 4700 specific characteristics of the waterbody, reach, drift cell, and uplands in the vicinity of the
- 4701 farm/facility.
- 4702 (iii) Upland structures accessory to aquaculture use that do not require a waterside location or
- 4703 have a functional relationship to the water shall be located landward of shoreline buffers
- 4704 required by this program.
- 4705 (iv) Overwater work shelters and sleeping quarters accessory to aquaculture use/development
- 4706 shall be prohibited.
- 4707 (v) Floating/hanging aquaculture structures and associated equipment ~~shall not exceed,~~
- 4708 including any items stored upon such structures such as materials, garbage, tools, or apparatus,
- 4709 shall be designed and maintained to minimize visual impacts. The maximum height for items
- 4710 stored upon such structures shall be limited to three feet, as measured from the surface of the
- 4711 raft or the dock, unless shoreline conditions serve to minimize visual impacts (for example: high

Commented [LG202]: Staff Docket/Code Interpretations

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4712 bank environments, shorelines without residential development), but in no case shall the
4713 height exceed the lesser of six feet from the surface of the raft or the dock or 10 feet in height
4714 above the water's surface. The administrator may approve hoists and similar structures greater
4715 than 10 feet in height when there is a clear demonstration of need. The ~~10-foot~~ height
4716 ~~limit~~limits shall not apply to vessels or to materials and apparatus removed from the site on a
4717 daily basis. Materials that are not necessary for the immediate and regular operation of the
4718 facility shall not be stored waterward of the OHWM.

4719 (vi) Floating/hanging aquaculture facilities and associated equipment, except navigation aids,
4720 shall use colors and materials that blend into the surrounding environment in order to
4721 minimize visual impacts.

4722 (vii) Aquaculture use and development shall not ~~materially interfere~~significantly conflict with
4723 navigation, or access to adjacent waterfront properties, public recreation areas, ~~or~~ tribal
4724 harvest areas, or other water-dependent uses. Mitigation shall be provided to offset such
4725 impacts where there is high probability that adverse impact would occur. This provision shall
4726 not be interpreted to mean that an operator is required to provide access across owned or
4727 leased tidelands at low tide for adjacent upland owners.

4728 (viii) Aquaculture uses and developments, except in-water finfish aquaculture, shall be located
4729 at least 600 feet from any National Wildlife Refuge, seal and sea lion haulouts, seabird nesting
4730 colonies, or other areas identified as critical feeding or migration areas for birds and mammals.
4731 In-water finfish facilities, including net pens, shall be located 1,500 feet or more from such
4732 areas. The county may approve lesser distances based upon written documentation that U.S.
4733 Fish and Wildlife Service (USFWS), Washington Department of Fish and Wildlife (WDFW) and
4734 affected tribes support the proposed location.

4735 (ix) Aquaculture use and development shall be sited so that shading and other adverse impacts
4736 to existing red/brown macro algae (kelp) and eelgrass beds are avoided.

4737 (x) Aquaculture uses and developments that require attaching structures to the bed or
4738 bottomlands shall use anchors, such as helical anchors, that minimize disturbance to substrate.

4739 (xi) Where aquaculture use and development are authorized to use public facilities, such as
4740 boat launches or docks, the county shall reserve the right to require the applicant/proponent to
4741 pay a portion of the maintenance costs and any required improvements commensurate with
4742 the applicant's/proponent's use.

4743 ~~(xii)(xii) In order to avoid or limit the ecological and aesthetic impacts from p~~Predator control
4744 measures associated with aquaculture siting and operations, the must comply with the
4745 following shall apply:

4746 (A) Aquaculture use and development shall employ nonlethal, nonharmful measures to
4747 control birds and mammals. Control methods shall comply with existing federal and state
4748 regulations.

Commented [AS203]: Response to Comments 1-7:
Language incorporated from Kitsap County Code per PC
direction on 9/1/21.

Commented [LG204]: PC move to move SMP forward
with amendments, 10/18/23. Edit made per Taylor Shellfish
comment letter and consistency with WAC 173-26-
241(3)(b)(i)(C)

Commented [AS205]: Response to Comments 1-7:
Language incorporated from Kitsap County Code per PC
direction on 9/1/21.

Commented [LG206]: PC motion to move SMP forward
with amendments 10/18/23. Changes to B and the original E
and F made in August in response to the Jamestown
S'Klallam Tribe letter were accidentally omitted/mis-
transferred from the hearing draft version. Additional edits
made in response to Taylor Shellfish comments to further
remove language that highlights potential effects.

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- 4749 ~~(E) Predator exclusion devices shall be firmly attached or secured so as not to become~~
4750 ~~dislodged. Predator exclusion devices that become dislodged, such as rubber bands, small~~
4751 ~~nets, and area netting, shall be promptly recovered and/or disposed of to minimize the risk~~
4752 ~~of harm to wildlife and, if not, may be subject to public nuisance regulations.~~
- 4753 ~~(C) Predator exclusion devices shall should blend with the natural environment, unless they~~
4754 ~~are required by other agencies or the administrator to be more visible to provide other~~
4755 ~~benefits, such as to support public safety, navigation, and necessary operation and~~
4756 ~~maintenance.~~
- 4757 ~~(D) Aquaculture operators shall routinely inspect and maintain predator exclusion devices.~~
- 4758 ~~(E) Predator exclusion devices such as rubber bands, small nets, and area netting can be~~
4759 ~~dislodged and pose a hazard to birds, marine mammals, and other wildlife and domestic~~
4760 ~~animals. Once dislodged, such devices shall be promptly recovered and/or disposed of to~~
4761 ~~minimize the risk of harm to wildlife and, if not, may be subject to public nuisance~~
4762 ~~regulations.~~
- 4763 ~~(F) Predator exclusion devices shall be removed as soon as they are no longer needed to~~
4764 ~~perform protective functions.~~
- 4765 (xiii) Aquaculture use and development shall avoid use of chemicals, fertilizers and genetically
4766 modified organisms except when allowed by state and federal law.
- 4767 (xiv) Non-navigational directional lighting associated with aquaculture use and development
4768 shall be used wherever possible and area lighting shall be avoided and minimized to the extent
4769 necessary to conduct safe operations. Non-navigational lighting shall not adversely affect vessel
4770 traffic.
- 4771 (xv) Aquaculture waste materials and by-products shall be disposed of in a manner that will
4772 ensure strict compliance with all applicable governmental waste disposal standards, including
4773 but not limited to Section 401 of the Federal Clean Water Act, Section 401, and the Washington
4774 State Water Pollution Control Act (Chapter 90.48 RCW).
- 4775 ~~(f) Prior to approving a permit for floating/hanging aquaculture use and development or bottom-~~
4776 ~~culture involving structures, the county may require a visual analysis prepared by the~~
4777 ~~applicant/proponent describing effects on nearby uses and aesthetic qualities of the shoreline. The~~
4778 ~~analysis shall demonstrate that adverse impacts on the character of those areas are effectively~~
4779 ~~mitigated.~~
- 4780 ~~(xvi) Equipment, structures and materials shall not be discarded in the water and shall not be~~
4781 ~~abandoned in the upland. Aquaculture structures and equipment used on tidelands below~~
4782 ~~ordinary high water shall be of sound construction, with the owners' identifying marks where~~
4783 ~~feasible, and shall be so maintained. Abandoned or unsafe structures and/or equipment shall~~
4784 ~~be promptly removed or repaired by the owner.~~

Commented [LG207]: PC motion to move SMP forward with amendments 10/18/23. This text was accidentally omitted from the hearing draft.

Commented [AS208]: Edits made per JST comment letter (7.21.23). Suggested edit to incorporate F into E was not made as E is about dislodged devices. F is about all devices.

Commented [AS209]: Edits made per Ecology recommended change 28 (9/30/22)

Commented [LG210]: PC motion to move SMP forward with amendments 10/18/23. Text added in response to comment #8

Commented [AS211]: Edits made per Ecology recommended change 28 (9/30/22)

Commented [AS212]: Response to Comments 1-7: Language incorporated from Kitsap County Code per PC direction on 9/1/21. First sentence relocated from 5(t) below as it is not exclusive to finfish.

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- 4785 (xvii) No garbage, wastes or debris shall be allowed to accumulate at the site of any
4786 aquaculture operation, except for in proper receptacles.
- 4787 (xviii) All floating and submerged aquaculture structures and facilities in navigable waters shall
4788 be marked in accordance with U.S. Coast Guard requirements.
- 4789 (xixvii) Aquacultural facilities shall be designed and located so as not to spread disease to
4790 native aquatic life, establish new nonnative species which cause significant ecological impacts,
4791 or significantly impact the aesthetic qualities of the shoreline.
- 4792 (f) Jefferson County will notify affected tribes of new shoreline permit applications utilizing the
4793 applicable notification process in Chapter 18.40 JCC (Permit Application and Review
4794 Procedures/SEPA Implementation).
- 4795 (g) No processing of any aquaculture product, except for the sorting and culling of the cultured
4796 organism and the washing or removal of surface materials or organisms after harvest, shall occur in
4797 or over the water unless specifically approved by permit. All other processing and related facilities
4798 shall be located on land and shall be subject to the regulations for commercial uses (JCC 18.25.450)
4799 and industrial uses (JCC 18.25.470), in addition to the provisions of this section.
- 4800 (5) Regulations – Finfish.
- 4801 (a) The culture of finfish, including net pens as defined in Article II of this chapter, may be allowed
4802 with a discretionary conditional use approval permit (C(d)) subject to the policies and regulations of
4803 this program. All finfish aquaculture (in-water and upland) shall meet, at a minimum, state-
4804 approved administrative guidelines for the management of net pen cultures. In the event there is a
4805 conflict in requirements, the more restrictive requirement shall prevail.
- 4806 (b) All in addition to the application requirements for all aquaculture listed in JCC 18.25.440(7)
4807 below, all in-water finfish aquaculture (in-water and upland) proposals for facilities/operations
4808 shall:
- 4809 (i) Provide the county, at the applicant's/operator's expense, a site characterization survey,
4810 baseline surveys, and annual monitoring as described in the 1986 Interim Guidelines, or
4811 subsequent documents approved by the state. The applicant/operator shall also provide the
4812 county with copies of all survey and monitoring reports submitted to Washington Departments
4813 of Ecology, Fish and Wildlife, and Natural Resources.
- 4814 (ii) Submit an operations plan that includes projections for:
- 4815 (A) Improvements at the site (e.g., pens, booms, etc.) and their relationship to the natural
4816 features (e.g., bathymetry, shorelines, etc.);
- 4817 (B) Number, size and configuration of pens/structures;
- 4818 (C) Schedule of development and maintenance;
- 4819 (D) Species cultured;

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The Jefferson County Shoreline Master Program is current through Ordinance 07-1216-13, passed December 16, 2013; the SMP
became effective February 21, 2014. **Shading in Comment Flags:** 1) **Yellow** in response to public comments within Planning
Commission Recommendations October 2021. 2) **Pink** changes in response to Ecology initial review and Planning Commission
discussions in 2023. 3) **Blue** based on Planning Commission motions.

Commented [AS213]: Response to Comments 1-7: Language incorporated from Kitsap County Code per PC direction on 9/1/21.

Commented [AS214]: Response to Comments 1-7: Language incorporated from Kitsap County Code per PC direction on 9/1/21.

Commented [LG215R214]: PC motion to move SMP forward with amendments 10/18/23. Text subsequently removed in response to Taylor Shellfish comment 3-11. This is consistent with guidance in Ecology's handbook that indicates "Local governments are encouraged to avoid including SMP provisions that duplicate state or federal requirements."

Commented [LG216]: PC motion to move SMP forward with amendments 10/18/23. Revised per Taylor Shellfish comment 3-12 to be more consistent with language in WAC 173-26-241(3)(b)(i)(C)

Commented [LG217]: Staff Docket/Code Interpretations

Commented [AS218]: Relocated from the commercial geoduck section; this is the more appropriate location for these general provisions. Language from WAC 173-26-241(3)(b)(C)

Commented [AS219]: Response to Comments 1-7: Language incorporated from Kitsap County Code per PC direction on 9/1/21.

Commented [AS220]: The first sentence was deleted per Ecology required change 10 (9/30/22). "The rights of treaty tribes to aquatic resources within their usual and accustomed areas are addressed through direct coordination between the applicant/proponent and the affected tribe(s)."

Commented [AS221]: Response to Comments 1-7: Language incorporated from Kitsap County Code per PC direction on 9/1/21.

Planning Commission Recommendations

- 4820 ~~(E) Fish size at harvest;~~
- 4821 ~~(F) Annual production;~~
- 4822 ~~(G) Pounds of fish on hand throughout the year;~~
- 4823 ~~(H) Average and maximum stocking density;~~
- 4824 ~~(I) Source of eggs, juveniles, and broodstock;~~
- 4825 ~~(J) Type of feed used;~~
- 4826 ~~(K) Feeding method;~~
- 4827 ~~(L) Chemical use (e.g., anti-fouling, antibiotics, etc.); and~~
- 4828 ~~(M) Predator control measures.~~
- 4829 ~~(ii)~~ (ii) Provide county with documentation of adequate property damage and personal injury
4830 commercial insurance coverage as required by Washington Department of Natural Resources
4831 and other agencies.
- 4832 ~~(iv) Where the county does not have expertise to analyze the merits of a report provided by an~~
4833 ~~applicant, the applicant may be required to pay for third-party peer review of said report.~~
- 4834 (c) Bottom Sediments and Benthos.
- 4835 (i) The depth of water below the bottom of any in-water finfish aquaculture facility shall meet
4836 the minimum required by the 1986 Interim Guidelines (i.e., 20 to 60 feet at MLLW), as based on
4837 facility production capacity (Class I, II or III) and the mean current velocity at the site, measured
4838 as noted in the Guidelines or by more current data/methodology.
- 4839 (ii) In-water finfish aquaculture operations shall be prohibited where mean current velocity is
4840 less than 0.1 knots (five cm/sec).
- 4841 (iii) The pen configuration (e.g., parallel rows, compact blocks of square enclosures, or clusters
4842 of various sized round enclosures, whether oriented in line with or perpendicular to the
4843 prevailing current direction) of any in-water finfish aquaculture facility shall be designed and
4844 maintained to minimize the depth and lateral extent of solids accumulation.
- 4845 (iv) The use of unpelletized wet feed shall be prohibited to minimize undigested feed reaching
4846 the benthos or attracting scavengers in the water column.
- 4847 (v) Anchoring or mooring systems shall utilize adequately sized helical devices or other
4848 methods to minimize disturbance to the benthos.
- 4849 (d) Water Quality.

Commented [AS222]: Response to Comments 1-7: As needed, incorporated into (7) below. Deleted this section as now redundant.

Commented [AS223]: Response to Comments 1-7: Relocated to Application Requirements section (7) that is applicable to all aquaculture.

4850 (i) All in-water finfish aquaculture facilities shall be designed, located and operated to avoid
4851 adverse impacts to water temperature, dissolved oxygen and nutrient levels, and other water
4852 quality parameters. Facilities must comply with National Pollutant Discharge Elimination
4853 ~~Standards~~System (NPDES) requirements.

Commented [LG224]: Typographical Correction

4854 (ii) All in-water finfish aquaculture facilities shall monitor water quality and net cleaning
4855 activities to comply with state requirements (including WAC 173-201A-210), especially during
4856 periods of naturally high water turbidity. Additional net cleaning activities shall be performed,
4857 as needed, to ensure state water quality standards are met.

4858 (e) Phytoplankton.

4859 (i) In-water finfish aquaculture facility production capacity shall be limited in nutrient sensitive
4860 areas to protect water quality and shall not exceed 1,000,000 pounds annual production per
4861 square nautical mile. The following shall apply for specific geographic areas:

4862 (A) In the main basin of Puget Sound (area south of the sill at Admiralty Inlet extending to
4863 the line between Tala Point and Foulweather Bluff, including Port Townsend Bay, Kilisut
4864 Harbor, and Oak Bay, and extending to the county's boundary midway to Whidbey Island),
4865 annual production shall be limited by the site characteristics in compliance with this
4866 program.

4867 (ii) Applicants shall demonstrate through field and modeling studies that the proposed fish
4868 farms will not adversely affect existing biota.

4869 (f) Chemicals.

4870 (i) Only FDA-approved chemicals shall be allowed on a case-by-case basis for anti-fouling,
4871 predator control and other purposes. The use of tributyltin (TBT) is prohibited and all chemical
4872 use shall be reported to the state as required.

4873 (ii) When necessary, vaccination is preferred over the use of antibiotics. Only FDA-approved
4874 antibiotics shall be used and such use shall be reported to the state as required. Operator shall
4875 take all necessary precautions to ensure that nearby sediments and shellfish do not accumulate
4876 significant amounts of antibiotics.

4877 (g) Food Fish and Shellfish.

4878 (i) All in-water finfish aquaculture facilities shall be located to avoid adverse impacts to habitats
4879 of special significance (as defined in Article II of this chapter) and populations of food fish and
4880 shellfish as follows, as determined on a case-by-case basis:

4881 (A) When adjacent to any wildlife refuge, sanctuary, aquatic reserve or similar area intended
4882 to protect threatened or endangered species, locate a minimum of 300 feet in all directions
4883 from such protected areas;

4884 (B) When water depth is less than 75 feet, locate at least 300 feet down-current and 150
4885 feet in all other directions from significant habitats;

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- 4886 (C) When water depth is greater than 75 feet, locate at least 150 feet from significant
4887 habitat.
- 4888 (ii) The county shall designate protective buffer zones around habitats of special significance in
4889 accordance with marine area spatial planning efforts led by the state, when such guidance and
4890 methodologies are available.
- 4891 (h) Importation of New Fish Species. All in-water finfish aquaculture facilities shall comply with
4892 existing state and federal regulations to ensure importation of new and/or nonnative species does
4893 not adversely affect existing and/or native species.
- 4894 (i) Genetic Issues.
- 4895 (i) In compliance with state and federal requirements, in-water finfish aquaculture facilities that
4896 propose to culture species native to local waters should use stocks with the greatest genetic
4897 similarity to local stocks.
- 4898 (ii) When there is increased risk of interbreeding or establishment of naturalized populations of
4899 the cultured species that would be in conflict with native stocks, only sterile or mono-sexual
4900 fish shall be allowed.
- 4901 (iii) All in-water finfish aquaculture facilities shall locate a minimum distance from river mouths
4902 where wild fish could be most vulnerable to genetic degradation, as determined on a case-by-
4903 case basis or by state guidance.
- 4904 (j) Escapement and Disease.
- 4905 (i) All in-water finfish aquaculture facilities shall comply with state and federal requirements to
4906 control pests, parasites, diseases, viruses and pathogens and to prevent escapement including,
4907 but not limited to, those for certified eggs, approved import/transport and live fish transfer
4908 protocols, escapement prevention, reporting and recapture plans, and disease inspection and
4909 control per RCW 77.15.290, Chapter 77.115 RCW, Chapters 220-76 and 220-77 WAC and other
4910 requirements as appropriate.
- 4911 (ii) The use of regional broodstock is preferred.
- 4912 (iii) As consistent with the above mentioned Washington statutes and administrative rules, and
4913 other applicable authorities, all in-water finfish aquaculture facility operators shall provide the
4914 county with a disease response plan to detail specific actions and timelines to follow when an
4915 outbreak is detected. The plan shall address transport permit denial, quarantine, confiscation,
4916 removal, and other possible scenarios, identify what agencies will be notified or involved, what
4917 alternate facilities may be used, a public information/outreach strategy and other appropriate
4918 information.
- 4919 (k) Marine Mammals and Birds.

4920 ~~(i)~~ All in-water finfish aquaculture facilities shall locate a minimum of 1,500 feet from habitats of
4921 special significance for marine mammals and seabirds.

4922 ~~(ii) Only nonlethal techniques (e.g., anti-predator netting) shall be allowed to prevent predation~~
4923 ~~by birds and/or mammals on the cultured stocks.~~

4924 (l) Visual Quality. All in-water finfish aquaculture facilities shall conduct a visual impact assessment
4925 to evaluate and document the following siting and design variables in order to minimize visual
4926 impacts to adjacent and surrounding uses:

4927 (i) Locate offshore from low bank shorelines rather than high bluff areas where angle of
4928 viewing becomes more perpendicular to the plane of water making the facility more visually
4929 evident.

4930 (ii) Locate offshore a minimum of 1,500 feet from ordinary high water mark, or a minimum of
4931 2,000 feet when higher density residential development (rural residential 1:5, urban growth
4932 area, master planned resort, and preexisting platted subdivisions with density
4933 equivalent/greater to such) is present along the adjacent upland. The county may require a
4934 greater distance as determined by a visual impact assessment.

4935 (iii) Facilities shall be designed to maximize a horizontal profile to repeat the plane of the water
4936 surface rather than project vertically above the water surface. Vertical height shall be the
4937 minimum feasible, not to exceed 10 feet from the surface of the water.

4938 (iv) Facilities shall be designed so that the overall size and surface area coverage does not
4939 exceed 10 percent of the normal cone of vision, dependent on the foreshortening created by
4940 the offshore distance and the average observation height.

4941 (v) Facilities shall be designed to borrow from the form of structures and materials already in
4942 the environment (e.g., pilings, docks, marinas) and to blend with the predominate color
4943 schemes present (i.e., blue, green, gray, neutral earth tones). The colors of white and black
4944 shall be minimized as they have highly variable appearance in response to lighting conditions.
4945 Bright colors such as red, yellow, and orange shall be avoided, unless required for safety
4946 purposes. The use of a variety of materials or colors shall be limited and ordered.

4947 (vi) Facilities proposed to locate in the vicinity of existing in-water finfish aquaculture facilities
4948 shall evaluate the aggregate impacts and cumulative effects of multiple operations in the same
4949 area.

4950 (vii) Facilities shall be designed and located so that the surface area of individual operations
4951 does not exceed two acres of surface coverage and no more than one operation per square
4952 nautical mile.

4953 (viii) Land based access for parking, staging, launching, and storage associated with any in-
4954 water finfish aquaculture facilities shall be evaluated for visual impacts and conflicts with
4955 adjacent upland uses.

4956 (m) Navigation, Military Operations and Commercial Fishing.

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Commented [AS225]: Response to Comments 1-
7: Predator control now addressed in detail in (4)(e)(xix)
using Kitsap Co language (per PC 9/1/21)

- 4957 (i) When appropriate, in-water finfish aquaculture facilities shall be located close to shore and
4958 near existing navigational impediments (i.e., marinas, docks).
- 4959 (ii) All in-water finfish aquaculture facilities shall be designed, located and operated to avoid
4960 conflict with military operations.
- 4961 (iii) The county shall notify, as appropriate, marinas, ports, recreational and commercial
4962 boating/fishing organizations, and local tribes about comment opportunities during the permit
4963 review process, especially regarding proposed location of fish farm and related navigational
4964 aids.
- 4965 (n) Human Health. All in-water finfish aquaculture facilities shall be designed, located and operated
4966 to:
- 4967 (i) Ensure adequate water quality compatible with good husbandry practices;
- 4968 (ii) Report any known bacteriological characteristics of fish food used;
- 4969 (iii) Ensure proper storage of fish food to avoid alteration or degradation of feed quality;
- 4970 (iv) Regularly monitor and report presence of parasites in farmed fish; and
- 4971 (v) Comply with federal, state and local food safety requirements including, but not limited to,
4972 source identification and country of origin labeling, and hazard analysis and critical control
4973 points plan.
- 4974 (o) Recreation.
- 4975 (i) All in-water finfish aquaculture facilities shall ensure compliance with state and federal
4976 requirements, especially when location is proposed near underwater park facilities.
- 4977 (ii) All in-water finfish aquaculture facilities shall be located a minimum of 1,000 feet from any
4978 recreational shellfish beach, public tidelands, public access facilities (e.g., docks or boat ramps)
4979 or other areas of extensive or established recreational use.
- 4980 (iii) In-water finfish aquaculture operators shall inform the Notice to Mariners and other
4981 appropriate entities for nautical chart revisions and notify other sources that inform
4982 recreational uses (e.g., boaters, divers, shellfish harvesters).
- 4983 (p) Noise.
- 4984 (i) All in-water finfish aquaculture facilities shall be designed, located and operated to:
- 4985 (A) Ensure compliance with state and federal noise level limits;
- 4986 (B) Require mufflers and enclosures on all motorized fish farm equipment;
- 4987 (C) When appropriate, prefer electric motors over internal combustion engines.

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- 4988 (ii) The county may require an acoustical study, conducted at the applicant's/operator's
4989 expense, to ensure any audible impacts are identified and adequately addressed.
- 4990 (q) Odor. All in-water finfish aquaculture facilities shall be designed, located and operated to:
- 4991 (i) Ensure compliance with state limits regarding nuisances and waste disposal;
- 4992 (ii) Follow best management practices including, but not limited to:
- 4993 (A) Daily removal and disposal of dead fish and other waste;
- 4994 (B) Regular cleaning of nets and apparatus;
- 4995 (C) Storage of food in closed containers;
- 4996 (D) Walkway design and use allows spilled food to fall into the water.
- 4997 (iii) Maximize the distance between the facility and nearby residential use/development,
4998 downwind location preferred, to minimize impacts resulting from foul odors.
- 4999 (r) Lighting and Glare.
- 5000 (i) Facilities shall comply with USCG requirements for operational and navigational lighting. The
5001 height of the light source above the water surface shall be the minimum necessary, not to
5002 exceed 80 inches, unless otherwise specified by state or federal requirements.
- 5003 (ii) Facilities shall be designed so that any glare or shadows caused by the solar orientation are
5004 minimized.
- 5005 (iii) Facilities shall utilize materials that minimize glare caused by sunlight or artificial lighting.
- 5006 (s) Upland Shoreline Use. All in-water finfish aquaculture facilities shall be designed, located and
5007 operated to minimize incompatible uses and degradation of upland area.
- 5008 (t) ~~Local Services.~~
- 5009 ~~(t) Waste Management.~~ All in-water finfish aquaculture facilities shall be designed, located and
5010 operated to:
- 5011 (A) Provide estimates of high, average, and low volumes of waste to be produced, including
5012 catastrophic events;
- 5013 (B) Provide a waste management plan to include the method and frequency of collection,
5014 storage and disposal; and
- 5015 (C) Ensure compliance with local, state, and federal waste disposal requirements.
- 5016 (6) Regulations – Geoduck.
- 5017 (a) Conditional use permits.

Commented [AS226]: Response to Comments 1-7: Relocated based on content.

Commented [AS227]: Response to Comments 1-7: Relocated to general regulations in (4) above.

Commented [LG228]: 2011 b Periodic Checklist

Commented [GU229]: AJS: Requirements for CUP for new commercial geoduck aquaculture added per WAC 173-26-241(3)(b)(iv)(A)

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5018 (i) CUPs are required for new commercial geoduck aquaculture including conversion of existing
5019 nongeoduck aquaculture to commercial geoduck aquaculture and expansions of existing
5020 commercial geoduck aquaculture.

5021 (ii) Equipment, structures and materials. All subsequent cycles of authorized planting and
5022 harvest shall not be discarded in the require a new conditional use permit.

5023 (iii) A single conditional use permit may be submitted for multiple sites within an inlet, bay or
5024 other defined feature, provided the sites are all under control of the same applicant and within
5025 the same shoreline permitting jurisdiction.

5026 (iv) The CUP issued by the county shall include monitoring and reporting requirements
5027 necessary to verify that geoduck aquaculture operations are in compliance with conditions set
5028 forth in the CUP.

5029 (v) The county shall review the considerations listed in WAC 173-26-241(3)(b)(iv)(L)(I)-(XII)
5030 during development of permit conditions necessary to avoid or limit impacts from geoduck
5031 aquaculture siting and operations and to achieve no net loss of ecological functions. The listed
5032 considerations are regarding impervious materials, motorized vehicles, time periods for limited
5033 activities, site alterations, property corner markers, mitigation measures, predator exclusion
5034 devices, turbidity minimization, use of barges/vessels, navigation rights, housekeeping
5035 practices, and public access.

5036 (b) Siting and design. In addition to the siting provisions of subsection (4), commercial geoduck
5037 aquaculture shall only be allowed where sediments, topography, and land and water and shall not
5038 be abandoned in the upland access support geoduck aquaculture operations without significant
5039 clearing or grading.

5040 (6c) Commercial geoduck aquaculture workers shall be allowed to accomplish on-site work during
5041 low tides, which may occur at night or on weekends. Where such activities are necessary, noise and
5042 light impacts to nearby residents shall be mitigated to the greatest extent practicable.

5043 (7) Regulations – Application Requirements.

5044 In addition to the minimum application requirements in JCC 18.25.630, aquaculture applications shall
5045 provide the information listed in subsections (a) Prior to issuing through (de), as outlined in Table
5046 18.25.440. Applicants may omit information from Table 18.22.400 that is demonstrably not applicable
5047 to a specific aquaculture proposal. Consistent with JCC 18.25.630, unless waived by the administrator
5048 may request additional pertinent information when an applicant has demonstrated that the requested
5049 information is not applicable to a permit for any proposed specific proposal or type of aquaculture use or
5050 development. To minimize redundancy, the county may require copies of shall accept supporting permit
5051 applications and/or studies required by state and federal agencies to ensure that fulfill one or more of
5052 the requirements in subsections (a) through (de).

Commented [LG230]: Responses to Comment1: 1-7

Commented [AS231]: Edits made per Ecology required change 10 and recommended change 29 (9/30/22)

Commented [AS232]: Edits made per Ecology recommended change 29. (9/30/22)

Commented [AS233]: Edits made per Ecology recommended change 29 (9/30/22)

Commented [AS234]: Response to Comments 1-7: Added per WAC 173-26-241(3)(b)(iv)(H)

Commented [GU235]: AJS: Per Ecology recommended change 29, this phrase removed ("if not already provided to the county as part of submitted local, state or federal permit applications and supporting studies") and replaced with "To minimize redundancy...(a) through (d)" which was relocated from previously proposed language below. (9/30/22)

Commented [AS236R235]: Further edited based on the JST comment provided in a letter dated 7.31.23 and to clean up the language regarding the waiver to be more consistent with other waiver provisions in the code.

Commented [LG237R235]: PC motion to move SMP forward with amendments 10/18/23. Per additional comments from Tribe, Taylor Shellfish, and J&G Gunstone Clams, further amended the language to remove the waiver route.

Commented [LG238]: PC motion to move SMP forward with amendments 10/18/23. A table identifying which application requirements apply to different aquaculture types has been added per Tribe comment, and is also supported by Taylor Shellfish, J&G Gunstone Clams, and Pacific Coast Shellfish Growers Association.

5053 **Table 18.25.440 – Applications Requirements by Aquaculture Type**

Application Requirement	Finfish	Geoduck	Other Shellfish
(a) Site Plan requirements:			
<u>Perimeter of proposed aquaculture operation area</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Existing bathymetry depths based on MLLW</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Adjacent upland use, vegetation, presence of structures, docks, bulkheads and other modifications</u>	<u>X</u>		
<u>Areas where substrate modification will take place or where structures or materials will be constructed or installed</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Numbers, types and dimensions of structures, apparatus, equipment, or other improvements</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Access provisions for marine or vehicle traffic, processing structures or facilities</u>	<u>X</u>		<u>X</u>
<u>Location of storage or processing structures or facilities</u>	<u>X</u>		
(b) A baseline ecological survey, including a description of the following, and an assessment of any direct, indirect and cumulative impacts on the items below:			
<u>Existing and seasonal conditions</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Water quality</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Tidal variations</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Prevailing storm wind conditions</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Current flows at each tidal cycle</u>	<u>X</u>		
<u>Flushing rates</u>	<u>X</u>		
<u>Littoral drift</u>	<u>X</u>		
<u>Sediment dispersal, including areas of differing substrate composition</u>	<u>X</u>		
<u>Areas of aquatic, intertidal and upland vegetation complexes⁽¹⁾</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Aquatic and benthic organisms present, including forage fish, and spawning and other lifecycle use of, or adjacent to, the site</u>	<u>X</u>	<u>X</u>	<u>X</u>
(c) Operational Plan:			
<u>Species and quantity to be cultured or reared on an annual basis</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Anticipated size of species at harvest</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Source of eggs, juveniles, broodstock, or other aquatic product</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Narrative of implementation methods, including, as applicable, average and maximum stocking density, planting and harvest schedule/cycles, phasing options, and time of day, and potential plans for future expansion or change in species grown or harvest practices</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Schedule of development and maintenance</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Predator control methods include exclusion devices</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Anticipated use of any feed, herbicide, chemicals</u>	<u>X</u>	<u>X</u>	<u>X</u>

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Planning Commission Recommendations

Application Requirement	Finfish	Geoduck	Other Shellfish
Anticipated levels of management practices to minimize the impacts from mooring, parking, noise, light, litter and odor	X	X	X
Methods and location of waste disposal and sanitation facilities	X	X	X
Number of employees/workers necessary, include average and peak	X	X	X
Methods to address pollutant loading	X		
Schedule for water quality monitoring	X		
Description of wastewater management	X		
Measures to address impact to achieve no net loss of ecological functions	X	X	X
(d) Visual Analysis: Required for floating/hanging or upland aquaculture use and development, or bottom culture involving structures or material installation			
Photo analysis and/or simulation of the proposed activity describing effects on uses and aesthetic qualities of the shoreline within a quarter mile during a range of tides from mean high to mean low, including what views in the vicinity would be altered or obstructed, such as public access views and views from substantial numbers of private residences, and shall identify proposed measures to reduce impacts. The analysis shall demonstrate that adverse impacts on the character of those areas are effectively mitigated.	X	X	X*
(e) Other applications and reports, when applicable or requested, to ensure compliance with permit conditions, which may include:			
Proof of an accepted application for aquatic lands lease from DNR, including a waiver of preference rights to access for navigation from the upland property owner, if applicable or proof of lease or ownership if bedlands are privately held	X	X	X
Applicable DOH licenses certificates, or other approvals	X	X	X
WDFW aquatic farm registration aquatic, fish stocking permit, and/or fish transport permit	X	X	X
WDFW Hydraulic Project Approval and/or Shellfish Transfer Permit	X	X	X
Proof of an Ecology NPDES permit	X		
Water quality studies	X		
Reports on solids accumulation and biological effects	X		
Reports on growth, productivity, and chemical contamination of shoreline plants and animals within or adjacent to the site	X		
Noise level assessment, including mitigation measures to minimize impacts			
Monitoring and adaptive management plan for introduction of non-native aquatic species not previously cultivated in Washington State			X

Commented [LG239]: PC Motion 11/23/23: Maintain approach in 11/1/23 draft with aesthetics analysis as a submittal requirement with the allowance that: Applicants may omit information from Table 18.22.400 that is demonstrably not applicable to a specific aquaculture proposal. An aesthetics analysis would be an important tool to determine first if there are conflicts, and second if and how they could be reconciled.

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Planning Commission Recommendations

Application Requirement	Finfish	Geoduck	Other Shellfish
Proof of application for any other permits required by the U.S. Army Corps of Engineers, Department of Health, WDFW, Ecology, or other agency, including any required federal consultation under Section 7 of the Endangered Species Act (16 U.S.C. 1531 et seq., ESA)	X	X	X

- 5054 ¹ An aquatic vegetation habitat survey must be conducted for projects that include in-water operations
5055 or facilities according to the most current WDFW and U.S. Army Corps of Engineers eelgrass and
5056 macroalgae survey guidelines.
- 5057 ~~(a) A site plan, including:~~
- 5058 ~~(i) The perimeter of the proposed aquaculture operation area;~~
- 5059 ~~(ii) Existing bathymetry depths based on mean lower low water (MLLW datum);~~
- 5060 ~~(iii) Adjacent upland use, vegetation, presence of structures, docks, bulkheads and other~~
5061 ~~modifications;~~
- 5062 ~~(iv) Areas where specific substrate modification will take place or where structures or materials~~
5063 ~~will be constructed or installed;~~
- 5064 ~~(v) Number, types and dimensions of structures, apparatus, equipment, or other~~
5065 ~~improvements, including food and equipment storage areas.~~
- 5066 ~~(vi) Access provisions for marine or vehicle traffic, processing structures or facilities; and~~
- 5067 ~~(vii) Location of this program are met storage or processing structures or facilities.~~
- 5068 ~~(b) A baseline ecological survey, including, but not limited a description of existing and seasonal~~
5069 ~~conditions, and assessment of direct, indirect, and cumulative impacts on each of the survey items.~~
5070 ~~Where applicable to the subject proposal, the following information shall be included in the survey:~~
- 5071 ~~(i) Water quality;~~
- 5072 ~~(ii) Tidal variations;~~
- 5073 ~~(iii) Prevailing storm wind conditions;~~
- 5074 ~~(iv) Current flows at each tidal cycle;~~
- 5075 ~~(v) Flushing rates;~~
- 5076 ~~(vi) Littoral drift;~~
- 5077 ~~(vii) Sediment dispersal, including areas of differing substrate composition;~~

Commented [AS240]: Amended: Struck as unnecessary per call with County 8.25.23

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- 5078 ~~(viii) Areas of aquatic, intertidal and upland vegetation complexes; an aquatic vegetation habitat~~
5079 ~~survey must be conducted according to the most current WDFW and U.S. Army Corps of~~
5080 ~~Engineers eelgrass and macroalgae survey guidelines; and~~
- 5081 ~~(ix) Aquatic and benthic organisms present, including forage fish, and spawning and other~~
5082 ~~lifecycle use of, or adjacent to, the site.~~
- 5083 ~~(c) An operational plan, which includes the following, when applicable:~~
- 5084 ~~(i) Species and quantity to be cultured or reared on an annual basis, including pounds of fish on~~
5085 ~~hand throughout the year;~~
- 5086 ~~(iii) Anticipated size of species at harvest;~~
- 5087 ~~(iii) Source of eggs, juveniles, broodstock or other aquatic product;~~
- 5088 ~~(iv) A narrative description of implementation methods, including average and maximum~~
5089 ~~stocking density, planting and harvest schedule/cycles, phasing options, and time of day, and~~
5090 ~~potential plans for future expansion or change in species grown or harvest practices;~~
- 5091 ~~(ii) Number, types and dimensions of structures, apparatus or equipment.~~
- 5092 ~~(iii)(v) Schedule of development and maintenance;~~
- 5093 ~~(vi) Predator control methods, including types of predator exclusion devices;~~
- 5094 ~~(iv) (vii) Anticipated use and type of any feed, herbicides, antibiotics, vaccines, growth~~
5095 ~~stimulants, antifouling agents, or other chemicals and an assessment of predicted impacts;~~
- 5096 ~~(viii) Anticipated levels of noise, light and management practices that minimize and address~~
5097 ~~impacts from mooring, parking, noise, light, litter, and odor and plans for minimizing their~~
5098 ~~impacts other activities associated with operations;~~
- 5099 ~~(v) Potential (ix) Methods and location of waste disposal and sanitation facilities;~~
- 5100 ~~(x) Number of employees/workers necessary for the project, including average and peak~~
5101 ~~employment;~~
- 5102 ~~(xi) Methods to address pollutant loading, including biological oxygen demand (BOD);~~
- 5103 ~~(xii) A schedule for water quality monitoring, where required;~~
- 5104 ~~(xiii) Description of waste water management, including potential impacts to animals, plants,~~
5105 ~~and water quality due to the discharge of waste water from any upland development; and~~
- 5106 ~~(vi) Proof of application for an aquatic lands lease from the Washington State Department of~~
5107 ~~Natural Resources (DNR) or proof of lease or ownership if bedlands are privately held.~~
- 5108 ~~(vii) Department of Health (DOH) Shellfish Certification Number.~~

Commented [AS241]: Response to Comments 1-7: Consolidated this provision with former (viii) below.

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Planning Commission Recommendations

- 5109 ~~(viii) Department of Fish and Wildlife (DFW) commercial aquatic farm or noncommercial,~~
5110 ~~personal consumption designation.~~
- 5111 ~~(ix) Proof of application for any permits required by the U.S. Army Corps of Engineers,~~
5112 ~~Department of Health, or other agency.~~
- 5113 ~~(x) Proof of application for any state and federal permits/approvals including any required~~
5114 ~~federal consultation under Section 7 of the Endangered Species Act (16 U.S.C. 1531 et seq.,~~
5115 ~~ESA).~~
- 5116 ~~(b)(ix) Measures to address direct, indirect and cumulative impacts to achieve no net loss of~~
5117 ~~ecological functions consistent with the mitigation sequence described in JCC 18.25.270(2)(d).~~
- 5118 ~~(d) Prior to approving a permit for floating/hanging or upland aquaculture use and development or~~
5119 ~~bottom culture involving structures or installation of materials such as tubes or predator exclusion~~
5120 ~~devices, the county may shall require a visual analysis, including photo analysis/simulation of the~~
5121 ~~proposed activity, prepared by the applicant/proponent describing. The analysis shall describe~~
5122 ~~effects on nearby uses and aesthetic qualities of the shoreline, within a quarter mile of the site~~
5123 ~~during a range of tides from mean high to mean low, including what views in the vicinity would be~~
5124 ~~altered or obstructed, such as public access views and views from substantial numbers of private~~
5125 ~~residences, and shall identify proposed measures to reduce impacts. The analysis shall demonstrate~~
5126 ~~that adverse impacts on the character of those areas are effectively mitigated.~~
- 5127 ~~(e) Other applications and reports, when applicable or requested, to ensure compliance with permit~~
5128 ~~conditions, which may include:~~
- 5129 ~~(i) Proof of an accepted application for an aquatic lands lease from the Washington State~~
5130 ~~Department of Natural Resources (DNR), including a waiver of preference rights to access for~~
5131 ~~navigation from the upland property owner, if applicable or proof of lease or ownership if~~
5132 ~~bedlands are privately held.~~
- 5133 ~~(ii) Applicable Department of Health (DOH) licenses, certificates, or other approvals.~~
- 5134 ~~(iii) Department of Fish and Wildlife (WDFW) aquatic farm registration, fish stocking permit,~~
5135 ~~and/or fish transport permit.~~
- 5136 ~~(iv) Proof of an accepted Washington Department of Ecology National Pollutant Discharge~~
5137 ~~Elimination System (NPDES) permit, if applicable.~~
- 5138 ~~(v) Water quality studies;~~
- 5139 ~~(vi) Reports on solids accumulation on the bottom resulting from the permitted activity along~~
5140 ~~with its biological effects;~~
- 5141 ~~(vii) Report on growth, productivity, and chemical contamination of shoreline plants and animals~~
5142 ~~within or adjacent to the proposed site;~~
- 5143 ~~(viii) Noise level assessments, including mitigation measures to minimized impacts; and/or~~

Commented [AS242]: Edits made per Ecology recommended change 28 (9/30/22)

Commented [AS243]: Response to Comments 1-7: Added 'materials' as geoduck tubes are not considered structures. Other changes made to incorporate Kitsap language per PC (9/1/21)

Commented [LG244]: Staff Docket/Code Interpretations

Commented [AS245]: Response to Comments 1-7: Note: relocated this section (d) from end of code.

Commented [LG246]: Response to Comments 1-7: Provide more direction on when and how to do the visual analysis, which helps both applicant and County.

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Planning Commission Recommendations

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- 5144 ~~(ix) Monitoring and adaptive management plan for introduction of non-native aquatic species, if~~
5145 ~~not otherwise prohibited by state law, not previously cultivated in Washington State.~~
- 5146 ~~(x) Proof of application for any other permits required by the U.S. Army Corps of Engineers,~~
5147 ~~Department of Health, WDFW, Ecology, or other agency, including any required federal~~
5148 ~~consultation under Section 7 of the Endangered Species Act (16 U.S.C. 1531 et seq., ESA).~~
- 5149 ~~(f) Where the county does not have expertise to analyze the merits of a report provided by an~~
5150 ~~applicant, the applicant may be required to pay for third party peer review of said report.~~
- 5151 [Ord. 7-13 Exh. A (Art. VIII § 2)]
- 5152 **18.25.450 Commercial use.**
5153 (1) Policies.
- 5154 (a) Commercial development should be located, designed and operated to avoid and minimize
5155 adverse impacts on shoreline ecological functions and processes.
- 5156 (b) Water-related commercial uses should not displace existing water-dependent uses, and water-
5157 enjoyment commercial uses should not displace existing water-related or existing water-dependent
5158 uses, unless there are compelling reasons in the public interest.
- 5159 (c) Restoration of impaired shoreline ecological functions and processes should be encouraged as
5160 part of commercial development.
- 5161 (d) Commercial development should be visually compatible with adjacent noncommercial
5162 properties.
- 5163 (e) Commercial uses located in the shoreline should provide public access in accordance with JCC
5164 18.25.290 (Public access).
- 5165 (2) Uses and Activities Prohibited Outright. Commercial parking as a primary use shall be prohibited
5166 within the shoreline jurisdiction.
- 5167 (3) Shoreline Environment Regulations.
- 5168 (a) Priority Aquatic. Commercial use and development is prohibited, except that small-scale, low
5169 intensity water-dependent commercial recreational use and development may be allowed as a
5170 conditional use subject to the use and development regulations of the abutting upland shoreline
5171 environment designation.
- 5172 (b) Aquatic. Water-dependent and water-related commercial recreational use and development
5173 may be allowed subject to the use and development regulations of the abutting upland shoreline
5174 environment designation. Water-enjoyment and non-water-dependent commercial
5175 use/development is prohibited.

Commented [AS247]: Amended: "non-native" added per JST comment letter (7.21.23)

Commented [AS248R247]: And added reference to state law following discussion w/ Staff.

Commented [AS249]: Edits made to relocate text to location above per Ecology recommended change 28 (9/30/22).

Commented [AS250]: Response to Comments 1-7: Relocated from finfish-specific regulations section above.

Commented [LG251]: PC motion to move SMP forward with amendments 10/18/23.

Deleting this provision altogether - County has a global regulation in JCC 18.25.820 (Third-party review) that addresses this topic. NOTE: This change was made in August 2023, but was accidentally omitted from the hearing draft.

- 5176 (c) Natural. Commercial use and development is prohibited, except that small-scale, low intensity
5177 water-dependent commercial recreational use and development may be allowed through a
5178 conditional use permit.
- 5179 (d) Conservancy. Water-dependent and water-related commercial use and development may be
5180 allowed as a conditional use subject to policies and regulations of this program. Non-water-
5181 dependent and non-water-related commercial uses/developments are prohibited, except that
5182 small-scale, low intensity recreational/tourist development/use may be allowed with a conditional
5183 use permit; provided, that a portion of the use/development is water-dependent or water-related.
- 5184 (e) Shoreline Residential. Water-oriented commercial use and development may be allowed subject
5185 to policies and regulations of this program. Non-water-oriented commercial uses may be allowed as
5186 a conditional use.
- 5187 (f) High Intensity. Water-oriented commercial use and development may be allowed subject to
5188 policies and regulations of this program. Non-water-oriented commercial uses may be allowed as a
5189 conditional use.
- 5190 (4) Regulations – Application Requirements.
- 5191 (a) The county shall require proponents of all commercial use and development to provide the
5192 following information at the time of permit application:
- 5193 (i) Site plans showing the boundaries of the property and any existing structures, indication of
5194 existing vegetation and topography, locations of adjacent structures, roads or other
5195 infrastructure, and the ordinary high water mark and/or floodway boundary. For comparison,
5196 proposed structures and uses shall be overlaid on a site plan of existing conditions; and
- 5197 (ii) A description of the specific nature and character of the commercial activity (e.g., water-
5198 dependent, water-related, water-enjoyment, non-water-oriented, or mixed-use), including a
5199 description of the specific components of the proposal; and
- 5200 (iii) A description of the reason for needing a shoreline location; and
- 5201 (iv) Any proposed measures to enhance the relationship of the activity to the shoreline; and
- 5202 (v) A description of the proposed provisions for providing public visual and/or physical access to
5203 the shoreline; and
- 5204 (vi) A description of mitigation measures proposed to ensure that the development will not
5205 cause significant adverse environmental impacts.
- 5206 (b) For mixed-use proposals, at least one alternative design depicting a mixture of uses and
5207 activities, structural location, site design, bulk and dimensional configuration, and an alternative
5208 approach to public visual and physical access to the shoreline.
- 5209 (5) Regulations – Water-oriented Use/Development.

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- 5210 (a) Water-oriented commercial use and development shall be allowed when the proponent
5211 demonstrates that it will not result in a net loss of shoreline ecological functions or processes, or
5212 have significant adverse impact on other shoreline uses, resources and/or values such as navigation,
5213 recreation and public access.
- 5214 (b) A use or development shall not be considered water-dependent, water-related or water-
5215 enjoyment until the county determines that the proposed design, layout and operation of the
5216 use/development meet the definition and intent of the water-dependent, water-related or water-
5217 enjoyment designation.
- 5218 (c) Where existing water-oriented commercial uses are located in shoreline jurisdiction, any
5219 undeveloped and substantially unaltered portion of the waterfront not devoted to water-
5220 dependent use shall be maintained for future water-related use.
- 5221 (6) Regulations – Non-Water-Oriented Use/Development.
- 5222 (a) Non-water-oriented commercial uses are prohibited on the shoreline unless they meet the
5223 following criteria:
- 5224 (i) The use is part of a mixed-use project that includes water-dependent uses and provides a
5225 significant public benefit with respect to the Shoreline Management Act’s objectives such as
5226 providing public access and ecological restoration; or
- 5227 (ii) Navigability is severely limited at the proposed site and the commercial use provides a
5228 significant public benefit with respect to the Shoreline Management Act’s objectives such as
5229 providing public access and ecological restoration.
- 5230 (b) When permitted pursuant to subsection (5)(a) of this section, non-water-oriented uses shall
5231 provide public access and/or restore shoreline ecological functions as follows:
- 5232 (i) When part of a mixed-use development, 80 percent of the shoreline buffer area shall be
5233 restored to provide shoreline ecological functions and processes that approximate the
5234 functions provided by the site in undisturbed or nondegraded conditions.
- 5235 (ii) When not part of a mixed-use development, the county shall determine the type and extent
5236 of public access and restoration on a case-by-case basis according to the opportunities and
5237 constraints provided by the site.
- 5238 (c) The county may waive the requirement to provide public access and/or restoration when:
- 5239 (i) The site is designated as a public access area by a shoreline public access plan, in which case
5240 public access consistent with that plan element shall be provided; or
- 5241 (ii) The county finds that the size of the parcel and/or the presence of adjacent uses preclude
5242 restoration of shoreline ecological functions. In such cases, where on-site restoration is
5243 infeasible, equivalent off-site restoration shall be provided consistent with the policies and
5244 regulations of this program.

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5245 (d) Where restoration is provided pursuant to this section, buffers protecting the restored area shall
5246 be sized and designed as appropriate to protect shoreline resources based on a specific restoration
5247 plan. The buffer width may differ from the shoreline buffers required in JCC 18.25.270 so as not to
5248 encumber adjacent properties, unduly constrain the development site, or create a disincentive for
5249 restoration.

5250 (e) Existing non-water-dependent and non-water-related commercial use or development on
5251 shorelines that conform to this program may be permitted to expand landward, but not waterward
5252 of existing structures, provided the expansion otherwise conforms to this program. [Ord. 7-13 Exh.
5253 A (Art. VIII § 3)]

5254 (f) Scientific and educational facilities, including those for maritime education and training, and
5255 public uses not otherwise specified in Table 18.25.220, shall comply with all applicable provisions
5256 for commercial use.

5257 **18.25.460 Forest practices.**

5258 (1) Policies.

5259 (a) To be consistent with WAC 173-26-241(3)(e), the county should rely on the Forest Practices Act
5260 (Chapter 76.09 RCW), its implementing rules, and the 1999 Forest and Fish Report as adequate
5261 management of commercial forest uses within shoreline jurisdiction, except for forest conversion
5262 activities.

5263 (b) Forest lands should be reserved for long-term forest management and other such uses that are
5264 compatible with forest management.

5265 (c) Forest practices should maintain natural surface and ground water movement patterns and
5266 protect the quality of surface and ground water.

5267 (d) Forest practices should minimize damage to fish and wildlife species and terrestrial, wetland,
5268 and aquatic habitats.

5269 (e) Forest practices should aim to maintain or improve the quality of soils and minimize erosion.

5270 (f) Where slopes are steep or soils are subject to sliding, erosion or high water table, special
5271 practices should be employed to minimize damage to shoreland and water bodies, and adjacent
5272 properties.

5273 (g) Forest practices should be conducted in a manner that minimizes adverse effects on the
5274 aesthetic qualities of shorelines.

5275 (h) Proper road and bridge design, location, and construction and maintenance practices should be
5276 used to prevent adversely affecting shoreline resources.

5277 (2) Uses and Activities Prohibited Outright. Forest practices below ordinary high water mark on all
5278 shorelines are prohibited.

5279 (3) Shoreline Environment Regulations.

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Commented [LG252]: Task Force D Marine Trades - maritime education added to definition of scientific and educational facilities.
Also Staff Docket/Code Interpretations
There was no use matrix reference. Example agencies treat similar to commercial (e.g. Pacific County).

- 5280 (a) Priority Aquatic. Forest practices are prohibited.
- 5281 (b) Aquatic. Forest practices are prohibited.
- 5282 (c) Natural. Forest practices may be allowed with conditional use approval, subject to the policies
5283 and regulations of this program.
- 5284 (d) Conservancy. Forest practices may be allowed subject to the policies and regulations of this
5285 program.
- 5286 (e) Shoreline Residential. Forest practices may be allowed subject to the policies and regulations of
5287 this program.
- 5288 (f) High Intensity. Forest practices may be allowed subject to the policies and regulations of this
5289 program.
- 5290 (4) Regulations.
- 5291 (a) Timber harvesting and forest practices activities that do not meet the definition of development
5292 in Article II of this chapter shall be conducted in accordance with the Washington State Forest
5293 Practices Act (Chapter 76.09 RCW), WAC Title 222, and the 1999 Forest and Fish Report, and any
5294 regulations adopted pursuant thereto.
- 5295 (b) Except as provided in subsections (4)(c) and (d) of this section, timber harvesting and forest
5296 practices activities that do not meet the definition of development in Article II of this chapter shall
5297 not be regulated by this program and shall not require a shoreline permit. A forest practice that
5298 only involves timber cutting is not a development under the act and does not require a shoreline
5299 substantial development permit or a shoreline exemption. A forest practice that includes activities
5300 other than timber cutting may be a development under the act and may require a substantial
5301 development permit, as required by WAC 222-50-020.
- 5302 (c) Selective commercial timber cutting on shorelines of statewide significance shall not exceed 30
5303 percent of the merchantable trees in any 10-year period as required by RCW 90.58.150. The county
5304 may allow exceptions to the 30 percent limit with a conditional use permit in accordance with WAC
5305 173-26-241(3)(e).
- 5306 (d) Forest practices roads on slopes that exceed 35 percent shall require a conditional use permit.
- 5307 (e) Other activities associated with timber harvesting, such as filling, excavation, and building roads
5308 and structures, that meet the definition of development shall be regulated according to the general
5309 provisions (Article VI of this chapter), shoreline modification provisions (Article VII of this chapter)
5310 and/or the other applicable use-specific provisions (this article) of this program and shall require a
5311 shoreline substantial development permit or conditional use permit as specified in this program.
- 5312 (f) Conversion of forest land to nonforestry uses (Class IV Conversion Forest Practices Permit) shall
5313 be reviewed in accordance with the provisions for the proposed nonforestry use and the general
5314 provisions in Article VI of this chapter and shall be subject to any permit requirements associated
5315 with the nonforestry use. [Ord. 7-13 Exh. A (Art. VIII § 4)]

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Commented [LG253]: 2017 e Periodic Checklist

5316 **18.25.470 Industrial and port development.**

5317 (1) Policies.

5318 (a) In securing shoreline locations for industrial or port development, preference should be given
5319 first to water-dependent industrial or port development, then to water-related industrial or port
5320 development.

5321 (b) Restoration of impaired shoreline ecological functions and processes should be encouraged as
5322 part of industrial and port development.

5323 (c) Industrial and port development should be visually compatible with adjacent noncommercial
5324 properties.

5325 (d) Industrial and port uses located in shoreline jurisdiction should provide public access in
5326 accordance with JCC 18.25.290 (Public access).

5327 (e) Shorelines suitable for deep-water harbors with access to adequate rail, highway and utility
5328 systems should be reserved for water-dependent or water-related industrial and port development.

5329 (f) Port facilities should be designed to allow the public to view harbor areas and should provide
5330 public facilities that do not interfere with port operations or endanger public health and safety.

5331 (g) Where feasible, transportation and utility corridors serving industrial and port uses should be
5332 located away from the water's edge to minimize ecological impacts and to reduce the need for
5333 waterfront signs and other infrastructure.

5334 (h) Industrial or port development at deep-water sites should be limited to those uses that produce
5335 long-term economic benefit and minimize environmental impact.

5336 (i) Industrial and port development should be protected from encroachment or interference by
5337 incompatible uses such as residential or commercial uses, which have less stringent siting
5338 requirements.

5339 (j) Private and public entities should be encouraged to cooperatively use piers, cargo handling,
5340 storage, parking and other accessory facilities in waterfront industrial/port areas.

5341 (k) Log storage is not a desired use of the county's shoreline and should be allowed only when
5342 adequate measures are taken to minimize adverse impacts. Upland log storage is preferred over in-
5343 water storage.

5344 (2) Shoreline Environment Regulations.

5345 (a) Priority Aquatic. Industrial/port use and development are prohibited.

5346 (b) Aquatic. Water-dependent and water-related industrial/port use and development may be
5347 allowed as a conditional use, subject to the use and development regulations of the abutting upland
5348 shoreline environment designation. Uses and developments that are not water-dependent or
5349 water-related are prohibited.

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- 5350 (c) Natural. Industrial/port use and development are prohibited.
- 5351 (d) Conservancy. Only low intensity water-dependent and water-related industrial/port use and
5352 development may be allowed as a conditional use, subject to policies and regulations of this
5353 program. Uses and developments that are not water-dependent or water-related are prohibited,
5354 except that industrial/port use and development that meet the criteria in subsection (5)(a) of this
5355 section may be allowed as a conditional use.
- 5356 (e) Shoreline Residential. Only low intensity water-dependent and water-related industrial/port use
5357 and development may be allowed subject to policies and regulations of this program. Uses and
5358 developments that are not water-dependent or water-related are prohibited, except that
5359 industrial/port use and development that meet the criteria in subsection (5)(a) of this section may
5360 be allowed as a conditional use.
- 5361 (f) High Intensity. Water-dependent and water-related industrial/port use and development may be
5362 allowed subject to policies and regulations of this program. Uses and developments that are not
5363 water-dependent or water-related may be allowed as a conditional use.
- 5364 (3) Regulations – General.
- 5365 (a) Where industrial and port use/development is allowed, it shall be located, designed, and
5366 constructed in a manner that minimizes adverse impacts to shoreline resources and shall include
5367 mitigation to ensure no net loss of shoreline ecological functions and processes.
- 5368 (b) Accessory development that does not require a location at or near the water’s edge shall be
5369 located upland of the water-dependent portions of the development and outside the shoreline
5370 buffer.
- 5371 (c) Industrial noise caused by volume, frequency, or rhythm shall be muffled or otherwise
5372 controlled. Tsunami, air raid and other public safety warning sirens are exempt from this
5373 requirement. No vibration shall be permitted that is discernible without instruments on any
5374 adjoining non-industrial/port property. The county may require an acoustical study, vibration
5375 assessment, and mitigation as needed to address potential noise or vibration impacts.
- 5376 (d) Industrial and port facilities shall minimize direct or reflected glare and noxious odors discernible
5377 without instruments from adjacent properties, streets, or water areas, and must comply with
5378 Olympic Region Clean Air Agency (ORCAA) standards.
- 5379 (e) Docks, piers, pilings and launching facilities accessory to industrial and port development may be
5380 permitted; provided, that they serve a water-dependent or water-related use, and comply with JCC
5381 18.25.350 (boating facilities).
- 5382 (f) Storage or disposal of industrial and port wastes shall be prohibited within shoreline jurisdiction.
- 5383 (g) Non-water-dependent industrial/port uses may be permitted to occur at facilities previously
5384 approved for water-dependent uses under the following conditions:

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- 5385 (i) A specific occupancy plan has been approved that allows interim uses for a specific period
5386 while the market for water-dependent uses is being developed and the proposed interim use is
5387 consistent with the occupancy plan.
- 5388 (ii) The period of interim lease or commitment of the space shall not exceed five years. At the
5389 end of five years, a new application for interim use shall be submitted.
- 5390 (iii) The proponent/applicant has made a good faith effort to obtain water-dependent uses. The
5391 period of the search for water-dependent uses, the notice of availability, listing or advertising
5392 employed, and any inquiries received shall be documented.
- 5393 (iv) No permanent improvements will be made to the space that require more than five years
5394 of occupancy to repay the investment. No permanent improvements will be made that will
5395 reduce the suitability of the space for water-dependent use.
- 5396 (4) Regulations – Water-oriented Use/Development.
- 5397 (a) Water-oriented industrial/port use and development shall be allowed when the
5398 proponent/applicant demonstrates that it will not cause a net loss of shoreline ecological functions
5399 or processes or have significant adverse impact on other shoreline uses, resources and/or values
5400 such as navigation, recreation and public access.
- 5401 (b) A use or development shall not be considered water-dependent, water-related or water-
5402 enjoyment until the county determines that the proposed design, layout and operation of the
5403 use/development meet the definition and intent of the water-dependent, water-related or water-
5404 enjoyment designation.
- 5405 (c) Where existing water-oriented industrial/port uses are located in shoreline jurisdiction, any
5406 undeveloped and substantially unaltered portion of the waterfront not devoted to water-
5407 dependent use shall be maintained for future water-related use.
- 5408 (d) Water-dependent industry and port facilities shall be located and designed to minimize the need
5409 for initial or recurrent dredging, filling or other harbor and channel maintenance activities.
- 5410 (5) Regulations – Non-water-oriented Use/Development.
- 5411 (a) Non-water-oriented industrial/port uses are prohibited in shoreline jurisdiction unless they meet
5412 the following criteria:
- 5413 (i) The site is physically separated from the shoreline by another property or public right-of-
5414 way; or
- 5415 (ii) The use is part of a mixed-use project that includes an associated water-dependent use; or
- 5416 (iii) Navigability is severely limited at the proposed site; or
- 5417 (iv) The industrial/port use provides a significant public benefit in the form of public access
5418 and/or ecological restoration.

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- 5419 (b) When permitted pursuant to subsection (5)(a) of this section, non-water-oriented uses shall
5420 provide public access and/or restore shoreline ecological functions. The county shall determine the
5421 type and extent of public access and restoration on a case-by-case basis according to the
5422 opportunities and constraints provided by the site.
- 5423 (c) The county may waive the requirement to provide public access and/or restoration when:
- 5424 (i) The site is designated as a public access area by a shoreline public access plan, in which case
5425 public access consistent with that plan element shall be provided; or
- 5426 (ii) The county finds that the size of the parcel and/or the presence of adjacent uses preclude
5427 restoration of shoreline ecological functions. In such cases, where on-site restoration is
5428 infeasible, equivalent off-site restoration shall be provided consistent with the policies and
5429 regulations of this program.
- 5430 (d) Where restoration is provided pursuant to this section, buffers on the restored area shall be
5431 designed as appropriate to protect shoreline resources based on a specific restoration plan. The
5432 buffer width may differ from the shoreline buffers required in JCC 18.25.270 so as not to encumber
5433 adjacent properties or unduly constrain the development site.
- 5434 (e) Existing non-water-dependent and non-water-related industrial/port development on shorelines
5435 that conforms to this program may be permitted to expand landward, but not waterward of existing
5436 structures provided the expansion otherwise conforms to this program.
- 5437 (6) Regulations – Log Storage.
- 5438 (a) In-water storage or rafting of logs is prohibited unless all of the following conditions are met:
- 5439 (i) There is no feasible upland location; and
- 5440 (ii) State water quality standards can be met at all times; and
- 5441 (iii) The storage does not create an impediment to navigation or interfere with other water-
5442 dependent uses; and
- 5443 (iv) The storage occurs in deep water beyond the photic zone to reduce shading impacts; and
- 5444 (v) Overland transportation of logs would cause unacceptable transportation impacts; and
- 5445 (vi) Depths are sufficient to prevent grounding; and
- 5446 (vii) Easy let-down devices are employed for placing logs in the water. Free-fall or dumping of
5447 logs into water shall be prohibited.
- 5448 (b) Dredging to create log storage facilities shall be prohibited.
- 5449 (c) Log storage facilities shall be located in existing developed areas to the greatest extent feasible.
5450 If a new log storage facility is proposed along an undeveloped shoreline, an alternatives analysis
5451 shall be required.

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- 5452 (d) Existing in-water log storage facilities in habitats used by federally listed threatened or
5453 endangered species shall be reevaluated if use is discontinued for two years or more or if
5454 substantial repair or reconstruction is required.
- 5455 (e) Offshore log storage shall only be allowed on a temporary basis, and should be located where
5456 natural tidal or current flushing and water circulation are adequate to disperse potential
5457 contaminants/pollutants.
- 5458 (f) Appropriate bark and wood debris control, collection and disposal methods shall be employed at
5459 log storage areas, log dumps, raft building areas and mill-side handling zones to prevent wood
5460 debris from entering the water.
- 5461 (g) Where water depths will permit the floating of bundled logs, they shall be secured in bundles on
5462 land before being placed in the water. Bundles shall not be broken again except on land or at mill-
5463 side.
- 5464 (7) Regulations – Ship Building and Repair Yard Regulations.
- 5465 (a) Ship and boat building and repair yards shall employ best management practices to control,
5466 collect and treat surface runoff to protect the quality of affected waters in accordance with Chapter
5467 90.48 RCW.
- 5468 (b) Cleaning, surfacing or resurfacing operations occurring over water that may result in the entry of
5469 debris into water shall employ fully intact tarps temporarily affixed to the hull above the water line.
5470 Prior to removing the tarps, the accumulated contents shall be removed and properly disposed of.
- 5471 (c) Impervious pavement is required for ship building and repair yards where the wet season water
5472 table is less than four feet below surface level.
- 5473 (8) Regulations – Application Requirements. The county shall require proponents of all industrial use and
5474 development to provide the following information at the time of permit application:
- 5475 (a) Site plans showing the boundaries of the property and any existing structures, indication of
5476 existing vegetation and topography, locations of adjacent structures, roads or other infrastructure,
5477 and the ordinary high water mark and/or floodway boundary. For comparison, proposed structures
5478 and uses shall be overlaid on a site plan of existing conditions; and
- 5479 (b) A description of the specific nature and character of the industrial activity (e.g., water-
5480 dependent or water-related), including a description of the specific components of the proposal;
5481 and
- 5482 (c) A description of the reason for needing a shoreline location; and
- 5483 (d) Any proposed measures to enhance the relationship of the activity to the shoreline; and
- 5484 (e) A description of the proposed provisions for providing public visual and physical access to the
5485 shoreline; and

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- 5486 (f) A description of potential noise impacts including an acoustical analysis; and
- 5487 (g) A description of mitigation measures including screening, fencing, and other measures to ensure
- 5488 that the development will not cause significant adverse environmental impacts. [Ord. 7-13 Exh. A
- 5489 (Art. VIII § 5)]
- 5490 **18.25.480 Mining.**
- 5491 (1) Policies.
- 5492 (a) Mining, as defined in Article II of this chapter, should be located and conducted so as to provide
- 5493 long-term protection of water quality, fish and wildlife species and habitat, to cause the least
- 5494 amount of disruption to the natural shoreline character, resources and ecology, and to avoid net
- 5495 loss of ecological functions in accordance with this program and other applicable laws.
- 5496 (b) Mining should not be located and conducted where unavoidable adverse impacts to other uses
- 5497 or resources equal or outweigh the benefits from mining.
- 5498 (c) Mining should not interfere with public access or recreation on the shoreline.
- 5499 (d) Mining should only be permitted when the proponent provides appropriate studies and detailed
- 5500 operation plans demonstrating all of the following:
- 5501 (i) Fish habitat, upland habitat and water quality will not be adversely affected;
- 5502 (ii) The operation will not adversely affect geo-hydraulic processes, channel alignment, nor
- 5503 increase bank erosion or flood damages;
- 5504 (iii) The operation will provide all feasible measures to protect aquatic resources and
- 5505 anadromous fisheries from pollution related to mining including, but not limited to,
- 5506 sedimentation and siltation; chemical and petrochemical use and spillage, and storage or
- 5507 disposal of wastes and spoils.
- 5508 (e) Mining operations should be located, designed, and managed so that adjoining properties do
- 5509 not experience adverse impacts from noise, dust or other effects of the operation. The mine
- 5510 operator should be required to implement mitigation measures to minimize adverse proximity
- 5511 impacts.
- 5512 (f) Mining proposals that result in the creation, restoration, or enhancement of habitat for priority
- 5513 species are preferred over proposals that do not create or improve priority habitat.
- 5514 (2) Uses and Activities Prohibited Outright. Commercial and industrial extraction and processing of
- 5515 quarry rock, sand, gravel, cobbles or other minerals along any marine or freshwater lake shoreline, or
- 5516 waterward of the ordinary high water mark on any stream/river shoreline, are prohibited.
- 5517 (3) Shoreline Environment Regulations.
- 5518 (a) Priority Aquatic. Mining use and development are prohibited.
- 5519 (b) Aquatic. Mining use and development are prohibited.

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- 5520 (c) Natural. Mining use and development are prohibited, except for transportation of minerals by
5521 road.
- 5522 (d) Conservancy. Mining use and development are prohibited, except for transportation of minerals
5523 by road.
- 5524 (e) Shoreline Residential. Mining use and development are prohibited, except for transportation of
5525 minerals by road.
- 5526 (f) High Intensity. Mining use and development may be allowed as a conditional use (CUP).
- 5527 (4) Regulations.
- 5528 (a) All mining activities shall be conducted to ensure compliance with the Washington State Surface
5529 Mining Act (Chapter 78.44 RCW), with JCC 18.20.240, 18.30.070, and 18.40.073, and with the no net
5530 loss provisions of this program.
- 5531 (b) As defined in Article II of this chapter, the regulations contained in this section shall apply to all
5532 mining operations, including the extraction, primary processing and transport of naturally occurring
5533 materials. For the purposes of this section, primary processing shall be construed to include
5534 screening, crushing, and stockpiling of materials removed from the site where the processing
5535 activity is located. Transport of minerals shall include conveyor systems and barge terminals that
5536 are specifically dedicated to transport of mined materials from the site to the marketplace.
- 5537 (c) No material (such as mining overburden, debris and tailings) or equipment shall be placed in
5538 water bodies, critical areas, or floodways and shall be stored so as to prevent erosion or seepage to
5539 surface and ground waters.
- 5540 (d) To minimize noise, dust, vibration, glare and other adverse impacts, a buffer of at least 100 feet
5541 wide shall be maintained between any mining site, including accessory facilities, and adjacent
5542 properties not used for mining operations. The buffer shall consist of undisturbed soils and native
5543 vegetation and shall only include land owned or leased by the mine operator.
- 5544 (e) The proposed subsequent use of reclaimed mined property shall be consistent with the
5545 provisions of the environment designation in which the property is located and that reclamation of
5546 disturbed shoreline areas shall provide appropriate ecological processes and functions consistent
5547 with the setting. Approved reclamation programs shall be initiated within 60 days following the
5548 completion of the mineral extraction operations, in consultation with Washington Department of
5549 Natural Resources.
- 5550 (f) Equipment or apparatus associated with mining operations such as machinery, machine parts,
5551 filters, grease and oil containers and rope shall be removed in a timely manner to an appropriate
5552 upland location. Proposals for mineral extraction and processing shall be accompanied by a report
5553 prepared by a licensed professional geotechnical engineer that includes a description of all of the
5554 following:
- 5555 (i) Types of materials present on the site;

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- 5556 (ii) Quantity and quality of each material;
- 5557 (iii) Lateral extent and depth of mineral deposits;
- 5558 (iv) Depth of overburden and proposed depth of mining;
- 5559 (v) Cross section diagrams indicating present and proposed elevations and/or extraction levels;
- 5560 (vi) Existing drainage patterns, seasonal or continuous, and proposed alterations to drainage
5561 patterns;
- 5562 (vii) Proposed means of controlling surface runoff and preventing or minimizing erosion and
5563 sedimentation;
- 5564 (viii) The location and sensitivity of any affected flood hazard areas;
- 5565 (ix) The overall mineral extraction and processing plan, including scheduling, seasonal changes
5566 in activity levels, and daily operation schedules;
- 5567 (x) Proposed screening, buffering or fencing plans consistent with the requirements of this
5568 program;
- 5569 (xi) Anticipated impacts to aquatic and riparian habitat; measures to mitigate or offset adverse
5570 impacts; and
- 5571 (xii) A proposed reclamation plan that, at a minimum, meets the requirements of Chapter 78.44
5572 RCW. [Ord. 7-13 Exh. A (Art. VIII § 6)]
- 5573 **18.25.490 Recreation.**
- 5574 (1) Policies.
- 5575 (a) Public recreation on public lands is a preferred use of the shoreline. Recreational uses and
5576 developments that facilitate the public's ability to reach, touch, and enjoy the water's edge, to
5577 travel on the waters of the state, and to view the water and the shoreline are preferred. Where
5578 appropriate, such facilities should be dispersed along the shoreline in a manner that supports more
5579 frequent recreational access and aesthetic enjoyment of the shoreline for a substantial number of
5580 people.
- 5581 (b) Jefferson County should develop a comprehensive shoreline public access plan in collaboration
5582 with federal, state, and local organizations whose missions include facilitating public access and
5583 recreation opportunities.
- 5584 (c) Recreational use and development should facilitate appropriate use of shoreline resources while
5585 also conserving them.
- 5586 (d) Linkages between shoreline parks, recreation areas and public access points with linear systems
5587 (e.g., water trails, hiking paths, bicycle paths, easements and/or scenic drives) should be provided
5588 where feasible.

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- 5589 (e) Recreation facilities should incorporate adequate orientation information and public education
5590 regarding shoreline ecological functions and processes, the effect of human actions on the
5591 environment and the importance of public involvement in shoreline management. Opportunities to
5592 incorporate educational and interpretive information should be pursued in design and operation of
5593 recreation facilities and other amenities such as nature trails.
- 5594 (f) Recreational use and development should be supported by adequate utility and road facilities, or
5595 located where such facilities may be provided without significant damage to shore features
5596 commensurate with the number and concentration of anticipated users.
- 5597 (g) The county should encourage the use of street ends and publicly owned lands for shoreline
5598 public access to and development of recreational opportunities.
- 5599 (h) Recreation use and development should be located and designed in a manner that is compatible
5600 with the surrounding properties.
- 5601 (i) Recreational developments are encouraged to use low impact development techniques including
5602 but not limited to pervious pavements, to minimize effects associated with stormwater runoff.
- 5603 (2) Shoreline Environment Regulations.
- 5604 (a) Priority Aquatic. Water-oriented recreational use and development is allowed subject to the
5605 regulations of the abutting upland shoreline environment designation. Underwater parks may be
5606 allowed as a conditional use. Non-water-oriented recreation is prohibited.
- 5607 (b) Aquatic. Water-oriented recreational use and development is allowed subject to the regulations
5608 of the abutting upland shoreline environment designation. Underwater parks may be allowed as a
5609 conditional use. Non-water-oriented recreation is prohibited.
- 5610 (c) Natural. Non-water-oriented recreation is prohibited. Low intensity water-oriented recreational
5611 use and development may be allowed subject to policies and regulations of this program and the
5612 following criteria:
- 5613 (i) Essential minor structures such as trails, stairs, small picnic areas, primitive roads,
5614 viewpoints, restrooms or other appropriate sanitary facilities, interpretive facilities, or
5615 development that will not adversely affect shoreline ecological functions and processes are
5616 permitted, subject to policies and regulations of this master program.
- 5617 (ii) Any necessary landscaping shall use native vegetation.
- 5618 (iii) Recreational development requiring extensive structures or substantial alterations to
5619 topography or native vegetation is prohibited.
- 5620 (d) Conservancy. Non-water-oriented recreation is prohibited. Low intensity water-oriented
5621 recreational use and development is allowed subject to policies and regulations of this program and
5622 the following criteria:

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- 5623 (i) Structures on sites of one acre or less shall not result in more than five percent building
5624 coverage, and total impervious surface shall not exceed 10 percent.
- 5625 (ii) Structures on sites greater than one acre will not result in more than 10 percent building
5626 coverage, and total impervious surface will not exceed 20 percent.
- 5627 (iii) Alteration of topography shall be limited to the minimum necessary to accommodate
5628 allowed use and development.
- 5629 (iv) Recreational use and development will not result in visitor patterns that degrade shoreline
5630 ecological functions.
- 5631 (e) Shoreline Residential. Water-oriented recreational use and development is allowed subject to
5632 the policies and regulations of this master program. Non-water-oriented recreation may be allowed
5633 as a conditional use.
- 5634 (f) High Intensity. Water-oriented recreational use and development is allowed subject to the
5635 policies and regulations of this master program. Non-water-oriented recreation is prohibited.
- 5636 (3) Regulations.
- 5637 (a) Water-oriented recreational use/development is a preferred use of the shoreline and shall be
5638 allowed when the proponent demonstrates that it will not result in a net loss of shoreline ecological
5639 functions or processes or have significant adverse impact on other shoreline uses, resources and/or
5640 values such as navigation and public access.
- 5641 (b) Recreation areas or facilities on the shoreline shall provide physical or visual public access
5642 consistent with JCC 18.25.290 (Public access).
- 5643 (c) Underwater parks may be permitted when properly sited and associated with adequate access,
5644 restroom facilities and parking. Underwater parks should be located adjacent to existing parks
5645 where feasible.
- 5646 (d) Non-water-oriented recreational facilities with playing fields or with extensive impervious
5647 surfaces are not preferred, and if permitted shall incorporate best management practices (BMPs) to
5648 prevent erosion, control the amount of runoff and prevent harmful concentrations of chemicals and
5649 sediment from entering water bodies.
- 5650 (e) New recreational use/development shall be located landward of the shoreline buffers required
5651 by this program except that components of the recreational use or development that are water-
5652 dependent or water-related may be allowed within the shoreline buffer.
- 5653 (f) Signs indicating the public's right to access shoreline areas shall be installed and maintained in
5654 conspicuous locations at recreational facility points of access and entrances.
- 5655 (g) When a public recreation site abuts private property/tidelands, signs and other similar markers
5656 shall also indicate geographic limits of public access to minimize conflicts with adjacent
5657 use/development.

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- 5658 (h) Where appropriate, recreational development proposals shall include provisions for
5659 nonmotorized access to the shoreline (e.g., pedestrian, water access and bicycle paths).
- 5660 (i) Proposals for recreational use and development that involve any clearing, grading or impervious
5661 surface shall include a landscape plan that uses species approved by the county. Native, self-
5662 sustaining vegetation shall be used as often as possible. The removal of on-site native vegetation
5663 shall be limited to the minimum necessary for the development of campsites, selected viewpoints
5664 or other permitted structures or facilities and shall be subject to JCC 18.25.310 (Vegetation
5665 conservation).
- 5666 (j) Proposals for recreational development shall include adequate facilities for water supply, sewage
5667 and garbage disposal, and recycling commensurate with the intensity of the proposed use.
5668 Remotely located sites shall encourage visitors to implement best management practices (BMPs)
5669 such as the tread lightly and leave no trace principles of low impact recreation.
- 5670 (k) Recreational use and development shall incorporate appropriate mitigation to minimize light
5671 and noise impacts on adjoining land uses. Such measures shall include, but not be limited to,
5672 fencing, screening, and related measures. [Ord. 7-13 Exh. A (Art. VIII § 7)]
- 5673 **18.25.500 Residential.**
5674 (1) Policies.
- 5675 (a) Residential use is not water-dependent but is a ~~preferred~~priority use of the shorelines when
5676 such development is planned and carried out in a manner that protects shoreline functions and
5677 processes to be consistent with the no net loss provisions of this program. New over-water
5678 residences, including floating dwellings as defined by this program, are not a preferred or priority
5679 use and should be prohibited.
- 5680 (b) All residential use and development should be planned, designed, located, and operated to
5681 avoid adverse impacts on shoreline processes, aquatic habitat, biological functions, water quality
5682 and quantity, aesthetics, navigation, and neighboring uses.
- 5683 (c) All residential use and development should be properly managed to avoid damage to the
5684 shoreline environment and prevent cumulative impacts associated with shoreline armoring,
5685 overwater structures, stormwater runoff, septic systems, introduction of pollutants, and vegetation
5686 clearing.
- 5687 (d) New residential development should be limited to densities that are consistent with the
5688 Jefferson County Comprehensive Plan goals and policies, zoning restrictions, and this program. The
5689 density per acre of development should be appropriate to local natural and cultural features.
- 5690 (e) Low impact development practices and clustering of dwelling units and accessory structures
5691 should be implemented as appropriate to preserve natural features, minimize physical impacts and
5692 reduce utility and road construction and maintenance costs.
- 5693 (f) New residential development should be planned and built in a manner that avoids the need for
5694 structural shore armoring and flood hazard reduction in accordance with JCC 18.25.380 (Flood

Commented [AS254]: Edits made per Ecology required change 11 and recommended change 30 (9/30/22).

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- 5695 control structures) and 18.25.410 (shoreline stabilization) of this program and other applicable
5696 plans and laws.
- 5697 (g) Residential development should be designed to:
- 5698 (i) Maintain or improve ecological functions and processes; and
- 5699 (ii) Preserve and enhance native shoreline vegetation; and
- 5700 (iii) Control erosion; and
- 5701 (iv) Protect water quality; and
- 5702 (v) Preserve shoreline aesthetic characteristics; and
- 5703 (vi) Minimize structural obstructions to public views and normal public use of the shoreline and
5704 the water.
- 5705 (h) Creation of new residential lots through land division should be designed, configured and
5706 developed to ensure that no net loss of ecological functions and processes occurs from the plat or
5707 subdivision, even when all lots are fully built-out.
- 5708 (i) Residential developments are encouraged, but not required, to provide public access to the
5709 shoreline. New multi-unit residential development, including subdivision of land into more than
5710 four parcels, is strongly encouraged to provide public access/open space area equal to at least 30
5711 percent of the total development/subdivision area for use by development residents and the public.
- 5712 (j) Whenever possible, nonregulatory methods to protect, enhance, and restore shoreline ecological
5713 functions should be encouraged for residential development.
- 5714 (2) Uses and Activities Prohibited Outright.
- 5715 (a) In-water, overwater or floating ~~residences~~ **residences** or accessory dwelling units, including
5716 structures located in or on marshes, bogs, swamps, lagoons, tidelands, ecologically sensitive areas
5717 or open water areas, are prohibited.
- 5718 (b) Residential development that can be reasonably expected to require structural shore armoring
5719 during the useful life of the structure or within 100 years, whichever is greater, is prohibited.
- 5720 (c) Residential development within a channel migration zone or floodway that can be reasonably
5721 expected to require structural flood protection during the useful life of the structure or within 100
5722 years, whichever is greater, is prohibited.
- 5723 (d) Land division and boundary line adjustments in shoreline jurisdiction are prohibited when such
5724 actions will result in lot configurations that are likely to require:
- 5725 (i) Significant vegetation removal;
- 5726 (ii) Structural shore armoring;

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- 5727 (iii) Shoreline modification for erosion control;
- 5728 (iv) Flood hazard protection; or
- 5729 (v) Result in a net loss of shoreline ecological functions and processes at the time of
5730 development of the subdivision and/or during the useful life of the development or within 100
5731 years, whichever is greater.
- 5732 (3) Shoreline Environment Regulations.
- 5733 (a) Priority Aquatic. Residential development is prohibited.
- 5734 (b) Aquatic. Residential development is prohibited.
- 5735 (c) Natural. Residential development consisting of one single-family residence per existing legal lot
5736 of record may only be allowed as a conditional use, even where qualified as exempt. Accessory
5737 dwelling units shall be prohibited.
- 5738 (d) Conservancy. Single-family and duplex development may be allowed subject to policies and
5739 regulations of this program. All other residential development may be allowed as a conditional use.
- 5740 (e) Shoreline Residential. Residential development is allowed subject to the policies and regulations
5741 of this master program.
- 5742 (f) High Intensity. Residential development is allowed subject to the policies and regulations of this
5743 master program.
- 5744 (g) In all SEDs where an existing single family dwelling (residential primary structure) has been
5745 established by exemption, no additional dwelling may be established by exemption on the same
5746 lot/parcel. Additional dwellings on the subject property shall require the permit type in Table
5747 18.25.220.
- 5748 (4) Regulations – Primary Residences and Property Subdivision.
- 5749 (a) Residential use and development shall be planned, designed, located, and operated to avoid
5750 adverse impacts on shoreline processes, aquatic habitat, biological functions, water quality,
5751 aesthetics, navigation, and neighboring uses.
- 5752 (b) The buffer requirements in Article VI of this program apply to residences, normal
5753 appurtenances, and accessory dwelling units, except that docks, floats, and beach access structures
5754 and other water-dependent and water-related structures accessory to residential use may be
5755 permitted to encroach into the buffer in accordance with the applicable provisions of this program.
5756 Accessory structures must be sited and designed to not require shoreline armoring within 100
5757 years.
- 5758 (c) Cluster development and appropriate low impact development practices shall be required for
5759 development sites constrained by critical areas and/or shoreline buffers.

Commented [AS255]: Edits made per Ecology
recommended change 29 (9/30/22)

Commented [AS256]: Edits made per Ecology
recommended change 29 (9/30/22)

Commented [LG257]: Response to Comment 12.17.

- 5760 (d) When zoning regulations allow, proposals for multi-story residential development greater than
5761 35 feet above average grade must include an analysis of how the structure would impact the views
5762 of surrounding residents. If the proposed residence would block or significantly compromise the
5763 view of a substantial number of residences on adjoining areas, the county shall limit the height to
5764 35 feet, or require design revisions or relocation to prevent the loss of views to neighboring
5765 properties.
- 5766 (e) New multi-unit residential development, including subdivision of land into more than four
5767 parcels, shall provide public access/open space for use by development residents and the public.
5768 The county may alter the recommended area threshold per constitutional limits or waive this
5769 requirement if public access is infeasible due to incompatible uses, safety, impacts to shoreline
5770 ecology or legal limitations. The county may require alternatives to on-site physical access if on-site
5771 physical access is infeasible for the reasons noted.
- 5772 (f) As per Article VI of this chapter, new or expanded subdivisions and planned unit developments
5773 comprised of four or more lots or units shall provide public access to publicly owned shorelines or
5774 public water bodies unless:
- 5775 (i) The site is designated in a shoreline public access plan for a greater component of public
5776 access; or
- 5777 (ii) The public access is demonstrated to be infeasible or inappropriate.
- 5778 (g) New or amended subdivisions, except those for lot line adjustment and lot consolidation
5779 purposes, shall provide public access as required in Article VI of this chapter.
- 5780 (h) When required for multi-lot/multi-unit residential development, the amount of public
5781 access/open space area shall be determined by site analysis per constitutional limits. The county
5782 may waive this requirement if public access is infeasible due to incompatible uses, risks to health or
5783 safety, impacts to shoreline ecology or legal limitations. In such cases, the county may require
5784 alternatives to on-site physical access if on-site physical access is infeasible for the reasons noted.
- 5785 (i) The type and configuration of public access required for multi-unit/multi-lot residential
5786 development shall depend on the proposed use(s) and the following criteria:
- 5787 (i) Subdivisions within shoreline jurisdiction that have views of water areas shall at a minimum
5788 provide an area from which the public can view the shoreline.
- 5789 (ii) Subdivisions adjacent to public waterways or tidelands shall provide physical access to
5790 public waters/tidelands that are accessible at low tide or low water.
- 5791 (5) Regulations – Accessory Structures/Uses.
- 5792 (a) Accessory dwelling units may be permitted when the primary residential use is allowed pursuant
5793 to, and only when, other provisions of this program are met.

5794 (b) Accessory structures and uses such as boating facilities, pedestrian beach access structures,
5795 shore armoring and shore stabilization shall be subject to the applicable provisions of Article VII of
5796 this chapter.

5797 (c) A single water-dependent boathouse, as defined in Article II of this chapter, accessory to single-
5798 family residential development may be allowed with a conditional use permit and in accordance
5799 with JCC 18.25.270(5)(d)(iii) and other provisions of this program.

5800 (d) A shoreline substantial development permit or conditional use permit shall be required for all
5801 accessory development that is not considered a normal appurtenance. [Ord. 7-13 Exh. A (Art. VIII §
5802 8)]

5803 **18.25.510 Signs.**

5804 (1) Policies.

5805 (a) Signs should be located, designed and maintained to be visually compatible with local shoreline
5806 scenery as seen from both land and water, especially on shorelines of statewide significance.

5807 (b) Sign location and design should not significantly impair shoreline views.

5808 (c) To avoid continued proliferation of single purpose signs, communities, districts, and/or multi-use
5809 or multi-tenant commercial developments are encouraged to erect single, common use gateway
5810 signs to identify and give directions to local premises and public facilities.

5811 (d) Signs of a commercial or industrial nature should be limited to those areas or premises to which
5812 the sign messages refer.

5813 (e) Off-premises signs (including billboards) should not be located on shorelines except for
5814 approved community gateway or directional signs.

5815 (f) Signs near scenic vistas and viewpoints should be restricted in number, location, and height so
5816 that enjoyment of these areas is not impaired.

5817 (g) Freestanding signs should be located to avoid blocking scenic views and be located on the
5818 landward side of public transportation routes which generally parallel the shoreline.

5819 (h) To minimize negative visual impacts and obstructions to shoreline access and use, low profile,
5820 on-premises wall signs are strongly preferred over freestanding signs or off-premises wall signs.

5821 (i) Signs should be designed mainly to identify the premises and nature of enterprise without unduly
5822 distracting uninterested passersby.

5823 (2) Shoreline Environment Regulations.

5824 (a) Priority Aquatic. Only wall signs and low profile freestanding signs under 30 inches in height for
5825 water-dependent uses may be allowed subject to the use and development regulations of the
5826 abutting upland shoreline environment designation. No one premises may maintain more than two
5827 signs in a priority aquatic shoreline area.

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- 5828 (b) Aquatic. Only wall signs and low profile freestanding signs under 30 inches in height for water-
5829 dependent uses may be allowed subject to the use and development regulations of the abutting
5830 upland shoreline environment designation. No one premises may maintain more than two signs in
5831 an aquatic shoreline area.
- 5832 (c) Natural. Sign development is prohibited, except for trail marking, hazard warnings, or
5833 interpretive scientific or educational purposes and personal signs. Such allowed signs shall be
5834 limited in size and number to those required to effect their purpose.
- 5835 (d) Conservancy. Signs may be permitted subject to the policies and regulations of this master
5836 program.
- 5837 (e) Shoreline Residential. Signs may be allowed subject to the policies and regulations of this master
5838 program.
- 5839 (f) High Intensity. Signs may be allowed subject to the policies and regulations of this master
5840 program.
- 5841 (3) Regulations.
- 5842 (a) Signs shall comply with JCC 18.30.150 and exemptions listed there also apply in this program.
- 5843 (b) Plans and designs for non-exempt signs must be submitted for review at the time of shoreline
5844 permit application.
- 5845 (c) All signs shall be located and designed to minimize interference with vistas, viewpoints, and
5846 visual access to the shoreline.
- 5847 (d) Overwater signs or signs on floats or pilings shall be prohibited, except when related to
5848 navigation or a water-dependent use.
- 5849 (e) Illuminated signs shall be hooded, shaded, or directed so as to eliminate glare when viewed from
5850 surrounding properties or watercourses.
- 5851 (f) No signs shall be placed in view corridors required as a condition of permit approval under this
5852 master program.
- 5853 (g) The following types of signs may be permitted, subject to the provisions contained within this
5854 section:
- 5855 (i) Water navigational signs and highway and railroad signs necessary for operation, safety and
5856 direction;
- 5857 (ii) Public information/interpretive signs directly relating to a shoreline resource, use or activity;
- 5858 (iii) Off-premises, free signs for community identification, information, or directional purposes;
- 5859 (iv) Signs with changing messages; provided, that the information displayed is limited to time,
5860 temperature or date or public noncommercial messages;

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- 5861 (v) National, state or institutional flags or temporary decorations customary for special holidays
5862 and similar events of a public nature; and
- 5863 (vi) Temporary directional signs to public or quasi-public events if removed within 10 days
5864 following the event.
- 5865 (h) The following types of signs are prohibited:
- 5866 (i) Signs that impair visual access through view corridors;
- 5867 (ii) Off-premises, detached outdoor advertising signs;
- 5868 (iii) Signs that incorporate spinners, streamers, pennants, flashing or blinking lights and moving
5869 devices, except for public highway and railroad signs;
- 5870 (iv) Signs placed on trees or other natural features; and
- 5871 (v) Commercial signs for products, services or facilities located off site. [Ord. 7-13 Exh. A (Art.
5872 VIII § 9)]
- 5873 **18.25.520 Transportation.**
- 5874 (1) Policies.
- 5875 (a) Major new roads, railroads and parking areas should be located outside of the shoreline
5876 jurisdiction whenever feasible.
- 5877 (b) Maintenance and repair of existing roads in shoreline jurisdiction shall use all reasonable
5878 methods to minimize adverse impacts on nearby shorelines.
- 5879 (c) Road and railroad locations should be planned to fit the topographical characteristics of the
5880 shoreline to minimize alterations to natural shoreline conditions.
- 5881 (d) New transportation facilities should be designed and located to minimize the need for the
5882 following:
- 5883 (i) Structural shoreline protection measures;
- 5884 (ii) Modifications to natural drainage systems; and
- 5885 (iii) Waterway crossings.
- 5886 (e) Planning for transportation and circulation corridors shall consider location of public access
5887 facilities, and be designed to promote safe and convenient access to those facilities.
- 5888 (f) Pedestrian trails and bicycle paths along shorelines are encouraged where they are compatible
5889 with the natural character, resources, and ecology of the shoreline.
- 5890 (g) When transportation corridors are necessary within shoreline jurisdiction, joint-use corridors are
5891 preferred and encouraged for roads, utilities, and motorized forms of transportation/circulation.

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Planning Commission Recommendations

5892 (h) Parking is not a preferred use in shoreline areas and should be limited to accessory parking that
5893 which directly serves a permitted shoreline use. Primary use parking should be prohibited.

Commented [LG258]: Response to ECY Rec-6

5894 (i) Parking facilities should be located and designed to minimize adverse environmental impacts to
5895 the following, including, but not limited to:

5896 (i) Stormwater runoff;

5897 (ii) Water quality;

5898 (iii) Visual qualities;

5899 (iv) Public access; and

5900 (v) Vegetation and habitat.

5901 (j) Parking areas should be planned to achieve optimum use. Where feasible, parking areas should
5902 serve more than one use (e.g., recreational use on weekends, commercial use on weekdays).

5903 (k) Transportation facilities should employ pervious materials and other appropriate low impact
5904 development techniques where soils and geologic conditions are suitable and where such measures
5905 could measurably reduce stormwater runoff.

5906 (l) The County should evaluate all transportation, plans and projects for opportunities to adapt and
5907 mitigate the effects of climate change. (Comprehensive Plan Policy TR-P-9.7)

Commented [LG259]: Comp Plan Policy TR-P-9.7

Commented [LG260R259]: Task Force C

5908 (2) Uses and Activities Prohibited Outright.

5909 (a) Parking as a primary use shall be prohibited within shoreline jurisdiction.

5910 (b) Parking is prohibited on structures located in or over water.

5911 (3) Shoreline Environment Regulations.

5912 (a) Priority Aquatic. Transportation facilities that provide access to water-dependent or water-
5913 related uses may be allowed as a conditional use subject to the use and development regulations of
5914 the abutting upland shoreline environment designation. New or expanded stream crossings serving
5915 non-water-dependent or non-water-related uses may be allowed as a conditional use subject to the
5916 use and development regulations of the abutting upland shoreline environment designation.

5917 (b) Aquatic. Transportation facilities that provide access to water-dependent or water-related uses
5918 may be allowed as a conditional use subject to the use and development regulations of the abutting
5919 upland shoreline environment designation. New or expanded stream crossings for non-water-
5920 dependent or non-water-related uses may be allowed as a conditional use subject to the use and
5921 development regulations of the abutting upland shoreline environment designation.

5922 (c) Natural. Transportation facilities are prohibited, except to access approved public recreational
5923 development.

- 5924 (d) Conservancy. Transportation facilities may be allowed subject to policies and regulations of this
5925 program. Transportation facilities not serving a specific approved use, including roads, railways, and
5926 parking areas, may be allowed as a conditional use, provided there is no feasible location outside of
5927 the shoreline.
- 5928 (e) Shoreline Residential. Transportation facilities may be allowed subject to policies and regulations
5929 of this program. Transportation facilities not serving a specific approved use, including roads,
5930 railways, and parking areas, may be allowed as a conditional use, provided there is no feasible
5931 location outside of the shoreline.
- 5932 (f) High Intensity. Transportation facilities may be allowed subject to policies and regulations of this
5933 program. Transportation facilities not serving a specific approved use, including roads, railways, and
5934 parking areas, may be allowed as a conditional use, provided there is no feasible location outside of
5935 the shoreline.
- 5936 (4) Regulations – Design and Operation.
- 5937 (a) New transportation facilities in shoreline jurisdiction shall be located to be as far away from
5938 shoreline features as possible and shall be designed to generally follow natural topography, to
5939 minimize cuts and/or fills, and to avoid adverse impacts to shoreline ecological functions and
5940 processes, including channel migration zones (CMZs). Wherever roads or railway embankments
5941 cross waterways including remnant stream channels and oxbow bends, crossings of ample cross-
5942 section shall be provided to span the feature.
- 5943 (b) Raised arterial roads or railways shall be built outside the floodway except for necessary
5944 crossings. If built in the floodplain, such routes shall be designed to avoid obstructing floodwaters.
5945 Any parking areas required along such roads shall be located to prevent or minimize the need for
5946 flood control or shoreline armoring. Local access roads in floodplains shall be built so that
5947 floodwaters are not obstructed nor diverted.
- 5948 (c) Transportation facilities shall be designed so that no significant loss of floodway capacity nor
5949 measurable increase in predictable flood levels will result. Such facilities shall avoid placing
5950 structures within the channel migration zone or any dynamic, shifting channel area.
- 5951 (d) In instances where water crossing is required, roads shall cross shoreline areas and water bodies
5952 by the shortest, most direct route feasible unless such route would cause more damage to the
5953 environment.
- 5954 (e) When an in-water or overwater development or structure is required for construction, operation
5955 or maintenance of transportation facilities, it shall meet all provisions of this section and this
5956 program.
- 5957 (f) Bridge supports and abutments shall be designed and spaced so they do not act as walls baffling
5958 or blocking flood waters, or interrupting stream channel processes or littoral drift.
- 5959 (g) Bridges and culverts shall be used in accordance with WDFW guidance to protect shoreline
5960 ecological functions and processes. Transportation crossings over ordinary high water in floodways

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- 5961 shall be constructed on open piling, support piers, culverts, or other similar measures to preserve
5962 hydraulic processes.
- 5963 (h) Parking facilities shall only be permitted in shoreline jurisdiction to support an authorized use
5964 where it can be demonstrated that there are no feasible alternative locations away from the
5965 shoreline.
- 5966 (i) Transportation facilities shall be constructed of materials that will not adversely affect water
5967 quality or aquatic plants and animals over the long term. Elements within or over water shall be
5968 constructed of materials approved by applicable state agencies for use in water for both submerged
5969 portions and other components to avoid discharge of pollutants from splash, rain or runoff. Wood
5970 or pilings treated with creosote, pentachlorophenol or other similarly toxic materials are prohibited.
5971 Preferred materials are concrete and steel.
- 5972 (j) Transportation development shall be carried out in a manner that maintains or improves state
5973 water quality standards for affected waters.
- 5974 (k) Pervious materials and low impact development techniques shall be used to manage stormwater
5975 runoff where feasible and where conditions are appropriate.
- 5976 (l) Non-emergency construction and repair work shall be scheduled for that time of year when
5977 seasonal conditions (weather, streamflow) permit optimum feasible protection of shoreline
5978 ecological functions and processes.
- 5979 (m) Transportation shall be required to make joint use of rights-of-way and to consolidate crossings
5980 of water bodies where adverse impact to the shoreline can be minimized by doing so.
- 5981 (n) Roads and railroads shall be located to minimize the need for routing surface waters into and
5982 through culverts.
- 5983 (5) Regulations – Parking.
- 5984 (a) Parking shall only be permitted in shoreline jurisdiction when necessary to support an
5985 authorized use where it can be demonstrated that there are no feasible alternative locations away
5986 from the shoreline. Parking facilities shall be buffered from the water’s edge and less intense
5987 adjacent land uses by vegetation, undeveloped space, or structures developed for the authorized
5988 primary use to the maximum practicable extent.
- 5989 (b) Parking areas shall be developed using low impact development techniques whenever possible
5990 including but not limited to the use of permeable surfacing materials.
- 5991 (c) Parking facilities shall be designed and located to minimize adverse impacts upon abutting
5992 properties. Landscaping shall consist of county-approved vegetation species planted prior to
5993 completion of the parking area. Landscape plantings shall be selected, planted and maintained to
5994 provide effective screening within three years of project completion and through maturity of the
5995 species.

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5996 (d) Parking facilities serving individual buildings shall be located landward of the principal building
5997 being served, except when the parking facility is located within or beneath the structure and is
5998 adequately screened, or in cases when an alternate location would have less environmental impact
5999 on the shoreline.

6000 (e) Parking facilities for shoreline uses shall be designed to provide safe and convenient pedestrian
6001 circulation within the parking area and to the shorelines.

6002 (f) Parking facilities shall be provided with facilities adequate to prevent surface water runoff from
6003 contaminating water bodies, using best available technologies. A parking facility maintenance
6004 program shall be required to assure the proper functioning of drainage facilities over time. [Ord. 7-
6005 13 Exh. A (Art. VIII § 10)]

6006 (g) Parking facilities may include features such as lighting, signage, electric vehicle charging stations,
6007 bike racks/lockers, passenger loading/seating, and similar features, when demonstrated to be an
6008 ancillary component of an accessory parking function. Such ancillary components may be provided
6009 as a complimentary or for a user fee, by the accessory parking's primary use owner/operator or by a
6010 third-party with written permission. Unrelated stand-alone commercial activities (e.g. concession
6011 stand, bike rentals) located in a parking lot are not ancillary components and shall be subject to
6012 other applicable provisions of the program.

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6013 **18.25.530 Utilities.**

6014 (1) Policies.

6015 (a) New public or private utilities should be located inland from the land/water interface, preferably
6016 outside of the shoreline, unless:

6017 (i) The utility requires a location adjacent to the water; or

6018 (ii) Alternative locations are infeasible; or

6019 (iii) Utilities are required for permitted shoreline uses consistent with this program.

6020 (b) Utilities should be located and designed to avoid public recreation and public access areas and
6021 significant historic, archaeological, cultural, scientific or educational resources.

6022 (c) Pipeline and cable development should be designed and sited to avoid crossing aquatic lands. If
6023 a water crossing is unavoidable, it should be located in an area that will cause the least adverse
6024 ecological impact, be installed using the methods that minimize adverse impacts, and be the
6025 shortest length feasible.

6026 (d) Utility facilities of all kinds that would require periodic maintenance activities should avoid
6027 shoreline locations to prevent disruption of shoreline ecological functions.

6028 (e) New utilities should use existing transportation and utility sites, rights-of-way and corridors,
6029 rather than creating new corridors.

- 6030 (f) New utility installations should be planned, designed and located to eliminate the need for
6031 structural shoreline armoring or flood hazard reduction measures.
- 6032 (g) Utility facilities and corridors should be planned, designed and located to protect scenic views.
6033 Where feasible, conveyance utilities should be placed underground or alongside or under bridges,
6034 unless doing so would cause greater ecological impact or harm.
- 6035 (h) Power generating facilities and other utilities using emerging technologies such as tidal energy
6036 generators should be carefully evaluated to ensure that the potential impacts are fully understood.
6037 Before approving such facilities, the county should consider whether the benefits to the public
6038 outweigh the potential impacts. The county should ensure such facilities are designed and located
6039 to protect ecological functions and shoreline resources.
- 6040 (2) Shoreline Environment Regulations.
- 6041 (a) Priority Aquatic.
- 6042 (i) Submarine electrical and communications cables, water lines, sewer lines, fuel pipelines,
6043 sewer outfalls, overwater public utility lines consisting of local distribution lines, water intakes,
6044 and desalinization facility intakes/outfalls may be allowed as conditional uses subject to policies
6045 and regulations of this program and subject to the use and development regulations of the
6046 abutting upland shoreline environment designation.
- 6047 (ii) All other utility development is prohibited.
- 6048 (b) Aquatic.
- 6049 (i) Submarine electrical and communications cables, water lines, sewer lines, fuel pipelines,
6050 sewer outfalls, overwater public utility lines consisting of local distribution lines, water intakes,
6051 and desalinization facility intakes/outfalls may be allowed as conditional uses subject to policies
6052 and regulations of this program and subject to the use and development regulations of the
6053 abutting upland shoreline environment designation.
- 6054 (ii) Submarine water and sewer lines, fuel pipelines, and sewer outfalls may be allowed as
6055 conditional uses subject to the use and development regulations of the abutting upland
6056 shoreline environment designation.
- 6057 (iii) Tidal generating facilities may be allowed as a conditional use.
- 6058 (iv) All other utility development is prohibited.
- 6059 (c) Natural.
- 6060 (i) Utility development is prohibited.
- 6061 (ii) Maintenance of existing utilities is allowed; provided, that the operator makes every effort
6062 to protect shoreline ecological functions and the natural features therein. Removal of existing
6063 utilities is preferred over time.

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- 6064 (iii) Utilities accessory to and serving permitted uses are allowed.
- 6065 (d) Conservancy. Utility development consisting of local distribution facilities is allowed subject to
6066 policies and regulations of this program. The following may be allowed as a conditional use,
6067 provided there is no feasible location outside shoreline jurisdiction: sewage outfalls and treatment
6068 plants, overwater communication or power lines, fuel pipelines, and other types of hazardous
6069 material pipelines, regional facilities, including transmission facilities serving customers outside of
6070 Jefferson County, desalinization facilities, and power generating facilities. Freestanding
6071 communication towers are prohibited.
- 6072 (e) Shoreline Residential. Utility development consisting of local distribution facilities is allowed
6073 subject to policies and regulations of this program. The following may be allowed as a conditional
6074 use, provided there is no feasible location outside shoreline jurisdiction: regional facilities, including
6075 transmission facilities serving customers outside of Jefferson County, desalinization facilities, and
6076 power generating facilities.
- 6077 (f) High Intensity. Utility development consisting of local distribution facilities is allowed subject to
6078 policies and regulations of this program. The following may be allowed as a conditional use,
6079 provided there is no feasible location outside shoreline jurisdiction: regional facilities, including
6080 transmission facilities serving customers outside of Jefferson County, desalinization facilities, and
6081 power generating facilities.
- 6082 (3) Regulations – General.
- 6083 (a) All underwater pipelines transporting liquids intrinsically harmful to aquatic life or potentially
6084 injurious to water quality are prohibited, except in situations where no other feasible alternative
6085 exists. In those limited instances when permitted, automatic shut-off valves shall be provided on
6086 both sides of the water body, and pipe sleeves shall be used to facilitate repair without future
6087 encroachment on surface waters and wetlands, unless more feasible or technically superior
6088 alternatives exist that provide equivalent protection, as deemed by the administrator.
- 6089 (b) Utilities that are not water-dependent shall be located outside shoreline buffers unless it is
6090 demonstrated that alternative locations and alternative technology are infeasible.
- 6091 (c) The construction, operation and maintenance of utilities shall not cause a net loss of shoreline
6092 ecological functions or processes or adversely impact other shoreline resources and values.
- 6093 (d) The following information shall be required for all proposals for utility facilities:
- 6094 (i) A description of the proposed facilities; and
- 6095 (ii) The rationale and justification for siting the proposed facility within shoreline jurisdiction;
6096 and
- 6097 (iii) A discussion of alternative locations considered and reasons for their elimination; and
- 6098 (iv) A description of the location of other utility facilities in the vicinity of the proposed project
6099 and any plans to include facilities or other types of utilities in the project; and

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- 6100 (v) A plan for the reclamation of areas disturbed both during construction and following
6101 decommissioning and/or completion of the useful life of the facility; and
- 6102 (vi) A plan for the control of erosion and turbidity during construction and operation; and
- 6103 (vii) An analysis of alternative technologies; and
- 6104 (viii) Documentation that utilities avoid public recreation areas and significant natural, historic
6105 or archaeological or cultural sites or that no alternative is feasible and that all feasible
6106 measures to reduce harm have been incorporated into the proposal.
- 6107 (ix) When feasible, utility lines shall use existing rights-of-way, corridors and/or bridge crossings
6108 and shall avoid duplication and construction of new or parallel corridors in all shoreline areas.
- 6109 (e) Utility facilities shall be constructed using techniques that minimize the need for shoreline fill.
6110 When crossing water bodies, pipelines and other utility facilities shall use pier or open pile
6111 construction.
- 6112 (f) Vegetation clearing during utility installation or maintenance shall be minimized, and disturbed
6113 areas shall be restored or enhanced following project completion consistent with the requirements
6114 of this program.
- 6115 (4) Regulations – Water Systems.
- 6116 (a) Components of water systems that are not water-dependent shall be located away from the
6117 shoreline. Private and public intake facilities should be located where there will be no net loss in
6118 ecological functions or adverse impacts upon shoreline resources, values, natural features, or other
6119 users.
- 6120 (b) Desalinization facilities shall be located outside of critical areas and landward of shoreline
6121 buffers, except for water-dependent components such as water intakes.
- 6122 (5) Regulations – Essential Public Facilities.
- 6123 (a) Essential public facilities shall be located, developed, managed, and maintained in a manner that
6124 protects shoreline ecological functions and processes.
- 6125 (b) Essential public facilities shall be designed to enhance shoreline public access and aesthetics.
- 6126 (c) Essential public facilities shall be located outside of shoreline jurisdiction unless they require a
6127 waterfront location or unless there is no feasible alternative.
- 6128 (6) Regulations – Sewage Systems.
- 6129 (a) Outfall pipelines and diffusers are water-dependent but shall be located to minimize adverse
6130 effects on shoreline ecological functions and processes or adverse impacts upon shoreline resources
6131 and values.
- 6132 (b) Septic tanks and drain fields are prohibited where public sewer is readily available.

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6133 (7) Regulations – Solid Waste Facilities.

6134 (a) Facilities for processing and storage and disposal of solid waste are not normally water-
6135 dependent. Components that are not water-dependent shall not be permitted on shorelines.

6136 (b) Disposal of solid waste on shorelines or in water bodies has potential for severe adverse effects
6137 upon ecological processes and functions, property values, public health, natural resources, and local
6138 aesthetic values, and shall not be permitted.

6139 (c) Temporary storage of solid waste in suitable receptacles is permitted as accessory to a permitted
6140 primary use or for litter control.

6141 (8) Regulations – Oil, Gas and Natural Gas Transmission.

6142 (a) Oil, gas and natural gas transmission and distribution pipelines and related facilities shall not be
6143 located in shoreline areas unless alternatives are demonstrated to be infeasible.

6144 (b) Local natural gas service lines shall not be located in shoreline areas unless serving approved
6145 shoreline uses. Crossings of shorelines shall not be approved unless alternatives are demonstrated
6146 to be infeasible.

6147 (c) Developers and operators of pipelines and related facilities for gas and oil shall be required to
6148 demonstrate adequate provisions for preventing spills or leaks, as well as established procedures
6149 for mitigating damages from spills or other malfunctions and shall demonstrate that periodic
6150 maintenance will not disrupt shoreline ecological functions.

6151 (9) Regulations – Electrical Energy and Communication Systems.

6152 (a) Systems components (including substations, towers, and transmission and distribution lines)
6153 that are not water-dependent shall not be located on shorelines unless alternatives are infeasible.

6154 (b) Underground placement of lines shall be required for new or replacement lines that are parallel
6155 to the shoreline, and do not cross water bodies. New or replacement lines that cross water or
6156 critical areas may be required to be placed underground depending on impacts on ecological
6157 functions and processes and visual impacts. Poles or supports treated with creosote or other wood
6158 preservatives that may be mobile in water shall not be used along shorelines or associated
6159 wetlands.

6160 (10) Regulations – Power Generation Facilities. Power generation facilities involving emerging
6161 technologies such as tidal energy shall not be permitted until and unless the county determines that the
6162 adverse effects can be fully mitigated and the public benefits clearly outweigh the risks to the shoreline
6163 environment. [Ord. 7-13 Exh. A (Art. VIII § 11)]

6164 **Article IX. Permit Criteria and Exemptions**

6165 **18.25.540 Substantial development permit criteria.**

6166 To be authorized, all uses and developments shall be planned and carried out in a manner that is
6167 consistent with this program and the policy of the Act as required by RCW 90.58.140(1), regardless of

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6168 whether a shoreline permit, statement of exemption, shoreline variance, or shoreline conditional use
6169 permit is required. [Ord. 7-13 Exh. A (Art. IX § 1)]

6170 **18.25.550 Exemptions from shoreline substantial development permit process.**

6171 (1) Exemptions shall be construed narrowly. Only those developments that meet the precise terms of
6172 one or more of the listed exemptions may be granted exemptions from the substantial development
6173 permit process.

6174 (2) An exemption from the substantial development permit process is not an exemption from
6175 compliance with the Act or this program, or from any other regulatory requirements. To be authorized,
6176 all uses and developments must be consistent with the policies and provisions of this program and the
6177 Act.

6178 (3) A use or development or use that is listed as a conditional use pursuant to this program or is an
6179 unlisted use or development, must obtain a conditional use permit even if the development or use does
6180 not require a substantial development permit.

6181 (4) When a development or use is proposed that does not comply with the bulk, dimensional and/or
6182 performance standards of this program, such development or use shall only be authorized by approval
6183 of a shoreline variance even if the development or use does not require a substantial development
6184 permit.

6185 (5) The burden of proof that a development or use is exempt is on the applicant/proponent of the
6186 exempt development action.

6187 (6) If any part of a proposed development is not eligible for exemption, then a substantial development
6188 permit is required for the entire proposed development project.

6189 (7) All permits or statements of exemption issued for development or use within shoreline jurisdiction
6190 shall include written findings prepared by the administrator, including compliance with bulk and
6191 dimensional standards and policies and regulations of this program. The administrator may attach
6192 conditions to the approval of exempt developments and/or uses as necessary to assure consistency of
6193 the project with the Act and this program. [Ord. 7-13 Exh. A (Art. IX § 2)]

6194 **18.25.560 Exemptions listed.**

6195 The following activities shall be considered exempt from the requirement to obtain a shoreline
6196 substantial development permit in accordance with RCW 90.58.030 and WAC 173-27-040:

6197 (1) Fair Market Value. Any development of which the total cost or fair market value, whichever is higher,
6198 does not exceed ~~\$6,4168,504~~ or as adjusted by WAC 173-27-040, if such development does not
6199 materially interfere with the normal public use of the water or shorelines of the state. For the purpose
6200 of determining whether or not a permit is required, the total cost or fair market value shall be based on
6201 the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030(2)(c).
6202 The total cost or fair market value of the development shall include the fair market value of any
6203 donated, contributed or found labor, equipment or materials.

Commented [AS262]: Edit made per Ecology recommended change 8 (9/30/22)

Commented [LG263]: 2017 a Periodic Checklist

6204 (2) Maintenance and Repair. Normal maintenance or repair of existing structures or developments,
6205 including damage by accident, fire or elements. Normal maintenance includes those usual acts to
6206 prevent a decline, lapse or cessation from a lawfully established condition. Normal repair means to
6207 restore a development to a state comparable to its original condition within a reasonable period after
6208 decay or partial destruction except where repair causes substantial adverse effects to the shoreline
6209 resource or environment. Replacement of a structure or development may be authorized as repair
6210 where such replacement is the common method of repair for the type of structure or development and
6211 the replacement structure or development is comparable to the original structure or development
6212 including but not limited to its size, shape, configuration, location and external appearance and the
6213 replacement does not cause substantial adverse effects to shoreline resources or the environment.

6214 (3) Residential Bulkhead. Construction of the normal protective bulkhead common to single-family
6215 residences. A normal protective bulkhead includes those structural and nonstructural developments
6216 installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an
6217 existing single-family residence and appurtenant structures from loss or damage by erosion. A normal
6218 protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or
6219 near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot
6220 of wall may be used for backfill. When an existing bulkhead is being repaired by construction of a
6221 vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing
6222 bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such
6223 that an ordinary high water mark has been established by the presence and action of water landward of
6224 the bulkhead, then the replacement bulkhead must be located at or near the actual ordinary high water
6225 mark. Beach nourishment and bioengineering erosion control projects may be considered a normal
6226 protective bulkhead when any structural elements are consistent with the above requirements and
6227 when the project has been approved by the Washington Department of Fish and Wildlife.

6228 (4) Emergency Construction. Emergency construction necessary to protect property from damage by the
6229 elements. An emergency is an unanticipated and imminent threat to public health, safety or the
6230 environment that requires immediate action within a time too short to allow full compliance with this
6231 program. Emergency construction does not include development of new permanent protective
6232 structures where none previously existed. Where new protective structures are deemed by the
6233 administrator to be the appropriate means to address the emergency situation, upon abatement of the
6234 emergency situation the new structure shall be removed or any permit that would have been required,
6235 absent an emergency, pursuant to Chapter 90.58 RCW, Chapter 173-27 WAC or this program, shall be
6236 obtained. All emergency construction shall be consistent with the policies of Chapter 90.58 RCW and
6237 this program. As a general matter, flooding or other seasonal events that can be anticipated and may
6238 occur but that are not imminent are not an emergency.

6239 (5) Agriculture. Construction and practices normal or necessary for farming, irrigation, and ranching
6240 activities, including agricultural service roads and utilities, construction of a barn or similar agricultural
6241 structure, and the construction and maintenance of irrigation structures including, but not limited to,
6242 head gates, pumping facilities, and irrigation channels. A feedlot of any size, all processing plants, other
6243 activities of a commercial nature, or alteration of the contour of the shorelands by leveling or filling
6244 other than that which results from normal cultivation, shall not be considered normal or necessary
6245 farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used
6246 for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing

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6247 crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering
6248 operations.

6249 (6) Drainage. Operation and maintenance of any system of dikes, ditches, drains, or other facilities
6250 existing on June 4, 1975, that were created, developed or utilized, primarily as a part of an agricultural
6251 drainage or diking system.

6252 (7) Navigation Aids. Construction or modification, by or under the authority of the Coast Guard or a
6253 designated port management authority, of navigational aids such as channel markers and anchor buoys.

6254 (8) Single-Family Residences. Construction on shorelands by an owner, lessee, or contract purchaser of a
6255 single-family residence for their own use or for the use of their family, which residence does not exceed
6256 a height of 35 feet above average grade level and that meets all requirements of the state agency or
6257 local government having jurisdiction thereof. Single-family residence means a detached dwelling
6258 designed for and occupied by one family including those structures and developments within a
6259 contiguous ownership which are a normal appurtenance as defined in Article II of this chapter.

6260 (9) Residential Docks. Construction of an individual/single-user or shared dock for private
6261 noncommercial pleasure craft, for use by the owner, lessee, or contract purchaser of a single-family or
6262 multifamily residence. The private dock exemption applies to dock construction cost as specified in RCW
6263 90.58.030(3)(e-) and WAC 173-27-040(2)(h).

6264 (10) Irrigation. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or
6265 other facilities that now exist or are hereafter created or developed as a part of an irrigation system for
6266 the primary purpose of making use of system waters including return flow and artificially stored ground
6267 water for the irrigation of lands; provided, that this exemption shall not apply to construction of new
6268 irrigation facilities proposed after December 17, 2003.

6269 (11) State Property. The marking of property lines or corners on state owned lands, when such marking
6270 does not significantly interfere with normal public use of the surface of the water.

6271 (12) Energy Facilities. Any project with a certification from the governor pursuant to ~~to~~ Chapter 80.50
6272 RCW.

6273 (13) Site Exploration. Site exploration and investigation activities that are prerequisite to preparation of
6274 a development application for authorization under this program, if:

6275 (a) The activity does not interfere with the normal public use of surface waters;

6276 (b) The activity will have no significant adverse impact on the environment including but not limited
6277 to fish, wildlife, fish or wildlife habitat, water quality and aesthetic values;

6278 (c) The activity does not involve the installation of any structure and, upon completion of the
6279 activity, the vegetation and land configuration of the site are restored to conditions existing before
6280 the activity;

Commented [LG264]: Periodic Checklist: 2019.a.
Optional Edit.

6281 (d) A private entity seeking development authorization under this section first posts a performance
6282 bond or provides other evidence of financial responsibility to the administrator to ensure that the
6283 site is restored to preexisting conditions; and

6284 (e) The activity is not subject to the permit requirements of RCW 90.58.550.

6285 (14) Noxious Weeds. The process of removing or controlling aquatic noxious weeds, as defined in RCW
6286 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that
6287 are recommended by a final environmental impact statement published by the Department of
6288 Agriculture or the Department of Ecology jointly with other state agencies under Chapter 43.21C RCW.

6289 (15) Watershed Restoration. Watershed restoration projects as defined herein and by RCW 89.08.460.
6290 The administrator shall review the projects for consistency with this program in an expeditious manner
6291 and shall issue its decision along with any conditions within 45 days of receiving a complete application
6292 form from the applicant/proponent. No fee may be charged for accepting and processing applications
6293 for watershed restoration projects as defined in this section. For the purposes of this exemption, the
6294 following definitions apply:

6295 (16a) "Watershed restoration project" means a public or private project authorized by the sponsor
6296 of a watershed restoration plan that implements the plan or part of the plan and consists of one or
6297 more of the following activities:

6298 (a) A project that involves less than 10 miles of stream reach, in which less than 25 cubic yards
6299 of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing
6300 vegetation is removed except as minimally necessary to facilitate additional plantings;

6301 (b) A project for the restoration of an eroded or unstable stream bank that employs the
6302 principles of bioengineering, including limited use of rock as a stabilization only at the toe of
6303 the bank, and with primary emphasis on using native vegetation to control erosive forces of
6304 flowing water; or

6305 (c) A project primarily designed to improve fish and wildlife habitat, remove or reduce
6306 impediments to migration of fish, or enhance the fishery resource available for use by all of the
6307 citizens of the state; provided, that any structures, other than a bridge or culvert or in-stream
6308 habitat enhancement structure associated with the project, is less than 200 square feet in floor
6309 area and is located above the ordinary high water mark.

6310 (17) "Watershed restoration plan" means a plan, developed or sponsored by the Department of
6311 Fish and Wildlife, the Department of Ecology, the Department of Transportation, a federally
6312 recognized Indian tribe acting within and pursuant to its authority, a city, a county or a conservation
6313 district that provides a general program and implementation measures or actions for the
6314 preservation, restoration, recreation, or enhancement of the natural resource character and
6315 ecology of a stream, stream segment, drainage area or watershed for which agency and public
6316 review has been conducted pursuant to Chapter 43.21C RCW, the State Environmental Policy Act.

Commented [AS265]: Edit made per Ecology
recommended change 30 (9/30/22)

Commented [LG266]: Staff Docket/Code Interpretations

6317 ~~(18)(16) Habitat Enhancement and Fish Passage.~~ A public or private project, the primary purpose of
6318 which is to improve fish or wildlife habitat or fish passage, ~~when all of the following apply, pursuant to~~
6319 ~~RCW 90.58.147.~~

6320 ~~(a)~~

6321 ~~(17) ADA Retrofit.~~ The ~~project has been approved in writing by the Department~~ external or internal
6322 ~~retrofitting of Fish and Wildlife as necessary for the improvement of the habitat or passage and~~
6323 ~~appropriately designed and sited to accomplish the intended~~ an existing structure with the exclusive
6324 purpose;

6325 ~~(b) The project received hydraulic project approval by the Department of compliance with the~~
6326 ~~Americans with disabilities act of Fish and Wildlife pursuant to Chapter 75.20 RCW; and~~

6327 ~~(c) The administrator has determined that the project is consistent with this program. The administrator~~
6328 ~~shall make such determination in a timely manner and 1990 (42 U.S.C. Sec. 12101 et seq.) or to~~
6329 ~~otherwise provide it by letter to the project proponent physical access to the structure by individuals~~
6330 ~~with disabilities.~~ [Ord. 7-13 Exh. A (Art. IX § 3)]

6331 **18.25.570 Statements of exemption.**

6332 (1) The administrator is hereby authorized to grant or deny requests for statements of exemption from
6333 the shoreline substantial development permit requirement for uses and developments within shorelines
6334 that are specifically listed above. Such statements shall be applied for on forms provided by the
6335 administrator. The statement shall be in writing and shall indicate the specific exemption of this
6336 program that is being applied to the development, and shall provide a summary of the administrator's
6337 analysis of the consistency of the project with this program and the Act. As appropriate, such statements
6338 of exemptions shall contain conditions and/or mitigating measures of approval to achieve consistency
6339 and compliance with the provisions of this program and Act. A denial of an exemption shall be in writing
6340 and shall identify the reason(s) for the denial. The administrator's actions on the issuance of a statement
6341 of exemption or a denial are subject to appeal pursuant to the appeal provisions in Article X of this
6342 chapter.

6343 (2) Exempt activities related to any of the following shall not be conducted until a statement of
6344 exemption has been obtained from the administrator: dredging, flood control works and in-stream
6345 structures, archaeological or historic site alteration, clearing and ground disturbing activities such as
6346 landfill or excavation, dock construction, shore stabilization, freestanding signs, or any development
6347 within a priority aquatic, aquatic or natural shoreline designation; provided, that no separate written
6348 statement of exemption is required for the construction of a single-family residence when a county
6349 building permit application has been reviewed and approved by the administrator; provided further,
6350 that no statement of exemption is required for emergency development pursuant to WAC 173-14-
6351 040(1)(d).

6352 (3) No statement of exemption shall be required for other exempt uses or developments unless the
6353 administrator has cause to believe a substantial question exists as to qualifications of the specific use or
6354 development for the exemption, or the administrator determines there is a likelihood of adverse
6355 impacts to shoreline ecological functions.

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Commented [AS267]: Edits made per Ecology recommended change 31 (9/30/22)

Commented [LG268]: 2016 a Periodic Checklist

Commented [LG269]: Standardized in section .620 the use of "statement of exemption" for consistency with section .570. Discuss with Ecology if "letter of exemption" is preferred.

6356 (4) Whenever the exempt activity also requires a U.S. Army Corps of Engineers Section 10 permit under
6357 the Rivers and Harbors Act of 1899 or a Section 404 permit under the Federal Water Pollution Control
6358 Act of 1972, a copy of the written statement of exemption shall be sent to the applicant/proponent and
6359 Ecology pursuant to WAC 173-27-050. [Ord. 7-13 Exh. A (Art. IX § 4)]

6360 **18.25.580 Variance permit criteria.**

6361 (1) The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in
6362 this program where there are extraordinary or unique circumstances relating to the property such that
6363 the strict implementation of this program would impose unnecessary hardships on the
6364 applicant/proponent or thwart the policies set forth in RCW 90.58.020. Use restrictions may not be
6365 varied. In authorizing a variance, special conditions may be attached to the permit by the county or the
6366 Department of Ecology to control any undesirable effects of the proposed use. Final authority for
6367 variance permit decisions shall be granted by the Department of Ecology.

6368 (2) Variances will be granted in any circumstance where denial would result in a thwarting of the policy
6369 enumerated in RCW 90.58.020. In all instances extraordinary circumstances shall be shown and the
6370 public interest shall suffer no substantial detrimental effect.

6371 (3) Variances may be authorized, provided the applicant/proponent can demonstrate all of the
6372 following:

6373 (a) ~~That the strict application of the bulk or dimensional criteria set forth in this program~~
6374 ~~precludes or significantly interferes with a reasonable permitted use of the property;~~

Commented [LG270]: PC 11/15/23: Find and fix € error.

6375 (b) That the hardship described above is specifically related to the property, and is the result of
6376 conditions such as irregular lot shape, size, or natural features and the application of this program,
6377 and not, for example, from deed restrictions or the applicant's/proponent's own actions;

6378 (c) That the design of the project will be compatible with other permitted activities in the area and
6379 will not cause adverse effects on adjacent properties or the shoreline environment;

6380 (d) That the variance authorized does not constitute a grant of special privilege not enjoyed by the
6381 other properties in the area, and will be the minimum necessary to afford relief;

6382 (e) That the public interest will suffer no substantial detrimental effect;

6383 (f) That the public rights of navigation and use of the shorelines will not be materially interfered
6384 with by the granting of the variance; and

6385 (g) Mitigation is provided to offset unavoidable adverse impacts caused by the proposed
6386 development or use.

6387 (4) In the granting of all variances, consideration shall be given to the cumulative environmental impact
6388 of additional requests for like actions in the area. For example, if variances were granted to other
6389 developments in the area where similar circumstances exist, the total of the variances should also
6390 remain consistent with the policies of RCW 90.58.020 and should not produce significant adverse effects
6391 to the shoreline ecological functions and processes or other users.

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6392 (5) Other factors that may be considered in the review of variance requests include the conservation of
6393 valuable natural resources and the protection of views from nearby roads, surrounding properties and
6394 public areas. In addition, variance requests based on the applicant's/proponent's desire to enhance the
6395 view from the subject development may be granted where there are no likely detrimental effects to
6396 existing or future users, other features or shoreline ecological functions and/or processes, and where
6397 reasonable alternatives of equal or greater consistency with this program are not available. In platted
6398 residential areas, variances shall not be granted that allow a greater height or lesser shore setback than
6399 what is typical for the immediate block or area.

6400 (6) Permits and/or variances applied for or approved under other county codes shall not be construed as
6401 shoreline permits under this program. [Ord. 7-13 Exh. A (Art. IX § 5)]

6402 **18.25.590 Conditional use permit criteria.**

6403 (1) The purpose of a conditional use permit is to allow greater flexibility in administering the use
6404 regulations of this program in a manner consistent with the policies of RCW 90.58.020. In authorizing a
6405 conditional use, special conditions may be attached to the permit by the county or the Department of
6406 Ecology to control any undesirable effects of the proposed use. Final authority for conditional use
6407 permit decisions rests with the Department of Ecology.

6408 (2) Uses specifically classified or set forth in this program as conditional uses (including standard 'C',
6409 administrative 'C(a)', and discretionary 'C(d)') and unlisted uses may be authorized, provided the
6410 applicant/proponent can demonstrate all of the following:

6411 (a) That the proposed use will be consistent with the policies of RCW 90.58.020 and this program.

6412 (b) That the proposed use will not interfere with normal public use of public shorelines.

6413 (c) That the proposed use of the site and design of the project will be compatible with other
6414 permitted uses within the area.

6415 (d) That the proposed use will not cause adverse effects to the shoreline environment in which it is
6416 to be located.

6417 (e) That the public interest suffers no substantial detrimental effect.

6418 (3) In the granting of all conditional use permits, consideration shall be given to the cumulative
6419 environmental impact of additional requests for like actions in the area. For example, if conditional use
6420 permits were granted for other developments in the area where similar circumstances exist, the sum of
6421 the conditional uses and their impacts should also remain consistent with the policies of RCW 90.58.020
6422 and should not produce a significant adverse effect to the shoreline ecological functions and processes
6423 or other users.

6424 (4) Permits and/or variances applied for or approved under county zoning or subdivision code
6425 requirements shall not be construed as shoreline variances under this program. [Ord. 7-13 Exh. A (Art. IX
6426 § 6)]

Commented [LG271]: Response to ECY Rec-31

6427 **18.25.600 Unclassified uses.**

6428 Other uses not specifically classified or set forth in this program, ~~including the expansion or resumption~~
6429 ~~of a nonconforming use,~~ may be authorized as discretionary conditional uses, C(d), provided the
6430 applicant/proponent can demonstrate that the proposal will satisfy the criteria set forth above, and that
6431 the use clearly requires a specific site location on the shoreline not provided for under this program, and
6432 extraordinary circumstances preclude reasonable use of the property in a manner consistent with the
6433 use regulations of this program. [Ord. 7-13 Exh. A (Art. IX § 7)]

Commented [LG272]: Staff Docket/Code Interpretations

6434 **Article X. Administration and Enforcement**

6435 **18.25.610 Administrative authority and responsibility.**

6436 (1) Administrator. The director of the Jefferson County department of community development or
6437 his/her designee (the administrator) is vested with authority to:

6438 (a) Administer this master program;

6439 (b) Recommend to the hearing examiner approval, approval with conditions, or denial of any permit
6440 applications or revisions in accordance with the policies and regulations of this master program and
6441 the provisions of the Jefferson County Unified Development Code;

6442 (c) Grant written permit exemptions from shoreline substantial development permit requirements
6443 of this master program;

6444 (d) Determine compliance with the State Environmental Policy Act (Chapter 43.21C RCW; Chapter
6445 197-11 WAC);

6446 (e) Specify the required application forms and submittal requirements including the type, details
6447 and number of copies;

6448 (f) Advise interested citizens and project proponents of the goals, policies, regulations and
6449 procedures of this master program;

6450 (g) Make administrative decisions ~~and consistent with the provisions of this program; and issue~~
6451 ~~administrative (code) interpretations of the policies and regulations of this master program and as~~
6452 ~~allowed under WAC 173-26-140. Prior to issuance of any formal written interpretation,~~
6453 ~~administrator will consult Ecology and ensure consistency with the Shoreline Management Act; and~~
6454 ~~applicable guidelines;~~

Commented [LG273]: Response to ECY Rec-32

6455 (h) Collect applicable fees;

6456 (i) Determine that application submittals are substantially complete;

6457 (j) Make field inspections as necessary;

6458 (k) Submit substantial development permit, variance permit and conditional use permit applications
6459 and make written recommendations and findings on such permits to the hearing examiner for
6460 his/her consideration and final action;

6461 (l) Assure that proper notice is given to appropriate persons and the public for all hearings;

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- 6462 (m) Provide technical and administrative assistance to the hearing examiner as required for
6463 effective and equitable implementation of this master program and the Act;
- 6464 (n) Provide a summary report of the shoreline permits issued in the past calendar year to the
6465 hearing examiner and the Jefferson County board of county commissioners;
- 6466 (o) Investigate, develop and propose amendments to this master program as deemed necessary to
6467 more effectively and equitably achieve its goals and policies;
- 6468 (p) Seek remedies for alleged violations of this master program, the provisions of the Act, or of
6469 conditions of any approved shoreline permit issued by the county;
- 6470 (q) Coordinate information with affected agencies; and
- 6471 (r) Forward any decision on any permit application to the Washington State Department of Ecology
6472 for filing or action.
- 6473 (2) Hearing Examiner. The hearing examiner is vested with the authority and responsibility to:
- 6474 (a) Approve, condition, or deny shoreline substantial development permits, variance permits and
6475 conditional use permits after considering the findings and recommendations of the administrator;
- 6476 (b) Decide local administrative appeals of the administrator's actions and interpretations, as
6477 provided in this program and the county Unified Development Code;
- 6478 (c) Consider shoreline substantial development permit, variance permit and conditional use permit
6479 applications and administrative appeals of the administrator's actions on regular meeting days or
6480 public hearings;
- 6481 (d) Review the findings and recommendations for permit applications or appeals of the
6482 administrator's actions and interpretations;
- 6483 (e) Approve, approve with conditions, or deny substantial development permits, variance permits
6484 and conditional use permits;
- 6485 (f) Conduct public hearings on appeals of the administrator's actions, interpretations and decisions;
- 6486 (g) Base all decisions on shoreline permits or administrative appeals on the criteria established in
6487 this master program; and
- 6488 (h) At his or her sole discretion, require any project proponent granted a shoreline permit to post a
6489 bond or other acceptable security with the county, conditioned to assure that the project
6490 proponent and/or his or her successors adhere to the approved plans and all conditions attached to
6491 the shoreline permit. Such bonds or securities shall have a face value of at least 150 percent of the
6492 estimated development cost including attached conditions.
- 6493 (3) Board of Commissioners.

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6494 (a) The Jefferson County board of county commissioners (the BOCC) is vested with the authority to
6495 approve any revisions or amendments to this master program in accordance with the applicable
6496 requirements of the Act and the Washington Administrative Code.

6497 (b) The BOCC shall review and act upon any recommendations of the shoreline administrator for
6498 amendments to, or revisions of, this master program. The BOCC shall enter findings and conclusions
6499 setting forth the factors it considered in reaching its decision. To become effective any amendment
6500 to this master program must be reviewed and adopted by the Department of Ecology pursuant to
6501 RCW 90.58.190 and Chapter 173-26 WAC. [Ord. 7-13 Exh. A (Art. X § 1)]

6502 **18.25.620 Permit application review.**

6503 ~~(1) Type I – Exemptions, Applicability and Submittals.~~ Determinations of the administrator regarding
6504 the geographic applicability of this master program, permit exemptions and application submittal
6505 requirements shall be processed as Type I decisions pursuant to Chapter 18.40 JCC.

6506 ~~(2) Type II – SDP and C(a).~~ Applications for substantial development permits and ~~variance permits~~
6507 ~~shall be processed as Type III decisions pursuant to the Chapter 18.40 JCC.~~

6508 ~~(3) Applications for~~ uses/development listed as an administrative conditional use permit (i.e., “C(a)”) in
6509 Table 18.25.220 shall be processed according to the procedures for Type II land use decisions
6510 established in Article IV of Chapter 18.40 JCC.

6511 ~~(4) Type II or III -C(d).~~ Applications for uses/developments listed as discretionary conditional use
6512 permits (i.e., “C(d)”) in Table 18.25.220 shall, at a minimum, be processed according to the procedures
6513 for Type II land use decisions established in Article IV of Chapter 18.40 JCC. However, in accordance with
6514 Chapter 18.40 JCC, the administrator may on a case-by-case basis refer a discretionary conditional use
6515 permit application to the hearing examiner to be processed according to the procedures for Type III land
6516 use decisions established in Article IV of Chapter 18.40 JCC.

6517 ~~(5) Type III – C and VAR/ Variance permits and standard conditional use permits (i.e., “C”) shall be~~
6518 ~~processed as Type III decisions pursuant to the Chapter 18.40 JCC.~~

6519 ~~(5) Type V – SMP Amendments.~~ All amendments to this master program shall be processed as Type V
6520 decisions pursuant to Chapter 18.40 JCC.

6521 (6) Whenever the administrator issues a determination or recommendation and/or conditions of
6522 approval on a proposal which will result in the denial or substantial alteration of a proposed action, such
6523 determinations will be provided in writing stating the relationship(s) between the ecological factors, the
6524 proposed action and the condition(s). [Ord. 7-13 Exh. A (Art. X § 2)]

6525 ~~(7) When a proposed use or development requires other approvals or permits outside this program do~~
6526 ~~not require an open record hearing, such approvals or permits shall not be granted until a shoreline~~
6527 ~~approval or permit is granted. All shoreline approvals and permits shall include written findings~~
6528 ~~prepared by the administrator documenting compliance with bulk and dimensional standards and other~~
6529 ~~policies and regulations of this program.~~

Commented [LG274]: Response to ECY Rec-33

Commented [LG275]: Staff Docket/Code Interpretations

Date of Base Code: The Jefferson County Code is current through Ordinance 06-0817-20, passed August 17, 2020.
The Jefferson County Shoreline Master Program is current through Ordinance 07-1216-13, passed December 16, 2013; the SMP
became effective February 21, 2014. **Shading in Comment Flags:** 1) **Yellow** in response to public comments within Planning
Commission Recommendations October 2021. 2) **Pink** changes in response to Ecology initial review and Planning Commission
discussions in 2023. 3) **Blue** based on Planning Commission motions.

6530 (8) Developments not required to obtain shoreline permits or local reviews. Requirements to obtain a
6531 substantial development permit, conditional use permit, variance, statement of exemption, or other
6532 review to implement the Shoreline Management Act do not apply to the following:

Commented [LG276]: 2017 c Periodic Review

6533 (i) Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a
6534 facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D
6535 RCW, or to the department of ecology when it conducts a remedial action under chapter
6536 70.105D RCW.

6537 (ii) Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355,
6538 any person installing site improvements for storm water treatment in an existing boatyard
6539 facility to meet requirements of a NPDES stormwater general permit.

Commented [LG277]: Editorial correction

6540 (iii) WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356,
6541 Washington State Department of Transportation projects and activities meeting the conditions
6542 of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use
6543 permit, variance, statement of exemption, or other local review.

6544 (iv) Projects consistent with an environmental excellence program agreement pursuant to RCW
6545 90.58.045.

6546 (v) Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to
6547 chapter 80.50 RCW.

6548 **18.25.630 Minimum permit application requirements.**
6549 The administrator may vary or waive the requirements of this section on a case-by-case basis according
6550 to administrative application requirements.

Commented [LG278]: Staff Docket/Code Interpretations

6551 ~~**18.25.630 Minimum permit application requirements.**~~
6552 A complete application for a substantial development, conditional use, or variance permit shall contain,
6553 as a minimum, all of the information required in any applicable section of this program, all of the
6554 information required in JCC 18.40.100, and any other information the administrator deems pertinent,
6555 including at a minimum:

6556 (1) The name, address and phone number of the applicant/proponent, applicant's representative,
6557 and/or property owner if different from the applicant/proponent.

6558 (2) The property address and identification of the section, township and range to the nearest quarter,
6559 quarter section or longitude and latitude to the nearest minute.

6560 (3) The name of the shoreline (water body) that the site of the proposal is associated with.

6561 (4) A general description of the property as it exists at the time of application including its use, physical
6562 and ecological characteristics, improvements and structures.

6563 (5) A general description of the project vicinity including adjacent uses, structures and improvements,
6564 development intensity, and physical characteristics.

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6565 (6) A vicinity map showing the relationship of the property and proposed development or use to roads,
6566 utilities, existing developments and uses on adjacent properties.

6567 (7) A site plan and/or engineered drawings identifying existing conditions consisting of photographs,
6568 text, maps and elevation drawings, drawn to an appropriate scale to clearly depict all required
6569 information.

6570 (8) Location of the ordinary high water mark of all water bodies within or adjacent to the project
6571 boundary. For any development that requires a precise location of the ordinary high water mark, the
6572 applicant/proponent shall provide a survey and describe the biological and hydrological basis for the
6573 location as indicated on the plans. Where the ordinary high water mark is neither adjacent to or within
6574 the boundary of the project, the plan shall indicate the distance and direction to the ordinary high water
6575 mark of the adjacent shoreline.

6576 (9) Existing land contours at intervals sufficient to accurately determine the existing character of the
6577 property. Areas within the project boundary that will not be altered by the development may be
6578 indicated as such and contours approximated for that area.

6579 (10) Critical areas as designated in Chapter 18.22 JCC, as incorporated into this program.

6580 (11) A general description of the character of vegetation found on the site.

6581 (12) A description of the existing ecological functions and processes affecting, maintaining, or
6582 influencing the shoreline at/near the project site.

6583 (13) The dimensions and locations of all existing structures and improvements.

6584 (14) The dimensions and locations of all proposed structures and improvements including but not
6585 limited to buildings, paved or graveled areas, roads, utilities, septic tanks and drain fields, material
6586 stockpiles or surcharge, and stormwater management facilities.

6587 (15) Proposed land contours overlain on existing contours. The contours shall be at intervals sufficient to
6588 accurately determine the extent of proposed change to the land that is necessary for the development.
6589 Areas within the project boundary that will not be altered by the development may be indicated as such
6590 and contours approximated for that area.

6591 (16) A summary characterization of the effects of the project on existing ecological functions and
6592 processes in the vicinity of the project. If the project is likely to have adverse effects on shoreline
6593 ecological functions or processes, a mitigation plan shall be provided demonstrating measures that will
6594 be taken to offset impacts.

6595 (17) On all variance applications the plans shall clearly indicate where development could occur without
6596 approval of a variance, the physical features and circumstances on the property that provide a basis for
6597 the request, and the location of adjacent structures and use.

6598 ~~(18) The administrator may vary or waive the requirements in subsection (1) of this section on a case-by-~~
6599 ~~case basis according to administrative application requirements.~~

Commented [AS279]: Edit made per Ecology required change 4 and recommended change 15 (9/30/22)

Planning Commission Recommendations

6600 ~~(19) Where other approvals or permits are required for a use or development that does not require an~~
6601 ~~open record hearing, such approvals or permits shall not be granted until a shoreline approval or permit~~
6602 ~~is granted. All shoreline approvals and permits shall include written findings prepared by the~~
6603 ~~administrator documenting compliance with bulk and dimensional standards and other policies and~~
6604 ~~regulations of this program. [Ord. 7-13 Exh. A (Art. X § 3)]~~

Commented [LG280]: Staff Docket/Code Interpretations

18.25.640 Preapplication conferences.

6606 (1) Preapplication conferences are required in accordance with JCC 18.40.090(2) for projects including,
6607 but not limited to:

6608 (a) All Type II and Type III project applications.

6609 (b) Type I project applications proposing impervious surfaces of 10,000 square feet or more and/or
6610 non-single-family structures of 5,000 square feet or more.

6611 (c) All projects involving in-water work or work below the ordinary high water mark.

6612 (2) Preapplication conferences for all types of applications not listed in subsection (1) of this section or
6613 specified by JCC 18.40.090(2) are strongly encouraged, and requests for conferences will be considered
6614 by the administrator on a time-available basis. [Ord. 7-13 Exh. A (Art. X § 4)]

18.25.650 Notice of application and permit application review.

6616 (1) Public notice requirements shall occur in accordance with Chapter 18.40 JCC, Article III and the
6617 following:

Commented [LG281]: Response to ECY Comment Rec-34

Commented [LG282]: Staff Docket/Code Interpretations

6618 (a) Type I permits (statements of exemption) shall not require notice of application or open record
6619 hearing consistent with JCC 18.40.040. However, if a Type I permit is not categorically exempt under
6620 SEPA, then a notice may be required.

6621 (b) The administrator shall issue a notice of application on all Type ~~III~~ project permit applications.
6622 (SDP, C(a), and C(d)) in accordance with Chapter 18.40 JCC, Article III.

6623 (c) The administrator shall issue a notice of application on all Type III project permit applications (C,
6624 C(d), and Variances) in accordance with Chapter 18.40 JCC, Article III.

6625 (2) Permit application review shall occur in accordance with Chapter 18.40 JCC, Article IV, except as
6626 provided in Subsection (3). [Ord. 7-13 Exh. A (Art. X § 5)]

6627 (3) Special procedures for WSDOT projects.

Commented [LG283]: 2015 a Periodic Checklist

6628 (a) Permit review time for projects on a state highway. Pursuant to RCW 47.01.485, the
6629 Legislature established a target of 90 days review time for local governments.

6630 (b) Optional process allowing construction to commence twenty-one days after

6631 date of filing. Pursuant to RCW 90.58.140, Washington State Department of Transportation
6632 projects that address significant public safety risks may begin twenty-one days after the date of
6633 filing if all components of the project will achieve no net loss of shoreline ecological functions.

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discussions in 2023. 3) **Blue** based on Planning Commission motions.

6634 **18.25.660 Nonconforming development.**

6635 The following shall apply to nonconforming uses and developments, as defined in Article II of this
6636 chapter:

6637 ~~(1) Legally (1) Conforming SFR and Nonconforming Uses/Structures. Legally established residential~~
6638 ~~structures and appurtenant structures that are a conforming use, but do not meet the standards for~~
6639 ~~setbacks, buffers, or yards; area; bulk; height; or density, are considered a conforming structure; norma~~
6640 ~~l maintenance and repair is allowed per Section .560 of this program. This conforming status applies until~~
6641 ~~any change is proposed to such a conforming residential structure by redevelopment, expansion, change~~
6642 ~~of the class of occupancy, or replacement, which may only be authorized when consistent with all~~
6643 ~~applicable provisions of this SMP, including this section.~~

6644 Other legally established uses, buildings, structures and/or lots of record that do not meet the specific
6645 standards of this program are considered legal nonconforming and may continue as long as they remain
6646 otherwise lawful, and meet the following criteria:

Commented [LG284]: Consistency edit, editorial

6647 (a) Existing, Permitted, or Vested. The use, building, structure, or lot was existing on the effective
6648 date of initial adoption of this program (December 20, 1974), or any subsequent amendment
6649 thereto, or was authorized under a permit or approval issued, or is otherwise vested to this
6650 program; or

6651 (b) Variance. A structure for which a variance has been issued; or

6652 (c) Conditional. The existing use is designated as a conditional use under this program and existed
6653 prior to the adoption of this program or the adoption of an applicable amendment hereto and
6654 which has not obtained a conditional use permit; or

6655 (d) Abandoned. As per JCC 18.20.260, the use or structure is not discontinued or abandoned for a
6656 period more than two years. A property owner may be allowed three years if they demonstrate a
6657 bona fide intention to sell or lease the property. For purposes of calculating this time period, a use
6658 is discontinued or abandoned upon the occurrence of the first of any of the following events:

6659 (i) On the date when the land was physically vacated;

6660 (ii) On the date the use ceases to be actively involved in the sale of merchandise or the
6661 provision of services; or

6662 (iii) On the date of termination of any lease or contract under which the nonconforming use has
6663 occupied the land.

6664 (2) Normal maintenance and repair of a nonconforming structure may be allowed in accordance with
6665 JCC 18.25.560, and other provisions of this program.

6666 (3) Any repair, replacement, relocation or expansion/enlargement of a bulkhead shall conform to the
6667 provisions in Article VII of this chapter.

6668 (4) If a nonconforming use or structure is discontinued or abandoned per this section the
6669 nonconforming rights shall expire and any subsequent use shall be conforming.

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- 6670 (5) New single-family residential development on lots whose dimensions do not allow a residence to be
6671 constructed outside the standard shoreline buffer may be allowed without a variance in accordance
6672 with the provision in JCC 18.25.270 (nonconforming lots).
- 6673 (6) Rebuilding After Damage. If a nonconforming development sustains major structural damage due to
6674 fire, flood or other natural disaster, it may be reconstructed upon its original site and to the
6675 configuration existing immediately prior to the damage, provided:
- 6676 (a) The rebuilt structure will not cause adverse effects to adjacent properties or to the shoreline
6677 environment; and
- 6678 (b) The site is geologically stable; and
- 6679 (c) No horizontal or vertical expansion or enlargement of the footprint or height, or any degree of
6680 relocation, will occur; and
- 6681 (d) No degree of relocation will occur, except to increase conformity, in which case the structure
6682 shall be located as far landward as possible or in the least environmentally damaging location
6683 relative to the shoreline or any critical area; and
- 6684 (e) The submittal of applications for permits necessary to restore the development is begun within
6685 six months of the damage. The administrator may waive this requirement in situations with
6686 extenuating circumstances such as resolution of an estate, or widespread economic or natural
6687 disaster; and
- 6688 (f) The reconstruction is commenced within two years of the issuance of permits. Administrator
6689 may allow a one year extension.
- 6690 (7) In-Water/Overwater. When a use or development is not prohibited, replacement of nonconforming
6691 structures or buildings or portions thereof within the aquatic or priority aquatic shoreline area is allowed
6692 and shall comply with program requirements for materials that come in contact with the water pursuant
6693 to Article VI of this chapter. In-water and overwater use/development not allowed by this program shall
6694 not be replaced in-/overwater.
- 6695 (8) Minor Expansion/Enlargement without Conditional Use Permit or Shoreline Variance – Single-family
6696 Residential. The administrator may allow a one-time expansion of a nonconforming single-family
6697 residence by the addition of space to the main structure (footprint or height) or the addition of normal
6698 appurtenances. The expansion/addition of nonconforming accessory structures is not allowed. Minor
6699 SFR expansion may be allowed as: a Type II Substantial Development Permit (SDP); an SDP Exemption
6700 per Section .560 of this program; or as a conditional use per Section .500(3) of this program; provided,
6701 and subject to, the following:
- 6702 General Standards
- 6703 The following general provisions apply to all waterward and nonwaterward single-family residential
6704 minor expansions:

Commented [LG285]: Task Force A

Commented [LG286]: Response to ECY REQ-12 and Rec-35.

Commented [LG287]: Permit Type II under review per Staff Request.

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Planning Commission Recommendations

- 6705 (a) Location. The structure is located landward enlargement or expansion of the ordinary high water
6706 mark; and
- 6707 (b) Critical Areas. The expansion area does not threaten or adversely affect critical areas; and
- 6708 (c) Views. The expansion does not significantly impair views of the shoreline for a substantial
6709 number of adjacent residences.
- 6710 Waterward Standards
- 6711 (d) Expansion that further encroaches into the standard shoreline buffer closer to OHWM shall not
6712 be allowed, except 'footprint infill' of the main structure only, limited as follows:
- 6713 (i) A 'fill the notch' expansion may be allowed if contained within the outer boundary of the
6714 existing structure's foundation; or
- 6715 (ii) An 'enclose the patio/porch' expansion may be allowed if contained within the footprint of
6716 a legal pre-existing impervious surface area that is attached to the main structure;
- 6717 (iii) Such a 'footprint' infill expansion shall be limited as follows:
- 6718 A. Environment Designation. The property is designated as Shoreline Residential (SR) or
6719 High Intensity (HI)
- 6720 B. Expansion does not exceed 200 square feet or the main structure's existing height;
- 6721 C. Does not extend closer to the OHWM than the JCC 18.25.270(5)(b) common line
6722 setback buffer existing front wall;
- 6723 D. The proposal protects riparian, wetland, and other critical area functions,
6724 demonstrates no net loss of shoreline ecological function, and demonstrates the
6725 least impact through mitigation sequencing per JCC 18.25.270 (1) and (2); and
- 6726 E. Buffer Enhancement. Applicant submits and implements a native planting plan
6727 consistent with subsection (11) for an area equivalent to the expansion footprint.
- 6728 Nonwaterward Standards
- 6729 (e) Expansion to the total footprint or volume of the existing structure that further encroaches into
6730 the standard shoreline buffer but does not get closer to OHWM, including lateral (parallel to
6731 OHWM), landward (away from OHWM), and/or vertical (increased height not to exceed 35'), shall
6732 only be allowed up to 25% as follows:
- 6733 (i) Environment Designation. Nonwaterward expansion may be allowed in any shoreline
6734 designation; location in the Natural designation shall require a conditional use permit (C(a)) per
6735 Section .500(3) of this program;
- 6736 (ii) Buffer Enhancement. An equivalent area of shoreline buffer is enhanced through planting of
6737 native vegetation. The administrator shall require a planting plan per subsection (11) of this
6738 section to ensure this standard is implemented.

Commented [LG288]: As defined in...and demonstrate mitigation sequencing...CMZ, SLR, shoreline stabilization, don't foreclose options, etc.

Commented [LG289]: Response to Comment: 12.20a and 12.20c

Commented [LG290]: Related to Task Force A

Commented [LG291]: PC Motion on 10/18/23. Move SMP forward with edits. Response to WDFW.

Commented [CS292]: Consultant comment: Updated per earlier comment that may have been overlooked. Requiring 80% of the buffer to be planted is not proportionate to the potential impact.

Planning Commission Recommendations

6739 ~~(iii) The proposal protects riparian, wetland, and other critical area functions, demonstrates no~~
6740 ~~net loss of shoreline ecological function, and demonstrates the least impact through mitigation~~
6741 ~~sequencing per JCC 18.25.270 (1) and (2).~~

6742 ~~(iii) Less than 10%. Any increase to the total footprint or volume of the existing structure of~~
6743 ~~less than 10 percent.~~

6744 ~~(iv) 10% to 25%. Any increase to the total footprint or volume of the existing structure greater~~
6745 ~~than 10 percent but no more than 25 percent.~~

6746 ~~(9) Moderate Expansion – Single-family Residential with a Conditional Use Permit (C(d)) –~~
6747 ~~Nonwaterward.~~

6748 ~~(a) The administrator may allow a one-time nonwaterward expansion of a nonconforming single-~~
6749 ~~family residence located landward of OHWM and shall require a conditional use discretionary~~
6750 ~~permit for any of the following:~~

6751 ~~(i) Expansion of nonconforming single-family residences by the addition of space to the~~
6752 ~~exterior of the main structure (footprint or the addition of vertical) or normal appurtenances~~
6753 ~~without a shoreline conditional use permit or shoreline variance, provided, and subject to, the~~
6754 ~~following: where the total footprint or volume will increase by more than 25 percent, except~~
6755 ~~waterward.~~

6756 ~~(a) The structure is located landward of the ordinary high water mark; and~~

6757 ~~(b) No lateral or waterward enlargement or expansion beyond the existing structure's foundation~~
6758 ~~walls will occur; and~~

6759 ~~(c) The increase/expansion in total footprint area does not threaten critical areas; and~~

6760 ~~(d) The increased height does not significantly impair the public's view of the shoreline.~~

6761 ~~(e) Enlargements, expansions or additions that increase the total footprint of the existing~~
6762 ~~structure(s) by up to 10 percent shall be allowed, provided the expansion or addition will not~~
6763 ~~adversely affect critical areas, significantly impair the ability of a substantial number of people to~~
6764 ~~view the shoreline or increase the degree of nonconformity.~~

6765 ~~(f) Enlargements, expansions or additions that increase the total footprint of the existing~~
6766 ~~structure(s) greater than 10 percent but no more than 25 percent or increase the structure height~~
6767 ~~up to the limits allowed by this program shall be allowed; provided, that the addition will not~~
6768 ~~adversely affect critical areas, significantly impair the ability of a substantial number of people to~~
6769 ~~view the shoreline, increase the degree of nonconformity, and further provided, that an equivalent~~
6770 ~~area of shoreline buffer is enhanced through planting of native vegetation. The administrator shall~~
6771 ~~require a planting plan to ensure this standard is implemented.~~

6772 ~~(9) Expansion/Enlargement with a Conditional Use Permit.~~

6773 ~~(a) The administrator shall require a conditional use permit for any of the following:~~

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Commented [LG293]: PC Motion on 10/18/23. Move SMP forward with edits. Response to WDFW. Clarification of provisions.

Commented [LG294]: Staff Docket/Code Interpretations

Commented [LG295]: Response to Comment: 12.20a and 12.20c

Planning Commission Recommendations

- 6774 ~~(i) Enlargement or expansion of nonconforming single-family residences by the addition of~~
6775 ~~space to the exterior of the main structure or normal appurtenances where the total footprint~~
6776 ~~will increase by more than 25 percent or the expansion/enlargement occurs vertically, laterally~~
6777 ~~or landward, but not waterward, of the structure.~~
- 6778 (ii) Enlargement or expansion of single-family residences where the addition of space to the
6779 exterior of the main structure is likely to adversely affect critical areas, or is likely to obstruct
6780 the view of an adjacent development, and is beyond the footprint or volume allowed in
6781 Subsection (8).
- 6782 (iii) When allowed, an equivalent area of shoreline buffer area shall be enhanced through
6783 planting of native vegetation, plus additional mitigation to be required as appropriate. The
6784 administrator shall require a planting plan as outlined in subsection (11) of this section to
6785 ensure this standard is implemented.
- 6786 ~~(b) Changing an Existing Nonconforming Use. A structure that is being or has been used for a~~
6787 ~~nonconforming use may be used for a different nonconforming use only upon the approval of a~~
6788 ~~conditional use permit, provided all the following criteria are met:~~
- 6789 ~~(i) No reasonable alternative conforming use is practical because of the configuration of the~~
6790 ~~structure and/or the property; and~~
- 6791 ~~(ii) The proposed use will be at least as consistent with the policies and provisions of the Act~~
6792 ~~and this program and as compatible with the uses in the area as the preexisting use; and~~
- 6793 ~~(iii) The use or activity is enlarged, intensified, increased or altered only to the minimum~~
6794 ~~amount necessary to achieve the intended functional purpose; and~~
- 6795 ~~(iv) The structure(s) associated with the nonconforming use shall not be expanded in a manner~~
6796 ~~that increases the extent of the nonconformity including encroachment into areas, such as~~
6797 ~~setbacks and/or buffers established by this program, where new structures, development or~~
6798 ~~use would not be allowed; and~~
- 6799 ~~(v) The vegetation conservation standards of Article VI of this chapter are met; and~~
- 6800 ~~(vi) The change in use, remodel or expansion will not create adverse impacts to shoreline~~
6801 ~~ecological functions and/or processes; and~~
- 6802 ~~(vii) Uses which are specifically prohibited or which would thwart the intent of the Act or this~~
6803 ~~program shall not be authorized.~~
- 6804 ~~(viii) Nonconforming structures with conforming uses within commercial or mixed-use~~
6805 ~~developments may be expanded or enlarged within the existing building footprint as a~~
6806 ~~conditional use.~~
- 6807 (10) Other Expansion/Enlargement prohibited, except with a Shoreline Variance.

Commented [LG296]: Task Force A

Planning Commission Recommendations

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6808 (a) Waterward or Vertical: Single-Family Residential. ~~Enlargement or Waterward~~ expansion of single-
6809 family residences that ~~extends waterward~~; further encroaches into the standard shoreline buffer
6810 closer to OHWM beyond the ~~existing residential foundation walls~~ limits of Section (8), further
6811 encroaches into a critical area, further encroaches into the minimum required side yard setback; or
6812 that increases the structure height above the limits established by this program shall ~~require a not~~
6813 be allowed, except by a shoreline variance.

Commented [LG297]: Response to Comment 20 to clarify vertical

6814 (b) Non-Single-Family Residential. Nonconforming structures, other than nonconforming single-
6815 family residences, ~~that are shall not be~~ expanded, ~~enlarged or relocated, must obtain except by a~~
6816 shoreline variance or shall be brought into conformance with this program and the Act. Any
6817 nonconforming development that is moved any distance must be moved to comply with the bulk
6818 and ~~dimensional~~ dimensional requirements of this program.

6819 (c) Where an expansion is proposed per subsections (a) and (b), the proponent shall provide an
6820 equivalent area of shoreline buffer enhancement through planting of native vegetation consistent
6821 with an enhancement plan prepared per section (11) except that the enhancement plan shall be
6822 prepared by a qualified professional.

6823 (d) When an expansion involves a variance to height for the nonconforming structure, see
6824 requirements at JCC 18.25.300.

6825 (11) Buffer Enhancement Planting Standards

Commented [AS298]: Edits made per Ecology recommended change 35 (9/30/22)

6826 (a) Expansions or additions allowed under subsections (8), (9), or (10) of this section require that an
6827 equivalent area of shoreline buffer be enhanced through planting of native vegetation. Buffer
6828 enhancement planting shall be consistent with the mitigation requirements of JCC
6829 18.25.270(2)(f)(i)-(vi). The planting plan should include:

Commented [GU299]: AJS: Added guidance re: simple planting plan requirements. Intended to be implementable by property owners without professional help.

6830 (i) Removal of non-native or invasive vegetation.

6831 (ii) Installation of a mix of trees, shrubs and groundcovers with a species diversity and spacing
6832 typical of native Puget Sound or Pacific Coast forest.

6833 (iii) Trees shall be planted on 12-foot centers and shrubs planted on 6-foot centers.

6834 (iv) If the enhancement area already contains some native vegetation, the planting area shall be
6835 expanded to accommodate the equivalent number of trees and shrubs as would be installed on
6836 bare ground.

6837 (b) A planting plan, whether prepared with or without professional assistance, must include the
6838 following information and be determined adequate by the Administrator:

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6839 (i) A description and photo of the existing conditions in the proposed enhancement area, to
6840 include identification of any invasive or non-native species to be removed and any native
6841 vegetation to be preserved. The boundaries of the proposed planting area should be marked
6842 and visible in the photograph.

- 6843 (ii) A site plan showing the location and dimensions of existing and proposed structures, the
6844 proposed planting area, and the shoreline buffer.
- 6845 (iii) A plant schedule listing the species and proposed numbers of trees, shrubs, and
6846 groundcovers.
- 6847 (iv) If the area to be enhanced is already well vegetated, the applicant shall identify an
6848 equivalent enhancement area that is contiguous to the well-vegetated area and located inside
6849 and/or outside the buffer.
- 6850 (v) A 10-year monitoring program to ensure survivability. Monitoring reports shall be prepared
6851 by the property owner, applicant or qualified professional at the end of years 1 through 5, Year
6852 7, and Year 10, provided that the report fully addresses the performance standards and any
6853 other maintenance requirements prescribed by the enhancement plan, and provides as-built
6854 plans, plant counts, and comprehensive photo documentation.
- 6855 (vi) When a required submittal is determined inadequate by the Administrator, and deficiencies
6856 are not remedied in a timely manner, the county may require the property owner/applicant to
6857 hire a qualified professional to prepare the planting plan, prepare the monitoring program,
6858 conduct the on-site monitoring, and/or prepare the monitoring reports.
- 6859 (c) Buffer enhancement plantings shall be maintained in perpetuity and documented with a notice
6860 to title.
- 6861
- 6862 (12) Residential structures and appurtenant structures that were legally established and are used for a
6863 conforming use, but that do not meet standards for the following, are considered a conforming
6864 structure: Setbacks, buffers, or yards; area; bulk; height; or density. Any redevelopment, expansion,
6865 change of the class of occupancy, or replacement of such a conforming residential structure may be
6866 authorized only when consistent with all applicable provisions of this SMP. This section applies until a
6867 change is proposed to the structures, in which case remaining provisions of JCC 18.25.660 apply.
- 6868 [Ord. 7-13 Exh. A (Art. X § 6)]
- 6869 **18.25.665 State Environmental Policy Act (SEPA) compliance.**
6870 (1) Whenever an application for shoreline substantial development permit, shoreline variance, shoreline
6871 conditional use permit, or statement of exemption is subject to the rules and regulations of SEPA
6872 (Chapter 43.21C RCW), the review requirements of SEPA, including time limitations, shall apply, where
6873 applicable.
- 6874 (2) Applications for shoreline permit(s) or approval(s) that are not categorically exempt shall be subject
6875 to environmental review by the responsible official of Jefferson County pursuant to the State
6876 Environmental Policy Act (Chapter 197-11 WAC).
- 6877 (3) As part of SEPA review, the responsible official may require additional information regarding the
6878 proposed development in accordance with Chapter 197-11 WAC.

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6879 (4) Failure of the applicant/proponent to submit sufficient information for a threshold determination to
6880 be made shall be grounds for the responsible official to determine the application incomplete. [Ord. 7-
6881 13 Exh. A (Art. X § 7)]

6882 **18.25.670 Burden of proof.**

6883 Permit applicants/proponents have the burden of proving that the proposed development is consistent
6884 with the criteria set forth in the Act and this program. [Ord. 7-13 Exh. A (Art. X § 8)]

6885 **18.25.680 Permit conditions.**

6886 In granting, revising, or extending a shoreline permit, the administrator may attach such conditions,
6887 modifications, or restrictions thereto regarding the location, character, and other features of the
6888 proposed development deemed necessary to assure that the development will be consistent with the
6889 policy and provisions of the Act and this program as well as the supplemental authority provided in
6890 Chapter 43.21 RCW as applicable. In cases involving unusual circumstances or uncertain effects, a
6891 condition may be imposed to require monitoring with future review or reevaluation to assure
6892 conformance with the Act and this program. [Ord. 7-13 Exh. A (Art. X § 9)]

6893 **18.25.690 Public hearings.**

6894 (1) Public hearings shall occur in accordance with JCC 18.40.230 and 2.30.090.

6895 (2) Public hearing requirements for permit appeals shall be processed according to JCC 18.40.330;
6896 provided, that appeals of a determination regarding a statement of exemption shall occur in accordance
6897 with JCC 18.40.390. The fee for such appeal shall be as set forth in the Jefferson County fee ordinance
6898 and must be paid by the appellant at the time of filing the appeal. [Ord. 7-13 Exh. A (Art. X § 10)]

6899 **18.25.700 Expiration of permits and permit exemptions.**

6900 The following time requirements shall apply to all permit exemptions, substantial development permits
6901 and to any development authorized pursuant to a variance permit or conditional use permit:

6902 (1) Construction shall be commenced or, where no construction is involved, the use or activity shall be
6903 commenced within two years of the effective date of the permit or permit exemption; provided, that
6904 the administrator may authorize a single extension based on reasonable factors, if a request for
6905 extension has been filed before the expiration date and notice of the proposed extension is given to
6906 parties of record and the Department of Ecology.

6907 (2) Authorization to conduct development activities shall terminate five years after the effective date of
6908 a permit or permit exemption; provided, that the shoreline administrator may authorize a single
6909 extension for a period not to exceed one year based on reasonable factors, if a request for extension has
6910 been filed before the expiration date and notice of the proposed extension is given to parties of record
6911 and the Department of Ecology. [Ord. 7-13 Exh. A (Art. X § 11)]

6912 **18.25.710 Permits and permit exemptions – Effective date.**

6913 (1) The effective date of a shoreline permit or permit exemption shall be the date of the last action
6914 required on the shoreline permit or permit exemption and all other government permits and approvals
6915 that authorize the development to proceed, including all administrative and legal actions on any such
6916 permit or approval.

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6917 (2) It is the responsibility of the project proponent to inform the administrator of the permit applications
6918 filed with agencies other than Jefferson County and of any related administrative and legal actions on
6919 any permit or approval. If no notice of the permits or approvals is given to the administrator prior to the
6920 date established by the shoreline permit, permit exemption, or the provisions of this section, the
6921 expiration of a permit shall be based on the shoreline permit or permit exemption. [Ord. 7-13 Exh. A
6922 (Art. X § 12)]

6923 **18.25.720 Satisfaction of conditions required prior to occupancy or use.**

6924 When permit or permit exemption approval is based on conditions, such conditions shall be satisfied
6925 prior to occupancy or use of a structure or prior to commencement of a nonstructural activity; provided,
6926 that an alternative compliance limit may be specified in the permit or permit exemption. [Ord. 7-13 Exh.
6927 A (Art. X § 13)]

6928 **18.25.730 Revisions following expiration of original permit or permit exemption.**

6929 Revisions to permits and permit exemptions may be authorized after original permit or permit
6930 exemption authorization has expired; provided, that this procedure shall not be used to extend the
6931 original permit or permit exemption time requirements or to authorize substantial development after
6932 the time limits of the original permit or permit exemption. [Ord. 7-13 Exh. A (Art. X § 14)]

6933 **18.25.740 Extensions – Notice to Ecology.**

6934 The shoreline administrator shall notify the Department of Ecology in writing of any change to the
6935 effective date of a substantial development permit, variance permit or conditional use permit as
6936 authorized by this section, with an explanation of the basis for approval of the change. Any change to
6937 the time limits of a permit or permit exemption other than those authorized by this section shall require
6938 a new permit application. [Ord. 7-13 Exh. A (Art. X § 15)]

6939 **18.25.750 Notice of decision, reconsideration and appeal.**

6940 (1) A notice of decision for action on a shoreline substantial development permit, shoreline variance, or
6941 shoreline conditional use permit shall be provided to the applicant/proponent and any party of record in
6942 accordance with the procedures of Chapter 18.40 JCC and at least 10 days prior to filing such decisions
6943 with the Department of Ecology pursuant to WAC 173-27-130. Decisions filed with the Department of
6944 Ecology shall contain the following information:

6945 (a) A copy of the complete application;

6946 (b) Findings and conclusions that establish the basis for the decision including but not limited to
6947 identification of shoreline environment designation, applicable master program policies and
6948 regulations and the consistency of the project with appropriate review criteria for the type of
6949 permit(s);

6950 (c) The final decision of the local government;

6951 (d) Where applicable, local government shall also file the applicable documents required by SEPA,
6952 or in lieu thereof, a statement summarizing the actions and dates of such actions taken under
6953 Chapter 43.21C RCW; and

6954 (e) When the project has been modified in the course of the local review process, plans or text shall
6955 be provided that clearly indicate the final approved plan.

6956 (2) A notice of decision for shoreline statements of exemption shall be provided to the
6957 applicant/proponent and any party of record. Such notices shall also be filed with the Department of
6958 Ecology, pursuant to the requirements of WAC 173-27-050 when the project is subject to one or more of
6959 the following federal permitting requirements:

6960 (a) A U.S. Army Corps of Engineers Section 10 permit under the Rivers and Harbors Act of 1899. (The
6961 provisions of Section 10 of the Rivers and Harbors Act generally apply to any project occurring on or
6962 over navigable waters; specific applicability information should be obtained from the Corps of
6963 Engineers.); or

6964 (b) A Section 404 permit under the Federal Water Pollution Control Act of 1972 (the provisions of
6965 Section 404 of the Federal Water Pollution Control Act generally apply to any project which may
6966 involve discharge of dredge or fill material to any water or wetland area; specific applicability
6967 information should be obtained from the Corps of Engineers).

6968 (3) This program shall only establish standing for parties of record for shoreline substantial development
6969 permits, shoreline variances, or shoreline conditional use permits. Standing as a party of record is not
6970 established by this program for exempt actions; provided, that in such cases standing may be
6971 established through an associated permit process that provides for public notice and provisions for
6972 parties of record.

6973 (4) The applicant/proponent or any party of record may request reconsideration of any final action by
6974 the decision maker within 10 days of notice of the decision. Such requests shall be filed on forms
6975 supplied by the county. Grounds for reconsideration must be based upon the content of the written
6976 decision. The decision maker is not required to provide a written response or modify his/her original
6977 decision. He/she may initiate such action as he/she deems appropriate. The procedure of
6978 reconsideration shall not preempt or extend the appeal period for a permit or affect the date of filing
6979 with the Department of Ecology, unless the applicant/proponent requests the abeyance of said permit
6980 appeal period.

6981 (5) Appeals to the Shoreline Hearings Board of a decision on a shoreline substantial development
6982 permit, shoreline variance or shoreline conditional use permit may be filed by the applicant/proponent
6983 or any aggrieved party pursuant to RCW 90.58.180 within 21 days of filing the final decision by Jefferson
6984 County with the Department of Ecology. [Ord. 7-13 Exh. A (Art. X § 16)]

6985 (6) After all local permit administrative appeals or reconsideration periods are complete and the permit
6986 documents are amended to incorporate any resulting changes, the County will mail the permit using
6987 return receipt requested mail to the Department of Ecology regional office and the Office of the
6988 Attorney General. Projects that require both Conditional Use Permits and or Variances shall be mailed
6989 simultaneously with any Substantial Development Permits for the project.

6990 (i) The permit and documentation of the final local decision will be mailed together with the
6991 complete permit application; a findings and conclusions letter; a permit data form (cover sheet);
6992 and applicable SEPA documents.

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6993 (ii) Consistent with RCW 90.58.140(6), the state's Shorelines Hearings Board twenty-one (21)
6994 day appeal period starts with the date of filing, which is defined below:

6995 (a) For projects that only require a Substantial Development Permit: the date that Ecology
6996 receives the County decision.

6997 (b) For a Conditional Use Permit (CUP) or Variance: the date that Ecology's decision on the CUP
6998 or Variance is transmitted to the applicant and the County.

6999 (c) For SDPs simultaneously mailed with a CUP or VAR to Ecology: the date that Ecology's
7000 decision on the CUP or Variance is transmitted to the applicant and the County.

7001 **18.25.760 Initiation of development.**

7002 (1) Development pursuant to a shoreline substantial development permit, shoreline variance, or
7003 conditional use shall not begin and shall not be authorized until 21 days after the "date of filing" or until
7004 all review proceedings before the Shoreline Hearings Board have terminated.

7005 (2) Date of Filing. "Date of filing" of a substantial development permit is the date of actual receipt of the
7006 decision by the Department of Ecology. The "date of filing" for a shoreline variance or shoreline
7007 conditional use permit shall mean the date the permit decision rendered by the Department of Ecology
7008 is transmitted by the Department of Ecology to the county and the applicant/proponent. [Ord. 7-13 Exh.
7009 A (Art. X § 17)]

7010 **18.25.770 Permit revisions.**

7011 (1) A permit revision is required whenever the applicant/proponent proposes substantive changes to the
7012 design, terms or conditions of a project from that which is approved in the permit. Changes are
7013 substantive if they materially alter the project in a manner that relates to its conformance to the terms
7014 and conditions of the permit, this program or the Act. Changes that are not substantive in effect do not
7015 require a permit revision.

7016 (2) An application for a revision to a shoreline permit shall be submitted to the administrator. The
7017 application shall include detailed plans and text describing the proposed changes. The county decision
7018 maker that approved the original permit may approve the request upon a finding that the proposed
7019 changes are within the scope and intent of the original permit, and are consistent with this program and
7020 the Act.

7021 (3) "Within the scope and intent of the original permit" means all of the following:

7022 (a) No additional overwater construction is involved except that a pier, dock or floating structure
7023 may be increased by 10 percent over that approved under the original permit;

7024 (b) Ground area coverage and/or height may be increased a maximum of 10 percent over that
7025 approved under the original permit; provided, that the revised permit does not authorize
7026 development to exceed the height, lot coverage, setback or any other requirements of this program
7027 except as authorized under a variance granted for the original development;

7028 (c) Additional or revised landscaping is consistent with any conditions attached to the original
7029 permit and with this program;

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- 7030 (d) The use authorized pursuant to the original permit is not changed; and
- 7031 (e) The revision will not cause adverse environmental impacts beyond those originally authorized in
7032 the permit.
- 7033 (4) Revisions to shoreline permits may be authorized after the original permit authorization has expired.
7034 Revisions made after the expiration of the original permit shall be limited to changes that are consistent
7035 with this program and that would not require a permit under this program. If the proposed change is a
7036 substantial development as defined by this program, then a new permit is required. The provisions of
7037 this paragraph shall not be used to extend the time requirements or to authorize substantial
7038 development beyond the time limits or scope of the original permit.
- 7039 (5) A new permit shall be required if the proposed revision and any previously approved revisions in
7040 combination would constitute development beyond the scope and intent of the original permit.
- 7041 (6) Upon approval of a permit revision, the decision maker shall file with the Department of Ecology a
7042 copy of the revised site plan and a detailed description of the authorized changes to the original permit
7043 together with a final ruling and findings supporting the decision based on the requirements of this
7044 section. In addition, the decision maker shall notify parties of record of the action.
- 7045 (a) If the proposed revision is to a development for which a shoreline conditional use or variance
7046 was issued, the decision maker shall submit the revision to the Department of Ecology for approval
7047 with conditions or denial, and shall indicate that the revision is being submitted under the
7048 requirements of this paragraph. Under the requirements of WAC 173-27-110(6), the Department of
7049 Ecology shall render and transmit to the decision maker and the applicant/proponent its final
7050 decision within 15 days of the date of the Department of Ecology's receipt of the submittal from the
7051 decision maker. The decision maker shall notify parties on record of the Department of Ecology's
7052 final decision. Appeals of a decision of the Department of Ecology shall be filed in accordance with
7053 the provisions of WAC 173-27-110(8). [Ord. 7-13 Exh. A (Art. X § 18)]
- 7054 **18.25.780 Rescission and modification.**
- 7055 (1) Any shoreline permit granted pursuant to this program may be rescinded or modified upon a finding
7056 by the hearing examiner that the permittee or his/her successors in interest have not complied with
7057 conditions attached thereto. A specific monitoring plan may be required as a condition of a permit with
7058 specific reporting requirements. If the monitoring plan is not implemented, the permittee may be found
7059 to be noncompliant. The results of a monitoring plan may show a development to be out of compliance
7060 with specific performance standards, which may be the basis for findings of noncompliance.
- 7061 (2) The administrator shall initiate rescission or modification proceedings by serving written notice of
7062 noncompliance to the permittee or his/her successors and notifying parties of record at the original
7063 address provided in application review files.
- 7064 (3) The hearing examiner shall hold a public hearing no sooner than 15 days following such service of
7065 notice, unless the applicant/proponent files notice of intent to comply and the administrator grants a
7066 specific schedule for compliance. If compliance is not achieved, the administrator shall schedule a public
7067 hearing before the hearing examiner. Upon considering written and oral testimony taken at the hearing,

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7068 the hearing examiner shall make a decision in accordance with the above procedure for shoreline
7069 permits.

7070 (4) These provisions do not limit the administrator, the prosecuting attorney, the Department of Ecology
7071 or the Attorney General from administrative, civil, injunctive, declaratory or other remedies provided by
7072 law, or from abatement or other remedies. [Ord. 7-13 Exh. A (Art. X § 19)]

7073 **18.25.790 Violations and penalties.**

7074 (1) In addition to incurring civil liability under JCC 18.50.110 and RCW 90.58.210, pursuant to RCW
7075 90.58.220, any person found to have willfully engaged in activities on shorelines of the state in violation
7076 of the provisions of the Act or of this program, or other regulations adopted pursuant thereto, shall be
7077 punished by:

7078 (a) A fine of not less than \$25.00 or more than \$1,000;

7079 (b) Imprisonment in the county jail for not more than 90 days; or

7080 (c) Both such fine and imprisonment; provided, that the fine for the third and all subsequent
7081 violations in any five-year period shall not be less than \$500.00 nor more than \$10,000; provided
7082 further, that fines for violations of RCW 90.58.550, or any rule adopted thereunder, shall be
7083 determined under RCW 90.58.560.

7084 (2) Any person who willfully violates any court order or injunction issued pursuant to this program shall
7085 be subject to a fine or imprisonment or both, neither of which shall exceed the maximum fine or
7086 imprisonment stated in RCW 9.92.020 as currently enacted or as may hereafter be amended. [Ord. 7-13
7087 Exh. A (Art. X § 20)]

7088 **18.25.800 Remedies.**

7089 (1) The Jefferson County prosecuting attorney, or administrator, where authorized, shall bring such
7090 injunctive, declaratory, or other actions as are necessary to ensure that no uses are made of the
7091 shorelines of the state located within Jefferson County in conflict with the provisions of this program,
7092 the Act, or other regulations adopted pursuant thereto, and to otherwise enforce the provisions of this
7093 program.

7094 (2) Any person subject to the regulatory provisions of this program or the Act who violates any provision
7095 thereof, or permit or permit condition issued pursuant thereto, shall be liable for all damage to public or
7096 private property arising from such violation, including the cost of restoring the affected area to its
7097 conditions prior to violation. The Jefferson County prosecuting attorney shall bring suit for damages
7098 under this section on their own behalf and on the behalf of all persons similarly situated. If liability has
7099 been established for the cost of restoring an area affected by a violation, the court shall make provision
7100 to assure that restoration will be accomplished within a reasonable time at the expense of the violator.
7101 In addition to such relief, including money damages, the court in its discretion may award attorney's
7102 fees and costs of the suit to the prevailing party.

7103 (3) A person who fails to conform to the terms of a substantial development permit, conditional use
7104 permit or variance issued under RCW 90.58.140, who undertakes a development or use on shorelines of
7105 the state without first obtaining a permit, or who fails to comply with a cease and desist order may be

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7106 subject to a civil penalty. The penalty shall be imposed pursuant to the procedure set forth in WAC 173-
7107 27-280 and become due and recovered as set forth in WAC 173-27-290(3) and (4). Persons incurring a
7108 penalty may appeal the same to the Shoreline Hearings Board or the BOCC pursuant to WAC 173-27-
7109 290(1) and (2). [Ord. 7-13 Exh. A (Art. X § 21)]

7110 **18.25.810 Abatement.**

7111 Structures or development on shorelines considered by the administrator to present a hazard or other
7112 public nuisance to persons, properties or natural features may be abated by the county under the
7113 applicable provisions of the Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition or
7114 successor as adopted by Jefferson County, or by other appropriate means. [Ord. 7-13 Exh. A (Art. X §
7115 22)]

7116 **18.25.820 Third-party review.**

7117 The administrator shall determine when third-party review shall be required. Third-party review
7118 requires any technical studies or inventories provided by the project proponent to be reviewed by an
7119 independent third party, paid for by the project proponent, but hired by the administrator. A qualified
7120 professional shall conduct third-party review. In determining the need for third-party review, the
7121 administrator shall base his/her decision upon, but shall not be limited to, such factors as whether there
7122 has been incomplete submittal of data or apparently inadequate design work, whether the project is
7123 large scale, or whether the development site is complex. [Ord. 7-13 Exh. A (Art. X § 23)]

7124 **18.25.830 Inspections.**

7125 Whenever it is necessary to make an inspection to enforce any of the provisions of this master program
7126 or whenever the administrator has reasonable cause to believe that there exists in any building, or upon
7127 any premises, any condition that constitutes a violation of this master program, the administrator shall
7128 take any action authorized by law. The Jefferson County prosecuting attorney shall provide assistance to
7129 the administrator in obtaining administrative search warrants or other legal remedies when necessary.
7130 [Ord. 7-13 Exh. A (Art. X § 24)]

7131 **18.25.840 Master program review, amendments and appeals.**

7132 ~~Pursuant to RCW 90.58.190 and 36.70A.290~~The County will conduct the SMP periodic review process
7133 consistent with requirements of RCW 90.58.080 and WAC 173-26-090. The County may also consider
7134 SMP revisions as a locally-initiated amendment per WAC 173-26-090. Pursuant to RCW 90.58.190 and
7135 36.70A.290, a decision by the Jefferson County board of county commissioners to amend this master
7136 program shall not constitute a final appealable decision until the Department of Ecology has made a
7137 decision to approve, reject, or modify the proposed amendment. Following the decision, Amendments
7138 shall be effective 14 days from Ecology's written notice of final action. Following the final action of the
7139 Department of Ecology regarding the proposed amendment, the decision may be appealed to the
7140 Western Washington Growth Management Hearings Board. [Ord. 7-13 Exh. A (Art. X § 25)]

7141 **18.25.850 Fees.**

7142 Required fees for all shoreline substantial development permits, shoreline conditional use permits,
7143 shoreline variances, statements of exemption, appeals, preapplication conferences and other required
7144 approvals shall be paid to the county at the time of application in accordance with the Jefferson County
7145 unified fee schedule in effect at that time. [Ord. 7-13 Exh. A (Art. X § 26)]

Commented [LG305]: 2010 a periodic checklist; optional amendment.

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Commented [LG307]: 2010 a periodic checklist; optional amendment.

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7146 **18.25.860 Transfer of permits.**

7147 An approved substantial development permit, conditional use permit or variance permit may be
7148 transferred from the original project proponent to any successor in interest to the project proponent;
7149 provided, that all of the conditions and requirements of the approved permit or variance shall continue
7150 in effect as long as the use or activity is pursued or the structure exists unless the terms of the
7151 substantial development permit, conditional use permit, or variance permit are modified in accordance
7152 with the relevant provisions of this master program. [Ord. 7-13 Exh. A (Art. X § 27)]

7153 **Article XI. ~~Official Shoreline Map~~Mapping**

7154 **18.25.870 Official shoreline ~~map~~.**

7155 The official shoreline map shows the Article IV shoreline environment designations (SEDs) that apply to
7156 each segment of the shoreline planning area under SMP jurisdiction. It does not necessarily identify or
7157 depict the precise lateral extent of shoreline jurisdiction or all associated wetlands. The lateral extent of
7158 the shoreline jurisdiction at the parcel level shall be determined on a case-by-case basis at the time a
7159 shoreline use/development is proposed. The actual extent of shoreline jurisdiction requires a site-
7160 specific evaluation to identify the location of the ordinary high water mark and any associated wetlands.

7161 ~~The county shall maintain a Geographic Information Systems database that depicts the coordinates for~~
7162 ~~locating the upstream extent of shoreline jurisdiction (that is, the location where the mean annual~~
7163 ~~stream flow is at least 20 cubic feet per second). The database shall also show the limits of the~~
7164 ~~floodplain, floodway, and channel migration zones, and such information shall be used, along with site-~~
7165 ~~specific information on the location of the ordinary high water mark and associated wetlands, to~~
7166 ~~determine the lateral extent of shoreline jurisdiction on a parcel-by-parcel basis. The database shall be~~
7167 ~~updated regularly as new information is made available and the public shall have access to the database~~
7168 ~~upon request.~~

7169 ~~Appendix A, attached to the ordinance codified in this chapter, depicts the SEDs in two formats:~~

7170 ~~As established by JCC 18.25.200(3), the County's GIS database of stream flow and other key features~~
7171 ~~(i.e. wetlands, flood, channel migration) informs the extent of shoreline jurisdiction, and may be~~
7172 ~~updated to ensure the most current accurate data layers are utilized. Any online interactive mapping of~~
7173 ~~the GIS data serves only as an implementation aid intended to reflect the official maps established~~
7174 ~~herein. In the event that the GIS database incorporates more current/accurate data, the county may~~
7175 ~~only change the official maps of this program, as needed, through a formal amendment process. The~~
7176 ~~official maps of this program depict the SEDs in two formats:~~

7177 (1) Official Shoreline Map. An overview map showing all of Jefferson County (~~separate PDF also available~~
7178 ~~with~~ image sized for large format printing).

7179 (2) A collection of 18 break-out maps at closer range to allow greater details (~~separate PDF also available~~
7180 ~~with~~ images sized for 11-inch by 17-inch printing). Western Jefferson County is depicted in a single
7181 break-out map (Map No. 18). Eastern Jefferson County is broken into separate images (Map Nos. 1
7182 through 17) as shown in Appendix A of the ordinance codified in this chapter. [Ord. 7-13 Exh. A (Appx.
7183 A)]

7184 **18.25.880 Maps Illustrating SED Allowance for In-Water Finfish Aquaculture**

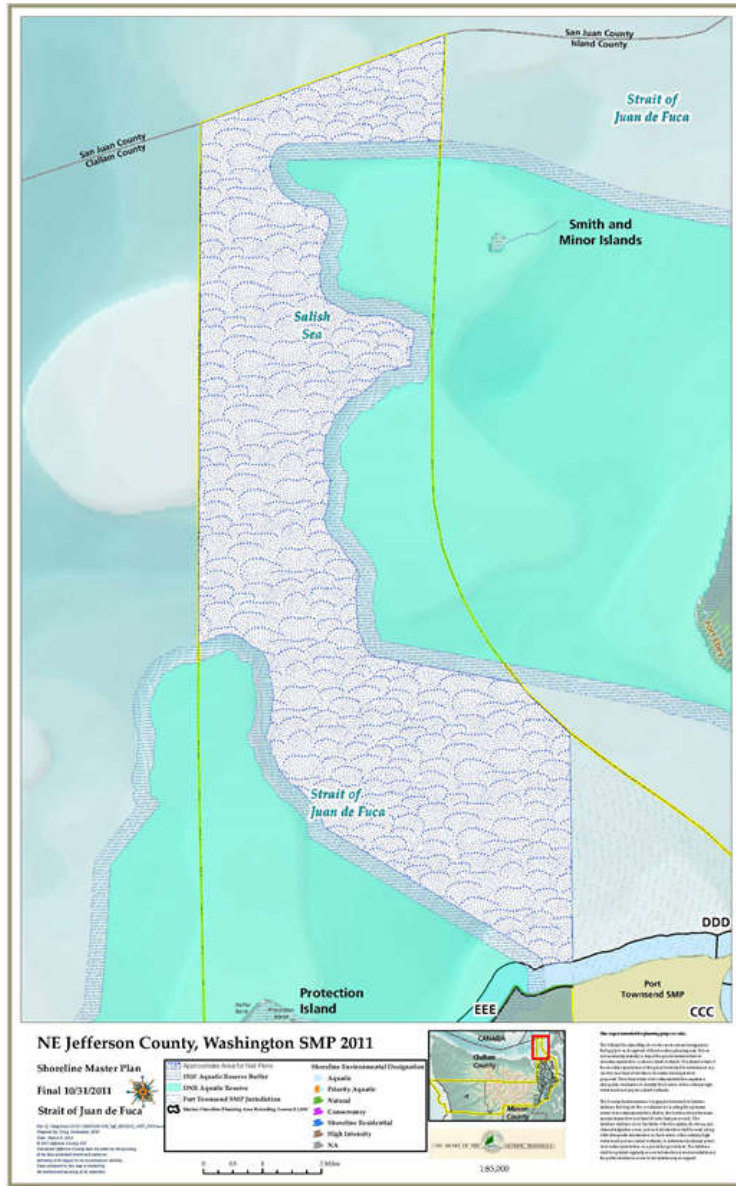
Date of Base Code: The Jefferson County Code is current through Ordinance 06-0817-20, passed August 17, 2020.
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became effective February 21, 2014. **Shading in Comment Flags:** 1) **Yellow** in response to public comments within Planning
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discussions in 2023. 3) **Blue** based on Planning Commission motions.

Commented [LG308]: Response to ECY Rec-11

7185 As established by 18.25.440(3) and summarized in Figure 18.25.440, approximate siting locations for the
7186 SED Allowance for In-Water Finfish Aquaculture are illustrated in the following four maps showing the
7187 areas of Strait of Juan de Fuca, Glen Cove/Port Townsend Bay, Mats Mats/Oak Bay, and Port
7188 Ludlow/Ludlow Bay. [moved from prior section]

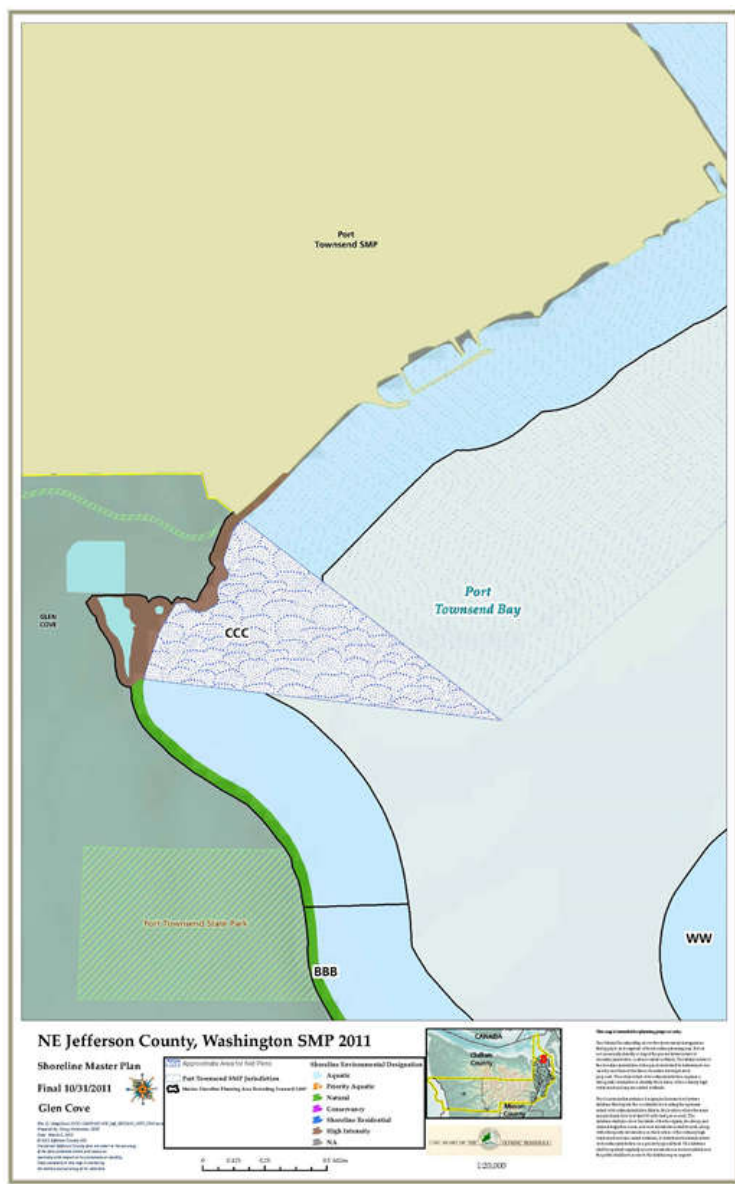
Date of Base Code: The Jefferson County Code is current through Ordinance 06-0817-20, passed August 17, 2020. The Jefferson County Shoreline Master Program is current through Ordinance 07-1216-13, passed December 16, 2013; the SMP became effective February 21, 2014. **Shading in Comment Flags:** 1) **Yellow** in response to public comments within Planning Commission Recommendations October 2021. 2) **Pink** changes in response to Ecology initial review and Planning Commission discussions in 2023. 3) **Blue** based on Planning Commission motions.

Planning Commission Recommendations



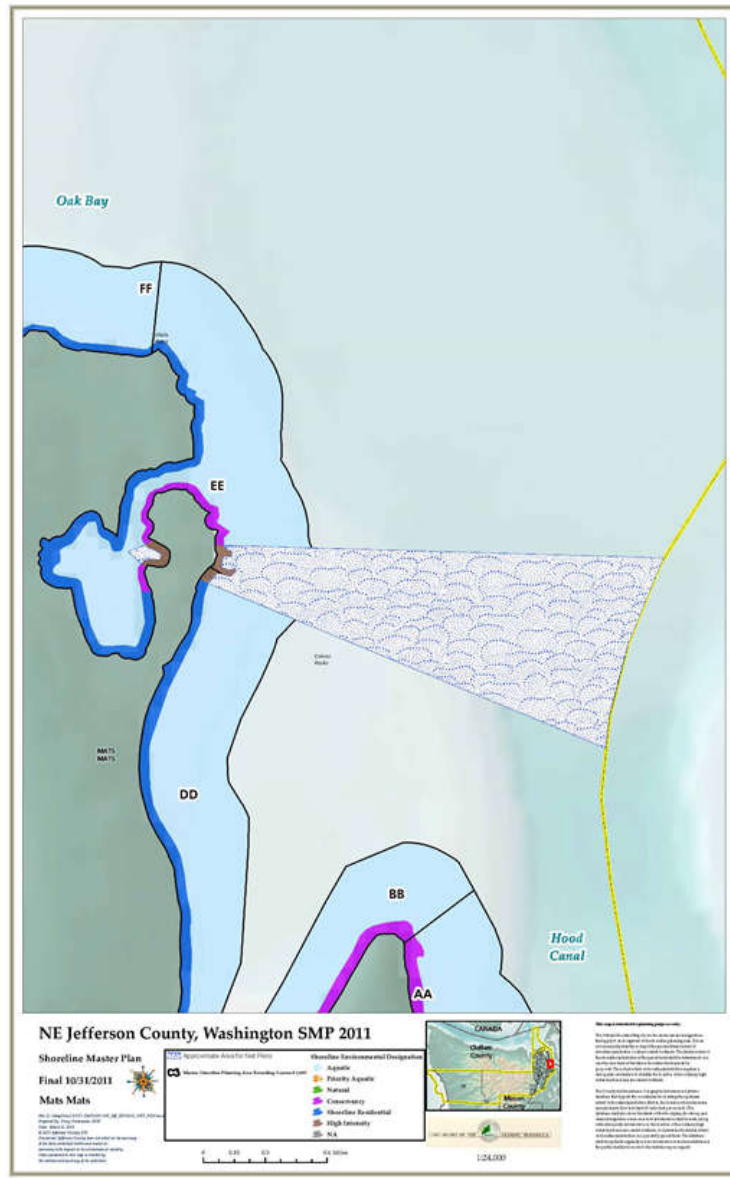
7189

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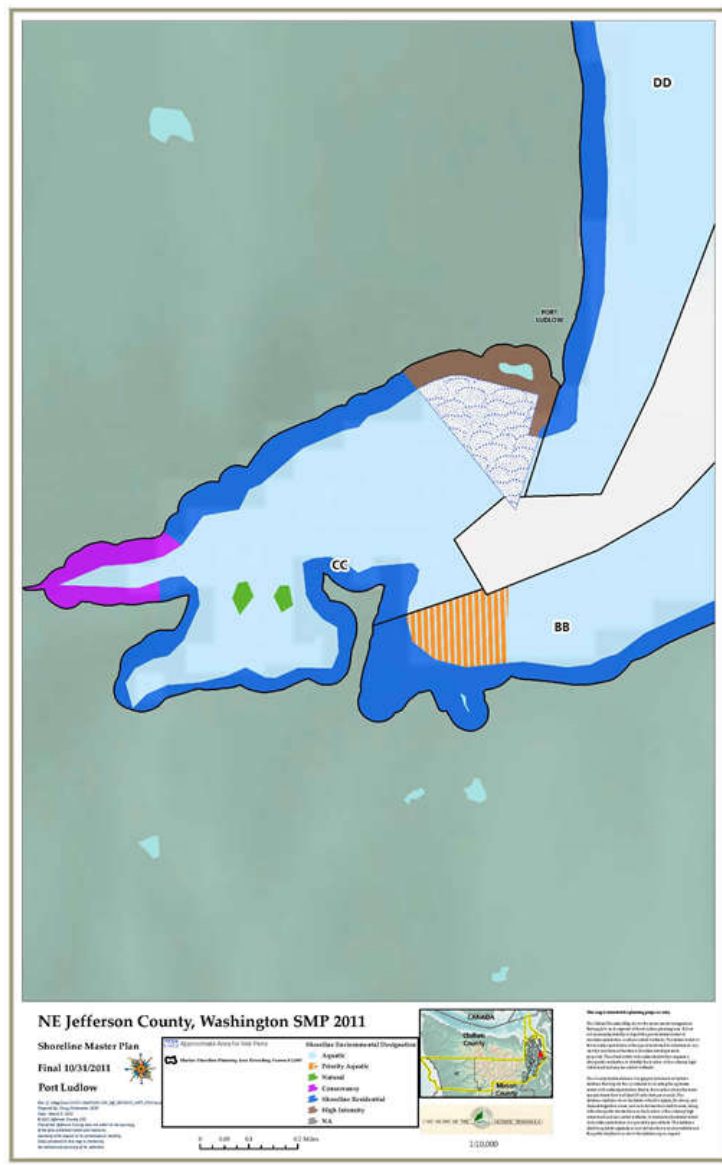
7190

Date of Base Code: The Jefferson County Code is current through Ordinance 06-0817-20, passed August 17, 2020. The Jefferson County Shoreline Master Program is current through Ordinance 07-1216-13, passed December 16, 2013; the SMP became effective February 21, 2014. **Shading in Comment Flags:** 1) **Yellow** in response to public comments within Planning Commission Recommendations October 2021. 2) **Pink** changes in response to Ecology initial review and Planning Commission discussions in 2023. 3) **Blue** based on Planning Commission motions.



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7192

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7193

7194

7195

7196 ¹ Wording from WAC 173-27-060(3).

7197

7198 **18.25.890 List of SMP Waterbodies**

7199 As established by JCC 18.25.200, this SMP addresses over 700 miles of waterbodies that are designated
7200 as shorelines of the state in Jefferson County, including approximately 250 miles of marine shoreline
7201 ,approximately 22 miles of lakeshore on 14 lakes, and some 500 miles of creeks, streams, and rivers. As
7202 addressed by Article IV and Article V of this program, shorelines of the state include shorelines and
7203 shorelines of statewide significance, and their shorelands.

7204 See Figure 18.25.890 -1 and Figure 18.25.890 -2. The Inventory and Characterization Report (2008)
7205 Section 1.3.2, Map 1C, and Appendix D provide more precise descriptions of location and upstream
7206 extent and may be consulted. In the case of discrepancies or changed conditions, the site-specific
7207 application of state definitions shall prevail over the list and related maps.

7208 **Figure 18.25.890 -1. Streams or Rivers**

<u>Stream or River*</u>	<u>USGS 7.5 Minute Series Map where</u> <u>Upstream Point is Located</u>
<u>Alta Creek</u>	<u>Kimta Peak</u>
<u>Alta Creek, U T</u>	<u>Bob Creek and Kimta Peak</u>
<u>Alta Creek, U T</u>	<u>Kimta Peak</u>
<u>Anderson Creek</u>	<u>Anderson Creek</u>
<u>Big Creek</u>	<u>Bunch Lake</u>
<u>Big Creek, U T</u>	<u>Bunch Lake</u>
<u>Big Quilcene River</u>	<u>Mount Townsend</u>
<u>Blue Glacier</u>	<u>Mount Olympus</u>
<u>Bob Creek</u>	<u>Bob Creek</u>
<u>Bogachiel River</u>	<u>Indian Pass</u>
<u>Buckinghorse Creek</u>	<u>Chimney Peak</u>
<u>Cabin Creek</u>	<u>Eldon</u>
<u>Cameron Creek</u>	<u>Wellesley Peak</u>
<u>Cannings Creek</u>	<u>Bunch Lake</u>
<u>Canoe Creek</u>	<u>Finley Creek</u>
<u>Clearwater River - From</u> <u>confluence with U T</u>	<u>Kloochman Rock</u>
<u>Clearwater River, U T</u>	<u>Kloochman Rock</u>
<u>Crazy Creek</u>	<u>Mount Steel</u>
<u>Cream Lake Creek</u>	<u>Mount Queets</u>
<u>Delabarre Creek</u>	<u>Chimney Peak</u>

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Commented [LG309]: 2007 b Periodic Checklist

Commented [LG310]: Response to ECY REQ-13 and Rec-37

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<u>Stream or River*</u>	<u>USGS 7.5 Minute Series Map where Upstream Point is Located</u>
<u>Delabarre Creek, U T</u>	<u>Mount Christie</u>
<u>Dosewallips River</u>	<u>Wellesley Peak</u>
<u>Dosewallips River, W F</u>	<u>Mount Steel</u>
<u>Duckabush River</u>	<u>Mount Steel</u>
<u>Duckabush River, U T</u>	<u>The Brothers</u>
<u>Dungeness River</u>	<u>Mount Deception</u>
<u>Elip Creek</u>	<u>Kimta Peak</u>
<u>Elk Lick Creek</u>	<u>Mount Steel</u>
<u>Elkhorn River</u>	<u>Mount Queets</u>
<u>Elwha River</u>	<u>Mount Queets</u>
<u>Elwha River, U T</u>	<u>Mount Queets</u>
<u>Finley Creek</u>	<u>Finley Creek</u>
<u>Finley Creek, U T</u>	<u>Finley Creek</u>
<u>Fox Creek</u>	<u>Bunch Lake</u>
<u>Geoduck Creek</u>	<u>Mount Christie</u>
<u>Geoduck Creek, U T</u>	<u>Mount Christie</u>
<u>Godkin Creek</u>	<u>Chimney Peak</u>
<u>Godkin Creek, U T</u>	<u>Chimney Peak</u>
<u>Godkin Creek, U T</u>	<u>Chimney Peak</u>
<u>Goldie River</u>	<u>Mount Queets</u>
<u>Goldie River, U T</u>	
<u>Graves Creek</u>	<u>Mount Hoquiam</u>
<u>Gray Wolf River</u>	<u>Wellesley Peak</u>
<u>Hades Creek</u>	<u>Winfield Creek</u>
<u>Harlow Creek</u>	<u>Salmon River West</u>
<u>Hayes River</u>	<u>Chimney Peak</u>
<u>Hee Haw Creek</u>	<u>Kimta Peak</u>
<u>Hee Haw River</u>	<u>Kimta Peak</u>
<u>Hell Roaring Creek, E F</u>	<u>Anderson Creek</u>
<u>Hoh River</u>	<u>Mount Olympus</u>
<u>Hoh River *</u>	<u>Owl Mountain</u>
<u>Hoh River, S F</u>	<u>Mount Olympus</u>
<u>Hoh River, S F, U T</u>	<u>Bob Creek</u>
<u>Hoh River, S F, U T</u>	<u>Kloochman Rock</u>
<u>Hoh River, S F, U T</u>	<u>Mount Olympus</u>
<u>Hoh River, S F, U T</u>	<u>Mount Tom</u>
<u>Hoh River, U T</u>	<u>Mount Queets</u>
<u>Hoh River, U T</u>	<u>Mount Tom</u>
<u>Hoh River, U T</u>	<u>Owl Mountain</u>
<u>Hook Branch Creek</u>	<u>Matheny Ridge</u>
<u>Howe Creek</u>	<u>Bunch Lake</u>

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Planning Commission Recommendations

<u>Stream or River*</u>	<u>USGS 7.5 Minute Series Map where Upstream Point is Located</u>
<u>Hungry Creek</u>	<u>The Brothers</u>
<u>Ice River</u>	<u>Mount Olympus</u>
<u>Irely Creek</u>	<u>Bunch Lake</u>
<u>Jackson Creek</u>	<u>Owl Mountain</u>
<u>Jeffers Glacier</u>	<u>Mount Olympus</u>
<u>Jemrod Creek</u>	<u>Mount Olympus</u>
<u>Kalaloch Creek, E F</u>	<u>Kalaloch Ridge</u>
<u>Kimta Creek</u>	<u>Kimta Peak</u>
<u>Kunamakst Creek</u>	<u>Stequaleho Creek</u>
<u>Lena Creek</u>	<u>The Brothers</u>
<u>Litchy Creek</u>	<u>Mount Hoquiam</u>
<u>Litchy Creek, U T</u>	<u>Mount Hoquiam</u>
<u>Long Creek</u>	<u>Mount Queets</u>
<u>Long Creek, U T</u>	<u>Hurricane Hill</u>
<u>Lost River</u>	<u>Mc Cartney Peak</u>
<u>Matheny Creek</u>	<u>Finley Creek</u>
<u>Matheny Creek, U T</u>	<u>Finley Creek</u>
<u>Matheny Creek, U T</u>	<u>Matheny Ridge</u>
<u>Matheny Creek, U T</u>	<u>Matheny Ridge</u>
<u>Mckinnon Creek</u>	<u>Salmon River West</u>
<u>Miller Creek, E F</u>	<u>Christmas Creek</u>
<u>Mount Tom Creek - From its' confluence with U T</u>	<u>Mount Tom</u>
<u>Mount Tom Creek, U T</u>	<u>Mount Tom</u>
<u>Mount Tom Creek, U T</u>	<u>Mount Tom</u>
<u>Mount Tom Creek, U T</u>	<u>Mount Tom</u>
<u>Mud Creek</u>	<u>Salmon River East</u>
<u>Murphy Creek</u>	<u>Quillayute Prairie</u>
<u>Nolan Creek</u>	<u>Christmas Creek</u>
<u>Noname Creek</u>	<u>Chimney Peak</u>
<u>O'Neil Creek</u>	<u>Mount Olson</u>
<u>Paradise Creek</u>	<u>Bob Creek</u>
<u>Paull Creek</u>	<u>Mount Olympus</u>
<u>Promise Creek</u>	<u>Kimta Peak</u>
<u>Pyrites Creek</u>	<u>Chimney Peak</u>
<u>Queets River</u>	<u>Mount Queets</u>
<u>Queets River *</u>	<u>Kloochman Rock</u>
<u>Queets River, U T</u>	<u>Bob Creek</u>
<u>Queets River, U T</u>	<u>Kimta Peak</u>
<u>Queets River, U T</u>	<u>Mount Queets</u>
<u>Queets River, U T</u>	<u>Salmon River East</u>

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Planning Commission Recommendations

<u>Stream or River*</u>	<u>USGS 7.5 Minute Series Map where Upstream Point is Located</u>
<u>Quinault River</u>	<u>Mount Steel</u>
<u>Quinault River *</u>	<u>Bunch Lake</u>
<u>Quinault River, N F</u>	<u>Mount Christie</u>
<u>Quinault River, N F, U T</u>	<u>Mount Christie</u>
<u>Quinault River, N F, U T</u>	<u>Mount Christie</u>
<u>Quinault River, U T</u>	<u>Mount Hoquiam</u>
<u>Quinault River, U T</u>	<u>Mount Olson</u>
<u>Rocky Brook</u>	<u>Brinnon</u>
<u>Royal Creek</u>	<u>Mount Deception</u>
<u>Rustler Creek</u>	<u>Chimney Peak</u>
<u>Rustler Creek, U T</u>	<u>Mount Christie</u>
<u>Rustler Creek, U T</u>	<u>Mount Christie</u>
<u>Rustler Creek, U T</u>	<u>Mount Christie</u>
<u>Saghalie Creek</u>	<u>Mount Christie</u>
<u>Salmon River, M F</u>	<u>Matheny Ridge</u>
<u>Salmon River, N F</u>	<u>Matheny Ridge</u>
<u>Sams River</u>	<u>Finley Creek</u>
<u>Sams River, U T</u>	<u>Matheny Ridge</u>
<u>Seattle Creek</u>	<u>Mount Christie</u>
<u>Silt River</u>	<u>Wellesley Peak</u>
<u>Silt River, U T</u>	<u>Wellesley Peak</u>
<u>Solleks River</u>	<u>Kloochman Rock</u>
<u>Solleks River, U T</u>	<u>Stegualeho Creek</u>
<u>Stalding Creek</u>	<u>Kimta Peak</u>
<u>Stegualeho Creek</u>	<u>Stegualeho Creek</u>
<u>Tacoma Creek</u>	<u>Salmon River West</u>
<u>Three Prune Creek</u>	<u>Kimta Peak</u>
<u>Townsend Creek</u>	<u>Mount Walker</u>
<u>Tsheltshy Creek</u>	<u>Bunch Lake</u>
<u>Tshletshy Creek, U T</u>	<u>Bob Creek</u>
<u>Tshletshy Creek, U T</u>	<u>Bob Creek</u>
<u>Tshletshy Creek, U T</u>	<u>Kloochman Rock</u>
<u>Tumwata Creek</u>	<u>Spruce Mountain</u>
<u>Tunnel Creek</u>	<u>Mount Townsend</u>
<u>Tunnel Creek, U T</u>	<u>Mount Townsend</u>
<u>Twin Creek</u>	<u>Spruce Mountain</u>
<u>Upper O'Neil Creek</u>	<u>Chimney Peak</u>
<u>White Glacier</u>	<u>Mount Olympus</u>
<u>Wild Rose Creek</u>	<u>Bunch Lake</u>
<u>Wynoochee River</u>	<u>Mount Hoquiam</u>

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7209 * indicates shoreline of statewide significance.

7210 B = Branch; E = East; F = Fork; M = Middle; N = North; P = Prong; S = South; T = Tributary; U = Unnamed;

7211 W = West

7212 Figure 18.25.890 -2. Lakes

Lake Name

Anderson

Beausite

Crocker

Gibbs

Leland

Lords

Ludlow

Peterson

Rice

Sandy Shore

Tarboo

Teal

Mill Pond

Wahl

7213 Article XII. Ocean Management

7214 18.25.900 Applicability and Administration

7215 (1) Applicability – The ocean use policies, regulations, and permitting procedures apply as follow:

7216 (a) Ocean Resources Management Act (ORMA; RCW 43.143). Ocean uses and developments
7217 proposed within the ORMA geographical area must be consistent with ocean use policies and
7218 regulations and reviewed using the additional approval criteria of this section. The applicable ORMA
7219 geographical area covers Washington coastal waters of the Pacific Ocean from Cape Flattery south
7220 to Cape Disappointment, from mean high tide seaward two hundred miles.

7221 (i) Geographic Application. The Ocean Management provision of this section apply to Pacific
7222 Ocean shorelines of statewide significance coastal waters and those associated shorelands
7223 located within Jefferson County, except for areas that are under exclusive federal jurisdiction as
7224 established through federal or state statutes including Olympic National Park.

7225 (b) Marine Spatial Plan (MSP). New ocean uses and developments proposed within the MSP study
7226 area must be consistent with the ocean use policies, regulations, and permitting procedures of this
7227 section. The MSP study area covers marine waters of the Pacific Ocean within state waters (from
7228 OHWM out to 3 nautical miles).

7229 (i) The MSP applies to a proposed project only if all three of the following criteria are met:

- 7230 • occurs within the geographic boundaries of the MSP study area;
- 7231 • will adversely impact renewable resources or existing ocean uses; and
- 7232 • is a ‘new use’, as defined by the MSP.

7233 (ii) All new ocean uses proposed within the MSP study area must be consistent with the
7234 protection standards for Important, Sensitive, and Unique areas (ISUs) and Fisheries and
7235 reviewed using the additional process requirements for new ocean use proposals.

Commented [LG311]: Respond to October 2020 Ecology Checklist addressing 2018 Marine Spatial Plan

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7236 (iii) Applicability of ISU protection standards. The state has developed maps of ISUs using the
7237 best available data at the time of the MSP development. These maps are intended to assist
7238 applicants in identifying where ISUs exist. As finer resolution or updated data becomes available,
7239 the state may update the ISU maps, which may include adding, deleting or updating the
7240 distribution of an ISU. However, ISU protection standards will apply to any ISU, wherever it is
7241 identified in state waters. It is the responsibility of applicants to verify whether ISUs exist in their
7242 proposed new ocean use project area and to demonstrate protection standards will be met.
7243
7244 (2) Ocean use administration. Additional ORMA approval criteria for ocean uses and developments.
7245 In addition to the otherwise required shoreline substantial development, conditional use, or
7246 variance approval criteria, newly proposed ocean uses or development shall meet or exceed this
7247 additional approval criteria:
7248 (a) There is a demonstrated significant local, state, or national need for the proposed use or
7249 activity;
7250 (b) There is no reasonable alternative to meet the public need for the proposed use or
7251 activity;
7252 (c) There will be no likely long-term significant adverse impacts to coastal or marine
7253 resources or uses;
7254 (d) All reasonable steps are taken to avoid and minimize adverse environmental impacts,
7255 with special protection provided for the marine life and resources of the Olympic National
7256 Park;
7257 (e) All reasonable steps are taken to avoid and minimize adverse social and economic
7258 impacts, including impacts on aquaculture, recreation, tourism, navigation, air quality, and
7259 recreational, commercial, and tribal fishing;
7260 (f) Compensation is provided to mitigate adverse impacts to coastal resources or uses;
7261 (g) Plans and sufficient performance bonding are provided to ensure that the site will be
7262 rehabilitated after the use or activity is completed; and
7263 (h) The use or activity complies with all applicable local, state, and federal laws and
7264 regulations.
7265 (3) Additional MSP procedural requirements for new ocean use proposals. In addition to the
7266 otherwise required shoreline substantial development, conditional use, or variance permit
7267 procedural requirement, MSP defined new ocean use proposals shall include the following:
7268 (a) Pre-application Meeting. Prior to submitting any applications for shoreline permits for
7269 new ocean uses or developments the applicant will participate in at least one pre-
7270 application meeting which may be consolidated and coordinated with all local, state, and
7271 federal agencies. During the pre-application stage:
7272 (i) The applicant should use the MSP to understand potential use and resource conflicts
7273 including review of the baseline data, maps, analyses, and management framework. This
7274 information can assist applicants in avoiding and minimizing impacts to resources and
7275 uses through project siting and design.
7276 (ii) The applicant should provide required data and information about the project, and
7277 identify and coordinate with stakeholder groups as well as other governments, including
7278 state, tribal, and federal government entities.

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7279 (iii) The applicant should identify state and local policies, procedures, and requirements
7280 including those referenced in the Marine Spatial Plan.
7281 (b) Inventory – Review adequacy of site-specific inventory and respond to requests for
7282 additional data or studies.
7283 (c) Effects Analysis – Submit an effects evaluation (See Section 4.5 of the MSP) which
7284 includes proposed mitigation measures, and best management practices.
7285 (d) Plans – Submit proposed construction and operation plans, including adequacy of
7286 prevention, monitoring, and response plans.
7287 (e) Coordination – Continue to coordinate with government entities (local, state, tribal, and
7288 federal agencies), stakeholders (representatives from fishing, aquaculture, maritime
7289 commerce, conservation, tourism, recreation), and the Washington Coastal Marine Advisory
7290 Council (WCMAC), and the public in all aspects of project development and review.
7291

7292 **18.25.910 Ocean Management Policies**

7293 (1) Applicability. These ocean management policies and their implementing regulations will be used
7294 in evaluating ocean uses, developments, and activities proposed in coastal waters subject to ORMA.
7295 These provisions augment the other requirements of this SMP. They are not intended to regulate
7296 recreational uses or currently existing commercial uses involving fishing or other renewable marine
7297 or ocean resources.

7298 (2) These general ocean management policies are applicable to all shoreline permits for newly
7299 proposed ocean uses, their services, distribution, and supply activities and their associated facilities.

7300 (a) Ocean uses and activities that will not adversely impact renewable resources shall be given
7301 priority over those that will. Correspondingly, ocean uses that will have less adverse impacts on
7302 renewable resources shall be given priority over uses that will have greater adverse impacts.
7303 (b) Ocean uses that will have less adverse social and economic impacts on coastal uses and
7304 communities should be given priority over uses and activities that will have more such impacts.
7305 When the adverse impacts are generally equal, the ocean use that has less probable occurrence
7306 of a disaster should be given priority.
7307 (c) The alternatives considered to meet a public need for a proposed use should be
7308 commensurate with the need for the proposed use. For example, if there is a demonstrated
7309 national need for a proposed use, then national alternatives should be considered.
7310 (d) For ocean uses and activities, SEPA shall be applied consistent with WAC 197-11-060 (4)(e)
7311 and 197-11-792 (2)(c). The determination of significant adverse impacts should be consistent
7312 with WAC 197-11-330(3) and 197-11-794. The sequence of actions described in WAC 197-11-768
7313 should be used as an order of preference in evaluating steps to avoid and minimize adverse
7314 impacts.
7315 (e) Impacts on commercial resources, such as the crab fishery, on noncommercial resources,
7316 such as environmentally critical and sensitive habitats, and on coastal uses, such as loss of
7317 equipment or loss of a fishing season, should be considered in determining compensation to
7318 mitigate adverse environmental, social and economic impacts to coastal resources and uses.
7319 (f) Allocation of compensation to mitigate adverse impacts to coastal resources or uses should
7320 be based on the magnitude and/or degree of impact on the resource, jurisdiction and use.

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7321 (g) Rehabilitation plans and bonds prepared for ocean uses should address the effects of
7322 planned and unanticipated closures, completion of the activity, reasonably anticipated disasters,
7323 inflation, new technology, and new information about the environmental impacts to ensure that
7324 state of the art technology and methods are used.
7325 (h) Ocean uses and their associated coastal or upland facilities should be located, designed and
7326 operated to prevent, avoid, and minimize adverse impacts on migration routes and habitat
7327 areas of species listed as endangered or threatened, environmentally critical and sensitive
7328 habitats such as breeding, spawning, nursery, foraging areas and wetlands, and areas of high
7329 productivity for marine biota such as upwelling and estuaries.
7330 (i) Ocean uses should be located to avoid adverse impacts on proposed or existing
7331 environmental and scientific preserves and sanctuaries, parks, and designated recreation areas.
7332 (j) Ocean uses and their associated facilities should be located and designed to avoid and
7333 minimize adverse impacts on historic or culturally significant sites in compliance with chapter
7334 27.34 RCW. Permits in general should contain special provisions that require permittees to
7335 comply with chapter 27.53 RCW if any archaeological sites or archaeological objects such as
7336 artifacts and shipwrecks are discovered.
7337 (k) Ocean uses and their distribution, service, and supply vessels and aircraft should be located,
7338 designed, and operated in a manner that minimizes adverse impacts on fishing grounds, aquatic
7339 lands, or other renewable resource ocean use areas during the established, traditional, and
7340 recognized times they are used or when the resource could be adversely impacted.
7341 (l) Ocean use service, supply, and distribution vessels and aircraft should be routed to avoid
7342 environmentally critical and sensitive habitats such as sea stacks and wetlands, preserves,
7343 sanctuaries, bird colonies, and migration routes, during critical times those areas or species
7344 could be affected.
7345 (m) In locating and designing associated onshore facilities, special attention should be given to
7346 the environment, the characteristics of the use, and the impact of a probable disaster, in order
7347 to assure adjacent uses, habitats, and communities' adequate protection from explosions, spills,
7348 and other disasters.
7349 (n) Ocean uses and their associated facilities should be located and designed to minimize
7350 impacts on existing water dependent businesses and existing land transportation routes to the
7351 maximum extent feasible.
7352 (o) Onshore facilities associated with ocean uses should be located in communities where there
7353 is adequate sewer, water, power, and streets. Within those communities, if space is available at
7354 existing marine terminals, the onshore facilities should be located there.
7355 (p) Attention should be given to the scheduling and method of constructing ocean use facilities
7356 and the location of temporary construction facilities to minimize impacts on tourism, recreation,
7357 commercial fishing, local communities, and the environment.
7358 (q) Special attention should be given to the effect that ocean use facilities will have on
7359 recreational activities and experiences such as public access, aesthetics, and views.
7360 (r) Detrimental effects on air and water quality, tourism, recreation, fishing, aquaculture,
7361 navigation, transportation, public infrastructure, public services, and community culture should
7362 be considered in avoiding and minimizing adverse social and economic impacts.
7363 (s) Special attention should be given to designs and methods that prevent, avoid, and minimize
7364 adverse impacts such as noise, light, temperature changes, turbidity, water pollution and
7365 contaminated sediments on the marine, estuarine or upland environment. Such attention

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7366 should be given particularly during critical migration periods and life stages of marine species
7367 and critical oceanographic processes.
7368 (t) Pre-project environmental baseline inventories and assessments and monitoring of ocean
7369 uses should be required when little is known about the effects on marine and estuarine
7370 ecosystems, renewable resource uses and coastal communities or the technology involved is
7371 likely to change.
7372 (u) Oil or gas exploration, development, or production should be prohibited from Cape Flattery
7373 south to Cape Disappointment.
7374 (3) The state's Marine Spatial Plan (MSP) provides a base of scientific information on ocean uses and
7375 resources, provides a framework for evaluating new ocean use proposals, and establishes
7376 protections for sensitive areas and fisheries. As such, the state's MSP informed the ocean
7377 management provisions of this SMP and should be utilized in their implementation.

7378 **18.25.920 Ocean Management Regulations.**
7379 The following ORMA ocean management regulations apply to all shoreline permits for newly proposed
7380 ocean uses, their services, distribution, and supply activities and their associated facilities:
7381 (1) Oil and gas exploration, development, and production is prohibited in tidal or submerged lands
7382 extending from the mean high tide seaward three miles.
7383 (2) Seafloor mining may be allowed consistent with all of the following:
7384 (a) The applicant has demonstrated that the location and operation has been designed in a
7385 manner that has no detrimental effects on ground fishing, renewable resource uses, beach
7386 erosion and accretion processes; and
7387 (b) The applicant has provided for mitigation of impacts that accounts for the established
7388 habitat recovery rates.
7389 (3) Ocean energy producing uses should only be allowed when the applicant has demonstrated the
7390 following:
7391 (a) The location, construction, and operation has been designed in a manner that has no
7392 detrimental effects on beach erosion, accretion, and wave processes;
7393 (b) The effect of the project on upwelling and other oceanographic and ecosystem processes
7394 have been assessed; and
7395 (c) Associated energy distribution facilities and lines are located in existing utility rights of way
7396 and corridors, whenever feasible.
7397 (4) Ocean disposal uses may be allowed when the applicant has demonstrated the following:
7398 (a) Storage, loading, transporting, and disposal of materials shall be done in conformance with
7399 local, state, and federal requirements for protection of the environment;
7400 (b) The ocean disposal site has been approved by the Washington Department of Ecology, the
7401 Washington Department of Natural Resources, the United States Environmental Protection
7402 Agency, and the United States Army Corps of Engineers, as appropriate. Ocean disposal sites for
7403 which the primary purpose is habitat enhancement may be located in a wider variety of
7404 locations;
7405 (c) The Ocean disposal site has been located and designed to prevent, avoid, and minimize
7406 adverse impacts on environmentally critical and sensitive habitats, coastal resources and uses,
7407 or loss of opportunities for mineral resource development; and
7408 (d) Ocean disposal should be sited in areas where the dredge material will provide beneficial use
7409 to the greatest extent possible.

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- 7410 (5) Ocean transportation uses may be allowed consistent with the following:
- 7411 (a) The applicant has provided an assessment of the impacts the proposed transportation use will
- 7412 have on renewable resource activities such as fishing and on environmentally critical and
- 7413 sensitive habitat areas, environmental and scientific preserves and sanctuaries.
- 7414 (b) When feasible, hazardous materials such as oil, gas, explosives and chemicals, should not be
- 7415 transported through highly productive commercial, tribal, or recreational fishing areas. If no such
- 7416 feasible route exists, the routes used should pose the least environmental risk.
- 7417 (c) Transportation uses should be located or routed to avoid habitat areas of endangered or
- 7418 threatened species, environmentally critical and sensitive habitats, migration routes of marine
- 7419 species and birds, marine sanctuaries and environmental or scientific preserves to the maximum
- 7420 extent feasible.
- 7421 (6) Ocean research uses may be allowed consistent with the following:
- 7422 (a) Other ocean uses occurring in the same area have been identified and potential use conflicts
- 7423 have been minimized.
- 7424 (b) Ocean research meeting the definition of "exploration activity" of WAC 173-15-020 shall
- 7425 comply with the requirements of WAC 173-15: Permits for oil or natural gas exploration activities
- 7426 conducted from state marine waters.
- 7427 (c) The project has been located and will be operated in a manner that minimizes intrusion into or
- 7428 disturbance of the coastal waters environment consistent with the purposes of the research and
- 7429 the intent of the general ocean use guidelines.
- 7430 (d) Upon completion or discontinuance of the ocean research the site shall be restored to its
- 7431 original condition to the maximum extent feasible, consistent with the purposes of the research.
- 7432 (e) Ocean research findings should be made available for public dissemination, whenever feasible.
- 7433 (7) Ocean salvage uses may be allowed consistent with the following:
- 7434 (a) Nonemergency marine salvage and historic shipwreck salvage activities should be conducted in
- 7435 a manner that minimizes adverse impacts to the coastal waters environment and renewable
- 7436 resource uses such as fishing.
- 7437 (b) Nonemergency marine salvage and historic shipwreck salvage activities should not be
- 7438 conducted in areas of cultural or historic significance unless part of a scientific effort sanctioned
- 7439 by appropriate governmental agencies.
- 7440
- 7441 **18.25.930 Additional Standards for New Ocean Uses.**
- 7442
- 7443 (1) Important, Sensitive, and Unique Areas (ISUs) Designation. The ISUs assign protection standards and
- 7444 definitions for adverse effects for a list of ecological, historic, cultural, and infrastructure areas. The MSP
- 7445 provides maps utilizing the best available data on ISU locations.
- 7446 (a) Ecological ISUs
- 7447 (i) Biogenic Habitats: Aquatic vegetation, corals, and sponges
- 7448 Rocky Reefs
- 7449 (ii) Seabird colonies: islands and rocks used for foraging and nesting by seabirds.
- 7450 (iii) Pinniped haul-outs
- 7451 (iv) Forage fish spawning areas: intertidal areas used for spawning by herring, smelt or other
- 7452 forage fish.
- 7453 (b) Historic, Cultural and Infrastructure ISUs

Commented [LG312]: Response to ECY Rec-38

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7454 (i) Historic and archaeological sites: Structures or sites over 45 years old that are listed or eligible
7455 for listing in local, state or national preservation registers (e.g. shipwrecks or lighthouses); or
7456 Artifacts or other material evidence of tribal or historic use or occupation (e.g. burials, village sites,
7457 or middens).
7458 (ii) Buoys and submarine cables: Fixed infrastructure such as navigation or monitoring buoys, fiber
7459 optic cables, electrical transmission cables, other fixed monitoring equipment in the marine
7460 environment (e.g. hydrophones) and any associated mooring lines, anchors or other equipment.
7461 (c) ISU Mapping and Location. The state has developed maps of ISUs intended to assist applicants in
7462 identifying where ISUs exist.⁴ However, ISU protection standards will apply to any ISU, wherever it is
7463 identified in state waters. It is the responsibility of applicants to verify whether ISUs exist in their
7464 proposed project area and to demonstrate protection standards will be met.
7465 (2) ISU Protection Standards. New ocean uses should only be allowed when the applicant can
7466 demonstrate consistency with the following ISU adverse effects and protection standards:
7467 (a) An applicant for proposed new ocean uses involving offshore development must demonstrate
7468 that the project will have no adverse effects on an ISU located at the project site and to off-site
7469 ISUs potentially affected by the project, using site-specific surveys, scientific data and analysis,
7470 which demonstrate either:
7471 (i) The current ISU maps do not accurately characterize the resource or use or the project area
7472 (mapped or not mapped) does not contain an ISU resource or use; or
7473 (ii) The weight of scientific evidence clearly indicates that the project will cause no adverse
7474 effects to the resources of the ISU.
7475 (A) Adverse effects standards for Ecological ISUs means degradation of ecosystem function
7476 and integrity (direct habitat damage, burial of habitat, habitat erosion, and reduction in
7477 biological diversity) or degradation of living marine organisms (abundance, individual
7478 growth, density, species diversity, and species behavior).
7479 (B) Adverse effects standards for historic, cultural or fixed infrastructure ISUs include the
7480 following:
7481

- Direct impacts from dredging, dumping, or filling;
- Alteration, destruction or defacement of historic, archaeological or cultural
- artifacts; and
- Direct impacts from placement or maintenance of new, temporary or permanent
- structures in areas with existing infrastructure or historic, archaeological or cultural
- artifacts.

7487 (b) Additional buffers may be appropriate to protect ISU resources from adverse effects. Project
7488 developers shall consult with the Washington Department of Fish and Wildlife on recommended
7489 buffers for Ecological ISUs associated with their proposed project prior to filing application
7490 materials with local or state agencies. Project developers shall consult with the Washington
7491 Department of Archaeological and Historical Preservation and tribal preservation officers on
7492 further identification and protection of cultural or historical artifacts.

⁴ See: <https://www.msp.wa.gov/important-sensitive-and-unique-areas-isus/>.

7493 (3) Applicants for proposed new ocean uses involving offshore development must consult with WDFW,
7494 individuals participating in affected commercial and recreational fisheries, and each of the coastal tribes
7495 to identify and understand the proposed project's potential adverse effects to fisheries and tribal uses.

7496 (4) Fisheries Protection standards. New ocean uses involving offshore development shall only be
7497 allowed when the applicant can demonstrate that their project meets all of the following standards to
7498 protect fisheries located at the project site and nearby from adverse effects:

7499 (a) There are no likely long-term significant adverse effects for commercial or recreational fisheries.
7500 Adverse effects can be direct, indirect or cumulative.

7501 (i) A significant reduction in the access of commercial or recreational fisheries to the resource
7502 used by any fishery or a fishing community(s);

7503 (ii) A significant increase in the risk to entangle fishing gear;

7504 (iii) A significant reduction in navigation safety for commercial and recreational fisheries; and

7505 (iv) Environmental harm that significantly reduces quality or quantity of marine resources
7506 available for harvest.

7507 (b) All reasonable steps are taken to avoid and minimize social and economic impacts to fishing.
7508 (i) Avoid adverse social and economic impacts to fishing through proposed project location,
7509 design, construction, and operation, such as avoiding heavily used fishing areas. Where
7510 adverse impacts to fishing cannot be reasonably avoided, demonstrate how project has
7511 minimized impacts;

7512 (ii) Minimize the number of and size of anchors. Space structures for greater compatibility
7513 with existing uses and bury cables in the seafloor and through the shoreline;
7514 Minimize risk of entangling fishing gear from new structures installed in the seafloor or placed
7515 in the water. Minimize the displacement of fishers from traditional fishing areas, and the
7516 related impact on the travel distance, routing, and navigation safety in order to fish in
7517 alternative areas;

7518 (iii) Minimize the compression of fishing effort caused by the reduction in the areas normally
7519 accessible to fishers;

7520 (iv) Minimize the economic impact resulting from the reduction in area available for
7521 commercial and recreational fishing for the effected sectors and ports.

7522 (v) Limit the number and size of projects located in an area to minimize the impact on a
7523 particular port, sector, or fishery;

7524 (vi) Consider the distribution of projects and their cumulative effects; and
7525 (vii) Other reasonable and relevant considerations as determined by the fisheries consultation
7526 process and specifics of the proposed project.