

Chapter 17.05

Shoreline Use Regulations

Sections:

17.05.010	Title
17.05.020	Short Title
17.05.030	Purpose
17.05.040	Definitions
17.05.050	Applicability
17.05.060	Exemptions From Substantial Development Permit Requirements
17.05.070	Shoreline Use Classification
17.05.080	Shorelines Of Statewide Significance
17.05.090	Shoreline Use Requirements
17.05.100	Agriculture
17.05.110	Aquaculture
17.05.120	Archeological Areas And Historic Sites
17.05.130	Commercial Development
17.05.140	Docks And Piers
17.05.150	Dredging And Landfill
17.05.160	Forest Management Practices
17.05.170	Marinas
17.05.180	Mining
17.05.190	Recreation
17.05.200	Residential Development
17.05.210	Outdoor Advertising, Signs And Billboards
17.05.220	Ports And Water-Dependent Industry
17.05.230	Road Design And Construction
17.05.240	Shoreline Stabilization
17.05.250	Solid Waste Disposal
17.05.260	Utilities

17.05.010

ZONING

17.05.010 Title

Island County Shoreline Management Master Program Use Regulations.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

17.05.020 Short Title

This Ordinance may be referred to as the Island County “Shoreline Master Program,” “Master Program,” or “SMP.”

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

17.05.030 Purpose

The purposes of this Ordinance are:

- A. To carry out the responsibilities imposed on Island County by Chapter 90.58 RCW, the Shoreline Management Act of 1971 as now or hereafter amended; and
- B. To provide for wise and proper management of shorelines, wetlands and water bodies in a manner that will allow present and future generations of users the opportunity to enjoy marine oriented resources, consistent with the goals, policies and stated purposes of Island County’s Master Program; and further
- C. It is the expressed and implied intent of this Ordinance to fully protect and enhance to the maximum extent possible the natural shoreline systems and critical areas while at the same time protecting the rights of the private property owners for the timely and reasonable use and enjoyment of their properties not inconsistent with the protection of the natural systems.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

17.05.040 Definitions

Words used in this Ordinance, unless the context clearly otherwise implies, shall assume the definitions contained in Chapter 90.58 RCW as now or hereafter amended, and such guidelines as have been, or may be adopted pursuant to Chapter 90.58 RCW. In general, the word “shall” is mandatory; the word “may” is permissive. When not consistent with the context, words used in the present tense shall include the future, the singular shall include the plural, and the plural the singular.

SHORELINE USE REGULATIONS

17.05.040

- A. **Accessory Structure:** A structure or building customarily considered to be incidental to or secondary to a permitted use or an approved conditional use on the property or on adjacent properties. Examples of accessory structures include, but are not limited to, sheds, shops, garages, greenhouses, barns, guest cottage, etc. Accessory structures are not to be confused with appurtenant structures that are listed as exemptions in this SMP and the SMA.
- B. **Accretion Shoreform:** Shoreline with a backshore which has been produced by the long-term deposition of sand and/or gravel by littoral drift from a feeder bluff or other source. Such shoreforms include barrier beaches, points, spits, hooks, and tombolos.
- C. **Act:** Shoreline Management Act of 1971, Chapter 90.58 RCW.
- D. **Affected Tribe:** Any Tribe recognized by the federal government and subject to established treaty rights whose ancestral villages, campsites, grave sites, fishing sites, or other territory within the County may be impacted by a proposed development project in or near an archaeological site.
- E. **Aquaculture:** The culture or farming of finfish, shellfish, or other aquatic plants and animals, and for the purpose of this Master Program it includes commercial clam and geoduck harvesting.
- F. **Archaeology:** The systematic, scientific study of man's past through his material remains.
- G. **Avoidance:** Keeping away from.
- H. **Beach Enhancement/Restoration:** Process of restoring a beach to a state more closely resembling a natural beach using beach feeding, vegetation, drift sills, and other non-intrusive means, as applicable.
- I. **Beach Feeding:** Process of replenishing a beach by delivery of materials dredged or excavated elsewhere.
- J. **Berm:** A linear mound or series of mounds of sand and/or gravel generally paralleling the water at or landward of the line of ordinary high tide.
- K. **Board:** Board of Island County Commissioners.
- L. **Boat Launch or Ramp:** Graded slopes, slabs, pads, planks, or rails used for launching boats by means of a trailer, hand, or mechanical device.
- M. **Breakwater:** Protective structures which are normally built offshore to protect beaches, bluffs, dunes, or harbor areas from wave action.
- N. **Bulkhead:** Structures erected parallel to and near the high water mark for the purpose of stabilizing a slope and protecting the adjacent uplands from the action of waves or currents. Bulkheads normally are constructed of steel, timber, or concrete piling and may be of either solid or open piling construction.

- O. **Clearing:** Clearing means the cutting and removal of vegetation by mechanical or chemical methods.
- P. **Conditional Uses:** A use, development, or substantial development which is classified as a conditional use in the Shoreline Management Master Program (see Shoreline Management Element of the Plan and Chapters 17.05 and 16.21 ICC), or which is not classified within the SMP. Those activities identified as conditional uses or not classified in this Master Program must be treated according to the review criteria established in WAC 173-27-160.
- Q. **Dock:** A structure which abuts the shoreline and is generally used as a landing or moorage place for commercial and pleasure craft.
- R. **Dredging:** The removal of earth from the bottom of a stream, river, lake, bay, or other water body for the purpose of deepening a navigational channel or to obtain use of the bottom materials for landfill.
- S. **Driftway:** That portion of the shore process corridor, primarily the lower backshore and the upper intertidal area, through which sand and gravel are transported by the littoral drift process. It is the critical link between the feeder bluff and the accretion shoreform.
- T. **Dune:** A hill or ridge of sand deposited by wind or wave action.
- U. **Extreme Low Tide:** The lowest line on the tidelands reached by a receding tide.
- V. **Feeder bluff:** Any shoreline land mass which is subject to periodic erosion from waves, or sliding and slumping, and from which the eroded sand/gravel is naturally transported via a driftway to an accretion shoreform. These natural sources of beach material are both limited and vital to the long term stability of accretion shoreforms.
- W. **Floodplain:** An area subject to periodic inundation due to surface water runoff or exceptionally high tides, or a combination of the two.
- X. **Forest Practice:** Any activity conducted on or directly related to forest land and relating to growing, harvesting, or processing timber. These activities include but are not limited to: road and trail construction, final and intermediate harvesting, pre-commercial thinning, reforestation, fertilization, prevention and suppression of disease and insects, salvage of trees, and brush control. See WAC 222-16-010.
- Y. **Gabions:** Structures composed of masses of rocks, rubble or masonry held tightly together, usually by wire mesh, so as to form blocks or walls. Sometimes used on heavy erosion areas to retard wave action or as foundations for breakwaters or jetties.
- Z. **Geologically Hazardous Areas:** Those areas that because of their susceptibility to erosion, sliding, or other geologic events, are generally not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns,

SHORELINE USE REGULATIONS

17.05.040

including but not limited to those lands designated in the Department of Ecology Coastal Zone Atlas dated April 1979, as it may be amended or revised, as land which has had recent or historical slide activity and/or has unstable slope conditions, including those lands within one-hundred (100) feet (either top or base) thereof.

- AA. **Grading:** Grading is an activity associated with property modification or maintenance. Grading means the physical manipulation of the earth's surface and/or surface drainage pattern without significantly adding or removing on-site materials.
- BB. **Groin:** Structures designed to modify or control sand movement.
- CC. **Jetty:** Jetties are structures designed to modify or control sand movement and are generally employed at inlets for the purpose of improving navigation.
- DD. **Landfill:** The placement of soil, sand, rock, gravel, existing sediment or other material (excluding solid waste) to create new land, tideland or bottom land area along the shoreline below the OHWM, or on wetland or upland areas in order to raise the elevation.
- EE. **Landward:** To or toward the land.
- FF. **Littoral Drift:** The natural movement of sediment, particularly sand and gravel, along marine or lake shorelines as a result of wave and wind action.
- GG. **Master Program:** The Island County Shoreline Master Program, which is comprised of the Shoreline Management Element of the Comprehensive Plan and Chapters 17.05 and 16.21 ICC.
- HH. **Ordinary High Water Mark (OHWM):** The mark on all lakes, streams, and tidal water, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation, as that condition exists on the effective date of the Act, or as it may naturally change thereafter; provided that in any area where the ordinary high-water mark cannot be found, the ordinary high water mark adjoining saltwater shall be the line of mean higher tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water.
- II. **Pier:** A structure which abuts the shoreline and is generally used as a landing or moorage place for commercial and pleasure craft. A pier is a fixed platform above the water.
- JJ. **Port:** Any harbor area under the jurisdiction of a legally constituted port district, as prescribed under Washington State law, or any harbor area which is largely devoted to shipping and cargo handling.

- KK. **Permitted Uses:** Uses which are allowed within the applicable shoreline environment, provided that they must meet the policies, use requirements, and regulations of this chapter 17.05 and any other applicable regulations of the county or state.
- LL. **Recreation:** Recreation is the re-creation and refreshment of body and mind through forms of play, sports relaxation, amusement, or contemplation.
1. Passive shoreline recreation is the light to moderate intensities of recreation such as hiking, day camping, viewing, nature study, boating, swimming and fishing.
 2. Active shoreline recreation or recreation development is the more intensive, land consumptive use of the shoreline areas by the activity and associated facilities.
- MM. **Restoration:** To revitalize or establish the characteristics and natural processes of a degraded shoreline resource.
- NN. **Retaining Wall:** Structure placed behind the OHWM which acts as a stabilizing mechanism for unstable geologic conditions.
- OO. **Revetment:** Facing of stone, concrete, etc., built to protect a scarp, embankment, or shore structure against erosion by waves or currents.
- PP. **Riprap:** A layer, facing, or protecting mound of stones placed to prevent erosion, scour, or sloughing of a structure or embankment.
- QQ. **Seaward:** To or toward the sea.
- RR. **Setback:** The distance a structure is placed behind a specified line or topographic feature.
- SS. **Shorelines:** All of the water areas in the state, including reservoirs, and their associated wetlands together with the lands underlying them, except:
1. shorelines of statewide significance;
 2. shorelines on segments of streams upstream of a point where the mean annual flow is twenty (20) cubic feet per second or less, and the wetlands associated with such upstream segments; and
 3. shorelines on lakes less than twenty (20) acres in size and wetlands associated with such small lakes.
- TT. **Shoreline Administrator:** The Island County Planning Director or his/her designee.
- UU. **Shoreline Development:** A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel or minerals; bulkheading; driving of piling; placing of obstructions; or any project of permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to Chapter 90-58 RCW at any stage of water level (RCW 90.58.030; WAC 173-27-030).

SHORELINE USE REGULATIONS

17.05.040

- VV. **Shoreline Environment Designations:** The categories of shorelines established by local shoreline master programs in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas. [WAC 173-16-0060(4)]
- WW. **Shoreline Jurisdiction:** The proper term describing all of the geographic areas covered by the SMA, related rules, and the applicable master program. Those lands extending landward for two-hundred (200) feet in all directions, as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred (200) feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters subject to the SMA. See RCW 90.58.030(2f), WAC 173-16-030(17); WAC 173-22-030(10). Also such areas within a specified local government's authority. See definition of "shorelines" and "shorelines of statewide significance."
- XX. **Shoreline Master Program (SMP):** The Island County Shoreline Master Program, being the Shoreline Management Element of the Comprehensive Plan and Chapters 16.21 and 17.05 ICC. Master programs must be developed in accordance with the policies of the SMA in RCW 90.58.020, be approved and adopted by the state, and be consistent with the rules (WACs) adopted by Ecology.
- YY. **Shorelines of Statewide Significance:** Means the following shorelines:
1. Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent saltwater north to the Canadian line and lying seaward from the line of extreme low tide; and
 2. Those additional areas specified in the Act (RCW 90.58.030(2)(e)), which in Island County, includes the Skagit Bay shoreline from Brown Point to Yokeko Point.
- ZZ. **Shoreline Substantial Development Permit Exemption:** Certain developments that meet the precise terms of listed exemptions are granted exemption from the requirements of the substantial development permit process of the Shoreline Management Act (SMA). An activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the Act and the Shoreline Management Master Program. Shoreline conditional uses or variance permits may also still be required even though the activity does not need a substantial development permit. (Cf. RCW 90.58.030(3)(e); WAC 173-27-030(7) and -040.)
- AAA. **Spit:** An accretion shoreform which extends seaward from and parallel to the shoreline. They are usually characterized by a wave-built berm on the windward side and a more gently sloping, muddy or marshy shore on the leeward side. A curved spit is normally called a hook.
- BBB. **Structure:** In accordance with the Uniform Building Code (UBC), that which is built or constructed, an edifice or a Building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

- CCC. **Subdivision:** The division or redivision of land, including short subdivisions.
- DDD. **Substantial Development:** Any development of which the total cost, or fair market value, exceeds Two Thousand Five Hundred Dollars (\$2,500.00) or any development which materially interferes with normal public use of the water or shorelines of the state (RCW 90.58.030(3)(e)) now or as hereafter amended; except that developments meeting the precise terms of the exemptions specified in WAC 173-27-040 and Section 17.05.030 of this Code shall not be considered substantial developments.
- EEE. **Tidelands:** Land on the shore of marine water bodies between the line of ordinary high tide and the line of extreme low tide.
- FFF. **Tombolo:** A causeway-like accretion spit which connects an offshore rock or island with the main shore. Tombolos normally develop from bars (submarine berms) and an active driftway. At maturity a tombolo constitutes an accretion terminal for each part of the drift sector it has divided.
- GGG. **Transportation Facility:** Transportation facilities include roads, trails, airports, barge landings, County docks, floatplane facilities, ferries and related terminals, and parking areas.
- HHH. **Tribe:** Any Indian tribe, band, nation or other organized group or community formally recognized by the federal government.
- III. **Water-Dependent Uses:** A use or a portion of a use which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. Examples of water dependent uses may include ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities and sewer outfalls.
- JJJ. **Water-Enjoyment Uses:** A recreational use, or other use facilitating public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through the location, design and operation assures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment. Primary water-enjoyment uses may include, but are not limited to, parks, piers and other improvements facilitating public access to shorelines of the state; and general water-enjoyment uses may include but are not limited to, restaurants, museums, aquariums, scientific/ecological reserves, resorts and mixed-use commercial; PROVIDED, that such uses conform to the above water-enjoyment specifications and the provisions of the master program.

SHORELINE USE REGULATIONS

17.05.040

KKK. **Water-Oriented Uses:** Refers to any combination of water-dependent, water-related, and/or water-enjoyment uses and serves as an all encompassing definition for priority uses under the SMA. Non-water-oriented serves to describe those uses which have little or no relationship to the shoreline and are not considered priority uses under the SMA. Examples include facilities primarily devoted to professional offices, automobile sales or repair shops, mini-storage facilities, multi-family residential development, department store and gas stations that serve land based modes of transportation.

LLL. **Water-Related Uses:** A use or a portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

1. Of a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water or,
2. The use provides a necessary service supportive of the water-dependent commercial activities and the proximity of the use to its customers makes its service less expensive and/or more convenient. Examples include manufacturers of ship parts large enough that transportation becomes a significant factor in the products cost, professional services serving primarily water-dependent activities and storage of water-transported foods. Examples of water-related uses may include warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker and log storage.

MMM. **Wetland:** An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including but not limited to irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

17.05.050 Applicability

A. **Applicability in General:** This Master Program shall apply to every person, individual, firm, partnership, association, organization, corporation, local or state government agency, public or municipal corporation, or other nonfederal entity which develops, owns, leases, or administers lands, wetlands or waters subject to this Master Program.

B. Applicability to Federal Agencies:

1. The policies and provisions of Chapter 90.58 RCW and this master program shall be applied to federal lands and agencies in a manner consistent with WAC 173-27-0060 (1) and (3).
2. The requirements of this Ordinance shall apply to nonfederal activities undertaken on lands subject to nonfederal lease or easement, even though such lands may be under Federal ownership.
3. The Shoreline Permit system shall apply to substantial developments undertaken on lands not federally owned but under lease, easement, license, or other similar Federal property rights short of fee ownership, to the Federal government.

C. Relationship to Comprehensive Plan: This SMP provides regulations to implement the goals and policies of the Comprehensive Plan Shoreline Element. These regulations apply to all of the land and waters of Island County which fall under the jurisdiction of the Shoreline Management Act (Chapter 90.58 RCW).

D. Applicability to Development: This Master Program applies to all “shoreline development” as defined by this chapter.

E. Applicability to Substantial Development:

1. This Master Program applies to all “substantial development” as defined by this chapter.
2. No substantial development may be undertaken unless a valid Shoreline Substantial Development Permit is first issued by the County and unless all work proceeds in compliance with the requirements of the Shoreline Management Act, this Master Program, and other applicable federal, state and local laws and regulations.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

17.05.060 Exemptions from Substantial Development Permit Requirements

- A. Exemptions shall be construed in accordance with WAC 173-27-040(1)(a). A use classified as a conditional use or a use not named or contemplated is allowed only as a conditional use and is ineligible for shoreline permit exemption.
- B. The following, as defined in WAC 173-27-040, are not considered to be substantial developments:
 1. Any development of which the total cost or fair market value, whichever is higher, does not exceed the maximum exempt amount allowed by state law, WAC 173-27-040(2)(a), if such development does not materially interfere with the normal public use of the water or shorelines of the state. The total cost or fair market value of the

SHORELINE USE REGULATIONS

17.05.060

development shall include the fair market value of any donated, contributed or found labor, equipment, or materials.

2. Normal maintenance or repair of existing structures or developments, including damage by fire, accident, or the elements, subject to WAC 173-27-040(2)(b).
3. Construction of the normal protective bulkhead common to single-family residences subject to WAC 173-27-040(2)(c) provided that the provisions of 17.05.240(B)(4)(j) are met.
4. Emergency construction necessary to protect property from damage by the elements, in accordance with WAC 173-27-040(2)(d).
5. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures, including but not limited to head gates, pumping facilities, and irrigation channels. However, a feedlot of any size, all processing plants, other activities of a commercial nature, and alteration of the contour of the shorelands by leveling or filling other than that which result from normal cultivation, shall not be considered normal or necessary farming or ranching activities. For the purposes of this section, a “feedlot” shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations; or barns or similar agricultural structures on wetlands. WAC 173-27-040(2)(e).
6. Construction or modification, by or under the authority of the Coast Guard or a designated port management authority, of navigational aids, such as channel markers and anchor buoys. WAC 173-27-040(2)(f).
7. Construction on shorelands by an owner, lessee, or contract purchaser of a single-family residence for his own use or the use of his family, which residence does not exceed a height of thirty-five (35) feet above average grade level, except as provided in this SMP, and which meets all requirements of the Act and this SMP, as specified in WAC 173-27-040(2)(g).
8. Construction of a dock, including a community dock, designed for pleasure craft only, for the private, non-commercial use of the owners, lessee, or contract purchaser of single- and multiple-family residences, as specified in WAC 173-27-040(2)(h). This exception applies if either:
 - a) In salt waters, the fair market value of the dock does not exceed Two Thousand Five Hundred Dollars (\$2,500.00).

- b) In fresh waters, the fair market value of the dock does not exceed Ten Thousand Dollars (\$10,000.00), but if subsequent construction having a fair market value exceeding Two Thousand Five Hundred Dollars (\$2,500.00) occurs within five (5) years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this Chapter.
9. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as part of an irrigation system for the primary purpose of making use of the system waters, including return flow and artificially stored groundwater from the irrigation of lands. WAC 173-27-040(2)(i).
 10. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water. WAC 173-27-040(2)(j).
 11. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed, or utilized primarily as part of an agricultural drainage or diking system. WAC 173-27-040(2)(k).
 12. Site exploration and investigation activities that are prerequisite to preparation of an application for development authority under this Chapter if:
 - a). The activity does not interfere with the normal public use of the surface waters;
 - b). The activity will have no significant adverse impact on the environment, including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
 - c). The activity does not involve the installation of any structure, and upon completion of the activity, the vegetation and land configuration of the site are restored to conditions existing before the activity;
 - d). A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the County to ensure that the site is restored to pre-existing condition; and
 - e). The activity is not subject to the permit requirements of RCW 90.58.550. WAC 173-27-040(2)(m).
 13. The process of removing or controlling an aquatic noxious weed, as defined in state law, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the U.S. Department of Agriculture or the department jointly with other state agencies under RCW 43.21C, WAC 173-27-040(2)(n).

SHORELINE USE REGULATIONS

17.05.060

14. Watershed restoration projects as defined in RCW 90.58, in accordance with WAC 173-27-040(2)(o).
 15. A public or private project that is designed to improve fish or wildlife habitat or fish passage, as provided in WAC 173-27-040(2)(p), when all of the following apply:
 - a) The project has been approved by the Washington Department of Fish and Wildlife (WDFW);
 - b) The project has received hydraulic project approval by the WDFW pursuant to 75.20 RCW; and
 - c) The County has determined that the project is substantially consistent with this master program.
 16. Hazardous substance remedial actions, as specified in WAC 173-27-040(3).
- C. Exemptions from Substantial Development Permit Requirements – Residential Appurtenances: Normal appurtenances to a single-family residence are included in the permit exemption provided in 17.05.060(B)(7). “Normal appurtenances” include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield; and grading which does not exceed two-hundred-fifty (250) cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Normal appurtenances to a single-family residence also include:
1. Beach access structures (i.e., stairways and tramways) and gazebos and sheds may be exempt from the requirements of a shoreline substantial development permit only in compliance with Section 17.05.200 of this Chapter.
 2. Landfill, in a total amount not to exceed two-hundred-fifty (250) cubic yards, to be allowed during the original construction of a single-family residence for the following purposes only:
 - a) Normal landscaping, to include beauty bark, topsoil, rock or similar landscaping materials;
 - b) Structural fill, only as necessary to comply with building code requirements related to the structural integrity of a foundation and not to include fill required for parcel flood-proofing, wetland fill or other fill activities; and
 - c) Driveway construction; and
 - d) Landfill placed entirely within a foundation wall or associated with a drainfield shall not count toward the two-hundred fifty (250) cubic yards.
 3. Antennas and satellite dishes that are less than one (1) meter in diameter.

17.05.060

ZONING

4. Solar arrays.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

17.05.070 Shoreline Use Classification

The Shoreline Use Classification Table identifies the permitted (P), prohibited (X), and conditional (C) uses within the designated shoreline environments. Permitted uses apply only to shoreline uses as regulated by this SMP and must comply with all applicable SMP goals, policies and use regulations and may require a Substantial Development Permit. Residential, commercial and industrial shoreline uses, densities and intensities of use are also subject to those specific uses and standards defined in Chapter 17.03 ICC.

Unclassified Uses: Unclassified uses are those uses which are not specified in the definitions or shoreline use classification table in ICC 17.05.035. Consistent with WAC 173-27-160(3), such uses shall be reviewed as conditional uses pursuant to the criteria in WAC 173-27-160(1).

SEE SHORELINE USE CLASSIFICATION TABLE ON FOLLOWING PAGE

SHORELINE USES	SHORELINE ENVIRONMENTS						
	AQUATIC	NATURAL	CONSERVANCY	RURAL	SHORELINE RESIDENTIAL	URBAN	<i>[Also, See Zoning 17.03 ICC and Critical Areas Ordinance, 17.02, ICC]</i>
	Proposed	Proposed	Proposed	Proposed	Proposed	Proposed	<i>Shoreline Use Regulations</i>
Aquaculture, outside of districts including mechanical or hydraulic harvest of shellfish	C	N/A	N/A	N/A	N/A	N/A	See 17.05.110
Forest Practices	N/A	C(4)	P(4)	P	P	P	See 17.05.160 & 16.25
Mining	X	C	C	C	X	X	See 17.05.180
Transportation Facilities:							
Non-Vista Parking Lots	N/A	X	X	P	P	P	See 17.05.230
Railroads	N/A	X	X	X	X	C	See 17.05.230
Ferry Terminals	C	X	C	C	C	P	
Vehicular routes & facilities	N/A	C(6)	C(6)	C	C	P	See 17.05.230
Recreational Uses:							
Campgrounds, Scenic overlooks & RV Parks (i.e., private)	N/A	X	X	C	X	P	See 17.05.190
Natural Preserves/Parks	N/A	P	P	P	P	P	See 17.05.190
Nonvehicular trails & paths	N/A	P	P	P	P	P	See 17.05.190
Passive recreation	P	P	P	P	P	P	See 17.05.190
Public parks	C	C	P	P	P	P	See 17.05.190
Scientific, educational, historic, or archaeological uses	P	P	P	P	P	P	See 17.05.120
Shoreline Modification Activity:							

SHORELINE USES	SHORELINE ENVIRONMENTS						
	AQUATIC	NATURAL	CONSERVANCY	RURAL	SHORELINE RESIDENTIAL	URBAN	<i>[Also, See Zoning 17.03 ICC and Critical Areas Ordinance, 17.02, ICC]</i>
	Proposed	Proposed	Proposed	Proposed	Proposed	Proposed	<i>Shoreline Use Regulations</i>
Breakwaters	C	X	X	C	C	C	See 17.05.240
Bulkheads	C	X	See 17.05.120	See 17.05.120	See 17.05.120	See 17.05.120	See 17.05.240
Dikes	C	X	P	P	P	P	See 17.05.240
Dredging	C	C(2)	P	P	P	P	See 17.05.240
Groins	C	X	X	P	P	P	See 17.05.240
Jetties	C	X	X	P	P	P	See 17.05.240
Signs:							
Off-premises identification & directional	C	X	X	X	X	C	See 17.03.210
On-premises identification & directional	C	C(1)	P(1)	P	P	P	See 17.03.210
Landfill (i.e., cut & fill)	C	X	C	P	P	P	See 17.05.150
Port facilities	C	X	X	X	X	P	See 17.05.220
Utilities	C	C(3)	P	P	P	P	See 17.05.260
Water dependent industry	C	X	X	X	X	P	See 17.05.220
All other industry	X	X	X	X	X	X	See 17.05.220
Water-Dependent commercial	C	X	X	P	P	P	See 17.05.130
Water related & water enjoyment commercial	X	X	X	P	P	P	See 17.05.130
Transient Accommodations:							
Hotels, Motels	N/A	X	X	X	X	P	See 17.05.130

SHORELINE USES	SHORELINE ENVIRONMENTS						
	AQUATIC	NATURAL	CONSERVANCY	RURAL	SHORELINE RESIDENTIAL	URBAN	<i>[Also, See Zoning 17.03 ICC and Critical Areas Ordinance, 17.02, ICC]</i>
Bed and Breakfast Inns, Country Inns	Proposed N/A	Proposed X	Proposed X	Proposed P	Proposed P	Proposed P	<i>Shoreline Use Regulations See 17.05.130</i>

NOTES

*P=Shoreline Permitted Use
X=Shoreline Prohibited Use
C=Shoreline Conditional Use*

- (1) Navigation aids and public information only
- (2) For restoration or enhancement of natural resources only
- (3) Permitted conditionally only if no feasible alternative exists
- (4) Permitted if carried out on a sustained yield basis
- (5) Public boat launches only
- (6) Conditionally permitted for public transportation projects only

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

17.05.080 Shorelines of Statewide Significance

In addition to compliance with the Use Requirements which hereafter follow, developments proposed within Shorelines of Statewide Significance shall, insofar as is possible:

- A. Recognize and protect the Statewide interest over local interest;
- B. Preserve the natural character of the shoreline;
- C. Result in long term over short term benefit;
- D. Protect the resources and ecology of the shorelines;
- E. Increase public access to publicly owned areas of the shorelines;
- F. Increase recreational opportunities for the public in the shoreline;
- G. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

In addition to compliance with the appropriate Use Requirements which hereafter follow, forest practices situated within two hundred (200) feet landward of the ordinary high water mark within Shorelines of Statewide Significance shall employ selective timber cutting so that no more than thirty (30) percent of the merchantable trees may be harvested in any ten (10) year period of time. Provided that other timber harvesting may be permitted in those limited instances where the topography, soil conditions, or silviculture practices necessary for regeneration render selective timber cutting ecologically detrimental.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

17.05.090 Shoreline Use Requirements

- A. **General Purpose:** There are hereby created Use Requirements to which all shoreline developments and uses shall comply when located within the geographical jurisdiction of this Master Program.

The purpose of these Use Requirements is to implement:

- 1. The goals and policies of the Shoreline Management Act and this Master Program;
- 2. The definitions and policies of the Shoreline Designations; and
- 3. The economic, physical, and social framework within which shoreline development will occur.

B. General Use Requirements

1. All over water development shall be marked in accordance with U.S. Coast Guard requirements.
2. Over water structures and equipment, except navigation aids, shall be designed, operated and maintained to blend into their surroundings through the use of appropriate colors and materials.
3. For over water facilities, the County shall reserve the right to require a visual impact analysis using the best available methodology.
4. Proposals that cause substrate displacement or that involve substrate modification through dredging, trenching, or digging shall not be allowed in existing kelp beds or in areas with more than two (2) turions of eel grass per one-quarter ($\frac{1}{4}$) square meter in winter or three (3) turions one-quarter ($\frac{1}{4}$) square meter in summer, except as provided for in Aquaculture Districts 2a, 2b and 2c where the following standard shall apply: ten (10) turions per one-quarter ($\frac{1}{4}$) square meter (winter), thirteen (13) turions per one-quarter ($\frac{1}{4}$) square meter (summer).
5. No shoreline permit or rights under such permit shall be transferred by sale or lease or other conveyance of any interest without prior County notification in order to determine if any new owner/operator can meet the terms and conditions of the permit.
6. Shoreline development shall not be allowed to cause significant erosion, accretion, and/or avulsion along adjacent shorelines.
7. All shoreline and overwater projects shall be required to comply with the state noise ordinance, air pollution control regulations, water quality standards, state and federal laws and regulations protecting archaeological sites and resources, and all other pertinent codes and ordinances.
8. Permit applications shall identify all pesticides, herbicides, antibiotics, vaccines, growth stimulants, anti-fouling agents, or other chemicals that the applicant anticipates using. No such materials shall be used until approval is obtained from all appropriate county, state, and federal agencies.
9. Where developments will require improvements to public facilities, such as boat launches, roads, or public utilities, the applicant shall be required to contribute proportionally to the cost of the improvement commensurate with the applicant's use.
10. Where developments are authorized pursuant to adopted park regulations to use County facilities, such as boat launches or docks, the County shall reserve

SHORELINE USE REGULATIONS

17.05.090

the right to require the applicant to pay a portion of the cost of maintenance, services, or repair commensurate with the applicant's use.

11. All shoreline and overwater activities shall be restricted to reasonable hours and/or days of operation when necessary to protect residents and properties from adverse impacts such as noise, light, and glare.
12. Permittees shall be required to carry liability insurance in an amount commensurate with the risk involved of injury or damage to any person or property as a result of the project.
13. The County shall require permittees to secure a performance bond or other suitable guarantee to insure immediate removal of all floating over water structures, with the exception of floating docks, should the project cease operation. Such bond shall also be in an amount sufficient to repair any damage which resulted from the activity.
14. Development activities shall be conducted in such a manner that unreasonable levels of noise and glare will not intrude into adjacent areas.
15. All use requirements, regulations and standards prescribed in the SMP shall apply to all structures and uses that exist as of the effective date of the SMP and/or are proposed in the future.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

17.05.100 Agriculture

A. **Definition:** The cultivation of soil, production of crops or the raising of livestock.

B. **Use Requirements**

1. Erosion control measures shall conform to guidelines and standards established by the Soil Conservation Service and the U.S. Department of Agriculture.
2. Pesticides shall be used, handled and disposed of in accordance with provisions of the Washington Pesticide Application Act (RCW 17.21) and the Washington Pesticide Act (RCW 15.57).
3. Livestock waste shall be disposed of in such a manner as to prevent surface or groundwater contamination.
4. Watering areas for livestock adjacent to SMA regulated lakes (WAC 173-20-320), SMA regulated streams (WAC 173-18-190) and SMA regulated wetlands may be permitted provided that:
 - a) no other feasible watering method is available, and

17.05.100

ZONING

- b) adequate provisions are made to protect existing water quality, and
 - c) adequate provisions are made to prevent the erosion of soil.
5. Buffer zones shall be established and/or maintained between tilled or grazed areas and associated water bodies to retard surface runoff, reduce siltation, and promote valuable shade for fish and habitat for other wildlife.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

17.05.110 Aquaculture

- A. **Definition:** Aquaculture is the culture or farming of finfish, shellfish, or other aquatic plants and animals, and for the purpose of this Master Program it includes commercial clam and geoduck harvesting.
- B. **Use Requirements**
- 1. No aquatic organism shall be introduced into Island County salt or fresh waters without prior written approval of the Director of the Washington State Department of Fish and Wildlife.
 - 2. Floating and submerged aquaculture structures shall be located to not unduly restrict navigational access to waterfront property or to interfere with general navigation. As a general rule, such structures should be located waterward of the minus three (3) fathom contour or two-hundred (200) feet beyond extreme low tide, whichever is further offshore, and floating structures should not extend beyond one-thousand (1000) feet therefrom.
 - 3. Intertidal aquaculture structures, such as pilings and intertidal formations, shall be located to not unduly restrict pedestrian circulation along beaches and navigation between such structures and any floating or submerged aquaculture structures. As a general rule, such structures should be located between the mean high tide level and extreme low tide.
 - 4. In accordance with all governmental waste disposal standards, aquaculture wastes shall be disposed of in a manner that will prevent degradation of associated upland, wetland, shoreline, or water environments. Garbage, wastes or debris shall not be allowed to accumulate at the site of any aquaculture operation.
 - 5. No processing of any aquacultural product, except for the sorting or culling of the cultured organism and the washing or removal of surface materials or organisms, shall occur in or over the water after harvest, unless specifically approved by permit. All other processing shall be located on land and shall be governed in addition by the provisions of chapter 17.03 ICC.

SHORELINE USE REGULATIONS

17.05.110

6. Odors shall be controlled through the proper storage and disposal of feed and other organic materials and by maintaining a clean operation. A specific plan for identifying and controlling odors shall be developed and approved as part of the permit approval process. Odors shall not unreasonably interfere with the enjoyment of life and property of a substantial number of persons.
7. Fishnet-pen complexes shall not occupy more than two (2) surface acres of water area in a district, excluding booming and anchoring requirements.
8. Floating aquaculture districts shall be limited to forty (40) surface acres or less of water area.
9. Fishnet pens shall meet, as a minimum, state administrative guidelines for the management of net-pen cultures; where any conflict arises the more stringent requirement shall prevail.
10. Aquaculture proposals that hydraulically, or mechanically, or by commercial digging (except traditional low impact hand implement digging), displace or disturb bottom sediments through dredging, trenching or excavation shall only be allowed in approved aquaculture districts. These activities, except for geoduck beds which are subject to Washington State Department of Fish and Wildlife standards, shall not be allowed in subtidal or intertidal areas with more than 15-20% fine sediment (63 microns or smaller) until it can be shown that the method or equipment can ensure immediate and sustained trench or hole refill, that there will be minimal significant adverse impacts on natural systems and that water quality standards are met.

In such fine sediment areas, proposed operations must demonstrate that displaced or disturbed materials including but not limited to muck, silts, fines, nutrients and chemical organic or other contaminants can be returned to the location from which they came in a manner such that they will not be resuspended or moved from that location by wind, current, wave or tidal action.

In areas with less than 15-20% fine sediment, such proposals must show that disturbed material will not be transported to adjacent beaches or intertidal areas in sufficient quantity to adversely affect the soil composition, aesthetic quality, water quality or vegetation of those areas.

11. Compliance with requirements for intertidal hydraulic or mechanical harvesting shall be met through presentation of documented evidence which certifies to the County’s satisfaction that protective controls will be complied with. Any on-site, non-commercial testing to support the presented documentation shall be limited in duration and distance. All required baseline

studies shall be required which measure seasonal variations and shall be completed before any testing is allowed. Furthermore, districts proposing substrate displacement in intertidal estuarine environments such as Skagit Bay, Livingston Bay or Port Susan, shall not be considered unless supported by an adequate Environmental Impact Statement or supplement thereto incorporating a thorough baseline study of the surrounding marine environment which reflects seasonal variations in natural conditions. Such data shall be used to assess the probable adverse impacts of substrate displacement on shoreline resources. If the data shows that negligible adverse impacts occur in sediments with greater than 15-20% fine sediment, the 15-20% threshold in Regulation 10 may be amended when a district is created.

12. Aquaculture Proposals for Aquaculture practices that would cause an environmentally significant long run decline in unique or significant populations of benthic organisms, other than those being harvested, or result in the long term destruction of the habitat of unique or significant colonies of benthic organisms shall not be allowed in Island County.
13. When necessary, aquaculture projects may be allowed on a provisional basis and/or monitoring of specific environmental conditions may be required at the applicant's expense prior to and/or during operation as a condition of approval, to provide proof that violations of the permit or potentially significant negative environmental impacts do not occur.
14. Predator control shall not involve the intentional killing or abusive harassment of birds or mammals. Approved controls include but are not limited to double netting for seals, netting for birds, and three (3) foot high fencing or netting for otters. The use of other non-lethal, non-abusive predator control measures shall be contingent upon receipt of written approval from the Washington State Department of Fish and Wildlife, the National Marine Fisheries Service and/or the U.S. Fish and Wildlife Service, as required.
15. For aquacultural projects using over-water structures, storage containers of necessary tools and apparatus seaward of the line of ordinary high tide shall be limited to containers of not more than three (3) feet in height as measured from the surface of the raft or dock or a maximum of six (6) feet from the water; provided that in locations where the visual impact of the proposed aquacultural structure will be minimal, the County may authorize, without issuing a variance, storage containers of greater height. In such cases, the burden of proof shall be on the applicant. Materials which are not necessary for the immediate and regular operation of the facility shall not be stored seaward of the ordinary high water mark.

SHORELINE USE REGULATIONS

17.05.110

16. Aquaculture development shall not occur until a Washington State Department of Health approval has been provided to the County where applicable.
17. Aquaculture districts that are designated for fixed systems, i.e. mussel rafts, longlines, net-pens, etc., shall generally consist of one (1) or more five (5) acre lease tracts which lie parallel to the bottom contours and perpendicular to shore. Two hundred (200)-foot-wide navigational access ways, laying perpendicular to shore, shall be provided wherever necessary to maintain access between aquacultural projects.
18. Salmon net-pen facilities shall not be located closer than twelve (12) statute miles from the mouth of any river containing significant anadromous fish runs.
19. An annual report of antibiotic use shall be submitted to Island County. The report shall indicate the type and amount of antibiotics used during the previous calendar year.
20. Fish mortalities shall not be disposed of at any Island County solid waste disposal facility.
21. In promotion of the Island County solid waste management plan and with the associated goal of eliminating marine debris, applicants for finfish facilities will be required to submit for approval, a solid waste reduction and recycling plan.
22. Finfish aquaculture operators shall submit an annual report to Island County stating the total number of fish mortalities that occurred during the previous calendar year. In event of a significant fish kill, the cause of death shall be determined and reported.
23. Aquaculture proposal applicants shall be required to supplement their applications with any and all information about their project needed to conduct a thorough evaluation, including but not limited to the following when appropriate.
 - a) Species to be reared;
 - b) Aquaculture method(s);
 - c) Schedule, method, and type of feeding (if applicable);
 - d) Manpower/employment necessary for the project;
 - e) Harvest method and timing;

17.05.110**ZONING**

- f) Location and plans for any shore-side activities including loading and unloading of the product and processing;
- g) Method of predator control;
- h) Disposal of aquaculture mortalities and other waste products by approved methods;
- i) Environmental assessment including best available background information on tidal variations, current patterns and flows, flushing rates, prevailing storm wind conditions, aquatic and benthic organisms and predictable impact on water quality, biota, littoral drift, and any other shoreline and water uses. Further baseline studies may be required depending upon existing conditions, the nature of the proposal, and probable adverse environmental impacts. Baseline and periodic monitoring, as required by permit, shall be at the applicant's expense by County approved consultants unless otherwise provided for.
- j) Existing water quality conditions; and
- k) Other pertinent information deemed necessary by the Planning Director.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

17.05.120 Archaeological Areas and Historic Sites

A. **Definition:** Island County has established one of the largest Historical Preservation Districts (Ebey's Landing) in the Puget Sound Basin and Pacific Northwest.. The current archaeological site inventory for the County includes a number of different sites, of which the five major types are shell middens, lithic sites, earthworks, rock cairns, and burial grounds. While shell middens and burial grounds are strongly associated with shorelines, the other types may also be found within the shorelines of the County. Areas and sites of archaeological and historic value are in danger of being lost through present day changes in land use and urbanization.

B. Use Requirements

1. All shoreline permits shall contain a special provision requiring permittees to notify Island County if any potential archaeological artifacts are uncovered during excavation or development and to cease work immediately if, during the course of development human remains or archaeological resources are encountered.
2. All permits issued for development in areas known to be archaeologically significant shall provide for site inspection and report by a qualified archaeologist prior to the issuance of a permit.

SHORELINE USE REGULATIONS

17.05.120

3. No permit for an application requiring an archaeologist's report will be issued prior to the receipt by the County of the required archaeological report. Once received, the report will be conveyed to the affected Indian Tribe(s), the Trust Board of Ebey's Landing and/or the Island County Historical Society. Based on the information contained in the written report of the qualified professional archaeologist, including the recommendations of any affected Indian Tribe on avoidance or mitigation of the proposed project's impacts obtained during the consultation process, the County will condition project approval in a manner to avoid or minimize impacts to the site consistent with federal and state law.
4. All developments proposed for location adjacent to historical sites which are registered on the State or National Historic Register shall be located and designed so as to be complimentary to the historic site. Development which degrades or destroys the historic character of such sites shall not be permitted.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

17.05.130 Commercial Development

- A. **Definition:** A business use or activity involving retail or wholesale marketing of goods and services. It does not include Bed & Breakfast Inns and Country Inns which are named as specific uses in the shoreline use table in 17.05.070.
- B. **Use Requirements**
 1. New commercial developments shall locate adjacent to existing commercial developments whenever practicable.
 2. New commercial development may only be allowed in the shoreline jurisdiction within the Rural, Shoreline Residential, and Urban environments if the proposed commercial activity is permitted in the underlying zone classification according to Chapter 17.03 ICC; is a water-dependent or water-oriented use; and is consistent with the allowed uses, policies, and regulations in the applicable shoreline environment and this SMP.
 3. New commercial development is prohibited in the Aquatic, Natural and Conservancy shoreline environments.
 4. Commercial developments shall not interfere with the enjoyment of adjacent recreational or residential uses.
 5. In low bank areas, the minimum setback for commercial structures shall be fifty (50) feet landward from the OHWM, except in the Urban Environment, where water-dependent commercial development shall not be required to maintain a shoreline setback.

17.05.130

ZONING

6. In geologically hazardous areas or unstable bluff areas, the minimum setback for commercial structures shall conform with the bluff setback requirements established under Chapter 11.02 ICC.
7. In low bank areas, commercial parking and loading areas shall be located at least fifty (50) feet landward from the OHWM and shall be located landward from the principal building being served, except when the parking facility is within or beneath the structure and adequately screened, or in cases when an alternate location would have less environmental impact on the shoreline.
8. In geologically hazardous areas or unstable bluff areas, commercial and parking areas shall be located in conformance with setback standard requirements established under Chapter 11.02 ICC.
9. Legally established existing commercial developments and activities within the shoreline jurisdiction may be maintained and/or expanded subject to the requirements of Chapter 17.03 ICC, and the setback averaging requirements of 17.05.200(B)(10). In cases where the existing setback is less than twenty-five (25) feet from the OHWM, the proposed expansion may not occur any further seaward towards the OHWM; EXCEPT for water dependent uses.
10. Design of parking and loading areas shall assure that surface runoff does not pollute adjacent water or cause soil or beach erosion.
11. Outdoor advertising and signs shall comply with the section of Outdoor Advertising, Signs and Billboards of this chapter.
12. Applications for commercial development shall include a detailed statement explaining the nature and intensity of water orientation of the proposed activity. Such statement shall include the following:
 - a) nature of the commercial activity;
 - b) need for shoreline frontage;
 - c) special considerations being planned to enhance the relationship of the activity to the shoreline and to mitigate adverse affects;
 - d) provisions for public visual and/or physical access to the shoreline.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

17.05.140 Docks And Piers

- A. **Definition:** A structure built over or floating upon the water, used as a landing place or marine transport, or for commercial or recreational purposes.

B. Use Requirements

1. Piers and docks shall be located and designed in a manner so as not to interfere with geohydraulic shoreline processes.
2. The location and design of docks and piers, as well as the subsequent use, shall minimize adverse effects to fish, shellfish, wildlife, and water quality.
3. Docks and piers shall be located, designed, and operated so as not to interfere with rights of adjacent property owners, nor interfere with adjacent water uses.
4. With the exception of those residential areas designed for private dock facilities, applications for docks and piers associated with single family residences shall not be approved unless:
 - a) it can be shown by the applicant that existing facilities are not adequate, feasible or available for use; and
 - b) the possibility of a multiple-owner or multiple-user facility has been thoroughly investigated unless adjacent lot owners either do not wish to share the dock or do not respond to the request; and
 - c) the applicant shall have the burden of providing the information requested for items a and b above, and shall provide this information to the Administrator.
5. Each dock or pier proposal shall be evaluated on the basis of multiple considerations, including but not necessarily limited to the potential and cumulative impacts on littoral drift, sand movement, water circulation and quality, fish and wildlife, navigation, scenic views, and public access to the shoreline and the best available background information on tidal currents, wave height, and prevailing storm wind conditions.
6. Docks and piers associated with residential uses shall not exceed the length of existing docks, or piers of abutting property owners; except where required for extraordinary circumstances.
7. Docks and piers associated with water dependent commercial or industrial uses shall be the minimum necessary to accommodate the proposed use.
8. Commercial and industrial docks upon which toxic or flammable materials are handled or stored shall make adequate provisions to minimize the probability of spill. Adequate provision shall be made to control accidental spills that do occur.
9. Docks or piers shall make adequate provisions for parking and liquid and solid waste disposal.

17.05.140**ZONING**

10. All docks, piers, floats, and similar devices shall be designed and located so as not to be a hazard to navigation and so marked as to prevent a hazard to navigation at any time during the day or night.
11. All floats and floating docks shall include stops, which will serve to keep the floats off the tidelands at low tide.
12. Joint use facilities shall be required for new waterfront subdivisions, planned residential development (PRD), multi-family residences, and inns.
13. Unsafe docks and piers shall be removed or repaired promptly by the owner.
14. Design standards for docks and piers:
 - a) Pilings must be structurally sound prior to placement in the water;
 - b) When plastics or other non-biodegradable materials are used in float, pier, or dock construction, containment features in the design of the structures shall be required;
 - c) Overhead wiring or plumbing is not permitted on piers or docks;
 - d) Dock lighting shall be designed to shine downward, be of low wattage, and shall not exceed a height of three (3) feet above the dock surface;
 - e) All construction-related debris shall be disposed of properly and legally. Any debris that enter the water shall be removed promptly. Where feasible, floats shall be secured with anchored cables in place of pilings.
15. Piles, floats or other members in direct contact with water shall not be treated or coated with biocides such as paint, or pentachlorophenol. Use of arsenate compounds or creosote treated members is discouraged and shall only be used in accordance with the following provisions:
 - a) In freshwater, untreated wood, concrete or other nontoxic alternatives shall be used unless the applicant can demonstrate that no feasible alternative to toxic treatments is available which will provide the structural characteristics necessary for the project.
 - b) In saltwater areas characterized by significant shellfish populations or in shallow embayments with poor flushing characteristics, untreated wood, precast concrete, plastic or other nontoxic alternatives shall be used unless the applicant can demonstrate that no feasible alternative to toxic treated wood is available which will provide the structural characteristics necessary for the project. In all cases where toxic treated products are allowed, products, methods of treatment and installations shall be

SHORELINE USE REGULATIONS

17.05.140

limited to those that are demonstrated as likely to result in the least possible damage to the environment based on current information.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

17.05.150 Dredging And Landfill

A. **Definition:** Dredging is the removal of earth, sand, gravel, silt or debris from the bottom of a stream, river, lake, bay or other water body. Dredging includes any harvesting of natural resources by any mechanical or hydraulic means which involves substrate displacement or disturbance.

Landfills are the creation of a dry upland area by the deposition of materials into water, or onto shoreline or wetland or upland areas in order to raise the elevation.

B. Use Requirements

1. Landfill shall be permitted only in the following circumstances:
 - a) If seaward of the OHWM, only in conjunction with Water-Dependent Uses approved pursuant to this Chapter; or
 - b) If landward of the OHWM, only in conjunction with Water-Oriented Uses approved pursuant to this Chapter; or
 - c) For lots created prior to this Chapter and are located within Floodplains, Landfill shall be limited to the minimum necessary to meet Floodplain standards.
 - d) For lots created prior to this Chapter and located within regulated wetlands, only if it is necessary to achieve reasonable use and then only the absolute minimum amount of fill.
 - e) Landfill that is exempted pursuant to ICC 17.05.060(C)(2).
 - f) Landfill for purposes identified in ICC 17.05.060(C)(2) that exceeds the two-hundred-fifty (250) cubic yard exemption threshold.
2. Landfill shall be prohibited in estuaries, tidelands, marshes, ponds, swamps or similar water-retention areas, except for the minimum necessary to provide for the reasonable use of a property in accordance with “reasonable use exceptions and exemptions”, as specified in Chapter 17.02 ICC.
3. Sanitary landfill sites within any area subject to the jurisdiction of the Shoreline Management Act are strictly prohibited.
4. Landfill shall be deposited so as not to block the normal recharge of groundwater supplies, and in a manner that does not degrade quantity and quality of groundwater.

17.05.150**ZONING**

5. Fill material shall be of a quality, and so placed and contained, as to not cause water quality degradation. Junk, garbage, and other potentially hazardous materials shall not be used as fill material.
6. Applications which include landfilling as a project element shall include the following information:
 - a) physical, chemical and biological character of landfill material;
 - b) source of landfill material;
 - c) method of placement and compaction; and
 - d) method of perimeter erosion control.
7. The perimeter of all landfills shall be provided with means of control erosion, such as vegetation, retaining walls or other mitigating measures.
8. Dredging shall cause no more than minimal disruption of natural geohydraulic processes along shorelines.
9. Dredging operations shall be scheduled so as not to interfere with the migratory movements of anadromous fish.
10. Dredging shall not cause unnecessary interference with navigation or infringement upon adjacent shoreline uses, properties, or values.
11. Dredged material shall be deposited on upland sites wherever possible, and in any case only on those sites authorized by a Shoreline Management Substantial Development Permit.
12. Dredged materials deposited on upland sites shall constitute landfill, and shall comply with all applicable landfill requirements of this Ordinance.
13. Applications shall comply with requirements stipulated under Chapter 11.01 ICC (Land Development Standards) and Chapter 11.02 ICC (Clearing and Grading Regulations).

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

17.05.160 Forest Management Practices

- A. **Definition:** Forest Management Practices are those methods used for the protection, production and harvesting of timber. Trees along a body of water provide shade which insulates the water from detrimental temperature change and dissolved oxygen release. A stable water temperature and dissolved oxygen level provide a healthy environment for fish and other more delicate forms of aquatic life. Poor

SHORELINE USE REGULATIONS

17.05.160

logging practices on shorelines alter this balance as well as result in slash and debris accumulation and may increase the suspended sediment load and the turbidity of the water.

- B. **Use Requirements:** Forest management practices shall comply fully with regulations adopted pursuant to the Forest Practices Act of 1974. Applications for permits under these regulations affecting property within the area of jurisdiction shall be reviewed for conformity with the policies and intent of the Island County Shoreline Management Program.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

17.05.170 Marinas

- A. **Definition:** Marinas are facilities which provide boat launching, storage, supplies and services for small pleasure craft. There are two (2) basic types of marinas: open-type construction (floating breakwater and/or open-pile work) and solid-type construction (bulkhead and/or fill).

B. **Use Requirements**

1. Marinas shall be designed to minimize their adverse effects on the scenic qualities of the shorelines.
2. Landfill, when utilized, shall be only for necessary water dependent portions of the marina facility and not for parking, unless no alternatives exist and such fill would be consistent with this program and the public interest.
3. Marinas shall be sited to minimize degradation of commercial and recreation shellfish beds, water quality, existing geohydraulic shoreline processes and shall comply with the Washington Department of Health's "Environmental Health Guidelines for Marina Development and Operation."
4. Where moorage is offered in new, expanded or renovated existing marinas, pump-out, holding and/or treatment facilities shall be provided for sewage contained on boats and/or vessels. Such facilities shall be located so as to be conveniently accessible to all boats. The responsibility for the adequate and approved collection and disposal of marina originated sewage, solid waste and petroleum waste is that of the marina operator.
5. Marinas shall be located, designed, constructed and operated so as not to unnecessarily interfere with the rights of adjacent property owners, nor interfere with adjacent water uses.
6. Parking and loading areas shall be located a minimum of one-hundred (100) feet from the immediate water's edge and beaches where possible.

17.05.170

ZONING

7. Marinas shall make adequate provisions to minimize the probability of fuel spills during handling or storage. Provisions shall be made to handle accidental spills that do occur.
8. Marinas shall provide adequate on-shore sewage and waste disposal facilities and restrooms. Such facilities shall be adequate to serve transient boaters as well as “liveaboard” boaters.
9. Floatplane bases shall comply with all applicable Use Requirements relating to marinas.
10. Dredging or filling of wetlands for the sole purpose of constructing a marina shall be prohibited.
11. New marina related structures or uses which are not in and of themselves shoreline dependent shall not be located over water. Adaptive reuse of existing overwater structures are encouraged to be Water-Oriented Uses.
12. The incorporation of reasonable public access facilities into public marina design shall be required. Marinas may restrict access to specific areas for security reasons.
13. Surface runoff from marina areas shall be controlled so that pollutants will not be carried into water bodies.
14. Parking areas shall be subject to the policies and regulations of ICC 17.03.180 (Q). No over water parking shall be allowed.
15. Marinas shall be subject to the Design standards for docks and piers in ICC 17.05.140(B)(14) and the Non-Residential Design, Landscape and Screening Guidelines of ICC 17.03.180(P) that specifically address Non-Residential design.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

17.05.180 Mining

- A. **Definition:** Mining is the removal of naturally occurring materials from the earth for economic use. The removal of sand and gravel from shoreline areas of Washington usually results in erosion of land and silting of water. These operations can create silt and kill benthic species. The removal of sand from marine beaches can deplete a limited resource which may not be restored through natural processes.
- B. **Use Requirements**
 1. Applications for mining permits shall be accompanied by a report on the geologic makeup of the site, prepared by a competent professional geologist, addressing the following:

SHORELINE USE REGULATIONS

17.05.180

- a) type of material(s) present on the site;
 - b) quantity of material(s) (by type);
 - c) quality of material(s) (by type);
 - d) lateral extent of mineral deposit;
 - e) depth of mineral deposit; and
 - f) depth of overburden.
2. Excavation of sand, gravel and other minerals shall be done in strict conformance to the Washington State Mine Surface Reclamation Act (RCW 87.44).
 3. Topsoil overburden having value for agriculture or other beneficial uses shall not be disposed in a manner which precludes future utilization or impairs its value.
 4. Mining of marine and lake beaches, stream beds and shoreline associated wetlands, including but not limited to sand, gravel, cobbles, boulders, or quarry rock is prohibited.
 5. All shoreline mining operations shall use buffer zones, settling ponds, erosion prevention measures, and/or other precautions to protect the shoreline from mine-generated sediment, debris and contaminated effluent.
 6. Should substantial evidence be submitted to Island County indicating that the continuance of any project in the current manner is detrimental to the proper functioning of the subject marine or lake waterfront, this permit shall be reviewed by the granting authority to determine if further conditions should be imposed or if the permit should be terminated.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

17.05.190 Recreation

- A. **Definition:** Facilities such as parks and campgrounds which provide means for relaxation, play or amusement.
- B. **Use Requirements**
 1. Trailer spaces, camping sites, and similar facilities shall not be located on beaches and tidelands.
 2. Recreation facilities shall be designed to provide adequate water supply, sewage disposal, and garbage collection.

17.05.190**ZONING**

3. Screening, buffer strips, fences, and signs to prevent park overflow and to protect the value and enjoyment of adjacent or nearby private or public properties shall be required when deemed necessary.
4. Tree-cutting and driftwood removal in public recreational areas shall be prohibited.
5. Signs associated with recreation facilities shall be kept to a minimum in number and size, and shall be erected as informational or directional aids only.
6. All terrain vehicles for off road use are prohibited on tidelands and beaches; EXCEPT when necessary, to launch or retrieve boats or for those individuals who are physically challenged.
7. Applicants for Substantial Development permits for recreation facilities may be required to provide data to demonstrate the safety of proposed equipment and facilities.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

17.05.200 Residential Development

- A. **Definition:** The development of land and/or the construction or erection of dwelling units for the purpose of residential occupancy.
- B. **Use Requirements**
 1. In lieu of specific density standards within this SMP, subdivisions shall reflect a density which exemplifies the designation and policy of the Shoreline Designation within which they are located; the physical capabilities of the subject site; and the density permitted in the underlying zone by Chapter 17.03 ICC.
 2. Residential development is not considered a water-dependent use.
 3. Residential development shall not be permitted seaward of the ordinary high water mark. Live-aboard vessels, floating homes, and houseboats are restricted to approved marinas only.
 4. Public access to publicly owned shorelines shall be maintained.
 5. Subdivisions and all individual residential structures, appurtenances, and accessory structures shall be designed to assure that surface runoff does not pollute adjacent waters or cause soil or beach erosion either during or after the construction phase.

SHORELINE USE REGULATIONS

17.05.200

6. Subdivisions containing marshes, swamps, lagoons, portions of floodplains, or similar wetlands shall use those areas only for the purposes of parks, open-space, or recreation facilities as permitted by Chapter 17.02 ICC.
7. Construction of residential structures, appurtenances, accessory structures and amenities shall not be detrimental to the geohydraulic processes occurring within the shoreline corridor.
8. Residential structures shall not be located on wetland areas or in areas subject to flooding or tidal inundation unless required to provide for the reasonable use of the property as defined by Chapter 17.02 ICC, and unless complete flood-proofing measures have been provided, and then only when the location of such structures will not aggravate flooding possibilities of nearby properties.
9. Residential structures shall only be located upon geologically hazardous areas (as defined by this SMP) if in compliance with the bluff setback standards and conditions contained in Chapter 11.02 ICC.
10. Special Shoreline Setbacks.
 - a) The standard Shoreline Setback for Dwelling Units shall be fifty (50) feet landward of the OHWM except for the Conservancy and Natural Environments, where the setback shall be seventy-five (75) feet landward of the OHWM.
 - b) A greater setback may be required if necessary to comply with the grading, geologically hazardous area, erosion control and drainage requirements of Chapter 11.02 ICC and Chapter 11.03 ICC and/or the critical areas regulations contained in Chapter 17.02 ICC.
 - c) For the purpose of accommodating shoreline views within existing developed areas, setbacks for residential uses may be reduced consistent with the following:
 - (i) Where there are Existing principal residences that encroach on the established setback within two-hundred-forty (240) feet of either side of the proposed building footprint, the required setback for the proposed structure may be reduced by review and approval of the Shoreline Administrator. In such cases, the setback of the proposed residential structures may be reduced to the average of the setbacks of the existing adjacent principal residences.

- (ii) In those instances where only one (1) Existing principal residence is within two-hundred-forty (240) feet of either side of the proposed building site, the Setback of the proposed structure may be reduced (with approval of the Administrator) to the average of the Setbacks for the existing adjacent principal residence and the applicable Setback for the adjacent vacant parcel.
 - (iii) The reduced setbacks applied above shall not be less than twenty-five (25) feet landward of the OHWM except for the Natural and Conservancy Environments, where the minimum shall be fifty (50) feet, unless required to comply with the Setback requirements of this Chapter and Chapter 17.02 ICC.
11. Normal appurtenances may be located within the shoreline setback so long as they do not obstruct the water view corridor of adjacent waterfront primary residences and are not located within the native vegetation buffer.
 12. All structures shall be located and designed to avoid the need for structural shore defense works.
 13. Subdivision of lots on feeder bluffs should allow sufficient lot depth for development to occur without the need for bulkheading or other structural stabilization of the slope or bluff.
 14. Subdivision of land within the Natural Environment will be restricted to the creation of new parcels with a minimum lot size of five (5) acres and a minimum shoreline frontage of three-hundred-thirty (330) feet within shoreline jurisdiction. The three-hundred-thirty (330) foot lot width standard may be modified to accommodate aliquot sections.
 15. Building setbacks from shorelines consistent with the requirements of this Chapter and Chapters 17.03 and 17.02 shall be established as conditions of preliminary plat approval in all new waterfront subdivisions. A plat restriction shall specify the required setbacks and all building setbacks shall be shown on the face of the plat.
 16. Septic drainfields which are proposed for lots upon feeder bluffs or within one-hundred (100) feet of any geologically hazardous areas should be designed and located so as to discharge leachate as far as practically possible away from the bluff face.
 17. Additions to legally established residences shall not be located seaward from the applicable setback and shall conform to applicable shoreline regulations as well as other applicable county and state regulations. For purposes of this

SHORELINE USE REGULATIONS

17.05.200

section “residence” shall mean the primary residential structure on the property and attached or detached guest cottages.

18. Natural vegetation between the OHWM and the top of banks and bluffs ten (10) feet or higher shall be retained, except for removal necessary for view enhancement, removal of hazardous, diseased or damaged trees and to allow for pedestrian waterfront access. Removal of invasive non-native species is authorized.
19. In the Natural Environment, a fifty (50) foot native vegetation buffer shall be required wherein only limited tree limbing for view corridor purposes is allowed. The native vegetation zone shall be designated on the site plan, approved by the County Planning Department and recorded with the County Auditor.
20. Joint use stairways may be required in areas of existing residential subdivisions located on unstable slopes, marine feeder bluffs or other geologically hazardous areas.
21. Stairways and tramways, located in the Urban, Shoreline Residential and Rural designations, are considered normal appurtenances to a single-family residence and are exempt from the requirements of a Substantial Development Permit.
22. Stairways and tramways located in the Conservancy designation are a conditional use.
23. Stairways and tramways located adjacent to fish and wildlife habitat conservation areas that include over water structures, landings that require fill or shore protection structures, are a conditional use.
24. Stairways and tramways located in the Natural designation shall be prohibited, except for public use purposes, which are a conditional use.
25. Gazebos and sheds are considered normal appurtenances to a single-family residence.
26. All stairways and tramways, gazebos and sheds must conform to the following criteria:
 - a) They shall be located and designed in such a manner so as to not require subsequent shoreline modification, including the installation of bulkheads solely for the purpose of protecting new appurtenances.
 - b) They are designed and located to avoid unstable slopes, eroding bluffs and other geologically hazardous areas.

17.05.200

ZONING

- c) They are designed and located in such a manner to minimize the loss of existing vegetation.
- d) Stairways and any other structures required for pedestrian access to the shoreline which require any land disturbing activity within the shoreline setback area must comply with the requirements of the County's land development standards.
- e) They shall be designed in such a manner to minimize their impact on the shoreline and so as to not interfere with normal littoral drift and movement of sediments to and along the shore and shall be located as far landward of the OHWM as practical.
- f) Stairway and tramway landings shall be limited in size to that necessary for minimum safe access to the beach and shall not constitute a deck.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

17.05.210 Outdoor Advertising, Signs and Billboards

A. **Definition:** Publicly displayed messages on signs, billboards, placards, or buildings whose purpose is to provide information, direction, or advertising.

B. Use Requirements

- 1. Recognized or officially delineated vistas or viewpoints shall be kept free of unnecessary signs.
- 2. Off-premise outdoor advertising, signs, and billboards shall not be permitted in the two-hundred (200) foot shoreline jurisdiction area.
- 3. On-premise advertising signs shall be constructed against, or painted on buildings to minimize visual or access obstruction of the shoreline.
- 4. On-premise signs shall not extend in height above the highest exterior wall of the building to which the sign relates. Signs shall not be erected upon the roofs of structures.
- 5. Artificial lighting for signs shall be directed or beamed downward (where possible) and away from the water, public street, or adjacent premises so as not to cause glare or reflection that may constitute a traffic or boating hazard or nuisance.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

17.05.220 Ports and Water-Dependent Industry

- A. **Definition:** Ports are centers for water-born traffic and as such have become gravitational points for industrial/manufacturing firms. Heavy industry may not specifically require a waterfront location, but is attracted to port areas because of the variety of transportation available. Port areas, which are located outside of municipal boundaries in Island County, are generally located in the Rural Center zone.

Water Dependent Industry: An industrial use or a portion of an industrial use which can not exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. Examples of water dependent industrial uses may include ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities and sewer outfalls.

B. **Use Requirements**

1. Industrial uses are allowed in the Urban environment where the proposed industrial activity is shown to be water-dependent and is permitted in the underlying zone by Chapter 17.03 ICC.
2. Industrial uses are prohibited in the Natural, Conservancy, Rural and Shoreline Residential environments.
3. Water-dependent industrial structures are not required to maintain a minimum setback from the shoreline. Non-water dependent structures shall maintain a setback.
4. Industrial development shall be located, designed, constructed and operated in such a manner as to minimize effects on aquatic life.
5. Industrial developments shall comply with all federal, state, regional and local requirements regarding air and water quality.
6. Industrial and port facilities shall be located, designed, constructed, and operated so as to minimize unnecessary interference with the rights of adjacent property owners as well as adjacent shoreline or water uses.
7. Industrial and port facilities shall not duplicate, but share overwater structures such as docks and piers whenever practicable. Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire-fighting and fire-prevention equipment and by such safety devices as are normally used in the handling of any such material. Such hazards shall be kept

17.05.220

ZONING

- removed from adjacent activities to a distance which is compatible with the potential danger involved. Best Management Practices shall be used in the storage and handling of flammable, explosive and hazardous materials in industrial and port facilities.
8. Industrial and port facilities shall make adequate provisions to minimize the probability of spills of fuel or other toxic substances. Provisions shall be made to handle accidental spills that do occur.
 9. Objectionable noise which is due to volume, frequency, or beat shall be muffled or otherwise controlled. Emergency warning sirens or alarms and related apparatus used solely for public purposes are exempt from this requirement.
 10. Industrial facilities shall assure that no direct or reflected glare is visible from adjacent properties, streets, or water areas.
 11. Port and industrial facilities shall provide public access to shoreline areas when feasible, taking into consideration public safety, public health, and security.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

17.05.230 Road Design and Construction

- A. **Definition:** Roads provide access to property abutting public right-of-ways, serve as linear passageways for motor vehicles moving people and goods and provide easements for various utilities. Road construction can limit access to shorelines, impair the visual qualities of water-oriented vistas, expose soils to erosion and retard the runoff of flood waters.
- B. **Use Requirements**
 1. Roads other than those providing access to approved shoreline uses shall be located away from the shoreline, except when no reasonable alternate location exists. When permitted, development of scenic view parking areas and bicycle trails shall be mandatory.
 2. Roads shall be designed as so to control the dispersal of surface runoff from roads and exposed soils in order to minimize turbid water from draining into waterways.
 3. Culverts and similar devices shall be designed with regard to the highest annual storm frequencies and shall be designed in conformance with the requirements of Chapter 11.03 ICC (Stormwater).

SHORELINE USE REGULATIONS

17.05.230

4. Roads, bridges, culverts and similar devices shall afford maximum protection for fisheries resources and shall be designed in conformance with grading and stormwater runoff control features required under Chapters 11.02 and 11.03 ICC.
5. Excess material shall be deposited in stable locations and not into shoreline corridors where such materials degrade water quality, impede flood waters, or alter naturally occurring geohydraulic processes.
6. Road and driveway alignments shall be designed to fit the topography of the shoreline so that alterations to the natural site conditions are minimized.
7. Roads shall be set back a safe distance from the top of unstable marine bluffs and other geologically hazardous areas in accordance with the requirements of Chapter 11.02 ICC.
8. Design of proposed roads and driveways within or adjacent to a geologically hazardous area as defined in this SMP shall be subject to the requirements of Chapter 11.02 ICC.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

17.05.240 Shoreline Stabilization

- A. **Definition:** Structures or modifications for the purpose of retarding shore erosion from wave or current action, protecting channels and harbors from wave action, encouraging deposition of beach materials, preventing shoreline overflow and retaining uplands. They may consist of bulkheads, seawalls, dikes, revetments, breakwaters, jetties, groins and gabions. Defense works are commonly constructed from quarry rock (rip rap), treated wood, concrete, steel, sand and gravel.
- B. **Use Requirements**
1. Shore defense works shall not be considered an outright permitted use and shall be permitted only when it has been demonstrated that shoreline protection is necessary for the protection of legally established structures and/or public improvements.
 2. Shore defense works shall not adversely impact the property of others.
 3. Groins and jetties are permitted only as part of a professionally designed community or public beach management program.
 4. Shore defense works shall comply with the following requirements:
 - a) Shore defense works shall be designed and constructed in a manner that causes an absolute minimum of interruption to naturally occurring shoreline processes.

- b) Shore defense works shall be designed and constructed so as to minimize interruption of fish movements as well as marine and wildlife habitats.
- c) Shore defense works such as bulkheads and dikes shall not be used for the indirect purpose of creating landfills. When landfill is required behind an already existing structure, it shall not extend beyond the OHWM unless otherwise permitted in compliance with this Ordinance.
- d) Shore defense works such as bulkheads, dikes, jetties or groins shall not be permitted on spits, hooks, bars, barrier beaches or similar accretion terminals or accretion shoreforms; except when it can be demonstrated that construction of the above shore defense devices are absolutely necessary for the protection of existing developments.
- e) Shore defense works shall not be permitted on marine feeder bluffs, except when it can be demonstrated by a professional engineer or geologist that construction will not seriously disrupt the upland feeding action or the littoral drift.
- f) Shoreline Permit applications shall provide competent technical evidence that the proposed shore defense structure will perform as designed.
- g) Applications for jetties shall cover the following items:
 - (i) reason for project;
 - (ii) type of construction;
 - (iii) method of construction;
 - (iv) direction of net longshore drift;
 - (v) beach feeding procedures (where appropriate).
- h) Applications for groins shall cover the following items:
 - (i) reason for project;
 - (ii) type of construction;
 - (iii) method of construction;
 - (iv) source and destination of material proposed to be trapped by the groin(s);
 - (v) beach feeding procedures (where appropriate).

SHORELINE USE REGULATIONS

17.05.240

- i) Whenever factors of safety would not prevent such provision shall be made for pedestrian access on the top of jetties.
- j) In order for a proposed bulkhead to qualify for the RCW 90.58.030(3)(e)(iii) exemption for bulkheads associated with a legally established single family residence and to insure that such bulkheads will be consistent with the SMP as required by RCW 90.58.141(1), the Shoreline Administrator shall review the proposed design as it relates to local physical conditions and the Island County SMP and must find that:
 - (i) Erosion from waves or currents is imminently threatening a legally established residence or legally established accessory structures located less than one-hundred (100) feet from the OHWM, and
 - (ii) The proposed bulkhead is either located landward of the ordinary high water mark or if more than fifty (50) percent of the functional value of an existing bulkhead is in disrepair and the OHWM has moved (e.g., due to bank erosion), repairs must be relocated to the present OHWM, and
 - (iii) EXCEPT in areas subject to coastal flooding as defined by FEMA and Chapter 13 ICC, the maximum height of the proposed bulkhead is no more than one (1) foot above the elevation of extreme high water on tidal waters as determined by the National Ocean Survey published by the National Oceanic and Atmospheric Administration, and
 - (iv) On lots where the adjacent lot on either side has a legally established bulkhead, a bulkhead may be permitted; PROVIDED that the horizontal distance between existing bulkheads does not exceed one-hundred twenty (120) feet and the bulkheads are interconnected.
- k) Non-exempt Bulkheads shall be allowed only when non-structural shoreline protection, restoration or modification techniques have been shown to be ineffective or unworkable in protecting existing development and evidence is presented that at least one of the following conditions exists:
 - (i) serious erosion is threatening an established structure on the subject property;
 - (ii) a bulkhead is the preferred method of stabilizing a landfill allowed by this SMP;

- (iii) there is a demonstrated need in connection with water-dependent commerce and industry in appropriate environments.
- l) Bulkheads or other shore defense works will not be permitted in conjunction with new projects; except where other design alternatives, not requiring the use of bulkheads, (including the use of natural protective berms, drift logs, brush, beach feeding, vegetative stabilization and setbacks) have been demonstrated to be infeasible or not practical.
- m) Use of a bulkhead or other shore defense works to protect a platted lot where no structure presently exists is prohibited, EXCEPT where property is adjacent to and downdrift from a jetty, bulkhead, or similar structure and threatened by serious erosion caused or increased by those structures, in which case, a bulkhead may be allowed.
- n) Applications for bulkheads shall cover the following items:
 - (i) type of construction;
 - (ii) elevation of the toe and crest of the bulkhead with respect to water levels;
 - (iii) purpose of bulkhead;
 - (iv) direction of net longshore drift (when appropriate);
 - (v) normal, low and high water elevations (when appropriate); and
 - (vi) technical evidence indicating the need for the bulkhead consistent with the requirements of this chapter.

Design Regulations

- o) Bulkheads shall conform to design requirements of the Washington Department of Fish and Wildlife (when appropriate).
- p) If a bulkhead is employed as a shore defense work in compliance with the policies and regulations of this SMP, the following design criteria shall be met:
 - (i) The size and quantity of the material shall be limited to only that necessary to withstand the estimated energy intensity of the shoreline hydraulic system;
 - (ii) Filter cloth or adequate smaller filter rock shall be used to aid drainage and help prevent settling;

SHORELINE USE REGULATIONS

17.05.240

- (iii) The toe reinforcement or protection must be adequate to prevent a collapse of the system from wave action, overtopping, scouring, and upland erosion; and
 - (iv) The material used in construction shall be non-toxic to marine organisms; and
 - (v) Bulkheads shall be designed to permit the passage of surface or groundwater without causing ponding or saturation of retained soil/materials.
- q) All shore defense works shall be sited and designed consistent with appropriate engineering principles and US Army Corps of Engineer standards. Professional geologic site studies or professionally engineered designs may be required for any proposed bulkhead or other shore defense work if the County determines sufficient uncertainties or potential for damage to other shoreline properties and features exist.
 - r) Bulkheads that dissipate wave energy are preferred over vertical walls or concrete slabs. Where concrete slabs with vertical waterward faces are employed, adequate tiebacks and toe protection shall be provided. Design and material of bulkheads shall be decided and based upon an analysis of alternatives; the preferred alternative will be that which balances a minimum impact to the environment and shoreline process with a structural solution that will ensure the long term viability of the bulkhead.
 - s) Riprap shall be constructed and maintained in a manner that does not have a negative long-term impact on water quality and/or fisheries habitat.
 - t) Riprap material shall consist of clean quarried rock and shall be of sufficient size and weight to prevent movement by wave or current action. The use of tires, automobile bodies, scrap metal, paper products and other solid waste materials is prohibited.
 - u) Use of downed logs, snags or rock-work to enhance habitat and to provide a more natural appearance to the shoreline should be encouraged to be incorporated into the design where appropriate.
 - v) Stairs or other permitted structures may be built into a bulkhead but shall not extend waterward of it.
 - w) When a bulkhead is required at a public access site, provision for safe access to the water shall be incorporated into bulkhead design.

Shoreline Restoration/Beach Enhancement

- x) Beach enhancement in all environments shall be undertaken only for restoration, enhancement or maintenance of natural resources.
- y) Beach enhancement may be permitted when the applicant has demonstrated that no significant change in littoral drift will result which will adversely affect adjacent properties or habitats.
- z) Natural Beach Restoration/Enhancement design alternatives shall include the best available technology such as, but not limited to: gravel berms, drift sills, beach nourishment, natural revegetation and maintained plantings, deposition of drift logs and/or large woody organic debris to stabilize the backshore or protect the toe of eroding bluffs.
- aa) Natural beach restoration/enhancement shall not:
 - (i) Detrimentially interrupt littoral drift, or redirect waves, current, or sediments to other shorelines;
 - (ii) Result in any exposed groin-like structures; provided that small “drift sill” groins may be used as a means of stabilizing restored sediment where part of a well planned community beach restoration program;
 - (iii) Extend waterward more than the minimum amount necessary to achieve the desired stabilization;
 - (iv) Result in contours sufficiently steep to impede easy pedestrian passage, or trap drifting sediments;
 - (v) Create additional dry land mass; and
 - (vi) Cause irreversible long-term loss of near-shore habitat.
- bb) The size and mix of new materials to be added to a beach as part of an approved beach restoration program shall be as similar as possible to the natural beach sediment, but large enough to resist normal current, wake or wave action at the site.
- cc) Beach enhancement shall be designed to minimize adverse impacts on spawning, nesting, or breeding habitat and so that littoral drift of the materials enhancement shall not adversely affect adjacent spawning grounds or other areas of biological significance.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

17.05.250 Solid Waste Disposal

- A. **Definition:** Generally all solid waste is a possible source of much nuisance. Rapid, safe and nuisance free storage, collection, transportation and disposal are of vital concern to all persons and communities. If the disposal of solid waste material is not carefully planned and regulated, it can become not only a nuisance but a severe threat to the health and safety of human beings, livestock, wildlife and other biota.
- B. **Use Requirements**
1. Sanitary landfills or the location of solid waste disposal sites within any area subject to the jurisdiction of the Shoreline Management Act are strictly prohibited.
 2. Storage, collection and handling of solid waste associated with shoreline residences or commercial development shall be conducted so as to create no health hazards, rodent harborage, insect breeding areas, fire hazards or air or water pollution.
 3. Solid waste shall not be stored in areas subject to flooding unless it can clearly be demonstrated that complete and effective floodproofing of structures or equipment can be accomplished.
 4. Liquid wastes shall be disposed of in compliance with standards of local, state, regional, and federal pollution control authorities.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)

17.05.260 Utilities

- A. **Definition:** Utilities include major and minor facilities and infrastructure that serve both individual home owners as well as area wide populations. Utilities include, but are not limited to, sewer infrastructure, water infrastructure, communications infrastructure, stormwater infrastructure, power infrastructure, etc.
- B. **Use Requirements**
1. The following utilities are prohibited within two-hundred (200) feet of the shoreline:
 - a) electric power substations
 - b) recycling centers
 - c) transfer stations
 2. Utilities shall be installed underground whenever feasible.

3. When feasible, utility corridors shall serve multiple uses such as shoreline access or recreational trails or pathways.
4. Utilities installed on beaches or upon tidal areas shall be installed in such a manner as to assure that water quality and marine life will not suffer degradation.
5. Upon completion of installation projects, or maintenance projects, banks shall be restored to a suitable configuration and stability, and shall be replanted with native species and provided with maintenance care until the newly planted vegetation is established.
6. Utility discharges and outfalls shall be located, designed, constructed and operated so that degradation of water quality, marine life and general shoreline ecosystems is kept to an absolute minimum.
7. Utilities located in flood prone areas shall be provided adequate flood protection and shall be installed so as not to increase flood hazard or other damage to life or property.
8. Utilities shall not be installed in areas subject to geologic hazards unless it can clearly be demonstrated that such hazards can be overcome.
9. Pipelines and petroleum operations shall conform to the following requirements:
 - a) The design, construction, operation and maintenance of pipelines carrying hazardous materials and petroleum products in liquid form shall conform to all regulations established by the United States Department of Transportation;
 - b) In order to prevent spills and other forms of pollution, owners and operators of facilities engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, and/or consuming oil shall conform to established procedures, methods and equipment, set forth by statutory and other requirements of the United States Environmental Protection Agency and the State Department of Ecology;
 - c) No pipelines carrying hazardous materials or petroleum shall be constructed on the shorelines of Island County without issuance of a Substantial Development Permit;
 - d) No offshore drilling, processing or refining of petroleum shall be done within one-thousand (1,000) feet of the shorelines of Island County.

SHORELINE USE REGULATIONS

17.05.260

10. Desalination or reverse osmosis water production processing equipment, service lines, and utility connections must be approved by the Island County Health Department or the State Department of Health and shall be required to meet the following criteria:
 - a) No more than one (1) intake and one (1) discharge line is permitted.
 - b) The intake and discharge lines shall be trenched, run, or located together (side by side), except where necessary to provide adequate separation between intake and discharged water.
 - c) The intake and discharge lines shall be located underneath or along any docks, piers, walkways, stairs, or other shoreline improvements located on the site.
 - d) The intake and discharge lines shall not materially interfere with public use of public tidelands or navigation. The lines shall rest on or be anchored to the marine bottom. Floating intake and discharge lines are not permitted.
 - e) Anchoring systems for intake and discharge lines shall be designed to “breakaway” in order to minimize the visual and physical impacts of stormproof anchoring structures and/or systems.
 - f) Intake and discharge lines shall be located underground whenever feasible.
 - g) All areas disturbed by the placement or trenching for desalination facilities shall be immediately replanted with naturally occurring vegetation. Deep rooted plants as recommended by the Cooperative Extension Service and plantings recommended by the DOE Publication 93-30, Slope Stabilization and Erosion Control Using Vegetation-A Manual for Coastal Property Owners, shall be planted on the face and top of the bank to help stabilize the soil. All planting should be completed prior to the end of the growing season which immediately follows construction. All construction debris shall be immediately removed from the site.
 - h) All pumps, utility connections, and processing equipment not located within the residence shall be sited in accordance with the following provisions:
 - (i) Processing equipment shall be completely enclosed and/or screened from public view.

17.05.260

ZONING

- (ii) Pumps and processing equipment shall not produce noise audible above 60 dBa (normal conversation level) as measured at the property boundaries.
- (iii) Any pumps located at the beach or bottom of the bank shall be located as far landward as possible, no further seaward of the Ordinary High Water Mark, and screened to the maximum extent possible.
- i) The use of salt water infiltration wells as the intake source is prohibited.
- j) Desalination and reverse osmosis systems on shorelines that are known or demonstrated to be eroding bluffs, unstable slopes, landslide areas, eroding beaches or other geological hazard area will require design and engineering which will assure that no significant visual or environmental impacts will be created.
- k) Desalination and reverse osmosis systems should only be used for water supply when traditional methods cannot supply the quantity and quality of potable water required by the Island County Health Department.
- l) If necessary, approval must also be obtained from the State Department of Natural Resources, the Army Corps of Engineers, the State Department of Fish and Wildlife, and any other agency that has jurisdiction over this type of facility.

(Ord. C-19-01 [PLG-001-01], June 18, 2001, vol. 45, p. 358, effective June 21, 2001 when Department of Ecology approved)