

DRAFT - TOWN OF FRIDAY HARBOR  
SHORELINE MASTER PROGRAM

Grant Number G1100002



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**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE adopting the official Shoreline Master Program for the Town of Friday Harbor, and repealing Ordinance No. 1137 in its entirety.

BE IT ORDAINED by the Council of the Town of Friday Harbor that;

**SECTION 1. GENERAL**

**1.01 Title**

This document shall be known and may be cited as the Shoreline Master Program for Town of Friday Harbor, Washington.

**1.02 Short Title**

This document may be referred to internally as the Master Program.

**1.03 Official Maps**

The Town of Friday Harbor Shoreline Designated Environments Map and the Town of Friday Harbor Shoreline View Corridors Map, referred to herein as the Maps, are hereby adopted as part of this Master Program. The Maps shall show all areas of Friday Harbor which fall under the jurisdiction of this Master Program and the official designated environments for all affected lands and water. The Maps are to be used for general planning purposes only and may not be substituted for survey data. Copies of the Maps are attached hereto, as Attachments 1 and 2.

There shall be two official copies of the Maps, one of which shall reside in the custody of the Town of Friday Harbor, and the other at the Washington State Department of Ecology. Whenever any portion of either Map is legally amended, the official copies shall be altered promptly to reflect that amendment.

As the Maps are an inseparable part of this Master Program, no part of the Maps may be altered or amended without the approval of the Washington State Department of Ecology, as provided in RCW 90.58.190.

When questions arise as to the precise boundaries of any designated environment, the Shoreline Administrator shall make the final determination, subject to the provisions of Development Code Administration Ordinance 1119.

Unofficial copies of the Maps may be included herein and prepared for administrative purposes as needed.

**SECTION 2. APPLICABILITY**

**2.01 General Applicability**

This Master Program shall apply to all land and waters in or under the jurisdiction of the Town of Friday Harbor as the same may fall under jurisdiction of Chapter 90.58, RCW, the Shoreline Management Act, referred to herein as the Act. The Master Program provides goals, policies and regulations, which are additional to all other ordinances of the Town of Friday Harbor. If the provisions of the Master Program conflict with other applicable local

ordinances, policies, and regulations, the one most satisfying the provisions of The Act shall apply. Changes to comprehensive plans and associated ordinances shall be consistent with the policies of the Shoreline Management Act and this Master Program pursuant to RCW 90.58.340.

### **2.02 Applicability to Persons and Non-Federal Agencies**

This Master Program shall apply to every person, individual, firm, partnership, association, corporation, local or state governmental agency, public or municipal corporation, or other non-federal entity which develops, owns, leases or administers lands, shorelands or waters, which fall under jurisdiction of the Act.

### **2.03 Applicability to Federal Agencies**

**4.A.** Federal agencies shall not be required to obtain permits for substantial developments undertaken by the federal government on lands owned in fee simple by the federal government, except in those cases where the federal government grants or reserves to the State or local government substantial jurisdiction over activities on those lands. For federal activities on nonfederal land, when this master program becomes part of the state master program it will be used for federal consistency in evaluating federal permits and activities in Washington coastal waters.

**2.B.** The substantial development permit system shall apply to non-federal activities constituting substantial developments undertaken on lands subject to non-federal ownership, lease or easement even though such land may fall within the external boundaries of federally owned lands.

**3.C.** The substantial development permit system shall apply to substantial development undertaken on lands not federally owned but under lease, easement, license, or other similar property right short of fee ownership, to the federal government.

### **2.04 Applicability to Development**

This Master Program shall apply to all development as defined in Section 13, below. No development shall be undertaken on the Local Shoreline except development that is consistent with the policy of the Shoreline Management Act of 1971 and this Master Program.

### **2.05 Requirement for Permit.**

Except as exempt in Section 2.06, below, no substantial development shall be undertaken on the Local Shoreline until a permit for such development has been approved in accordance with this Program. All work undertaken pursuant to a substantial development permit shall proceed in compliance with the permit and with the applicable local and state regulations.

### **2.06 Exemptions from Substantial Development Permit**

**4.A.** The following developments shall not require substantial development permits. This list of exemptions is amplified and supplemented by provisions of WAC 173-27-040, or as amended.

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1. Any development of which the total cost or fair market value, whichever is higher, does not exceed \$5,718, as adjusted under RCW 90.58.030(3)(e), if such development does not materially interfere with the normal public use of the water or shorelines of the state;
2. Normal maintenance and repair of existing structures or developments, including including damage by accident, fire or the elements.
3. Construction of the normal protective bulkhead common to single-family residences; provided that such bulkheads are of entirely soft design and located at or landward of the OHWM.
4. Construction of a single-family residence on shorelands by an owner, lessee or contract purchaser, for his or her own use or the use of his or her family, which residence does not exceed a height of thirty five (35) feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction.
5. Construction of a dock, designed for pleasure craft only, for the private, noncommercial use of the owner, lessee or contract purchaser of a single-family residence, for which the total cost or fair market value, whichever is higher, does not exceed \$2,500 in saltwater or \$10,000 in freshwater.
6. Construction or modification of navigational aids such as channel markers.
7. A public or private project that is designed to improve fish or wildlife habitat or fish passage, pursuant to RCW 90.58.147.

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### **SECTION 3. SHORELINES OF STATEWIDE SIGNIFICANCE**

#### **3.01 General**

The Shoreline Management Act designates certain water areas of the state as Shorelines of Statewide Significance. Water areas so designated are important to the entire State. Because these areas are resources from which all people in the State benefit, local master programs must give preference to uses of such areas which favor public and long-range goals.

#### **3.02 Designation of Shorelines of Statewide Significance**

The State legislature has designated all salt waters surrounding the Islands of San Juan County, seaward from the line of extreme low tide, as Shorelines of Statewide Significance (RCW 90.58.030(2)(e)).

#### **3.03 Policies Governing the Use of Shorelines of Statewide Significance**

##### **A. Introduction**

The Shoreline Management Act establishes policies which govern the use of Shorelines of Statewide Significance (WAC 173-26). All proposed activities within Shorelines of Statewide Significance must first be consistent with the policies of this

section before meeting the other provisions of this Master Program. Uses which are consistent with the following policies, cited in order of descending preference, shall be given preference by local government. Uses which are not generally consistent with these policies should not be permitted on Shorelines of Statewide Significance.

**B. Policies**

1. The statewide interest should be recognized and protected over the local interest on Shorelines of Statewide Significance.
2. The natural character of Shorelines of Statewide Significance should be preserved.
3. Shorelines of Statewide Significance should be used in ways which will produce long-term benefits as opposed to short-term benefits or conveniences.
4. Actions that would commit resources to irreversible uses or would detrimentally alter natural conditions characteristic of such shorelines should be severely limited.
5. The short-term economic gain or convenience associated with a proposed development should be evaluated in relationship to long-term and potentially costly impairments to the natural environment.
6. The visual impact of every proposed project should be thoroughly evaluated and adverse impacts should be minimized.
7. The natural resources and natural systems of Shorelines of Statewide Significance should be protected. Areas containing unusual or fragile natural resources or natural systems should be left undeveloped.
8. Public access to publicly owned areas of Shorelines of Statewide Significance should be increased.
9. Recreational opportunities for the public in Shorelines of Statewide Significance should be increased.

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**SECTION 4. GOALS & GENERAL SHORELINE USE & DEVELOPMENT POLICIES**

**4.01 General**

The Shoreline Management Act establishes eight land and water use elements to be incorporated into every master program when appropriate. These are shoreline use, economic development, public access, circulation, recreation, conservation, flood damage prevention, and historic and cultural preservation.

The following goals and policies provide the foundation on which this entire Master Program rests.

**4.02 Shoreline Use**

**A. Goal**

To assure protection of the unique character of Friday Harbor, as recognized and described in the Town's Comprehensive Plan, while providing for uses of the Local Shoreline, which do not diminish the quality of the shoreline environment, and to

assure the optimum opportunity for participation by local residents in the decision-making processes, which may affect that unique character.

As most of the factors which create the unique character of the Town depend upon the type of development that occurs within the Local Shoreline, preservation of Friday Harbor's uniqueness especially requires that all such development be essentially consistent with the pattern, scale, and character of existent development within the Local Shoreline and its adjacent areas. Evaluation of proposed development shall include consideration of the impact upon:

- 1. The Town's character when viewed from the water, as well as from the land; and
- 2. The Aquatic Environment.

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**B. Policies**

- 1. Uses which protect the potential long-term benefits to the public against compromise for reasons of short-term economic gain or convenience should be fostered.
- 2. Areas of the Local Shoreline which are particularly appropriate for specific shoreline and water area uses should be designated and reserved for those uses.
- 3. Except for residential uses, the Local Shoreline should be reserved for Water-Oriented Uses. Uses which are not water-oriented should not be permitted.
- 4. Shoreline land which does not abut the waterfront should be reserved for residential uses or for Water-Oriented Uses; provided that, other uses may be permitted if they provide public open spaces and public shoreline views, consistent with this Master Program.
- 5. Continuing studies of the physical and economic aspects of shoreline systems should be encouraged in order to provide a continuously updated information base against which the impact of any proposed shoreline or water use can be measured.
- 6. Residents of Friday Harbor should be permitted to review any application for a shoreline permit prior to the Town Council action on the application. In addition, public meetings and hearings may be held upon request in order to further serve this purpose.
- 7. The goals and policies of this Master Program should be considered in all land use decisions that affect uplands adjacent to the shoreline.

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**4.03 Economic Development**

**A. Goal**

To acknowledge the critical importance of a balanced and diversified local economy for the long-range well-being of Friday Harbor and the Island community, by evaluating proposals for economic development along the shoreline or over the water with regard to the degree to which physical and social qualities of the Town will be enhanced.

In recognition of the fact that the foundation of the Town's economic structure is its unique retained character, the long-range well-being of Friday Harbor requires that

development within the Local Shoreline areas be designed and located in ways which are essentially consistent with the pattern, scale, and character of existing development within the Local Shoreline and its adjacent areas.

## B. Policies

1. Commercial development on shorelines and over water should occur where such development already exists, and such development should be consistent with the provisions of this Master Program.
2. All shoreline and over water development and use activities should be designed and constructed in a manner appropriate to the site and vicinity and to minimize cumulative adverse effects on the land and water environments.
3. All shoreline and over water development and use activities, including construction of commercial, industrial, residential and recreational uses, should be required to use all available and practical methods to minimize pollution, erosion, siltation and interference with natural water and sediment circulation.
4. Any shoreline or over water use which generates sewage or other wastes should have waste disposal facilities that are of approved design and sufficient capacity to prevent any cumulative adverse environmental impacts.
5. Preservation of public shoreline views should be accomplished by maintaining open space between buildings, by clustering buildings and by minimizing building height and total lot coverage by buildings.
6. Preservation of open space should be encouraged in all proposed uses of shorelines.
7. Off-premise commercial signs should be prohibited within the Local Shoreline.
8. Upon completion of public service and/or utilities projects, shorelines, tidelands, and bedlands should be restored to pre-project configurations and replanted with native species. Locations should be chosen which will not obstruct or destroy public shoreline views. Whenever possible these facilities should be placed underground or designed to do minimal damage to the scenic qualities of the area.
9. The handling or processing of petroleum products, other than that necessary for local consumption, is not compatible with the biological and physical character of Friday Harbor and should be prohibited.
10. Development and use of public lands should conform to the same limitations and standards imposed on development and use of private lands.

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## 4.04 Public Access and Public Shoreline Views

### A. Goal

1. To assure safe, convenient and diversified physical access for the public to the water and to and along the shoreline, and to assure that intrusions created by such public access will not endanger the quality of life or property of Town residents, or have adverse effects on fragile natural features of the shoreline and water areas.

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2. To protect the economic base of Friday Harbor and the surrounding community by preserving, among other unique characteristics, the quality and scope of existing public shoreline views.
3. The Shoreline Management Act places emphasis on the right of the general public to enjoy the physical and aesthetic qualities of the shoreline and water areas, while allowing for controlled development consistent with the public interest. Public access can include activities ranging from shellfish harvesting to simple appreciation of a water view. Access can be to uplands adjacent to the shoreline, to tidelands, beaches, stream corridors, and to the water itself.
4. While public access is most frequently gained over public land, it can also be a mitigating component in a development on private land. In such cases, the public may gain some form of access to or near the water or shoreline, while the developer is able to complete a project that otherwise may have unacceptable impacts on public views, access, and use of the shoreline and water. Most often, this right of public access is obtained via a development condition and is expressed in an easement or conveyance in fee simple. In addition to acquisition of public access on private lands, public access may also be achieved by developers contributing to the cooperative development of public properties.
5. An intent of the Shoreline Management Act and this Master Program is to plan, plan, provide and maintain a comprehensive system of public access. Such a system should be designed to provide safe and abundant access to water and shoreline recreational areas while preventing trespass onto private properties. Water Oriented uses and activities are encouraged that provide an opportunity for substantial numbers of the public to enjoy the Local Shoreline.

## B. Policies

1. A comprehensive public access plan should be developed and adopted.
2. Public agencies should acquire or otherwise assure appropriate public access to public shorelines.
3. Rights-of-way in the shoreline should be made available for public access
4. Public access should be designed with provisions for physically impaired persons.
5. Public access afforded by shoreline street-ends should be enhanced.
6. Buffer zones or other appropriate design features should be provided in public access areas where necessary to protect private property and to clearly separate public and private use areas. On the other hand, development should not impair or degrade existing or planned public access.
7. Public access provisions should be designed to provide for public safety and to alleviate potential impacts to private property and individual privacy.
8. The nature and time of use of public access areas should be regulated where potential hazards for injury exist by specification of use limitations in conditions of permit approval.

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9. Public access to Local Shorelines should be required in association with most proposed private and public developments.
10. Public access as close as possible to the water's edge should be provided.
11. Public access to Local Shorelines should be appropriately marked and maintained.
12. Public access areas should be connected by trails and paths where appropriate.
13. Public access development should be designed, located and constructed to protect ecological and aesthetic values as well as private property.
14. Substantial development within the Local Shoreline should not impair or detract from the public's physical access to the water.
15. Public shoreline views should be preserved to the maximum extent consistent with the rights of the owner whose property is proposed for development. Wherever reasonable, existing public shoreline views should be enhanced, provided that enhancement of views should not be construed to mean excessive removal of vegetation that obstructs or impairs views, and that any removal of vegetation be in compliance with section 6.02(G) of this ordinance.
16. New public shoreline views should be created.

#### **4.05 Circulation**

##### **A. Goal**

To develop sure, safe, economical transportation systems to assure efficient movement of people with minimum disruption of the shoreline environment and minimum conflict between different types of users.

##### **B. Policies**

1. The capacity of the Local Shoreline to absorb circulation impacts should be considered when reviewing proposals for development within the Local Shoreline.
2. Pedestrian and bicycle routes to and along the shoreline should be encouraged.  
encouraged.
3. Motorized vehicles should be prohibited along the shoreline except on roads and in and in specifically designated areas.
4. Public agencies should, where appropriate, acquire parking areas and screen them screen them from the water and shoreline areas.
5. Roads should be maintained at widths consistent with safety standards for limited limited speeds.
6. In building, improving or maintaining roads minimizing or eliminating ecological ecological impact should be considered.
7. Roads should follow the natural terrain as much as possible in maintaining reasonable levels of safety.

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8. Where the land is scarred or stripped of natural cover it should be replanted with with native species or landscaped.
9. Wherever practical new roads proposed near shorelines should be set back at least at least 200 feet from the OHWM.

#### **4.06 Recreation**

##### **A. Goal**

To encourage diverse, appropriate and adequate water-oriented recreational opportunities which are compatible with over-water or shoreline locations and natural site conditions.

##### **B. Policies**

1. Recreational use of Local Shoreline areas must be recognized as only one of many potential uses and should be subject to the same constraints as other recognized uses.
2. Recreational use of public Local Shorelines should be encouraged for local residents, and visitors, consistent with environmental limitations.
3. Privately and publicly owned recreational facilities should provide adequate water water supply, fire protection and waste control, and otherwise meet public health, safety and general welfare standards.
4. The Town and Port of Friday Harbor should coordinate review of public and private private recreational developments on the Local Shoreline to ensure consistency and compatibility with adopted plans and policies.
5. Recreational uses which are not water-oriented should be required to locate outside the Local Shoreline. Recreational uses which are not water-dependent should not be allowed over water.
6. Recreational facilities and activities incompatible with shoreline locations should not should not be permitted within the shoreline area.

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#### **4.07 Conservation**

##### **A. Goal**

To assure preservation of scenic and nonrenewable natural resources, including habitats for threatened and endangered species, and to assure conservation of renewable natural resources for the benefit of existing and future generations.

##### **B. Policies**

1. Aesthetic and ecological qualities of the Local Shoreline should be recognized as valuable resources and preserved.
2. Habitats for threatened and endangered species should be preserved and where where possible restored.

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3. The natural, dynamic processes of shoreline formation and change should not be interfered with except for urgent reasons of public necessity or benefit.
4. There should be no net loss of the ecological functions and values of the shoreline as a result of actions permitted under this Master Program.
5. Public shoreline views and public access to the Local Shoreline should be preserved.
6. Removal of flora and fauna from shorelines shall be in compliance with all applicable state laws.
7. Natural vegetation on shorelines should be retained or increased to the extent extent possible in new shoreline development.
8. Sand, gravel and mineral extraction is incompatible with existing and planned planned shoreline use and should not be permitted. When grading and/or excavation are necessary for site preparation for development, all available practical methods to control ecological degradation, erosion, siltation and other impacts on adjoining properties and water quality should be provided.
9. Commercial harvesting of timber is incompatible with existing and planned use of use of the shoreline and should not be permitted. When noncommercial timber cutting occurs on shorelines, in conjunction with other development, aesthetic effects and protection against ecological degradation, erosion and siltation should be considered.
10. Appropriate conservation easements may be accepted by the Town.

#### **4.08 Historic and Cultural Preservation**

##### **A. Goal**

To protect and/or restore Local Shoreline areas which have archaeological, historic, cultural, educational or scientific value.

##### **B. Policies**

1. While no known areas of archaeological scientific value occur on the shoreline, new development may uncover such resources. Such sites should be kept free of development until their value for preservation and/or removal is determined by the appropriate authorities.
2. Historic sites having significant value should be kept free of development until their until their value for preservation and/or removal is determined by the appropriate authorities.

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#### **4.09 Critical Areas**

**A. Goal**

To acknowledge the presence of identified Critical Areas within and adjacent to the shoreline jurisdiction and provide appropriate protective policy and regulation.

**B. Policies**

There are two of the five categories of critical areas (WAC 365-190) within the Town's marine Shoreline jurisdiction. They are a class 4 wetland, and the marine Aquatic Environment, which is designated Critical Chinook Salmon Habitat.

1. All development in the vicinity of the wetland should provide protective buffers, where no development or landscaping can occur.
2. The WRIA 2 Salmon Recovery Plan notes the importance of providing a vegetated riparian buffer and overhanging riparian vegetation to improve the habitat for juvenile Chinook salmon. As a result, when substantial new upland development or redevelopment occurs, the on-site landscaping should be designed to incorporate or increase native plant buffers along the shoreline
3. Critical areas within the shoreline area should be conserved, protected, and restored from loss or degradation.

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**SECTION 5. DESIGNATED SHORELINE ENVIRONMENTS**

**5.01 General**

In order to employ the goals and policies of this Master Program effectively, the Local Shoreline areas are assigned environment designations as set forth in WAC 173-26-241 and are shown on Attachment 1. The designations are applied to each area based on existing development patterns, the known biological and physical limitations of the area and the goals and desires of the public.

The system of environment categories is intended to encourage uses that will enhance the character of the environment in which they occur and to provide reasonable restrictions on development to prevent degradation of that character.

**5.02 Common Description**

**A. Friday Harbor**

The Urban Residential 2 designation begins at the southern edge of Town and includes the area along Turn Point Road within 200 feet of OHWM to the property line between tax parcel lot number 351392507 and 351391251.

The designation then changes to Urban and includes the area 200 feet from the OHWM to a line coincident with the western property line of tax parcel lot number 351391212.

The designation then changes to Urban Residential 1 and includes the area 200 feet from the OHWM along Warbass Way including the Cannery Village Condominiums.

The designation then changes to Urban and continues to be Urban, within 200 feet of OHWM, to the northern end of Front St. and includes tax parcel lot number 351150004 where the designation changes back to Urban Residential.

The Urban Residential 2 designation then continues within 200 feet of OHWM to the opposite edge of Town.

All of the water area within the Town's jurisdiction is designated Aquatic.

**B. Trout Lake**

All of the land adjacent and within 200 feet upland of the OHWM of Trout Lake is in the Natural Designation. The rest of the Lake is in the Aquatic Environment.

**5.03 Urban Environment**

**A. Statement of Purpose**

The Urban Environment is an area of intensive and diverse land use. The purpose of the Urban Environment designation is to ensure full use of already urbanized shorelines by providing for and maintaining a variety of uses, particularly those that are water-dependent, water-related, or water enjoyment. Protection of existing ecological functions and restoration of ecological functions in areas that have been previously degraded shall be pursued.

**B. Designation Criteria**

Areas to be designated Urban should meet one or more of the following criteria:

1. Shorelines used or planned for high-intensity commercial, port, public recreational and/or residential development;
2. Shorelines designated for expansion of urban uses based on adopted Town plans for utilities, roads and other services; or
3. Shorelines without biological or physical limitations for urban development.

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**C. Management Policies**

1. Because shorelines suited to urban uses are limited, new urban development should be located in already developed areas, which is consistent with the provisions of this Master Program.
2. Only uses which are water-dependent, water-related or water-enjoyment should be located on the waterfront portion of the shoreline.
3. Public physical and visual access to the Local Shoreline should be provided wherever possible. Planning for acquisition and development of public access areas should be pursued. New and expanded development should be designed to include public access.
4. Public access points should be linked by pedestrian routes where practical.

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- 5. To make maximum use of available waterfront land and accommodate future water-dependent uses, nonconforming uses may not be renewed after the use has been discontinued for twelve consecutive months. Subsequent uses should conform to the policies and regulations of this Master Program.
- 6. The character and appearance of urban development should be enhanced through the application of sign, landscaping and site planning standards
- 7. All urban shoreline development should be regulated in a manner designed to minimize cumulative adverse impacts on critical habitats, adjacent shoreline, upland areas, and ensure no net loss of the ecological functions and values of the shoreline.

**5.04 Urban Residential Environment(s)**

**A. Statement of Purpose**

The purpose of the Urban Residential designations is to recognize and provide for residential areas and other uses compatible with residential use such as public access and recreational use.

**B. Designation Criteria**

There are two Urban Residential designations:

- 1. Urban Residential 1 should be applied to the area along Warbass Way which is characterized by large residential structures that are located very close to the OHWM.
- 2. Urban Residential 2 should be applied to the residential area at the north end of the town's shoreline and the sparsely developed residential shoreline at the south end of the town's shoreline which are characterized by smaller residential structures that are set well back from the shoreline and where the remaining undeveloped shoreline parcels exist.
- 3. Areas to be designated Urban Residential should meet one or both of the following criteria:
  - ~~1.a.~~ Shoreline areas in which single-family residential uses predominate; or
  - ~~2.b.~~ Areas planned for single-family residential use, in terms of utilities, access, and amenities.

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**C. Management Policies**

- 1. Urban Residential shorelines should be restricted to uses compatible with residential use.
- 2. Nonresidential uses permitted on Urban Residential shorelines should protect the residential character of the area. Permitted uses should not generate traffic, noise or pollutants at a level greater than that generated by existing residential uses and should not detract from the aesthetic quality of the area.

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**5.05 Natural Environment**

**A. Statement of Purpose**

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

**B. Designation Criteria**

Areas to be designated Natural should meet one or more of the following criteria:

1. Shorelines which represent undisturbed natural conditions;
2. Areas having a high scenic value in their natural states; or
3. Areas which serve to maintain the natural character of adjoining natural shorelines occurring beyond Town jurisdiction.
4. Areas with potential for valuable habitat.

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**C. Management Policies**

- ~~a~~-1. Natural areas should be kept free of all development which would adversely affect their character and scenic value.
- ~~b~~-2. Only those alterations which would not be detrimental to the forces which created and now maintain a Natural area should be permitted.
- ~~e~~-3. Limited access to Natural areas should be permitted for scientific, historic, educational and low-intensity recreational purposes, provided that no significant adverse impact on the area will result.
- ~~d~~-4. Uses which consume physical and biological resources should be prohibited.

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**5.06 Aquatic Environment**

**A. Statement of Purpose**

The Aquatic Environment designation is designed to protect the quality and quantity of surface water and marine waters, to preserve critical habitats for threatened and endangered species, to preserve water areas for Water-Dependent Uses such as navigation and appropriate recreation and to preserve natural features and resources of Friday Harbor from unnecessary degradation.

**B. Designation Criteria**

Areas designated Aquatic shall include all water bodies under jurisdiction of the Act and within the boundaries or under the jurisdiction of the Town of Friday Harbor, including the water surface and underlying lands, seaward from the OHWM.

**C. Management Policies**

1. Allow new over-water structures only for water-dependent uses, public access, or ecological restoration.
2. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple uses of over-water facilities should be encouraged.
3. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use
4. Development in the Aquatic Environment should not degrade critical habitats for threatened and endangered species.
5. Development in the Aquatic Environment should be compatible with the adjacent upland environment designation; provided that, in the event Aquatic development is adjacent to two different upland environments the most restrictive shall apply unless the Shoreline Administrator determines that application of the less restrictive would not compromise the public interest.
6. The natural circulation and volume of water should be maintained to the greatest extent possible.
7. Uses which are not water-dependent should be prohibited, provided that Water-Enjoyment Uses at or near the OHWM, which provide public access to the Local Shoreline, may be considered as a conditional use subject to applicable use policies and regulations.
8. The Aquatic environment should be managed in a manner that will result in no net loss of the ecological functions and values. Activities and uses which will degrade the ecological or aesthetic values of the area should be prohibited.
9. Developments and activities using Aquatic areas should be located and designed to minimize interference with navigation, minimize adverse visual impacts, allow for passage of fish and other aquatic animals, and minimize adverse effects on water quality, geohydraulic shoreline processes, and biological resources.
10. Land-based motor vehicles should not be permitted on tidelands except when necessary for emergency vehicles or when authorized in permitted construction or repair or for boat launchings.

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**SECTION 6. USE POLICIES AND REGULATIONS**

**6.01 Introduction**

Chapter 173-26 WAC establishes twenty-one categories of use to be addressed in local master programs to carry out the intent and purposes of the Shoreline Management Act. The policies and regulations for each category are the criteria to be used for evaluating proposals for any permit under this Master Program or for any development within the Shoreline jurisdiction of the Town.

Chapter 173-26-201(2)(c) establishes the principle of no net loss of ecological function with the baseline condition to be the conditions in existence on the date of adoption of this Ordinance.

Policies and regulations were developed for each use category based on the goals and general policies in Section 4, above. General Regulations are established in Section 6.02. Specific use policies and regulations for each shoreline environment consistent with Section 5 are established in Sections 6.03 through 6.21.

### **6.02 General Regulations**

The following general regulations are based on the goals and general policies in Section 4, above, and shall apply to all use activities in all shoreline environments in which they are permitted.

Any use and/or development that would cause harmful impacts to high value habitat, loss of community uses, impacts to views or loss of extraordinary aesthetic values is prohibited.

#### **A. Environmental Protection**

1. Under WAC Chapter 173-26 uses and shoreline modifications along the Friday Harbor shoreline shall be designed, located, sized, constructed and/or maintained to achieve no net loss of shoreline ecological functions.
2. All uses and developments within the Local Shoreline shall be located, designed and constructed to avoid disturbance of and detrimental effects to aquatic habitats, water circulation and erosion-accretion processes.
3. All uses and developments within the Local Shoreline shall use measures to prevent increases in surface runoff and shall control runoff so that adjacent properties and water bodies are not impacted by or degraded by sedimentation or pollutants. Such measures include but are not limited to;
  - ~~1~~.a. Avoiding impervious surfaces in the shoreline setback area,
  - ~~2~~.b. Retaining the maximum amount of native vegetation,
  - ~~3~~.c. Avoiding the removal of trees,
  - ~~4~~.d. Installing bio-retention and bio-filtration facilities for those circumstances where impervious surfaces must be used.
4. The release of oil, chemicals, nutrients, fertilizers, pathogens, and other hazardous hazardous materials into the water is prohibited.
5. All uses and developments within the Local Shoreline shall use effective methods for control of erosion during construction and operation.
6. Clearing, grading and filling for site preparation shall be limited to the minimum amount necessary for development.

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7. Where there is development or redevelopment resulting in a net increase in impervious surface of a parcel that fronts the Shoreline, an accompanying net increase in the area of shoreline vegetation is required.
8. Avoiding Impacts to the Shoreline
  - a. An applicant for a land surface modification or development permit within a critical area or its associated buffer shall utilize the following mitigation sequencing guidelines that appear in order of preference, during design of the proposed project:
    - 1) Avoiding the impact or hazard by not taking a certain action, or redesigning the proposal to eliminate the impact. The applicant shall consider reasonable, affirmative steps and make best efforts to avoid critical area impacts. If impacts cannot be avoided through redesign, or because of site conditions or project requirements, the applicant shall then proceed with the following sequence of steps in subsection (8)(a)(2) through (8)(a)(7) of this section.
    - 2) Minimizing the impact or hazard by limiting the degree or magnitude of the action or impact with appropriate technology or by changing the timing of the action.
    - 3) Restoring the impacted critical areas by repairing, rehabilitating or restoring the affected critical area or its buffer.
    - 4) Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through plantings, engineering or other methods.
    - 5) Reducing or eliminating the impact or hazard over time by preservation or maintenance operations during the life of the development proposal, activity or alteration.
    - 6) Compensating for the adverse impact by enhancing critical areas and their buffers or creating substitute critical areas and their buffers.
    - 7) Monitoring the impact, hazard or success of required mitigation and taking remedial action based upon findings over time.
  - b. In the required critical areas study, the applicant shall include a discussion of how the proposed project will utilize mitigation sequencing to avoid, minimize, and mitigate impacts to critical areas and associated buffers. The applicant shall seek to avoid, minimize and mitigate overall impacts based on the functions and values of all relevant critical areas.
  - c. In addition to the above steps, the specific development standards, permitted alteration requirements, and mitigation requirements of this chapter and elsewhere in this ordinance apply.
  - d. In determining the extent to which the proposal shall be further redesigned to avoid and minimize the impact, the Town may consider the purpose, effectiveness, engineering feasibility, commercial availability of technology, best management practices, safety and cost of the proposal, and identified

modifications to the proposal. The Town may also consider the extent to which the avoidance of one (1) type or location of a critical area could require or lead to impacts to other types or locations of nearby or adjacent critical areas. The Town shall document the decision-making process used under this subsection as a part of the critical areas review.

## B. Public Access

1. Public access shall be required for all Local Shoreline development except single family residential development, provided that, public access may not be required where it is demonstrated by the applicant and determined by the Town in its findings that one or more of the following provisions apply:

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- ~~1~~.a. Unavoidable hazards to the public exist which cannot be controlled by any practical means;

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- ~~2~~.b. Inherent security requirements of the use cannot be satisfied through the use of alternative design features or other solutions;

- ~~3~~.c. The cost of providing the access, easement, or an alternative amenity, is unreasonably disproportionate to the total cost of the proposed development;

- ~~4~~.d. Unacceptable environmental harm will result which cannot be mitigated; or

- ~~5~~.e. Significant undue and unavoidable conflict between the proposed use and adjacent uses would occur and cannot be mitigated; and provided further, that the applicant has first demonstrated and the Town has determined in its findings that all reasonable alternatives have been exhausted, including but not limited to:

- ~~1~~.1) Regulating access by such means as a gate and/or limiting hours or use;

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- ~~2~~.2) Designed separation of uses and activities, i.e. fences, terracing, use of one-way glazing, hedges, landscaping, etc.; and

- ~~3~~.3) Provisions of or contribution to an access site geographically separated from the proposal such as a trails system.

2. No development shall be permitted to obstruct or impede public access to publicly-publicly-owned shorelines and water areas.

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3. Any public open space, access area or view corridor required or otherwise provided in association with new or expanded development, shall be of a size, location and design appropriate to the site, proposed primary use, adjacent uses, and the existing and projected demand by the community.

4. To the extent possible, public access locations shall have direct access from public roads.

5. Public access signs, such as the standard state approved logo or equivalent, shall be constructed, installed and maintained by the applicant. If the Council determines that use limitations are appropriate for reasons of public safety or to

avoid use conflicts, such limitations shall be specified in permit conditions and posted on an on-premise sign.

- 6. Required public access sites shall be fully developed and available for public use at the time of occupancy or use of the development.
- 7. Provisions for physically impaired persons shall be included, where feasible, in accordance with ADA requirements.
- 8. Public access easements and permit conditions shall be recorded on property deeds and, in the case of a subdivision, on the face of a plat as a condition running in perpetuity with the land. The required easement and/or conditions shall be recorded with the County Auditor's office at the time of permit approval.
- 9. Future actions shall not diminish the usefulness or value of the public access.

### C. Public Shoreline View Protection

- 1. All uses and developments within the Local Shoreline shall be located, designed and constructed to minimize the impact on public shoreline views. Development which would substantially reduce the extent or aesthetic quality of such views shall not be permitted, except where such a denial would be unduly oppressive to the property owner or would destroy or derogate a fundamental attribute of property ownership.
- 2. In recognition of the fact that nearly all development projects will include some some increase in the extent to which structures will occupy a given site, the amount of acceptable public shoreline view loss, if any, shall be determined by giving due regard to the following factors:

~~1~~.a. The nature, significance, and extent of existing public shoreline views across the property, to include:

~~1~~.1) The number of points from which such views exist, and the size and location of each;

~~2~~.2) The content and quality of the particular view available from each such point, to include any territorial components that may be an integral part of the view; and

~~3~~.3) The extent to which any such views might be obscured or lost by seasonal or other changes in existing or reasonably anticipated vegetation or by reasonably likely new development on other property, both shoreline and non-shoreline, in the immediate area.

~~1~~.b. The nature, significance, and extent of public shoreline view loss or gain that would likely result from the proposed development, to include;

~~1~~.1) The number of existing view points which would be impacted and the extent of view loss reasonably anticipated for each;

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~~2-2)~~ Whether or not any existing views will be enhanced or new view points created by the project; and

~~3-3)~~ Whether or not it appears that there will be a net gain or net loss of public shoreline views.

~~4-c.~~ The extent to which public shoreline views are already being preserved or enhanced by the owner's election, for whatever reason, to propose less than the full measure of development rights available to the subject.

~~2-d.~~ The extent to which additional public shoreline view preservation limitations on the development, beyond those contained in the proposal, would reduce the value of the subject property.

~~3-e.~~ The extent to which development on other properties in the immediate area has already degraded or preserved public shoreline views.

~~4-3.~~ In evaluating the significance of existing public shoreline views, under (2)(a) and (2)(b) above:

~~4-a.~~ The public view corridors identified on Attachment 2 of this Program shall be conclusively deemed of greater value than other public shoreline view points;

~~2-b.~~ Public shoreline views from streets, sidewalks, parks or other public property shall be presumed of greater value than public shoreline views from privately owned property.

~~3-c.~~ Public shoreline views of greater expanse shall be presumed of more value than those of significantly lesser expanse; and

~~4-d.~~ Public shoreline views from traveled portions of streets shall be presumed of lesser value than those from other public areas.

#### D. Parking

In addition to parking requirements imposed by other Town ordinances, the following regulations shall also apply:

1. Parking areas serving shoreline and over water uses shall be located off the street and landward of uses served unless incorporated into authorized structures.
2. Wherever adequate on-site parking cannot be provided, an upland parking site, 200 feet landward of the OHWM shall be required. Upland sites may be used to serve individual uses or be used cooperatively, subject to applicable local regulations.
3. Where there is no land area available on the landward side of developments, parking areas shall be located no closer than 25 feet from the OHWM and shall be entirely screened from view from the water by planting or providing a solid fence of natural materials and of a design consistent with other applicable ordinances. In no case shall a fence or other screen block views of the water from public roads or areas.
4. If upland parking sites, 200 feet landward of the OHWM, are acquired by the Town, the Council may require applicants to participate in their use.

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5. Where public access is included as a part of a development proposal, additional parking spaces to serve the general public may be required.

#### **E. Archaeological Sites**

All substantial development permits issued in areas documented to contain archaeological resources require a site inspection or evaluation by a professional archaeologist in coordination with affected Indian tribes. Developers and property owners are required to immediately stop work and notify the local government, the office of archaeology and historic preservation and affected Indian tribes if archaeological resources are uncovered during excavation.

#### **F. Critical Areas – General Standards**

Because Friday Harbor is Critical Habitat, mitigation sequencing is required in all shoreline areas of the shoreline jurisdiction.

The provisions of this chapter do not extend beyond the shoreline’s jurisdiction limits specified in this Ordinance and the Act.

In addition to requirements imposed by other Town ordinances, the following regulations shall also apply:

1. Trees in Critical Areas or Critical Area Buffers
  - a. General – The intent of preserving vegetation in and near critical habitats is to support the functions of healthy sensitive areas and sensitive area buffers and/or avoid disturbance of geologically hazardous areas.
  - b. Submittal Requirements – When proposing to trim or remove any tree located within critical areas or critical area buffers, the property owner must submit a report to the Town containing the following:
    - 1) A site plan showing the approximate location of significant trees, their size (DBH) and their species, along with the location of structures, driveways, access ways and easements.
    - 2) An arborist report explaining how the tree(s) fit the criteria for a nuisance or hazard tree. This requirement may be waived by the Planning Official if it is determined that the nuisance or hazard condition is obvious.
    - 3) A proposal detailing how the tree will be made into a snag or wildlife tree, including access and equipment, snag height, and placement of woody debris.
    - 4) For required replacement trees, a planting plan showing location, size and species of the new trees.
  - c. Tree Removal Standards
    - 1) If a tree meets the criteria of a nuisance or hazard in a critical area or its buffer as described below, then a “snag” or wildlife tree shall be created. If creation of a snag is not feasible, then the felled tree shall be left in place unless the Shoreline Administrator permits its removal in writing.

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a) Hazard Tree Criteria – A hazard tree must meet the following criteria:

- 1.i. The tree must have a combination of structural defects and/or disease that makes it subject to a high probability of failure and is in proximity to moderate-high frequency of persons or property; and
- 2.ii. The hazard condition of the tree cannot be lessened with reasonable and proper arboricultural practices.

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b) Nuisance Tree Criteria – A nuisance tree must meet the following criteria:

- 4.i. The tree is causing obvious, physical damage to private or public structures, including but not limited to: sidewalk, curb, road, driveway, parking lot, building foundation, and roof;
- 2.ii. The tree has been damaged by past maintenance practices that cannot be corrected with proper arboricultural practices; or
- 3.iii. The problems associated with the tree must be such that they cannot be corrected by any other reasonable practice including, but not limited to, the following:
  - Pruning of the crown or roots of the tree and/or small modifications to the site improvements, including but not limited to a driveway, parking lot, patio or sidewalk, to alleviate the problem.
  - Pruning, bracing, or cabling to reconstruct a healthy crown.

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- 2) The removal of any tree will require the planting of a native tree of a minimum of six (6) feet in height in close proximity to where the removed tree was located. The Shoreline Administrator shall approve the selection of native species and timing of installation.

3. Mitigation and Restoration Plantings in Critical Areas and Critical Area Buffers

- a. Plants intended to mitigate for the loss of natural resource values are subject to the following requirements.
  - 1) Plant Source – Plant materials must be native and approved by the Town. Seed source must be as local as feasible, and plants must be nursery propagated unless transplanted from on-site areas approved for disturbance. These requirements must be included in the Mitigation Plan specifications.
  - 2) Installation – Plant materials must be supported only when necessary due to extreme winds at the planting site. Where support is necessary, stakes, guy wires, or other measures must be removed as soon as the plant can support itself, usually after the first growing season. All fertilizer applications to turf or trees and shrubs shall follow Washington State University, National Arborist Association or other accepted agronomic or horticultural standards.
  - 3) Fertilizer Applications – Fertilizers shall be applied in such a manner as to prevent their entry into water bodies, waterways and wetlands and minimize entry into storm drains. No applications shall be made within 50 feet of a

waterway or wetland, or a required buffer, whichever is greater, unless specifically authorized in an approved mitigation plan or otherwise authorized in writing by the Shoreline Administrator.

**G. Tree and Vegetation Management**

1. Tree Retention. To maintain the ecological functions that trees provide to the shoreline environment, significant trees shall be retained or, if removed, the loss of shoreline ecological functions shall be mitigated for, subject to the following standards:
  - a. No Development Activity. For tree removal in the shoreline when no development activity is proposed or in progress, the following tree replacement standards and requirements shall apply:
    - 1) Healthy, diseased or nuisance trees that are removed or fallen trees in the shoreline shall be replaced as follows:

Removed Tree Type	Replacement Requirement
One (1) conifer tree less than 24 inches in diameter as measured at breast height	<p>For removal of conifer tree up to 12 inches in diameter, replace with one (1) native conifer tree at least six (6) feet in height measured from existing grade.</p> <p>For removal of conifer tree greater than 12 inches in diameter but less than 24 inches in diameter, same replacement requirements as for conifer tree 12 inches in diameter or less, but also a riparian vegetation area at least 80 square feet at the time of planting. Riparian area shall contain at least 60 percent shrubs and be a minimum of three (3) feet wide in all dimensions at the time of planting.</p>
One (1) deciduous tree less than 24 inches in diameter as measured at breast height	<p>For removal of deciduous tree up to 12 inches in diameter replace with one (1) deciduous tree at least two (2) inches in caliper measured six (6) inches above existing grade or one (1) native conifer tree at least six (6) feet in height measured from existing grade.</p> <p>For removal of deciduous tree greater than 12 inches in diameter but less than 24 inches in diameter, same replacement requirements as for deciduous tree 12 inches in diameter or less, but also a riparian vegetation area of at least 80 square feet at the time of planting. Riparian area shall contain at least 60 percent shrubs and be a minimum of three (3) feet wide in all dimensions at the time of planting.</p>

<p>One (1) conifer or deciduous tree 24 inches in diameter or greater as measured at breast height</p>	<p>Only trees certified by a certified arborist to be a nuisance or hazard tree may be removed. A report, prepared by a qualified professional certified arborist, must be submitted showing how the tree meets the criteria. The Shoreline Administrator shall make the final determination if the tree meets the criteria and may be removed.</p> <p>If the Shoreline Administrator approves removal of the tree, tree replacement shall be:</p> <p>For removal of one (1) conifer tree, replace with two (2) native conifer trees at least six (6) feet in height at the time of planting.</p> <p>For removal of one (1) deciduous tree, replace with two (2) trees of either type. Native conifer trees shall be at least six (6) feet in height and deciduous trees shall be at least two (2) inches in caliper measured six (6) inches above existing grade at the time of planting.</p>
<p>A significant tree that has fallen as a result of natural causes, such as a fire, flood, earthquake or storm</p>	<p>Replace with one (1) tree. Native conifer trees shall be at least six (6) feet in height and deciduous trees shall be at least two (2) inches in caliper measured six (6) inches above existing grade at the time of planting.</p>

- 2) A tree removal request shall be submitted in writing to the Shoreline Administrator prior to any tree removal within the shoreline. The request shall include the location, number, type and size of tree(s) being removed and the proposed replacement tree(s) and riparian vegetation planting plan meeting the standards required in subsection (1)(a) of this section. The Shoreline Administrator shall inspect the tree replacement once installation is complete.
- 3) An alternative replacement option shall be approved if an applicant can demonstrate that:
  - a) It is not feasible to plant all of the required mitigation trees in the shoreline of the subject property, given the existing tree canopy coverage and location of trees on the property, the location of structures on the property, and minimum spacing requirements for the trees to be planted; or
  - b) The required tree replacement will obstruct existing views of the shoreline, at the time of planting or upon future growth that cannot otherwise be mitigated through tree placement or maintenance activities. The applicant shall be responsible for providing sufficient

information to the Shoreline Administrator to determine whether the tree replacement will obstruct existing views to the shoreline.

The alternate replacement option must be equal or superior to the provisions of this section in accomplishing the purpose and intent of maintaining shoreline ecological functions and processes. This may include, but shall not be limited to, a riparian restoration plan consisting of at least 60 percent shrubs and some groundcovers using Arborist certified local native plants that shall equal at a minimum 80 square feet for each tree to be replanted. The applicant shall submit a planting plan to be reviewed by the Shoreline Administrator, who may approve, approve with conditions, or deny the request.

If the alternative plan is consistent with the standards provided in this subsection, the Shoreline Administrator shall approve the plan or may impose conditions to the extent necessary to make the plan consistent with the provisions. If the alternative mitigation is denied, the applicant shall be informed of the deficiencies that caused its disapproval so as to provide guidance for its revision and re-submittal.

- 4) In circumstances where the proposed tree removal includes a tree that was required to be planted as a replacement tree under the provisions of this subsection or as part of the required vegetation in the shoreline setback established in subsection (3) of this section, the required tree replacement shall be addressed under the provision below that requires only a 1:1 replacement.
  - 5) For required replacement trees, a planting plan showing the location, size and species of the new trees is required to be submitted and approved by the Shoreline Administrator. All replacement trees in the shoreline setback must be native or shoreline appropriate species approved by a Certified Arborist.
- b. Development Activity – For tree removal in the shoreline when development activity is proposed or in progress.
- 1) Submittal Requirements in the Shoreline
    - a) A site plan showing the approximate location of significant trees, their size (DBH) and their species, along with the location of existing structures, driveways, access ways and easements and the proposed improvements.
    - b) An arborist report stating the size (DBH), species, and assessment of health of all significant trees located within the shoreline. This requirement may be waived by the Shoreline Administrator if it is determined that proposed development activity will not potentially impact significant trees within the shoreline.
  - 2) Tree Retention Standards in the Shoreline – Within the shoreline existing significant trees shall be retained, provided that the trees are determined to

be healthy and windfirm by a qualified professional, and provided the trees can be safely retained consistent with the proposed development activity. The Shoreline Administrator is authorized to require site plan alterations to retain significant trees in the shoreline. Such alterations include minor adjustments to the location of building footprints, adjustments to the location of driveways and access ways, or adjustment to the location of walkways, easements or utilities. The applicant shall be encouraged to retain viable trees in other areas on site.

3) Replanting Requirements in the Shoreline

- a) If the Shoreline Administrator approves removal of a significant tree in the shoreline area, then the tree replacement requirements of subsection (1)(a) of this section shall be met. See alternative mitigation option in subsection (1)(b)(3)(c) of this section that may be proposed.
- b) For required replacement trees, a planting plan showing location, size and species of the new trees is required. All replacement trees in the shoreline setback must be native or shoreline appropriate species approved by a Certified Arborist.
- c) An alternative mitigation option may be approved if an applicant can demonstrate that:
  - 1) It is not feasible to plant all of the required mitigation trees on the subject property, given the existing tree canopy coverage and location of trees on the property, the location of structures on the property, and minimum spacing requirements for the trees to be planted; or
  - 2) The required tree replacement will obstruct existing views of the shoreline, at the time of planting or upon future growth that cannot otherwise be mitigated through tree placement or maintenance activities. The applicant shall be responsible for providing sufficient information to the Shoreline Administrator to determine whether the tree replacement will obstruct existing views of the shoreline.

The alternate mitigation must be equal or superior to the provisions of this subsection in accomplishing the purpose and intent of maintaining shoreline ecological functions and processes. This may include, but shall not be limited to, a riparian restoration plan consisting of at least 60 percent native shrubs, perennials and groundcovers, that shall equal at minimum 80 square feet for each tree to be replanted. The applicants shall submit a planting plan to be reviewed by the Shoreline Administrator, who may approve, approve with conditions, or deny the request.

If the alternative plan is consistent with the standards provided in this subsection, the Shoreline Administrator shall approve the plan

or may impose conditions to the extent necessary to make the plan consistent with the provisions. If the alternative mitigation is denied, the applicant shall be informed of the deficiencies that caused its disapproval so as to provide guidance for its revision and re-submittal.

2. Tree Pruning – Nondestructive thinning of lateral branches to enhance views or trimming, shaping, thinning or pruning of a tree necessary to its health and growth is allowed, consistent with the following standards:
  - a. In no circumstance shall removal of more than one-fourth (1/4) of the original crown be permitted;
  - b. Pruning shall not include topping, stripping of branches or creation of an imbalanced canopy;
  - c. Pruning shall retain branches that overhang the water to the maximum extent feasible.
3. Required Vegetation in Shoreline – Riparian vegetation contributes to shoreline ecological functions in a number of different ways, including maintaining temperature, removing excessive nutrients and toxic compounds, attenuating wave energy, removing and stabilizing sediment and providing woody debris and other organic matter. In order to minimize potential impacts to shoreline ecological functions from development activities, the following shoreline vegetation standards are required:
  - a. Minimum Vegetation Standard Compliance
    - 1) Location and Planting Requirements
      - a) Water-Dependent Uses or Activities – The applicant shall plant native vegetation, as necessary, in at least 75 percent of the nearshore riparian area located within the shoreline setback area, except for the following areas, where the vegetation standards shall not apply: those portions of water-dependent development that require improvements adjacent to the water’s edge, such as ferry landings, Port facilities, fuel stations for retail establishments providing gas sales, haul-out areas for retail establishments providing boat and motor repair and service, boat ramps for boat launches. Swimming beaches or other similar activities shall plant native vegetation on portions of the nearshore riparian area located along the water’s edge that are not otherwise being used for the water-dependent activity.
      - b) All Other Uses – The applicant shall plant native vegetation, as necessary, in at least 75 percent of the nearshore riparian area located within the shoreline setback area.
      - c) Installation of native vegetation shall consist of a mixture of trees, shrubs and groundcover and be designed to improve habitat functions. At least three (3) trees per 100 linear feet of shoreline must be included in the

plan, with portions of a tree rounded up to the next required tree. At least 60 percent of the landscape bed shall consist of shrubs.

- d) Plant materials must be native or shoreline appropriate species approved by the Shoreline Administrator.
- b. Use of Existing Vegetation – The Shoreline Administrator shall accept existing native trees, shrubs and groundcover as meeting the requirements of this subsection, including vegetation previously installed as part of a prior development activity, provided that the existing vegetation provides a landscape strip at least as effective in protecting shoreline ecological functions as the required vegetation. The Shoreline Administrator may require the applicant to plant trees, shrubs, and groundcover according to the requirements of this subsection to supplement the existing vegetation in order to provide a buffer at least as effective as the required buffer.
- c. Landscape Plan Required – The applicant shall submit a landscape plan that depicts the quantity, location, species, and size of plant materials proposed to comply with the requirements of this subsection, and shall address the plant installation and maintenance requirements. Plant materials shall be identified with both their scientific and common names. Any required irrigation system must also be shown.
- d. Vegetation Placement – When required either by this subsection or as a mitigation measure, such as for a new pier or dock or structural shoreline stabilization measure, vegetation selection and placement shall comply with the following standards:
  - 1) Vegetation shall be selected and positioned on the property so as not to obscure the public view at the time of planting or upon future growth, within designated view corridors from the public right-of-way to the shoreline..
  - 2) Vegetation may be selected and positioned to maintain private views to the water by clustering vegetation in a selected area, provided that the minimum landscape standard is met, unless alternative compliance is approved.
- e. Alternative Compliance – Vegetation required by this subsection shall be installed unless the applicant demonstrates one (1) of the following:
  - 1) It is not feasible to plant all of the required vegetation on the subject property, given the existing tree canopy coverage and location of trees on the property, the location of structures on the property, or minimum spacing requirements for the vegetation to be planted; or
  - 2) The vegetation will substantially interfere with the use of the portion of the property located between the primary structure and OHWM, such as the existing structure is located in very close proximity to the OHWM; the area in between the primary structure and the OHWM is encumbered by a sanitary sewer, public pedestrian access easement, public access walkway or other constraining factors; or

- 3) The required vegetation placement will obstruct existing views to the shoreline, at the time of planting or upon future growth, which cannot otherwise be mitigated through placement or maintenance activities. The applicant shall be responsible for providing sufficient information to the Shoreline Administrator to determine whether the vegetation placement will obstruct existing views to the shoreline.

The alternate measures must be equal or superior to the provisions of this subsection in accomplishing the purpose and intent of maintaining and improving shoreline ecological functions and processes.

Requests to use alternative measures shall be reviewed by the Shoreline Administrator who may approve, approve with conditions, or deny the request. Cost of producing and implementing the alternative plan, and the fee to review the plan by Town staff or the Town's consultant shall be borne by the applicant.

If the alternative plan is consistent with the standards provided in this subsection, the Shoreline Administrator shall approve the plan or may impose conditions to the extent necessary to make the plan consistent with the provisions. If the alternative mitigation is denied, the applicant shall be informed of the deficiencies that caused its disapproval so as to provide guidance for its revision and re-submittal.

#### 4. Responsibility for Regular Maintenance

- a. The applicant, landowner, or successors in interest shall be responsible for the regular maintenance of vegetation required under this section. Plants that die must be replaced in kind or with similar plants or other native or shoreline appropriate species approved by the Shoreline Administrator.
- b. All required vegetation must be maintained throughout the life of the development. Prior to issuance of a certificate of occupancy or final inspection, the proponent shall provide a final as-built landscape plan and a recorded agreement, in a form approved by the Town Attorney, to maintain and replace all vegetation that is required by the Town. The agreement shall be recorded with the San Juan County Auditor.

### **H. Water Quality, Stormwater, and Nonpoint Pollution**

1. General – Shoreline development and use shall incorporate all known, available, and reasonable methods of prevention, control, and treatment to protect and maintain surface and/or ground water quantity and quality.
2. Submittal Requirements – All proposals for development activity or land surface modification located within the shoreline jurisdiction shall submit for approval a storm water plan with their application, unless exempted by the Shoreline Administrator. The storm water plan shall include the following:
  - a. Provisions for temporary erosion control measures; and

- b. Provisions for storm water detention, water quality treatment and storm water conveyance facilities.

3. Standards

- a. Shoreline uses and activities shall apply best management practices (BMPs) to minimize any increase in surface water runoff and to control, treat and release surface water runoff so that receiving properties, wetlands or streams, and Shoreline are not adversely affected. The property owner is required to ensure that all types of BMPs are regularly maintained and continue to function as intended.

Low impact development techniques shall be considered and implemented to the greatest extent practicable.

- b. New outfalls or discharge pipes to the shoreline shall be avoided, where feasible. If a new outfall or discharge pipe is demonstrated to be necessary, it shall be designed so that the outfall and energy dissipation pad is installed above the OHWM.
- c. In addition to providing storm water quality treatment facilities, the developer and/or property owner shall provide source control BMPs designed to treat or prevent storm water pollution arising from specific activities expected to occur on the site. Examples of such specific activities include, but are not limited to; car washing at detached and attached stacked (multifamily) residential sites; oil storage at marinas providing service and repair; pesticide, herbicide, fertilizer and nutrient use to maintain landscaping.
- d. No release of oils, hydraulic fluids, fuels, paints, solvents or other hazardous materials shall be permitted into any waters. If water quality problems occur, including equipment leaks or spills, work operations shall cease immediately and the Shoreline Administrator and other agencies with jurisdiction shall be contacted immediately to coordinate spill containment and cleanup plans.

It shall be the responsibility of property owners to fund and implement the approved spill containment and cleanup plans and to complete the work by the deadline established in the plans.

- e. All materials that come into contact with water shall be constructed of untreated wood, cured concrete, steel or other approved nontoxic materials. Materials used for overwater decking or other structural components that may leach into the water shall comply with regulations of responsible agencies (i.e., Washington State Department of Fish and Wildlife or Department of Ecology) to avoid discharge of pollutants.
- f. The application of pesticides, herbicides, or fertilizers shall comply with the following standards:
  - 1) The application of pesticides, herbicides or fertilizers within shoreline setbacks shall utilize best management practices (BMPs) outlined in the BMPs for Landscaping and Lawn/Vegetation Management Section of the 2005 Stormwater Management Manual for Western Washington, or as

amended, to prevent contamination of surface and ground water and/or soils, and adverse effects on shoreline ecological functions and values.

- 2) Pesticides, herbicides, or fertilizers shall be applied in a manner that minimizes their transmittal to adjacent water bodies. The direct runoff of chemical-laden waters into adjacent water bodies is prohibited. Spray application of pesticides shall not occur within 100 feet of open waters including wetlands, ponds, and streams, sloughs and any drainage ditch or channel that leads to open water except when approved by the Town.
- 3) The use of pesticides, herbicides or fertilizers within the shorelines jurisdiction, including applications of herbicides to control noxious aquatic vegetation, shall comply with regulations of responsible federal and state agencies.
- 4) A copy of the applicant's National Pollutant Discharge Elimination System (NPDES) permit, issued from Washington State Department of Ecology, authorizing aquatic pesticide (including herbicides) to the receiving waters must be submitted to the Shoreline Administrator prior to the application.

#### **I. Wetlands**

1. Applicability – The following provisions shall apply to wetlands and wetland buffers located within the shorelines jurisdiction.
2. Wetland Determinations, Delineations, Regulations, Criteria, and Procedures – All determinations and delineations of wetlands shall be made using the criteria and procedures outlined in WAC 173-22-035 and contained in 1987 Corps of Engineers Wetland Delineation Manual and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0 or as amended). All determinations, delineations, and regulations of wetlands shall be based on the entire extent of the wetland, irrespective of property lines, ownership patterns, or other factors.
3. Wetland Determinations – Either prior to or during review of a development application, the Shoreline Administrator shall determine whether a wetland or its buffer is present on the subject property using the following provisions:
  - a. During or immediately following a site inspection, the Shoreline Administrator shall make an initial assessment as to whether any portion of the subject property or surrounding area (that shall be the area within 250 feet of the subject property) meets the definition of a wetland. If this initial site inspection does not indicate the presence of a wetland on the subject property or surrounding area, no additional wetland studies will be required at that time.

However, if the initial site inspection or information subsequently obtained indicates the presence of a wetland on the subject property or surrounding area, then the applicant shall follow the procedure in subsection (3)(b) of this section.
  - b. If the initial site inspection or information subsequently obtained indicates that a wetland may exist on or near the subject property or surrounding area, the applicant shall either (1) fund a study and report prepared by the Town's

consultant; or (2) submit a report prepared by a qualified professional approved by the Town, and fund a review of this report by the Town's wetland consultant.

c. If a wetland study and report are required, at a minimum the report shall include the following:

- 1) A summary of the methodology used to conduct the study;
- 2) A professional survey that is tied to a known monument, depicting the wetland boundary on a map of the surrounding area which shows the wetland and its buffer;
- 3) A description of the wetland habitat(s) found throughout the entire wetland (not just on the subject property) using the U.S. Fish and Wildlife Service classification system (Classification of Wetlands and Deepwater Habitats in the U.S., Cowardin et al., 1979);
- 4) A description of nesting, denning, and breeding areas found in the wetland or its surrounding area;
- 5) A description of the surrounding area, including any drainage systems entering and leaving the wetland, and a list of observed or documented plant and wildlife species;
- 6) A description of historical, hydrologic, vegetative, topographic, and soil modifications, if any;
- 7) A proposed classification of the wetland as Category I, II, III, or IV wetland; and
- 8) A completed rating form using the Washington State Wetland Rating System for Western Washington – Revised (Washington State Department of Ecology Publication No. 04-06-025, or latest version).

d. Formal determination of whether a wetland exists on the subject property, as well as its boundaries and rating, shall be made by the Shoreline Administrator after preparation and review of the delineation report, if applicable, by the Town's consultant. The Shoreline Administrator's decision under this section shall be used for review of any development permit or activity proposed on the subject property for which an application is received within five (5) years of the delineation report; provided, that the Shoreline Administrator may modify any decision whenever physical circumstances have markedly and demonstrably changed on the subject property or the surrounding area as a result of natural processes or human activity.

#### 4. Wetland Buffers and Setbacks

a. No land surface modification shall occur and no improvement may be located in a wetland or its buffer, except as provided in subsections (4) through (10) of this section.

Required or standard buffers for wetlands are as follows and are measured from the outer edge of the wetland boundary:

## Wetland Buffers

<b>WETLAND CATEGORY AND CHARACTERISTICS</b>	<b>BUFFER</b>
Category I	
Natural Heritage Wetlands	215 feet
Bog	215 feet
Habitat score from 29 to 36 points	225 feet
Habitat score from 20 to 28 points	150 feet
Other Category I wetlands	125 feet
Category II	
Habitat score from 29 to 36 points	200 feet
Habitat score from 20 to 28 points	125 feet
Other Category II wetlands	100 feet
Category III	
Habitat score from 20 to 28 points	125 feet
Other Category III wetlands	75 feet
Category IV	50 feet

Habitat score is one (1) of three (3) elements of the rating form.

Modification to Buffer for Divided Wetland Buffer – Where a legally established, improved public right-of-way, improved easement road or existing structure divides a wetland buffer, the Shoreline Administrator may approve a modification of the required buffer in that portion of the buffer isolated from the wetland by the road or structure, provided the isolated portion of the buffer:

- 1) Does not provide additional protection of the wetland from the proposed development; and
- 2) Provides insignificant biological, geological or hydrological buffer functions relating to the portion of the buffer adjacent to the wetland.

b. Buffer Setback – Structures shall be set back at least 10 feet from the designated or modified wetland buffer. The Town may allow minor improvements within this setback that would clearly have no adverse effect during their construction, installation, use, or maintenance, on fish, wildlife, or their habitat or any vegetation in the buffer or adjacent wetland.

c. Storm Water Discharge – Necessary surface discharges of storm water through wetland buffers and buffer setbacks may be allowed on the surface, but piped system discharges are prohibited unless approved pursuant to this section.

Storm water outfalls (piped systems) may be located within the buffer setback specified in subsection (4)(b) of this section and within the buffers specified in subsection (4)(a) of this section only when the Town determines, based on a report prepared by a qualified professional under contract to the Town and paid for by the applicant, that:

- 1) Surface discharge of storm water through the buffer would clearly pose a threat to slope stability; and
- 2) The storm water outfall will not:
  - a) Adversely affect water quality;
  - b) Adversely affect fish, wildlife, or their habitat;
  - c) Adversely affect drainage or storm water detention capabilities;
  - d) Lead to unstable earth conditions or create erosion hazards or contribute to scouring actions; and
  - e) Be materially detrimental to any other property in the area of the subject property or to the Town as a whole, including the loss of significant open space or scenic vistas.

Storm water outfalls shall minimize potential impacts to the wetland or wetland buffer by meeting the following design standards:

- 1) Catch basins must be installed as far as feasible from the buffer boundary.
  - 2) Outfalls must be designed to reduce the chance of adverse impacts as a result of concentrated discharges from pipe systems. This may include:
    - a) Installation of the discharge end as far as feasible from the sensitive area; and
    - b) Use of appropriate energy dissipation at the discharge end.
- d. Water Quality Facilities – Water quality facilities, as determined by the Town, may be located within the required wetland buffers of subsection (4)(a) of this section. The Town may only approve a proposal to install a water quality facility within the outer one-half (1/2) of a wetland buffer if a feasible location outside of the buffer is not available and only if:
- 1) It will not adversely affect water quality;
  - 2) It will not adversely affect fish, wildlife, or their habitat;

- 3) It will not adversely affect drainage or storm water detention capabilities;
- 4) It will not lead to unstable earth conditions or create erosion hazards or contribute to scouring actions;
- 5) It will not be materially detrimental to any other property in the area of the subject property or to the Town as a whole, including the loss of significant open space or scenic vistas;
- 6) The existing buffer is already degraded as determined by a qualified professional;
- 7) Installation would be followed immediately by enhancement of an area equal in size and immediately adjacent to the affected portion of the buffer; and
- 8) Once installed, it would not require any further disturbance or intrusion into the buffer.

The Town may only approve a proposal by a public agency to install a water quality facility elsewhere in a wetland buffer if the criteria in subsections (4)(d)(9) through (11) of this section is met in addition to subsections (4)(d)(1) through (8) of this section:

- 9) The project includes enhancement of the entire buffer;
  - 10)The project would provide an exceptional ecological benefit off-site; and
  - 11)There is no feasible alternative proposal that results in less impact to the buffer.
- e. Utilities and Rights-of-Way – The following work may only be allowed in critical areas and their buffers subject to Town review after appropriate mitigation sequencing has been considered and implemented, provided that activities will not increase the impervious area or reduce flood storage capacity in the Town:
- 1) All utility work in improved Town rights-of-way;
  - 2) All normal and routine maintenance, operation and reconstruction of existing roads, streets, and associated rights-of-way and structures; and
  - 3) Construction of sewer or water lines that connect to existing lines in a sensitive area or buffer where no feasible alternative location exists based on an analysis of technology and system efficiency.

All affected critical areas and buffers shall be expeditiously restored to their pre-project condition or better. For purposes of this subsection only, "improved Town rights-of-way" include those rights-of-way that have improvements only underground, as well as those with surface improvements.

- 4-5. \_\_\_\_\_ Wetland Buffer Fence or Barrier – Prior to beginning development activities, the applicant shall install a 6-foot-high construction-phase chain link fence or equivalent fence with silt screen fabric, as approved by the Shoreline Administrator and consistent with Town standards, along the upland boundary of the entire wetland buffer. The construction-phase fence shall remain upright in the approved location for the duration of development activities.

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Upon project completion, the applicant shall install between the upland boundary of all wetland buffers and the developed portion of the site, either (a) a permanent 3- to 4-foot-tall split rail fence; or (b) equivalent barrier, as approved by the Shoreline Administrator. Installation of the permanent fence or equivalent barrier must be done by hand where necessary to prevent machinery from entering the wetland or its buffer.

~~2.6.~~ Permit Process – The Town shall consolidate and integrate the review and processing of the critical areas aspects of the proposal with the shoreline permit required for the proposed development activity, except as follows:

~~4.a.~~ For wetland modifications or wetland buffer modifications affecting greater than 25 percent of the standard buffer utilize the shoreline variance process pursuant to Section 7 of this Ordinance.

~~2.b.~~ For wetland buffer modifications affecting 25 percent or less of the standard buffer utilize the underlying development permit.

~~3.c.~~ For wetland restoration plans utilize the underlying development permit.

#### 7. Modification of Wetlands

- a. No land surface modification shall occur and no improvement shall be located in a wetland, except as provided in this subsection.
- b. Submittal Requirements – The applicant shall submit a report prepared by a qualified professional and fund a review of this report by the Town’s consultant. The report shall include the following:
  - 1) A determination and delineation of the sensitive area and required buffer containing all the information specified in subsection (3) of this section for a wetland;
  - 2) A description of the area of the site that is within the sensitive area or within the setbacks or buffers required by this chapter;
  - 3) An analysis of the impact the proposed development would have on the sensitive area and the sensitive area buffer;
  - 4) An analysis of the mitigation sequencing as outlined in Section 6 of this Ordinance;
  - 5) An assessment of the habitat, water quality, storm water detention, ground water recharge, shoreline protection, and erosion protection functions of the wetland and its buffer. The report shall also assess the effects of the proposed modification on those functions;
  - 6) Sensitive site design and construction staging of the proposal so that the development away from the sensitive area and/or sensitive area buffer will minimize net loss of sensitive area and/or sensitive area buffer functions to the greatest extent feasible;
  - 7) A description of protective measures that will be undertaken, such as siltation curtains, hay bales and other siltation prevention measures, and

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- scheduling the construction activity to avoid interference with wildlife and fisheries rearing, nesting or spawning activities;
- 8) Information specified in subsection (8) of this section;
  - 9) An evaluation of the project’s consistency with the shoreline variance criteria contained in WAC 173-27-170; and
  - 10)Such other information or studies as the Shoreline Administrator may reasonably require.
- c. Decisional Criteria – The Town may only approve an improvement or land surface modification in a wetland if:
- 1) The project demonstrates consideration and implementation of appropriate mitigation sequencing as outlined in Section 6 of this Ordinance
  - 2) It will not adversely affect water quality;
  - 3) It will not adversely affect fish, wildlife, or their habitat;
  - 4) It will not have an adverse effect on drainage and/or storm water detention capabilities;
  - 5) It will not lead to unstable earth conditions or create an erosion hazard or contribute to scouring actions;
  - 6) It will not be materially detrimental to any other property or the Town as a whole;
  - 7) Compensatory mitigation is provided in accordance with the table in subsection (8) of this section;
  - 8) Fill material does not contain organic or inorganic material that would be detrimental to water quality or fish and wildlife habitat;
  - 9) All exposed areas are stabilized with vegetation normally associated with native wetlands and/or buffers, as appropriate; and
  - 10)There is no feasible alternative development proposal that results in less impact to the wetland and its buffer.
8. Compensatory Mitigation – All approved impacts to regulated wetlands require compensatory mitigation so that the goal of no net loss of wetland function, value, and acreage is achieved. A mitigation proposal must utilize the mitigation ratios specified below as excerpted from: Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10, March 2006. Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance (Version 1). Washington State Department of Ecology Publication No. 06-06-011a. Olympia, WA.

**Table XX: Compensatory Mitigation**

Category and Type	Reestablishment or Creation	Rehabilitation Only <sup>1</sup>	Reestablishment or Creation (R/C)	Reestablishment or Creation (R/C)	Enhancement Only <sup>1</sup>
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<b>of Wetland Impacts</b>			<b>and Rehabilitation (RH)<sup>1</sup></b>	<b>and Enhancement (E)<sup>1</sup></b>	
All Category IV	1.5:1	3:1	1:1 R/C and 1:1 RH	1:1 R/C and 2:1 E	6:1
All Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1
Category II	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1
Category I Forested	6:1	12:1	1:1 R/C and 10:1 RH	1:1 R/C and 20:1 E	24:1
Category I – based on score for functions	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
Category I Natural Heritage site	Not allowed	6:1 Rehabilitation of a Natural Heritage site	Not allowed	Not allowed	Case-by-case
Category I Bog	Not allowed	6:1 Rehabilitation of a bog	Not allowed	Not allowed	Case-by-case

<sup>1</sup> These ratios are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective actions may result in a higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement.

## 9. Wetland Buffer Modification

- a. Departures from the standard buffer requirements shall be approved only after the applicant has demonstrated consideration and implementation of appropriate mitigation sequencing as outlined in Section 6 of this Ordinance.
- b. Approved departures from the standard buffer requirements of subsection (4) of this section allow applicants to modify the physical and biological conditions of portions of the standard buffer for the duration of the approved project. These approved departures from the standard buffer requirements do not permanently establish a new regulatory buffer edge. Future development activities on the subject property may be required to re-establish the physical and biological conditions of the standard buffer.
- c. Modification of Wetland Buffers When Wetland Is Also to Be Modified – Wetland buffer impact is assumed to occur when wetland fill or modification occurs. Any proposal for wetland fill/modification shall include provisions for establishing a new wetland buffer to be located around the compensatory mitigation sites and to be equal in width to its standard buffer specified in subsection (4)(a) of this section or a buffer reduced in accordance with this section by no more than 25 percent of the standard buffer width in all cases, regardless of wetland category or basin type.
- d. Modification of Wetland Buffers When Wetland Is Not to Be Modified – No land surface modification may occur and no improvement may be located in a wetland buffer, except as provided for in this subsection.
  - 1) Types of Buffer Modifications – Buffers may be reduced through one (1) of two (2) means, either (a) buffer averaging, or (b) buffer reduction with enhancement. A combination of these two (2) buffer reduction approaches shall not be used:
    - a) Buffer averaging requires that the area of the buffer resulting from the buffer averaging is equal in size and quality to the buffer area calculated by the standards specified in subsection (4) of this section. Buffers may not be reduced at any point by more than 25 percent of the standards specified in subsection (4) of this section, unless approved through a shoreline variance. Buffer averaging calculations shall only consider the subject property.
    - b) Buffers may be decreased through buffer enhancement. The applicant shall demonstrate that through enhancing the buffer (by removing invasive plants, planting native vegetation, installing habitat features, such as downed logs or snags, or other means), the reduced buffer will function at a higher level than the existing standard buffer.

The reduced on-site buffer area must be planted and maintained as needed to yield over time a reduced buffer that is equivalent to undisturbed Puget lowland forests in density and species composition. At a minimum, a buffer enhancement plan shall provide the following: (1) a map locating the specific area of enhancement; (2) a planting plan that uses native species, including groundcover, shrubs, and trees; and (3) a

monitoring and maintenance program prepared by a qualified professional consistent with the standards specified in subsection (10) of this section.

Buffers may not be reduced at any point by more than 25 percent of the standards in subsection (4)(a) of this section. Buffer reductions of more than 25 percent approved through a shoreline variance will be assumed to have direct wetland impacts that must be compensated for as described in subsection (8) of this section.

- 2) Decisional Criteria – An improvement or land surface modification may be approved in a wetland buffer only if:
- a) The development activity or buffer modification demonstrates consideration and implementation of appropriate mitigation sequencing as outlined in Section 6 of this Ordinance.
  - b) It will not adversely affect water quality;
  - c) It will not adversely affect fish, wildlife, or their habitat;
  - d) It will not have an adverse effect on drainage and/or storm water detention capabilities, ground water recharge or shoreline protection;
  - e)
  - f) It will not lead to unstable earth conditions or create an erosion hazard;
  - g) It will not be materially detrimental to any other property or the Town as a whole;
  - h) Fill material does not contain organic or inorganic material that would be detrimental to water quality or to fish, wildlife, or their habitat;
  - i) All exposed areas are stabilized with vegetation normally associated with native wetland buffers, as appropriate; and
  - j) There is no feasible alternative development proposal that results in less impact to the buffer.

As part of the modification request, the applicant shall submit a report prepared by a qualified professional and fund a review of this report by the Town's consultant. The report shall assess the water quality, habitat, drainage or storm water detention, ground water recharge, shoreline protection, and erosion protection functions of the buffer; assess the effects of the proposed modification on those functions; and address the 10 criteria listed in subsection (9)(d)(2) of this section.

**4.10.** On-Site Versus Off-Site Mitigation – On-site mitigation for a wetland or its buffer is preferable to off-site mitigation. Given on-site constraints, the Town may approve a plan to implement all or a portion of the required mitigation off-site, if the off-site mitigation is within the same drainage basin as the property that will be impacted by the project. The applicant shall demonstrate that the off-site mitigation will result in higher wetland functions, values, and/or acreage than on-site

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mitigation. Required compensatory mitigation ratios shall be the same for on-site or off-site mitigation, or a combination of both.

If the proposed on-site or off-site mitigation plan will result in the creation or expansion of a wetland or its buffer on any property other than the subject property, the plan shall not be approved until the applicant submits to the Town a copy of a statement signed by the owners of all affected properties, in a form approved by the Town Attorney and recorded with the San Juan County auditor, consenting to the wetland and/or buffer creation or increase on such property, and to the required maintenance and monitoring that may follow the creation or expansion of a wetland or its buffer.

11. Mitigation Plan and Monitoring and Maintenance Program – Applicants proposing to alter wetlands or their buffers shall submit a mitigation plan prepared by a qualified professional. The mitigation plan shall consist of a description of the existing functions and values of the wetlands and buffers affected by the proposed project, the nature and extent of impacts to those areas, and the mitigation measures to offset those impacts. The mitigation plan shall also contain a drawing that illustrates the compensatory mitigation elements. The plan and/or drawing shall list plant materials and other habitat features to be installed.

To ensure success of the mitigation plan, the applicant shall submit a monitoring and maintenance program prepared by a qualified professional. At a minimum, the monitoring and maintenance plan shall include the following:

- a. The goals and objectives for the mitigation plan;
- b. Success criteria by which the mitigation will be assessed;
- c. Plans for a 5-year monitoring and maintenance program;
- d. A contingency plan in case of failure; and
- e. Proof of a written contract with a qualified professional who will perform the monitoring program.

The monitoring program shall consist of at least two (2) site visits per year by a qualified professional, with annual progress reports submitted to the Town and all other agencies with jurisdiction.

The cost of producing and implementing the mitigation plan, the monitoring and maintenance program, reports, and drawing, as well as the review of each component by the Town's wetland consultant, shall be borne by the applicant.

12. Shoreline Variance for Wetland Modification or Wetland Buffer Modification – An applicant who is unable to comply with the specific standards of this section must obtain a shoreline variance, pursuant to Section 7 of this Ordinance and meet the criteria set forth in WAC 183-27-170. In addition, the following Town submittal requirements and criteria must also be met:

- a. Submittal Requirements – As part of the shoreline variance request, the applicant shall submit a report prepared by a qualified professional and fund a

review of this report by the Town's qualified professional. The report shall include the following:

- 1) A determination and delineation of the sensitive area and sensitive area buffer containing all the information specified in subsection (3) of this section for a wetland;
  - 2) An analysis of whether any other proposed development with less impact on the sensitive area and sensitive area buffer is feasible;
  - 3) Sensitive site design and construction staging of the proposal so that the development will have the least feasible impact on the sensitive area and sensitive area buffer;
  - 4) A description of the area of the site that is within the sensitive area or within the setbacks or buffers required by this chapter;
  - 5) A description of protective measures that will be undertaken, such as siltation curtains, hay bales and other siltation prevention measures, and scheduling the construction activity to avoid interference with wildlife and fisheries rearing, nesting or spawning activities;
  - 6) An analysis of the impact that the proposed development would have on the sensitive area and the sensitive area buffer;
  - 7) How the proposal minimizes net loss of sensitive area and/or sensitive area buffer functions to the greatest extent feasible;
  - 8) Whether the improvement is located away from the sensitive area and the sensitive area buffer to the greatest extent feasible;
  - 9) Information specified in subsection (8) of this section for compensatory mitigation;
  - 10) Such other information or studies as the Shoreline Administrator may reasonably require.
- b. Decisional Criteria – The Town may grant approval of a shoreline variance only if all of the following criteria are met:
- 1) No other permitted type of land use for the property with less impact on the sensitive area and associated buffer is feasible;
  - 2) The proposal has the minimum area of disturbance;
  - 3) The proposal maximizes the amount of existing tree canopy that is retained;
  - 4) The proposal utilizes to the maximum extent feasible innovative construction, design, and development techniques, including pervious surfaces, that minimize to the greatest extent feasible net loss of sensitive area functions and values;
  - 5) The proposed development does not pose an unacceptable threat to the public health, safety, or welfare on or off the property;

- 6) The proposal meets the mitigation, maintenance, and monitoring requirements of this chapter;
  - 7) The granting of the shoreline variance will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings, or structures under similar circumstances.
13. Wetland Restoration – Town approval is required prior to wetland restoration. The Town may permit or require the applicant or property owner to restore and maintain a wetland and/or its buffer by removing material detrimental to the area, such as debris, sediment, or vegetation. The Town may also permit or require the applicant to restore a wetland or its buffer through the addition of native plants and other habitat features. Restoration may be required whenever a condition detrimental to water quality or habitat exists. When the Town requires wetland restoration, the requirements of subsection (8) of this section, Compensatory Mitigation, shall apply.
14. Wetland Access – The Town may develop access through a wetland and its buffer in conjunction with a public park, provided the purpose supports education or passive recreation, and is designed to minimize environmental impacts during construction and operation.

### **6.03 Agriculture**

#### **A. Introduction**

Agricultural practices are those methods used in animal husbandry and vegetation and soil management, such as tilling, control of weeds, plant diseases and insect pests, soil maintenance and fertilization. Many of these practices require use of agricultural chemicals, most of which are water-soluble and may wash into contiguous land or water areas, causing significant alteration and damage to plant and animal habitats, particularly in shoreline areas. Also, when proper land management techniques are not observed, large quantities of mineral and organic sediments enter water bodies through surface erosion.

#### **B. Policies**

1. Erosion control measures consistent with standards established by the U.S. Department of Agriculture should be employed.
2. Commercial feedlots and similar practices which concentrate animal wastes, pesticides or herbicides should not be permitted on shorelines.
3. Agricultural practices typically require extensive land area and therefore should not be encouraged in areas intended for intensive, multiple uses.
4. Best Management Practices for elimination of pesticide, herbicide, or nutrient runoff should be employed.

#### **C. Regulations by Environment**

1. Agricultural activities are prohibited in the Urban and Natural Environments.

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- | 2. Agricultural activities are permitted within the Urban Residential Environment(s) Environment(s) subject to Section 6.02, above, and the policies and regulations of this Master Program.
- | 3. Agriculture in the Aquatic Environment is considered to be aquaculture and is is subject to the provisions of Section 6.04, Aquaculture, below.

## **6.04 Aquaculture**

### **A. Introduction**

Aquaculture is the culture or farming of food fish, shellfish or other aquatic plants and animals. Potential locations for aquaculture are relatively restricted because of specific water quality, temperature, oxygen content, flow, salinity and other requirements. Aquaculture operations can impede surface navigation, and can have adverse visual and environmental impacts if not properly sited and operated.

### **B. Policy**

Aquaculture should not be allowed in the following areas:

- ~~a~~-1. Areas that have little natural potential for the type(s) of aquaculture under consideration;
- ~~b~~-2. Areas that have water quality problems that make the areas unsuitable for the type(s) of aquaculture under consideration;
- ~~c~~-3. Areas devoted to established uses of the aquatic environment with which the proposed aquacultural methods(s) would substantially and materially conflict. Such uses would include but are not limited to navigation, mooring, sport or commercial fishing, log rafting, underwater utilities, and active scientific research;
- ~~d~~-4. Areas where the design or placement of the facilities would substantially degrade the aesthetic qualities of the shoreline or the water area;
- ~~e~~-5. Areas where navigation by recreational boaters and commercial traffic will be significantly restricted; or
- ~~f~~-6. Areas where an aquacultural proposal will result in any cumulative environmental impacts that cannot be eliminated or adequately mitigated through enforceable conditions of approval.

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### **C. Regulations by Environment**

- 1. Small scale aquaculture operations may be allowed by Conditional Use Permit in the Urban, Urban Residential, and Aquatic Environments subject to Section 6.02, above, and the policies and regulations of this Master Program including but not limited to Section 3 above.
- 2. Aquaculture is prohibited in the Natural Environment.

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## **6.05 Breakwaters**

### **A. Introduction**

Breakwaters are protective structures built offshore to protect harbor areas, moorings or beaches from wave action. Breakwaters can be rigid (rock or rubble), open-pile or floating construction. All types reduce or eliminate wave action but rigid breakwaters also obstruct the flow of sand and can starve beaches. Floating breakwaters do not generally have this effect.

Rigid breakwaters cover and eliminate aquatic habitats and create a different habitat. Water circulation may be impeded. Pile driving in construction of open-pile or floating breakwaters temporarily damages aquatic habitats and may, depending on location and time of activity, damage spawning areas. Breakwaters can serve to provide public access to shorelines.

### B. Policies

1. Rigid breakwaters should not be allowed.
2. Floating breakwaters should be constructed only where Water-Dependent Uses are located seaward of the OHWM and where protection from strong wave action is essential.
3. Floating breakwaters should be permitted only where design features will eliminate significant detrimental effects on water circulation, sediment movement and aquatic life.
4. Location, design and use of floating breakwaters should minimize restrictions on public use of the water.
5. When floating breakwaters are allowed, multiple-party use should be encouraged in order to increase public access to the water.

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### C. Regulations

1. Rigid breakwaters are prohibited.
2. Floating breakwaters may be permitted as a conditional use only for Water-Dependent Uses, public access, shoreline stabilization or other specific public purposes.
3. Floating breakwaters shall conform to all design requirements of the State Department of Fisheries and U.S. Army Corps of Engineers except where conformity would be incompatible with protection of aquatic habitat and water and sediment circulation.
4. Floating breakwaters shall be designed in a manner which will not impede water circulation, fish migration, navigation or visual access to the water.
5. Shoreline permit applications for floating breakwaters shall include at least the following information:
  - 1.a. Purpose of breakwater and use to be protected;
  - 2.b. Direction of net longshore drift;
  - 3.c. Direction of strongest prevailing winds and tidal current; and
  - 4.d. Proposed construction materials and construction method.
6. Floating breakwaters shall permit public pedestrian access.

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#### D. Regulations by Environment

1. Floating Breakwaters are prohibited in the Urban, Urban Residential and Natural Environments.
2. Floating breakwaters may be permitted as a conditional use permit in the Aquatic Environment subject to Section 6.02, above, and the policies and regulations of this Master Program including but not limited to Section 3, above.

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#### 6.06 Bulkheads

##### A. Introduction

Bulkheads are walls constructed parallel to shore, usually at or near the OHWM to prevent bank erosion by waves or currents. They may also be used as retaining walls to protect edges of a filled area.

Bulkheads may be constructed of timber piling, concrete, steel or rock and may be solid, open-pile, or "soft" engineered construction. They do not provide permanent erosion protection because waves continue to erode the foreshore and gradually undermine the bulkhead and/or subject it to more forceful waves. While bulkheads protect adjacent uplands temporarily they may accelerate beach erosion. Other principal effects of bulkheads are aesthetic impacts and potential displacement or destruction of fish and shellfish habitats.

##### B. Policies

1. Bulkheads should be located, designed and constructed so that adverse impacts on nearby beaches and on aquatic habitats will not result.
2. Bulkheads should be designed and constructed to eliminate cumulative impacts on the shoreline and the aquatic habitat.
3. Bulkheads should not be constructed seaward of OHWM and should not exceed the minimum height necessary to stabilize the bank.
4. Use of erosion-resistant vegetation or other non-structural methods is preferred over the use of a bulkhead wherever possible.

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##### C. Regulations

1. Bulkheads which are exempt from shoreline substantial development permit requirements under Section 2.06, above, shall not be constructed until the Shoreline Administrator has reviewed the proposal and determined that the project is consistent with the policies and regulations of this Master Program.
2. Bulkheads shall be authorized only where the proponent demonstrates that one of the following conditions exists:
  - ~~1~~-a. Erosion is seriously threatening an established primary structure on adjacent uplands;
  - ~~2~~-b. A bulkhead is necessary in connection with a Water-Dependent Use permitted by this Master Program; or

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~~3-c.~~ A bulkhead is the most feasible means to stabilize a landfill permitted by this Master Program.

3. New developments shall be constructed so that protective bulkheads will not be required.
4. Bulkheads; whether new construction, extension of existing structure, or maintenance/repair of existing structure; where permitted, shall be of soft design and shall comply with all design requirements of the State Department of Fisheries and U.S. Army Corps of Engineers.
5. Shoreline permit applications for bulkheads shall provide at least the following information:
  - ~~4-a.~~ Purpose of bulkhead;
  - ~~2-b.~~ Demonstration and evidence of serious erosion problem;
  - ~~3-c.~~ Extreme low tide, mean lower tide, mean tide, mean higher tide and extreme high tide elevations;
  - ~~4-d.~~ Direction of net longshore drift;
  - ~~5-e.~~ Materials and method of construction; and
  - ~~6-f.~~ Elevations of the toe and crest of the proposed bulkhead with respect to water levels.

#### **D. Regulations by Environment**

1. Bulkheads are permitted in the Urban and Urban Residential Environments subject to Section 6.02, above, and the policies and regulations of this Master Program.
2. Bulkheads are prohibited in the Natural Environment.
3. Bulkheads are prohibited in the Aquatic Environment

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#### **6.07 Commercial Development**

##### **A. Introduction**

Commercial developments are those involving the use or construction of facilities for wholesale and retail trade and services. These include hotels, motels, shops, restaurants, offices and indoor recreation facilities. Not included are port, industrial, residential and boating uses.

Commercial development frequently requires extensive space for normal operation and parking. The principal impacts on shorelines from commercial development are aesthetic effects, erosion and introduction of pollutants (e.g., sedimentation, wastes). Pollutants are generated from surface runoff, oil and fuel spills, and from poorly contained organic wastes. Intensive commercial use also affects traffic volumes and circulation patterns.

In many cases, commercial development will include associated uses which are identified as separate use categories in this Master Program. Associated signs, utilities, landfills, transportation facilities and ports and water-dependent industry are

subject to policies and regulations established for those uses in addition to the provisions of this section.

## B. Policies

1. New commercial development within the Local Shoreline should occur only in areas where commercial development already exists, and only when it is consistent with the provisions of this Master Program.
2. Commercial development on waterfront land should be restricted to Water-Oriented Uses with preference given to Water-Dependent Uses.
3. Commercial development on shoreline land which is not waterfront should be restricted to Water-Enjoyment Uses, Water-Related Uses, and other uses which provide outdoor open space, open to the public without charge, and which offer public shoreline views, may also be permitted, as a conditional use, provided such uses are setback a minimum of 100 feet from OHWM.
  - ~~1~~-a. Where public access easements are not possible, public access policies may be satisfied by employing design elements such as wide walkways parallel to sidewalks, landscaping and benches.
  - ~~2~~-b. Public sidewalks and adjoining private areas open to the public should be designed to create a physically and visually continuous pedestrian route along the landward side of Front Street to encourage use by the general public rather than by business patrons
4. New and expanded commercial developments should be designed and located to protect and enhance public shoreline views consistent with this Master Program.
5. New and expanded commercial development should be permitted only where adequate parking area is or can be made available.
6. New and expanded commercial development should avoid impacts to existing navigation, recreation, and public access.

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## C. Regulations

1. Non Water-Dependent commercial over-water uses are prohibited except in existing structures, and where necessary to support water-dependent uses.
2. New non Water-Oriented commercial uses are prohibited unless they are part of a mixed use project.
3. Shoreline permit applications for commercial development shall include a detailed statement explaining the nature and intensity of the relationship of the proposed development to the Local Shoreline i.e. water-dependent, water-related or water-enjoyment. Such statements shall include at least the following:
  - ~~1~~-a. Nature of the commercial activity;
  - ~~2~~-b. Need for shoreline or over water location;
  - ~~3~~-c. Proposed measures to enhance the relationship of the activity to the shoreline or water; and

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~~4.d.~~ Proposed provisions for public physical and visual access to the Local Shoreline.

4. Draining or filling water bodies for commercial development is prohibited.
5. Commercial docks and boat fueling stations shall be permitted to locate over water. No other commercial uses may include over-water structures
6. Bulkheads and/or land filling are prohibited seaward of the OHWM in association with commercial development.
7. Shoreline permit applications for commercial development shall include a parking plan, showing the location, dimensions and capacity of the proposed parking area and the proposed landscaping or screening.
8. Commercial development on the landward side of Front Street, or on land which does not otherwise abut the water, which is not water-dependent shall be subject to the following requirements:

~~1.a.~~ A minimum of 20 percent of gross lot area, exclusive of any public right-of-way area, shall be outdoor open space, which meets the requirements of Sub-Section 6.07(B)(3) above. This area shall extend landward from the sidewalk and be developed with finished surfaces and landscaping prior to occupancy;

~~2.b.~~ On-site parking shall not be located seaward of buildings, and adequate street access shall be provided; and

~~3.c.~~ A landscaping plan shall be submitted with shoreline permit applications.

#### **D. Regulations by Environment**

1. Commercial development shall be permitted in the Urban Environment subject to Section 6.02, above, and the policies and regulations of this Master Program, provided that commercial structures not permitted over the water shall be set back at least 25 feet from the OHWM and shall not exceed the average height of existing buildings within 200 feet of the proposal.
2. Commercial development is prohibited in the Urban Residential and Natural Environments.
3. Water-dependent commercial development shall be permitted in the Aquatic Environment subject to Section 6.02, above, and the policies and regulations of this Master Program including but not limited to Section 3, above. Other commercial development is prohibited.

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### **6.08 Dredging**

#### **A. Introduction**

Dredging is the removal or displacement of earth (sand, gravel, mud, silt and/or other materials) from the bottom of a water body or wetland. Dredging is normally done for specific purposes such as constructing or maintaining navigation channels, marinas, submarine pipelines or cables or to obtain fill material for construction.

Dredge spoil is material removed by dredging. Disposal of dredge spoils is also subject to policies and regulations for landfills.

Dredging usually occurs in shallow areas and may disturb aquatic life and water quality by causing a temporary increase in turbidity, altering nutrient and dissolved oxygen levels in the water and suspending toxic materials from sediments. It may cause loss of aquatic plants and animals by removal or from effects of suspended sediments. Dredge spoil disposal in water or shoreline areas can affect water quality by sedimentation or introduction of pollutants. Disposal sites are less damaged by depositing spoils in areas with like particle size and composition.

### B. Policies

1. Dredging operations should be located and conducted in a manner that will minimize damage to the natural resources and systems of the dredge area, surrounding bedlands and the area in which dredge spoils are to be deposited.
2. Dredge spoil disposal in water areas should not be allowed except for habitat improvement or where deposition on uplands would be more detrimental to shoreline resources than deposition in water.
3. Dredge spoil disposal sites should be identified with assistance of the State Department of Fisheries and Wildlife, State Department of Natural Resources, State Department of Ecology, U.S. Army Corps of Engineers and the U.W. Friday Harbor Marine Laboratories.
4. Dredging solely to obtain fill material should not be allowed.

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### C. Regulations

1. Dredging may be permitted as a conditional use for any of the following purposes and only where other alternatives are impractical:
  - ~~1.a.~~ To improve water quality or aquatic habitat;
  - ~~2.b.~~ To maintain or improve navigability or water flow; or
  - ~~3.c.~~ To mitigate conditions which could endanger public safety;
2. All dredge spoils shall be deposited at disposal sites which are consistent with the policies and regulations of this Master Program.
3. Dredge spoil disposal in water areas is not allowed except for habitat improvement or where deposition on uplands would be more detrimental to shoreline resources than deposition in water.
4. Dredging for fill materials is prohibited except for projects associated with MTCA or CERCLA habitat restoration, or any other significant restoration effort approved by a shoreline CUP. Placement of fill must be waterward of OHWM.
5. Applications for shoreline permits for dredging shall include at least the following information:
  - a. Location, size and physical characteristics of proposed dredge site;

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- b. Information on stability of bedlands adjacent to proposed dredge site;
- c. Total initial spoils volume and composition;
- d. Location, size, capacity and physical characteristics of proposed spoils disposal site; and
- e. Plan for disposal of maintenance spoils for life of project or period of twenty-five years, whichever is shorter.

#### **D. Regulations by Environment**

- 1. Dredging may be permitted in the Urban, Urban Residential, and Aquatic Environments as a conditional use subject to Section 6.02, above, and to the policies and regulations of this Master Program.
- 2. Dredging is prohibited in the Natural Environment.

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### **6.09 Forest Management**

#### **A. Introduction**

Forest management practices are those methods used for the protection, production and harvesting of timber. Poor logging practices on shorelines result in slash and debris accumulation and may increase the suspended sediment load and the turbidity of the water.

#### **B. Policy**

Friday Harbor Shorelines have been converted or are planned for conversion to non-forest uses. Commercial timber harvest is not an appropriate use of Town shorelines.

#### **C. Regulation**

Commercial timber harvest is prohibited within 200 feet of the OHWM of any designated shoreline environment.

### **6.10 Jetties and Groins**

#### **A. Introduction**

Jetties are built perpendicular to shore at harbor entrances to prevent creation of sand bars where these impede navigation. They are normally built of steel, rock or concrete, depending on foundation, wave and economic conditions. A jetty must be high enough to obstruct sand movement entirely; this prevents sand buildup but also impounds sand that would otherwise supply downdrift beaches, starving them and contributing to beach erosion.

Groins are barrier structures built seaward from shore, sometimes in series, to preserve or create a beach by trapping sand. This is achieved at the expense of downdrift shores unless the groin system is filled to capacity with sand.

Since Friday Harbor does not experience littoral drift of a magnitude requiring a neither jetty, nor have a beach which a groin system would enhance, adverse effects of such structures are likely to outweigh benefits.

## B. Policies

1. Jetties and groins should not be permitted unless the applicant demonstrates that the project would result in long-term public benefit which outweighs adverse impacts on natural shoreline processes.
2. In reviewing applications for jetties or groins the Town should consider carefully the ecological and aesthetic effects on the shoreline and the water.

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## C. Regulations

1. Jetties and groins may be permitted only as conditional uses.
2. Applicants for shoreline permits for jetties or groins shall have the burden of proving consistency with Sub-Section 6.10(B)(I) above.

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## D. Regulations by Environment

1. Jetties and groins may be permitted in the Urban and Urban Residential Environments as a conditional use subject to the policies and regulations of this Master Program.
2. Jetties and groins are prohibited in the Natural Environment.
3. Jetties may be permitted in the Aquatic Environment as a conditional use subject to Section 6.02, above, and the policies and regulations of this Master Program including but not limited to Section 3, above. Groins are prohibited in the Aquatic Environment.

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## 6.11 Landfills

### A. Introduction

Landfill is placement of soil, sand, gravel, rock, sediment, earth retaining structure, or other material in water areas to create new land area, or on shorelands to raise the elevation of the land. Solid waste disposal is depositing garbage, ashes, construction waste, vehicles and vehicle parts and other discarded material in water or on land.

Landfill commonly eliminates natural vegetation and covers and destroys plant and animal life. It may also alter or destroy natural shoreline features, create erosion and siltation problems and reduce water surface area.

Solid waste disposal in a landfill is a potential source of organic and inorganic pollutants harmful to water quality and to public health and safety. Adequate containment of these materials cannot be assumed.

## B. Policies

1. Landfills should not be permitted where any feasible upland or structural alternative exists and, where permitted, should be tightly controlled.
2. While landfill may be appropriate for some water-oriented uses, priority should be given to Water-Dependent Uses and public uses. Several factors should be considered in evaluating fill proposals, and in designating areas appropriate for fill. These factors include the total water surface area reduction, impacts on water flow, circulation and quality, impacts on natural resources and systems, potential destruction of habitats, potential erosion problems and potential restrictions of navigation.
3. Landfills and associated development, where permitted, should provide public access to the Local Shoreline.
4. Landfill for solid waste disposal is an inappropriate use of the shoreline.
5. Landfill should be authorized only for Water Oriented uses.

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## C. Regulations

1. Landfills located seaward of the OHWM shall be permitted only as conditional uses and when in conjunction with and where necessary to support:
  - ~~1~~.a. Water-Dependent Uses consistent with the provisions of this Master Program;
  - ~~2~~.b. Public access;
  - ~~3~~.c. Cleanup and disposal of contaminated sediments as part of an interagency environmental cleanup plan;
  - ~~4~~.d. Disposal of dredged material in accordance with the DNR Dredged Material Management Program;
  - ~~5~~.e. Expansion or alteration of transportation facilities of statewide significance currently located in the shoreline (if alternatives to fill are shown to not be feasible);
  - ~~6~~.f. Mitigation actions, environmental restoration, beach nourishment or enhancement projects.
2. Landfill for uses associated with Water-Dependent Uses but which are not themselves water dependent, including parking, are prohibited seaward of the OHWM.
3. Landfills shall be permitted only when they conform to an approved development plan for an activity or use which has already been approved or is being reviewed concurrently.
4. Pile or pier supported structures, such as wharves or boardwalks, shall be used instead of landfills in water areas where seaward extension of the shoreline is necessary and where such structures are feasible. Landfills may be authorized only where no feasible alternative upland or structural solution exists.

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5. Sanitary landfills and/or the disposal of solid wastes are prohibited within shoreline jurisdiction.
6. Applications for shoreline permits which include landfilling shall include at least the following information:
  - a. Source, volume and physical composition of fill material;
  - b. Purpose and proposed use of fill area;
  - c. Documentation of authorized use or proposed use;
  - d. Method and schedule of placement and compaction;
  - e. Surfacing and runoff treatment controls;
  - f. Perimeter erosion controls; and
  - g. Location of fill relative to the OHWM, extreme high tide, mean tide, and mean lower tide level.
7. Where fills are permitted the amount of material used shall be the minimum necessary for the proposed uses.
8. Landfills for the sole purpose of creating additional land area are prohibited.

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#### **D. Regulations by Environment**

1. Landfills shall be permitted in the Urban and Urban Residential Environments subject to Section 6.02, above, and the policies and regulations of this Master Program, provided that landfills are prohibited for the sole purpose of creating additional land area.
2. Landfills are prohibited in the Natural Environment.
3. Landfills may be permitted in the Aquatic Environment only as a conditional use, subject to Section 6.02, above, and the policies and regulations of this Master Program including but not limited to Section 3, above.

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### **6.12 Marinas**

#### **A. Introduction**

Marinas are facilities that provide wet mooring and/or dry storage and services for pleasure craft and commercial craft. Marinas are located over intertidal and subtidal areas and may extend landward from the OHWM, or a marina may be an upland based facility with water access via a travel lift, hoist or marine railway. They can be of open construction (floating breakwater, buoys, piers and floats) or solid (rigid breakwater or fill). Marinas are sometimes associated with other uses such as fuel and public launching facilities, boat rental, repair services, equipment sales and parking.

Activity generated by marinas varies with their size and range of services offered. They generate boat and vehicular traffic and related noise. Construction and operation of marinas affect water quality and fish and shellfish habitats by introducing pollutants (fuel, oil, heavy metals and human wastes; erosion and siltation). Temporary circulation and sand movement may be impeded and affect beaches or alter aquatic habitats. Marinas with several associated uses may require extensive land area and larger parking areas. Activities including but not limited to dredging, landfill, bulkheads, utilities, and commercial development associated with marina development are subject to the policies and regulations for those categories.

### B. Policies

1. Marinas should be located and designed so their structures and operations will be aesthetically compatible with the area visually affected, and will not unreasonably impair public shoreline views.
2. Marinas should be designed to provide adequate navigational access to and from the proposed development and existing and future development on adjacent properties.
3. Marina facilities should be designed to accommodate public access and enjoyment of the shoreline, including provisions for walkways, view points, restroom facilities, and other recreational uses according to the scale of the facility.
4. Marinas, wherever possible, should use open-type construction to prevent degradation of fish and/or shellfish resources and habitat.
5. Installation and maintenance of sewage disposal (pump-out) facilities or services should be required and conveniently available to all users of marina facilities.
6. Floating homes should be prohibited. Houseboats and live-aboard vessels should be allowed.

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### C. General Regulations

1. The Town shall require the following information in its review of marina proposals:
  - a. Existing natural shoreline and backshore features and uses and bathymetric contours (1-foot increments);
  - b. Geo-hydraulic processes and flushing characteristics, volume, rates, and frequencies;
  - c. Biological resources and habitats for the Local Shoreline including eelgrass and understory kelp;
  - d. Existing and proposed aquatic land leases in the immediate area;
  - e. Site orientation; exposure to wind, waves, flooding or tidal/storm surges; and type and extent of shore defense works or shoreline stabilization and flood protection necessary;
  - f. Impact upon existing and created demand for shoreline and water uses including physical access, recreation, and public shoreline views;

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- g. The need for additional facilities;
  - h. The design of the facilities including but not limited to sewage disposal, restrooms, solid waste disposal, proposed signage, proposed exterior lighting, a proposed landscaping plan, and proposed use of noise-generating equipment;
  - i. Management and operations including accommodation of live-aboard vessels, including houseboats, provisions for the prevention and control of fuel spillage, and restrictions related to disposal of wastes and toxic materials; and
  - j. Other information that may be requested by the Shoreline Administrator.
2. Marina development shall comply with all applicable federal, state and local agency policies and regulations.
  3. Public and private marinas shall be equipped to contain and clean up oil, gasoline and other hazardous substance spills.
  4. Marinas shall allow no more than 10 percent of their occupancy for live-aboard uses.
  5. Where landfill seaward of the OHWM is permitted it shall be only for the necessary water-dependent portions of the facility and shall conform in particular to the policies and regulations of Section 6.11, above. Landfill is prohibited for the creation of new parking areas or accessory uses within 25 feet from the OHWM.

#### D. Regulations - Design/Renovation/Expansion

1. Marinas shall be designed to:
  - a. Maintain a minimum setback of thirty (30) feet from the preferential rights line as established by survey; and
  - b. Maintain a minimum setback of fifty (50) feet from existing development in the aquatic environment; and
  - c. Provide access to every mooring slip by a fairway that has a width that equals or exceeds 1 ½ times the length of that slip.
2. Marinas shall not extend seaward farther than the following limits:
  - a. The Construction Limit Line; or
  - b. Where no Construction Limit Line exists the seaward boundary of the preferential lease right area as set forth in WAC 332-30-122(1)(A)(ii) or its successor and WAC 332-30-142 (8)(d) or as amended.
3. Marina design shall provide thorough flushing of all enclosed water areas and shall not restrict the movement of aquatic life requiring shallow water.
4. The marina design shall minimize interference with geo-hydraulic processes and disruption of existing shore forms.
5. Marinas shall be designed so their structures and operations will be aesthetically compatible with or will enhance existing shoreline features and uses. Marinas shall mitigate for adverse development impacts on-site and to adjacent properties.

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6. Shoreline embankments of all marinas shall be stabilized above and below the water's edge during and after construction.
7. Long-term dry mooring (for 6 or more vessels) and all other storage areas shall be set back not less than one hundred (100) feet from the OHWM. This shall not apply to hand-launch vessels.
8. Unless native vegetation on the perimeter of parking, dry mooring, and other storage areas is retained, these perimeter areas shall be landscaped with native plants or other approved materials. The permit application shall identify the size, location, and species of landscaping materials stressing native vegetation
9. Marinas may include specific areas restricted for security reasons. The incorporation of reasonable public access facilities into the design shall be required.
10. Marina development shall require the installation of vessel pump-out and on-shore sewage and waste disposal facilities.
11. New marinas and expansion areas in existing marinas shall not have covered mooring.

#### **E. Regulations - Parking and Circulation**

1. Parking facilities shall be provided according to the following schedule:
  - a. 1 vehicle space per 2 slips; and
  - b. 1 additional parking space shall be provided for every three hundred (300) square feet of interior floor space devoted to accessory retail sales or services.
2. Parking and outdoor storage areas associated with marinas shall be landscaped in a manner which provides a visual buffer between these uses and the top of the bank.
3. Short-term loading areas may be located at ramps or near berthing areas. Long-term parking and paved storage areas shall be separated from the OHWM by a vegetated native vegetation zone of at least fifty (50) feet.

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#### **F. Regulations - Utilities**

1. All marinas shall have accessible boat sewage disposal systems on-site or other pump-out services.
2. All marinas shall provide facilities for the adequate collection and dumping of marina originated materials including, but not limited to, sewage, solid waste, and petroleum waste.
3. All marinas shall provide restrooms for boaters' use. They shall be located within seventy-five (75) feet of the landward end of the dock or pier, be identified by signs and be accessible to tenants twenty-four (24) hours a day. Marinas with fewer than ten (10) slips shall provide one (1) toilet and hand washing facility. Marinas with ten to one hundred slips shall provide one (1) toilet and hand washing facility for each gender. Marinas exceeding one hundred (100) slips shall provide an additional toilet and hand washing facility for each gender.

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4. Marinas in public ports may, by conditional use permit, install public floating restrooms provided that; existing restrooms are more than 600 feet by direct walkable route from vessel mooring spaces, said restrooms are connected to shoreside utility systems, and said restrooms do not block views more than vessels moored in the vicinity.
5. Distribution systems for plumbing and wiring at a marina site shall be placed at or below ground and dock levels.
6. Public boat launch facilities shall provide and maintain dump stations and restrooms or portable toilets.

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#### **G. Regulations - Management and Operations**

1. The discharge of sewage and/or toxic material from boats and/or shore installations shall be prohibited.
2. No commercial fish or shellfish processing discharge or discarding of unused bait, scrap fish, or viscera shall be permitted.
3. Marinas which dispense fuel shall have adequate facilities and establish posted operational procedures for fuel handling and storage in order to prevent/minimize accidental spillage.
4. Marinas shall have facilities, equipment, and established posted procedures for containment, recovery, and mitigation of spilled petroleum, sewage, and toxic products.
5. Signs shall be posted where they are readily visible to all marina users describing regulations.
  - a. Pertaining to handling and disposal of waste, wastewater, toxic materials, and recycling;
  - b. Prohibiting the use of marine toilets (i.e., no untreated sewage discharge);
  - c. Describing best management practices (BMPs) for boat maintenance and repairs on site.
6. Refuse or litter receptacles shall be provided and maintained at several locations convenient to users in sufficient numbers to properly store all solid waste generated on site.
7. Marina docks shall be equipped with adequate lifesaving equipment such as life rings, hooks, and ropes.
8. Current best management practices to control environmental pollution shall be applied to boat construction, repair and maintenance activities and, where applicable, shall be made a condition to shoreline permits.
9. Mooring of floating homes shall be prohibited in marinas.

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**H. Regulations by Environment**

- 1. Marinas shall be permitted in the Urban Environment subject to Section 6.02, above, and the policies and regulations of this Master Program.
- 2. Marinas are prohibited in the Urban Residential and Natural Environments.
- 3. Marinas shall be permitted in the Aquatic Environment subject to Section 6.02, above, and the policies and regulations of this Master Program including but not limited to Section 3, above.

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**6.13 Mineral Extraction**

**A. Introduction**

Mineral extraction is the removal of naturally occurring materials from the earth for economic use. The Puget Sound region is rich in nonmetallic minerals including sand, gravel, clay, coal and various types of stone. The dollar value of these is comparatively high but the processes of extraction frequently result in erosion and siltation, water quality problems, degradation of fish and shellfish habitats and those of other bottom-dwelling marine animals. Removal of sand and gravel can deplete resources which may not be restored through natural processes.

**B. Policy**

Friday Harbor shorelines are used for, or are planned for conversion to uses, which are incompatible with mineral extraction.

**C. Regulation**

Mineral extraction is prohibited in all environment designations.

**6.14 Mooring buoys**

**A. Introduction**

A mooring buoy is a device which floats on the water and is attached to the bottom, and which is, or can be, used for holding a vessel in place.

**B. Policies**

- 1. Mooring buoys should be located only where they will not materially interfere with navigation.
- 2. Mooring buoys should be located and designed to minimize adverse impacts on the bedland and aquatic environments.
- 3. Mooring buoys should only be used for Water-Dependent Uses.

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**C. Regulations**

- 1. Mooring buoys shall be permitted only by conditional use permit with the condition that the permit expires no later than five (5) years from the date of issuance.

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2. Applicants for mooring buoys must first demonstrate that the use of an existing dock or pier would be infeasible.
3. Mooring buoys shall not be installed prior to the owner receiving a license or approval from DNR and DFW.
4. Mooring buoys shall not be located seaward of the Construction Limit Line. Where no Construction Limit Line exists, buoys shall be located at a distance specified by the Washington Department of Fish and Wildlife, the Washington Department of Natural Resources, and the U.S. Coast Guard to balance the goals of avoiding nearshore habitat and minimizing obstruction to navigation. Mooring buoys shall not be located in areas of intensive vessel traffic.
5. Mooring buoys shall not be located within 200 feet of the OHWM without the written consent of the upland property owner and vessels moored to mooring buoys shall not swing within 200 feet of OHWM without written consent of all affected upland property owners.
6. Buoys located within 200 feet of OHWM shall lie between preferential rights lines, as established by survey, extended beyond the shoreline. Vessels moored to the buoys shall not swing across the preferential rights lines without the written consent of the adjoining upland property owner.
7. Vessels moored to buoys shall not swing within fifty (50) feet of existing piers, docks, or floats.
8. Mooring buoys shall be used only for the mooring of vessels that are in navigable condition.

#### **D. Regulations by Environment**

1. Mooring buoys may be permitted offshore from the Urban and Urban Residential Environments as a conditional use and shall be subject to Section 6.02, above, and the provisions of Section 3, above.
2. Mooring buoys are prohibited offshore from the Natural Environment.

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### **6.15 Piers and docks**

#### **A. Introduction**

Piers and docks are structures extending from shore over the water, used for landing places or mooring for vessels. Piers are built as platforms above the water, while docks float on the water surface.

Piers and docks can be used for recreational or commercial purposes but not for residential purposes. Those containing more than 4 mooring spaces are considered marinas and are regulated only under Section 6.12, above.

Docks generally have less visual impact than piers but can alter sand movement and water circulation in areas where tides and littoral drift are significant. Piers do not obstruct sand movement and can provide diverse marine habitat. Both types can impede navigation, increase cluttered look of Friday Harbor, reduce usable water

surface area and increase local levels of pollutants (e.g., fuel, oil, heavy metals, organic wastes) associated with boat use. Pile driving for dock or pier construction can temporarily disrupt water quality and may, depending on location and time of construction, harm spawning areas.

### B. Policies

1. Piers and docks should be limited to the minimum length and size necessary to obtain adequate mooring depth at low tide.
2. Piers and docks should be designed to provide adequate navigational access to and from the proposed development and existing and future development on adjacent properties.
3. In evaluating applications for piers or docks, the capacity of the site to absorb effects of waste discharges and gas and oil spills should be considered.
4. Piers and docks should be constructed of non-toxic materials and grated to allow light transmission wherever possible.

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### C. Regulations

1. Piers and docks are allowed only for water-dependent uses or public access.
2. Piers and docks shall be restricted to the minimum size necessary to serve the proposed use.
3. Piers and docks shall be permitted only when specific need is demonstrated except for docks associated with a single-family residence that provides access to watercraft.
4. All shoreline permit applications for piers or docks shall be evaluated on the basis of multiple considerations, including but not limited to potential impacts on littoral drift, sand movement, water circulation and quality, fish and wildlife, navigation, scenic values and public access to the shoreline and the water.
5. All docks shall have stops to keep floats off the tidelands at low tide.
6. Piers and docks shall not extend seaward of the Construction Limit Line, as depicted on Attachment 1, or, where no such line exists, more than (two hundred) 200 feet seaward of the OHWM.
7. Piers and docks shall be limited in size to not more than 120 lineal feet as measured around the perimeter of that portion located seaward of the minus four (-4) foot line as measured at MLLW.
8. Pier and dock moorings shall be designed to:
  - ~~1-a.~~ Maintain a minimum setback of thirty (30) feet from the preferential rights line as established by survey; and
  - ~~2-b.~~ Maintain a minimum setback of fifty (50) feet from existing development in the aquatic environment; and

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~~3.c.~~ Provide access to every mooring slip by a fairway that has a width that equals or exceeds 1 ½ times the length of that slip.

9. Mooring of floating homes shall be prohibited at piers and docks.

10. Docks and Piers shall be constructed of non-toxic materials and shall be grated to provide light transmission.

**D. Regulations by Environment**

~~A.1.~~ Piers and docks shall be permitted in the Urban Environment subject to Section 6.02, above, and the policies and regulations of this Master Program.

~~B.2.~~ Piers and docks used only for recreational purposes shall be permitted in the Urban Residential Environment(s) subject to Section 6.02, above, and the policies and regulations of this Master Program.

~~C.3.~~ Piers and docks are prohibited in the Natural Environment.

~~D.4.~~ Piers and docks are permitted in the Aquatic Environment subject to Section 6.02, above, and the policies and regulations of this Master Program including but not limited to Section 3, above.

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**6.16 Ports and Water-Dependent Industry**

**A. Introduction**

Ports are public harbor areas, properly formed under 53.04 RCW, which provide facilities and services for waterborne commerce. The Port of Friday Harbor owns all but two parcels of land in the downtown core waterfront and manages the adjoining harbor area under a DNR Port Management Agreement. The Port provides marina facilities, fuel facilities, office and retail space, the waterfront park and significant public access.

As centers of waterborne traffic, ports attract various commercial activities. Many do not require a water location and can congest the shoreline and preempt uses which do require waterfront locations.

The principal effects on shorelines and the water from port development are the introduction of pollutants, erosion, alteration of natural habitats, aesthetic effects, increased traffic volumes, and changes to circulation patterns. Intensive use associated with ports may also result in indirect impacts on public services and safety. Activities, including but not limited to, marinas, dredging, landfill, bulkheads, utilities, and piers and docks are subject to the policies and regulations for those use categories.

**B. Policies**

~~A.1.~~ Proposed port developments should be consistent with an adopted, long-range port development plan.

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~~B.2.~~ Port docks and facilities should be designed to minimize cumulative impacts on other Water-Oriented Uses and to achieve no net loss of the functions and values of shoreline resources.

~~C.3.~~ Port development decisions should be based on community needs and should be consistent with Port and Town Comprehensive plans.

~~D.4.~~ Non-Water Dependent industries should not be permitted in the Local Shoreline.

~~E.5.~~ Cooperative, multiple use of docking, cargo handling, storage, and parking facilities should be encouraged.

~~F.6.~~ New and or expanded port facilities should include public access to the Local Shoreline.

### C. Regulations

~~A.1.~~ All proposed port development activities shall be consistent with an adopted comprehensive port development plan.

~~B.2.~~ Seaplane bases shall be located in a manner that will minimize adverse impacts on the human and natural environments.

~~C.3.~~ Development which is not Water-Oriented is prohibited within the Local Shoreline.

~~D.4.~~ Marinas, utilities, roads, parking areas, docks and other facilities which are installed or constructed to serve the Port shall be subject to the appropriate sections of this Master Program.

~~E.5.~~ Physical and visual public access to the water and shoreline shall be provided in new port developments, except that access shall not be required in port areas where public safety would be endangered or port operations would be prevented by public access.

~~F.6.~~ New port development shall be set back at least 25 feet landward of the OHWM to protect water quality, minimize erosion and provide a visual buffer between the bank and structures; provided that, this shall not apply to new developments which require location over the water.

~~G.7.~~ Parking associated with ports and water-dependent industry shall be subject to the policies and regulations of Section 6.02, above, and 6.20, below.

### D. Regulations by Environment

1. Ports and water-dependent industry shall be permitted in the Urban Environment subject Section 6.02, above, and to the policies and regulations of this Master Program.

2. Ports and water-dependent industry are prohibited in the Urban Residential and Natural Environments.

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3. Ports and water-dependent industry shall be permitted in the Aquatic Environment subject to Section 6.02, above, and the policies and regulations of this Master Program including but not limited to Section 3, above.

## **6.17 Recreation**

### **A. Introduction**

Recreational developments that depend on or use the water or the shorelines include various boating activities, swimming, fishing, viewing of water-dependent commercial and port activities, walkways and parks. Parking areas for recreational developments are subject to Sections 6.02, above, and 6.20, below. Piers and docks and marinas are separate land use categories with policies and regulations in other sections of this Master Program.

Impacts associated with recreational developments depend on the intensity and variety of uses, type and scale of construction and sensitivity of the site.

### **B. Policies**

1. Preference should be given to developments which provide for recreational activities and improvements facilitating public access to the Local Shoreline.
2. A variety of water-oriented recreational activities should be encouraged to locate on shorelines to satisfy diverse needs and interests of residents and visitors.
3. Linkages, such as sidewalks, walking and/or bicycle paths, between shoreline recreational and public access areas should be provided.
4. Recreational developments should be located, designed and operated to be compatible with adjacent uses and to achieve no net loss of ecological functions and values and minimize cumulative impacts on aesthetic qualities of the Local Shoreline.
5. Recreational developments should be designed to preserve or create open space and public shoreline views, consistent with this Master Program.

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### **C. Regulations**

1. The Town may adjust or require changes to project dimensions, use intensity, parking provisions or landscaping in approving recreational developments, to ensure that public shoreline views and ecological qualities of the site are protected.
2. In efforts to meet recreational demands of visitors, the Town shall seek to protect the rights and property of residents from adverse impacts.
3. Safe pedestrian walkways shall be provided between parking areas and recreational facilities they serve.
4. Recreational development shall be permitted only where adequate water supply, sewage disposal, solid waste disposal and parking can be assured.

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5. Recreational facilities which normally require the use of large quantities of chemical fertilizers and herbicides, such as playing fields, shall not be located over water or in shoreline areas, unless adequate provisions can be made for protection of water areas from drainage and surface runoff.
6. Shoreline permit applications for recreational development shall include a parking and landscaping plan.

#### **D. Regulations by Environment**

1. Recreational development shall be permitted in the Urban and Urban Residential Environments subject to Section 6.02, above, and the policies and regulations of this Master Program.
2. Recreational development of a nature and intensity consistent with the purpose and management policies of the Natural Environment shall be permitted subject to Section 6.02, above, and the policies and regulations of this Master Program; provided that, roads, parking areas, restrooms and other facilities shall not be located within 200 feet of the OHWM. Use of chemical fertilizers, pesticides and herbicides shall not be permitted. Any permitted landscaping shall consist solely of native vegetation.
3. Recreational development shall be permitted in the Aquatic Environment subject to Section 6.02, above, and the policies and regulations of this Master Program including but not limited to Section 3, above.

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### **6.18 Residential Development**

#### **A. Introduction**

Residential development means one or more buildings or portions of buildings, short plats, or subdivisions, designed and/or used for dwellings. Residential development includes single-family and multifamily dwellings together with common appurtenances to residential uses such as driveways, utilities, garages, small sheds, and fences. Floating homes are considered residential development but mooring of live-aboard vessels and houseboats is not. Residential development also does not include hotels, motels, camping facilities, or recreational vehicle parks.

Landfills, bulkheads, utilities and docks associated with residential development are subject to policies and regulations for those use categories. Parking areas for developments other than detached, single-family units are subject to Sections 6.02(D), above.

The primary impacts from residential development are aesthetic effects, view blockage, associated impacts from intensified human activities, increased surface water runoff, erosion and effects on traffic volumes and circulation patterns. Multifamily development generally involves more land area and more intensive use and impact than individual single-family developments.

## B. Policies

1. Residential development is not a Water-Dependent Use and should not be permitted to locate over the water, provided that mooring of liveaboard boats and houseboats should not be considered residential development, but shall be subject to Section 5.05, above.
2. The scenic qualities of the shoreline and the water should be considered in every application for residential development.
3. To protect the scenic qualities, all structures should be located where they will blend into their surroundings as much as possible.
4. Residential development should not be permitted on shorelines where bulkheading or other structural fortification would be necessary at the time of construction or in the foreseeable future to protect the development.
5. New residential development should occur where residential uses already exist which are consistent with the provisions of the Master Program.
6. New residential development or redevelopment should restrict the need to use pesticides, herbicides, and fertilizers to the maximum extent possible.
7. New residential development or redevelopment resulting in impervious surfaces greater than one ERU should be subject to the large parcel stormwater management regulations as specified in the Town's Stormwater Technical Manual.

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## C. Regulations

1. New and or expanded residential development shall be located and designed to preclude the need for shoreline stabilization structures at the time of construction or in the foreseeable future.
2. Multi-family residential development which will require bulkheads or other structural fortification at the time of construction or in the foreseeable future is prohibited.
3. Single-family residences and appurtenant structures sited in the Shoreline Residential 1 designation shall be located at least 25 feet landward of the OHWM. Multi-family development, sited in the Shoreline Residential 1 designation shall be located at least 25 feet landward of OHWM and the public access requirements as set forth the in Section 6.02(B) above, shall apply.
4. Single-family residences and appurtenant structures sited in the Shoreline Residential 2 designation shall be located at least 50 feet landward of the OHWM. Multi-family development sited in Shoreline Residential 2 designation shall be located at least 50 feet landward of OHWM and the public access requirements as set forth in Section 6.02(B) above, shall apply.
5. Residential development and accessory uses shall also meet standards provided in other appropriate Town ordinances.
6. Residential and appurtenant structures which will exceed the physical capability of the site to absorb impacts of development or which will significantly and adversely alter aesthetic qualities of the site shall not be approved.

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7. Creation of landfills in water bodies for the purpose of residential development is prohibited.
8. Appurtenant uses shall be designed and located to be compatible with adjacent uses and to avoid obstruction of water and shoreline views from neighboring properties.
9. Barriers, signs or impediments to public access of publicly owned tidelands shall not be allowed.
10. New residential development or redevelopment shall restrict the need to use pesticides, herbicides, and fertilizers to the maximum extent possible.
11. New residential development or redevelopment resulting in impervious surfaces greater than one ERU shall be subject to the large parcel stormwater management regulations as specified in the Towns Stormwater Technical Manual.

#### **D. Regulations by Environment**

1. Residential development shall be permitted in the Urban and Urban Residential Environments subject to Section 6.02, above, and the policies and regulations of this Master Program.
2. Residential development is prohibited in the Natural and Aquatic Environments.

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### **6.19 Signs**

#### **A. Introduction**

The effects of signs may be pleasing or distracting depending on their number, location and design. Proliferation of signs can reduce effectiveness of individual signs, and make traffic control signs and signals less visible. Uncontrolled use of signs can degrade property values and detract from the natural beauty and enjoyment of the shoreline.

#### **B. Policy**

Local Shorelines should be kept free of all unnecessary signs.

#### **C. Regulation**

All signs shall be subject to the provisions of Title 14 FHMC.

#### **D. Regulations by Environment**

1. Signs and outdoor advertising shall be permitted in the Urban and Urban Residential Environments subject to Section 6.02, above, and the policies and regulations of this Master Program.
2. Signs and outdoor advertising are prohibited in the Natural Environment, except except official warning signs or signs required by law.
3. Signs and outdoor advertising shall be permitted in the Aquatic Environment subject to Section 6.02, above, and in accordance with Section 3, above, and only

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in conjunction with Water-Dependent Uses, and only if they cannot be located effectively on land.

**6.20 Transportation Facilities**

**A. Introduction**

Transportation facilities that provide service to the general public and depend on or serve Friday Harbor shorelines include roads, paths, ferry terminal facilities, sea plane operations and public and private parking areas. Excluded are port, marina and other mooring developments, regulated by other sections of this Master Program. Airports are also excluded as they are infeasible and impractical for development on Town shorelines.

The impact of existing roads, ferry and parking facilities, and seaplane operations has been substantial. Many were constructed with little assessment of effects on aesthetics, public shoreline access and water quality. Planning for new facilities requires more awareness of their relationships to other shoreline uses and of the impacts of their construction and use.

**B. Policies**

~~5-1.~~ Transportation facilities should not be located over water or on shorelines if they could feasibly and practically be located elsewhere.

~~6-2.~~ When transportation facilities are located over water or on shorelines, they should be designed and constructed to minimize their impacts on shoreline resources, natural systems, and critical habitats.

~~7-3.~~ Old roads, rights-of-way and other facilities that provide public shoreline views or access to the water should be retained in public ownership and kept open whenever possible.

~~8-4.~~ Transportation facilities and utilities should be installed in the same rights-of-way when the effect will be to reduce cumulative impacts of installation on shorelines.

~~9-5.~~ Airport facilities other than for seaplanes should not be located on shorelines.

~~10-6.~~ Trails and bicycle routes along shorelines should be provided.

**C. Regulations**

~~10-1.~~ New arterial or collector roads shall be located outside the shoreline area if an upland location is feasible and practical.

~~11-2.~~ New transportation facilities shall be located and designed to minimize need for landfill, vegetation removal, bank stabilization and grading.

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- 42.3. Airport facilities other than for seaplanes shall not be located on shorelines.
- 43.4. Cut and fill slopes shall be stabilized and, where appropriate, planted with native vegetation.
- 44.5. Roadside brush shall be controlled by mechanical rather than chemical means.
- 45.6. Provisions for pedestrian access, where appropriate, shall be included in new public transportation facilities to and along the shoreline.

**D. Regulations by Environment**

- 1. Transportation facilities shall be permitted in the Urban and Urban Residential Environments subject to Section 6.02, above, and the policies and regulations of this Master Program.
- 2. Transportation facilities are prohibited in the Natural Environment.
- 3. Only ferry, seaplane and port terminal facilities, where shoreline crossings are essential, shall be permitted in the Aquatic Environment, subject to Section 6.02, above, and the policies and regulations of this Master Program including but not limited to Section 3, above.

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**6.21 Utilities**

**A. Introduction**

Utilities are services and facilities that produce, store, transmit or process electrical power, gas, water, sewage, oil or communications. Utility development includes installation of pipes or wires, structures and utilities apparatus. Disruption to soil and vegetation are the primary effects of installations on shorelines. In water areas, dredging or trenching temporarily affects aquatic life by removal or by suspension of sediments. Visual impacts may result from clearing rights-of-way, placement of structures and design and location of signs.

**B. Policies**

- a.1. Utilities and transportation facilities should be installed in the same rights-of-way when the effect will be to reduce cumulative impacts on the shoreline.
- b.2. Disturbance of the shoreline resulting from installation and/or maintenance of utilities should be minimized.
- e.3. New utility facilities should be located underground to prevent cumulative impacts on public shoreline views, consistent with this Master Program.

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**C. Regulations**

- 1. Utilities and transportation facilities shall be installed in the same rights-of-way when the effect will be to reduce cumulative impacts on the shoreline.
- 2. Immediately upon completion of utilities installation or maintenance projects, shoreline areas disturbed shall be restored to pre-project configurations, replanted

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with local vegetation and the vegetation maintained until it is firmly established, pursuant to section 6.02(G) of this ordinance.

3. Utility lines, pipes, stations, plants and other apparatus shall not be installed in shoreline areas unless there is no feasible alternative.
4. Utility lines shall be installed underground.
5. Underwater cables which must cross shorelines shall be installed underground from the MLLW mark to at least fifteen feet landward of the OHWM.
6. Where utility installation in shoreline areas is approved, clearing shall be confined to the minimum necessary for installation and to prevent interference with operation by vegetation.
7. Where utility lines or similar apparatus must cross shorelines they shall be located within the route which will cause the least ecological and aesthetic damage to the shoreline.

**D. Regulations by Environment**

1. Utility development shall be permitted in the Urban and Urban Residential Environments subject to Section 6.02, above, and the policies and regulations of this Master Program.
2. Utility development shall be permitted in the Natural and Aquatic Environments, subject to Section 6.02, above, and the policies and regulations of this Master Program including but not limited to Section 3, above, only if no feasible alternative exists and if the facilities are installed underground.

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**6.22 Environments – Uses Summary and Comparison Diagram**

USES	URBAN	URBAN RESIDENTIAL	NATURAL	AQUATIC
Agriculture	N	Y	N	N
Aquaculture	C	C	N	C
Breakwaters	N/Y	N/Y	N	C/S
Bulkheads	Y	Y	N	N
Commercial Development	Y/S	N	N	Y/S
Dredging	C	C	N	C
Forest Management	C	C	C	N
Jetties and Groins	C	C	N	C/S

Landfills	Y/S	Y/S	N	C/S
Marinas	Y	N	N	YS
Mineral Extraction	N	N	N	N
Mooring Buoys	C/S	C/S	N	C/S
Piers and docks	Y	Y/S	N	Y/S
Ports	Y	N	N	Y
Recreation	Y	Y	Y/S	Y
Residential Development	Y	Y	N	N
Signs	Y	Y	N	Y/S
Transportation Facilities	Y	Y	N	Y/S
Utilities	Y	Y	Y/S	Y/S

#### LEGEND

Y (Yes) Use permitted in the specified environment subject to the policies and regulations contained in Master Program.

N (No) Use prohibited in the specified environment.

C (Conditional) Use permitted as a conditional use in the specified environment.

S (Special) See use regulations for special circumstances.

### SECTION 7. VARIANCES

#### 7.01 General

The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in this Master Program where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this Master Program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

In all instances extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

An applicant for a variance must show that if he or she complies with these regulations he or she cannot make reasonable use of his or her property. The fact that he or she might make a greater profit by using his or her property in a manner contrary to the intent of this Master Program is not sufficient reason for granting a variance.

#### 7.02 Authority

The Town Council shall have the authority to issue variances from the standards of this Master Program.

**7.03 Criteria**

**A. On Shorelands**

Variance permits for development that will be located landward of the OHWM, except within those areas designated by the Department as wetlands pursuant to Chapter 173.22 WAC, may be authorized provided the applicant can demonstrate all of the following:

1. That the strict application of the bulk, dimensional or performance standards set forth in the applicable Master Program precludes or significantly interferes with a reasonable use of the property not otherwise prohibited by the Master Program;
2. That the hardship described in Sub-Section 7.03(1)(a) above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the Master Program, and not, for example, from deed restrictions or the applicant's own actions;
3. That the design of the project is compatible with other permitted and planned activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment;
4. That the requested variance does not constitute a grant of special privilege not enjoyed by the other properties in the area, and is the minimum necessary to afford relief; and
5. That the public interest will suffer no substantial detrimental effect.

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**B. Over Water**

Variance permits for development that will be located either waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030(2)(b), or within wetlands as designated by the Department under Chapter 173.22 WAC, may be authorized provided the applicant can demonstrate all of the following:

1. That the strict application of the bulk, dimensional or performance standards set forth in the applicable Master Program precludes all reasonable use of the property not otherwise prohibited by the Master Program;
2. That the proposal is consistent with the criteria established under (A)(2) through (A)(5) of this Section; and
3. That the public rights of navigation and use of the shorelines will not be adversely affected.

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**7.04 Cumulative Impacts and No Net Loss**

In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area and analysis shall demonstrate that there will be no net loss of ecological functions and values from the cumulative impacts of variance permits. For example, if variances were granted to other

developments in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not create further cumulative impacts to the shoreline environment.

### **7.05 Procedure**

Applications for variances shall be made in a form prescribed by the Shoreline Administrator. Application, notice and Town review procedures shall be identical to those required for substantial development permits. If a variance application is directly related to a project for which a Substantial Development Permit is required the two shall be treated as one application and all notices shall identify the nature of the variance requested.

### **7.06 Department Review**

Variance permits issued pursuant to this Section shall be subject to review by the Department of Ecology as required by RCW 90.58.140(10).

### **7.07 Variances From Uses**

Variances from the use regulations of the master program are prohibited.

### **7.08 Relationship to Other Local Regulations**

Variances granted from the provisions of other local regulations shall not be construed to constitute variances from the provisions of this Master Program.

## **SECTION 8. CONDITIONAL USES**

### **8.01 General**

The purpose of a conditional use permit is to allow greater flexibility in varying the application of the use regulations of this Master Program in a manner consistent with the policies of RCW 90.58.020: Provided, that conditional use permits should also be granted in a circumstance where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit to prevent undesirable effects of the proposed use.

### **8.02 Authority**

#### **A. Permitted**

The Town Council shall have the authority to issue conditional use permits in the following cases:

1. Uses expressly classified as conditional uses in the provisions of this Master Program;
2. Uses not classified or set forth in this Master Program;
3. A change of use from a permitted use to a conditional use.

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**B. Prohibited**

Uses which are specifically prohibited by this Master Program may not be authorized by conditional use permit.

**8.03 Criteria**

**A. Classified Uses**

Uses which are expressly classified as conditional uses in this Master Program shall be approved only when the applicant can demonstrate that all of the following criteria are met:

1. That the proposed use is consistent with the policies of RCW 90.58.020 and the policies of this Master Program; and
2. That the proposed use will not interfere with the normal public use of public shorelines or water; and
3. That the proposed use of the site and design of the project is compatible with other permitted uses within the area; and
4. That the proposed use will cause no adverse effects to the shoreline environment in which it is to be located; and
5. That the public interest suffers no substantial detrimental effect.

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**B. Unclassified Uses**

With respect to uses which are not expressly classified or set forth in this Master Program as conditional uses, the applicant must demonstrate, in addition to the criteria set forth in Sub-Section 8.03(A) above, that extraordinary circumstances preclude reasonable use of the property in a manner consistent with the use regulations of this Master Program.

**8.04 Cumulative Impacts and No Net Loss**

In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area and analysis shall demonstrate that there will be no net loss of ecological functions and values from the cumulative impacts of conditional use permits. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not create further cumulative impacts to the shoreline environment.

**8.05 Procedure**

Applications for conditional uses shall be made in a form prescribed by the Shoreline Administrator. Notice and Town review procedures for conditional use permit applications shall be identical to those required for standard shoreline permit applications.

**8.06 Department Review**

Conditional use permits issued pursuant to this Section shall be subject to review by the Department of Ecology as required by RCW 90.58.140(10).

**8.07 Relationship to Other Local Regulations**

Approval of conditional uses granted under other local regulations shall not be construed to constitute approval of a shoreline conditional use.

**SECTION 9. REVISIONS TO PERMITS**

**9.01 General**

A permit revision is required whenever a permit holder proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. No change shall be made until the Shoreline Administrator has first determined if the proposed change is substantive. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, this Master Program or the policies and provisions of the Act.

**9.02 Authority**

The Shoreline Administrator shall have the authority to issue permit revisions.

**9.03 Criteria**

**A. Scope and Intent**

Applications for revisions shall only be approved if the proposed changes are within the scope and intent of the original permit and are consistent with this Master Program and the Act. For purposes of this Section, "within the scope and intent of the original permit" means all of the following:

- A-1. No additional over water construction is involved, except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from provisions of the original permit, whichever is less; and
- B-2. Ground area coverage and height of each structure may be increased a maximum of ten percent (10%) from the provisions of the original permit; and

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~~G-3.~~ The revised permit does not authorize development to exceed height, lot coverage, setback, or any other under requirements of the Master Program; except as authorized under a variance granted as the original permit or a part thereof; and

~~D-4.~~ Additional landscaping is consistent with conditions attached to the original permit and with the Master Program and

~~E-5.~~ The use authorized pursuant to the original permit is not changed; and

~~F-6.~~ No adverse environmental impacts will be caused by the project revision; and

~~G-7.~~ That all the original permit conditions and improvements have been met; and

~~H-8.~~ That the permit has not expired.

#### **B. Time Limitation**

Revisions to permits may be authorized after original permit authorization has expired under RCW 90.58.143. The purpose of such revisions shall be limited to authorization of changes which are consistent with this section and which would not require a permit for the development or change proposed under the terms of chapter 90.58 RCW, this regulation and the local master program. If the proposed change constitutes substantial development then a new permit is required. Provided, this subsection shall not be used to extend the time requirements or to authorize substantial development beyond the time limits of the original permit.

#### **C. Cumulative Impacts**

If the sum of the revision and any previously approved revisions would violate the provisions of Sub-Section 9.03(A) above, no revision may be issued. In such cases, the proposed changes require a new permit.

#### **9.04 Procedure**

Within eight (8) days of the final Town action, the revision including the revised site plan, text and final ruling on consistency with the Section shall be filed with the Department. In addition the Town shall notify parties of record of its action.

If the revision would alter or in any way affect a shoreline, a conditional use or variance which has been issued for the property, the Town shall submit the revision to the Department for the Department's approval, approval with conditions, or denial. The revision shall indicate that it is being submitted under the requirements of WAC 173-27-100(6). The Department shall render and transmit to the Town and the applicant its final decision within fifteen (15) days of the date of the Department's receipt of the submittal. The Town shall notify parties of record of the Department's final decision.

#### **9.05 Effective Date**

The revised permit shall become effective immediately upon final action by the Town or, when appropriate under section 9.04 above, by the Department.

#### **9.06 Appeals**

Appeals shall be in accordance with RCW 90.58.180 and shall be filed within twenty one (21) days from the date of receipt of the Town's action by the Department or, when appropriate under Section 9.04 above, the date the Department's final decision is transmitted to the Town and the applicant. Appeals shall be based only upon contentions of noncompliance with the provisions of Section 9.03 above.

Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit is at the applicants own risk until the expiration of the appeals deadline. If an appeal is successful in proving that a revision is not within the scope and intent of the original permit, the decision shall have no bearing on the original permit.

**SECTION 10. NON-CONFORMING USES**

**10.01 General**

Nonconforming uses and nonconforming structures which were lawfully established or constructed prior to the effective date of this Master Program and amendments hereto, but which do not conform to present regulations, standards and policies may continue in accordance with the following sections.

**10.02 Nonconforming Use of Land**

A nonconforming use of land may be continued provided that:

- ~~1~~.A. The use is not enlarged, increased, or extended to occupy a greater area of land than was occupied on the date the use became nonconforming; and
- ~~2~~.B. If the use is superseded by a conforming use, the nonconforming use may not thereafter be resumed; and
- ~~3~~.C. If the use ceases for a period of more than 12 months, the subsequent use of the land shall be conforming.

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**10.03 Nonconforming Structure**

A nonconforming structure may remain and be used provided that;

- ~~1~~.A. The structure is not enlarged or altered so as to increase its nonconformity;
- ~~2~~.B. If damaged, it is reconstructed only to pre-existing size and height; and
- ~~3~~.C. If moved, it is made to conform to the regulations of this Master Program.

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**10.04 Nonconforming Use of Structure**

A nonconforming use of a structure may be continued provided that;

- A. The structure is not enlarged or extended;
- B. If the use is superseded by a conforming use, the nonconforming use may not thereafter be resumed; and

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- | C. If the use ceases for a period of more than 12 months, the subsequent use of the structure shall be conforming.

## **SECTION 11. ADMINISTRATION**

### **11.01 General**

All proposed uses and development occurring within the shoreline jurisdiction must conform to Chapter 90.58, RCW, Chapter 173-27, WAC, and Title 20, FHMC, or as amended, whether or not a permit is required.

### **11.02 State Environmental Policy Act Compliance**

Proposals for shoreline developments which are not categorically exempt from review requirements of the State Environmental Policy Act (SEPA), as provided in WAC 197-11-305, shall be subject to Chapter 43.21C RCW, Chapter 197-11 WAC, and Title 18 FHMC, or as amended.

### **11.03 Application Fees**

The nonrefundable application fee for all shoreline use permits governed by this Ordinance shall be reviewed annually by the Town Council who shall direct the Town Clerk to adjust the fee appropriately and post the Fee Schedule in a conspicuous place within Town Hall and make the Fee Schedule available to the public upon request.

## **SECTION 12. ENFORCEMENT AND PENALTIES**

### **12.01 General**

Use or occupancy of any land, building or structure in violation of any provision of this Title shall be and hereby is declared both a public nuisance and a Class I civil infraction, as defined in Title 1, FHMC. Each day that a violation of this Title exists may be treated as a separate infraction. In addition a violation of the provisions of this Title shall be and hereby is declared subject to the provisions of RCW 90.58.210 through .230 and Chapter 173-27, WAC.

Except in circumstances where there is a serious and imminent threat to public health or safety, prior to filing a public nuisance abatement action in San Juan County Superior Court, the Town shall attempt to gain compliance by use of the civil infraction procedures set forth in Title 1, FHMC.

The penalty for committing a civil infraction under this Title shall be as set forth in Title 1, FHMC.

## **SECTION 13. DEFINITIONS**

### 13.01 General

For the purpose of this Ordinance, the terms set out in this Section shall have the meanings indicated. Unless stated to the contrary, the definitions contained in WAC 173-26-020, or as amended, shall also apply.

"Act" means the Shoreline Management Act of 1971, Chapter 90.58, RCW, as amended from time to time.

"Average grade level" means the average of the natural or existing topography of the portion of the lot, parcel or tract of real property which will be directly under the proposed building or structure; provided, that in the case of structures to be built over water, the average grade level shall be the elevation of ordinary high water.

"Buffer" – The area immediately adjacent to critical areas that protects these sensitive areas and provides essential habitat elements for fish and/or wildlife.

"Buffer Setback" means the area outside of and immediately adjacent to the protective buffer described above.

"Construction Limit Line" means the line identified as that on the Town of Friday Harbor Designated Shoreline Environments Map.

"Council" means the Town Council of Friday Harbor.

"Critical Habitat" means habitats for threatened, endangered, or listed species as designated by the appropriate federal, state or local agency.

"Cumulative impact" means the incremental, unmitigated, degradation of the functions and values of the shoreline from upland and water based development and use.

"DBH" means Diameter at Breast Height.

"Department" means the Washington State Department of Ecology

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

"Fairway" means a navigable part of a river or bay through which boats enter or depart: a part of a harbor or channel that is kept open and unobstructed.

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

"Floating home" means a structure designed substantially as a permanently located structure by means of permanent utilities, anchoring design, and lack of adequate self-propulsion to operate as a vessel.

"Fill" means the addition of soil, sand, rock, gravel, sediment, earth-retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the ground elevation or creates dry land.

"Habitat" means the place or type of site in which a plant or animal naturally or normally lives and grows.

"Height" is a measure from average grade level to the highest point of a structure: Provided that television antennas, chimneys and similar appurtenances shall not be used in calculating height, except where it obstructs the view of the Local Shoreline from a substantial number of residences.

"Houseboat" means a vessel used as a residence but designed substantially as a mobile structure by means of detachable self contained utilities or facilities, anchoring, and the presence of adequate self-propulsion to operate as a vessel.

"Littoral drift" (or longshore drift) means the natural movement of sediments along shorelines as a result of wave and wind action.

"Live-aboard vessel" means a vessel on which one(1) or more people live for more than ninety (90) days, whether consecutive or not, in any calendar year.

"Local Shoreline" means the Shorelands located within the Town of Friday Harbor and all of the salt water areas lying within the Town's jurisdiction.

"Mean lower low water" or "MLLW" means the 0.0 tidal elevation. It is determined by averaging each days' lowest tide at a particular location over a period of nineteen years. It is the tidal datum for vertical tidal references in the saltwater area.

"Mooring space" means thirty (30) lineal feet of dock space located entirely seaward of the minus four (-4) foot line at MLLW.

"Natural system" means a group of related objects and/or forces existing in nature.

"Nonconforming structure" means a structure which was lawfully designed and constructed prior to adoption of this Master Program, but which does not conform to the provisions of this Master Program.

"Nonconforming use" means a use which lawfully occupied a building, structure, or parcel of land prior to adoption of this Master Program, but which does not conform to the provisions of this Master Program.

"Ordinary high water mark" (OHWM) means the mark on all tidal water which will be found by examining the banks and determining where the presence and action of water are so common and usual and so long continued in all ordinary years, as to mark on the soil a character distinct from that of the abutting upland in respect to vegetation, as it existed on the effective date of the Act or as it may have changed naturally thereafter, or as it may have changed thereafter in accordance with permits issued by the Town or the Department of Ecology. In any location where the ordinary high water mark cannot be found, OHWM shall be the line of mean higher high tide.

"Public access" is an unobstructed access available to the general public to enjoy the Local Shoreline. Primary public access is a means of physical approach to and along the water's edge. Views to the water are considered a secondary type of public access.

Public access may combine visual and physical elements in a variety of ways and generally means access without charge or cost to the public. Whenever public access is made available only in exchange for payment of some cost or charge, whether direct or indirect, it shall not be deemed to satisfy the public access requirements of this Program unless, under all of the circumstances, it is clear that large numbers of the public will be likely to enjoy the access on a regular basis at a cost that would not be unreasonable, or prohibitive to any segment of the public.

"Public Shoreline View" means a view of the Local Shoreline and all saltwater and all territorial views beyond the salt water, or any significant portion thereof, which is consistently available to general members of the public from any street, park, or other publicly owned area, or any such view that is consistently available to substantial numbers of people from privately owned property that is open to use by general members of the public on a regular basis.

"Sedimentation" means the process by which material is transported and deposited by water or wind.

"Shorelands" means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark.

"Shoreline Administrator" means the Administrator of the Town of Friday Harbor or his or her designated representative.

"Shorelines" means all the water areas of the State and underlying land, including associated shorelands, except Shorelines of Statewide Significance.

"Shorelines of Statewide Significance" means those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt water north to the Canadian line and lying seaward from the line of extreme low tide.

"Shoreline permit" means a substantial development permit, conditional use permit, variance permit, or any combination thereof.

"Shoreline setback" means the distance landward from the ordinary high water mark that development, shoreline modifications and uses are required to be located as established in each shoreline environment.

"Slip" means the developed space, in the aquatic environment, occupied or capable of being occupied by one vessel, regardless of length.

"Substantial development" means any development of which the total cost or fair market value, whichever is higher, exceeds \$5,718, or any development which materially interferes with normal public use of the water or shorelines of the state, except as provided in Section 2.06, above.

"Vessel" means a ship, boat, barge, or any other floating craft which is designed and used for navigation and which does not interfere with the normal public use of the water .

"Water-Dependent Use" means a use that is dependent on the water due to the intrinsic nature of its operation and which cannot function other than in a waterfront location. Examples include, but are not limited to, ferry terminals; boat construction, repair and

maintenance; marinas and other moorings; tug and barge operations; waterfront parks and fishing piers.

"Water-Enjoyment Use" means a recreational use such as a park, pier, or other use facilitating public access as a primary character of the use; or, a use that provides for passive and active interaction of a large number of people with the water or shoreline for leisure and enjoyment as a general character of the use and which, through location, design and operation assure the public's ability to interact with the water or shoreline. In order to qualify as a Water-Enjoyment Use, the use must be open to the public and most if not all of the water or shoreline oriented space in the facility must be devoted to the specific aspects of the use that foster shoreline or water interaction. Water-Enjoyment Uses may include, but are not limited to, restaurants, museums, aquariums, scientific/ecological reserves, resorts, and mixed use commercial provided that such use conforms to the above requirements and provisions of the Master Program.

"Waterfront" means those portions of the shoreline area that are not separated from the water by a public street or road.

"Water-Oriented Use" means any one or a combination of water-dependent , water-related or Water-Enjoyment Uses.

"Water-Related Use" means a use that is not intrinsically dependent on a shoreline location but whose economic viability is dependent upon a shoreline location because of a functional requirement for a shoreline location, such as the arrival or shipment of materials by water, or because the use provides a necessary service supportive of a Water Dependent commercial activity. Examples include, but are not limited to, marine electronics, plumbing and other marine repair services; boat rigging and outfitting services; and marina, port and boat rental offices.

#### **SECTION 14. SEVERABILITY**

If any provision of this Master Program, or its application to any person, is held invalid, the remainder of this Master Program and the application of said provision to any other person shall remain valid unless otherwise decreed by law.

#### **SECTION 15. REPEALER**

Ordinances No. 1137 is hereby repealed in its entirety.

#### **SECTION 16. EFFECTIVE DATE**

This Master Program shall be effective immediately upon final approval by the Department of Ecology, as provided in RCW 90.58.090, and upon publication as required by state law.

ADOPTED this \_\_\_\_ day of \_\_\_\_ 2013.

TOWN OF FRIDAY HARBOR

Ordinance No.\_\_\_\_

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Carrie Lacher, Mayor

SEAL of the  
Town of Friday Harbor  
ATTEST:

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Amy Taylor, Town Clerk