



KITSAP COUNTY SHORELINE MASTER PROGRAM

PERIODIC REVIEW 2020-2021



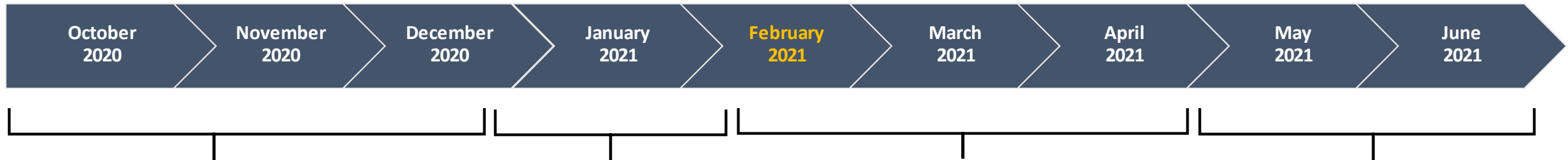
Planning Commission Briefing

February 2, 2021 | 5:30 – 6:30 PM

Zoom Webinar

Kirvie Mesebeluu-Yobech, DCD Planner

Periodic Review Timeline



Phase 1 - Project Development and Initiate Public Participation

- Develop Public Participation Plan
- Draft Consistency Analysis
- Develop scope of code amendments
- Board of County Commissioners review scope of code amendments
- Submit checklist and scope of code amendments to Ecology
- Begin monthly project updates
- Online Open House Kick-Off

Phase 2 - Develop Code Updates

- Draft code amendments
- Study session with Planning Commission and Board of County Commissioners
- Engage with key partners and interested parties
- Online open house refresh with draft code amendments

Phase 3 - Review and Analysis

- *Joint Kitsap County Planning Commission and State Department of Ecology public hearing and comment period*
- State Environmental Policy Act (SEPA) review
- Engage with key partners and interested parties
- Department responds to public comments

Phase 4 – Adoption

- Submit draft amendments and checklist to Ecology for review
- Revise documents as needed
- *Board of County Commissioners public hearing and comment period*
- Department responds to public comments
- Board of County Commissioners review and adoption
- Submit final draft and checklist to Ecology for final determination

Joint Public Hearing and Comment Period: Kitsap County Planning Commission and State Department of Ecology

Public Comment Period (30 days): **February 2 – March 3**
Public Hearing: **March 2, 2021**

Date	Activity
February 2	Public Comment Period Opens First study session with Planning Commission
February 16	Second study session with Planning Commission
February 18	February Monthly Project Update and Virtual Open House Refresh
March 2	Joint Public Hearing
March 3	Public Comment Period Closes at 5:00 P.M.

Shoreline Master Program Periodic Review

Proposed Draft Amendments

KCC Title 22 – Shoreline Master Program
Appendix F

KCC Title 19 – Critical Areas Ordinance
Chapter 19.200 Wetlands

KCC Title 15 – Flood Hazard Areas

KCC Title 21 – Land Use and Development Procedures
Chapter 21.04 Project Permit Application Procedures

SMP Periodic Review Scoping Matrix and Amendment Guide

The Shoreline Master Program (SMP) Periodic Review is a limited consistency analysis of the county’s shoreline development regulations with legislative updates. The intent of this periodic review is to revise code as necessary to incorporate updates to the Shoreline Management Act as prescribed by the Washington State Department of Ecology, revise code to incorporate updates to local plans and development regulations and provide clarifications to improve the implementation of the Shoreline Master Program. This document is an accompanying ‘readers guide’ for draft amendments proposed in Kitsap County Code Titles 15, 19, 21 and 22. Visit <https://www.codepublishing.com/WA/KitsapCounty/> to review the existing regulations.

#	Topic	KCC	Action	Department Recommendation
MANDATORY BY ECOLOGY				
1	Consistency with State law (required amendments)	22.500.100.C.3.h	a. Revise language in the SMP to cite the updated cost thresholds for dock construction or to rely solely on reference to WAC 173-27-040 for exemptions to substantial development permits (SDP).	a. For exemption to Substantial Development Permit, freshwater dock fair market value does not exceed \$22,500 for replacing existing docks and \$11,200 for all other docks constructed.
		22.500.100.C.3.a	b. Revise language to cite updated substantial development cost threshold for shoreline exemptions.	b. For exemption to Substantial Development Permit, update cost threshold from \$5,000 to \$7,047.
		22.100.120.B	c. Add reference and list statutory exceptions from local review by the County in the SMP.	c. Include reference to statutory exceptions from local review such as Remedial Actions, Existing boatyard stormwater improvements, WSDOT facilities maintenance and safety improvements, Projects consistent with environmental excellence program, projects authorized through Energy Facility Site Evaluation Council process, and Projects on shorelands under exclusive federal jurisdiction.
		22.500.100.C.3.q	d. Revise language to include shoreline permit exemption for retrofitting existing structures to comply with the ADA per WAC 173-27-040.	d. For exemption to Substantial Development Permit, update to include retrofitting existing structures to comply with ADA requirements.

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

b. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements;

c. Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the OHWM for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion;

d. Emergency construction necessary to protect property from damage by the elements;

e. Construction and practices normal or necessary for farming, irrigation, and ranching activities;

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

g. Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of Kitsap County or a state agency having jurisdiction thereof, other than requirements imposed pursuant to Chapter 90.58 RCW. "Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drain field and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Construction authorized under this exemption shall be located landward of the ordinary high water mark;

h. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single-family and multiple-family residences. This exception applies if either:

i. In salt waters, the fair market value of the dock does not exceed \$2,500.00; or

ii. In fresh waters, the fair market value of the dock does not exceed \$2,500 for docks that are constructed to replace existing docks, are of equal or lesser square footage than the existing dock being replaced;

iii. In fresh waters, the fair market value does not exceed \$11,200 dollars for all other docks constructed; or

iv. In relation to subsections (ii) and (iii) above, if subsequent construction occurs within five years of completion of the prior construction and the combined fair market value of the subsequent and prior construction exceeds the amount specified above, the subsequent construction shall be considered a substantial development.

ii. In fresh waters, the fair market value of the dock does not exceed \$10,000.00, but if subsequent construction having a fair market value exceeding \$2,500.00 occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this program;

i. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system;

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

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development must comply with the requirements contained in the Act and this program and may require other permits or approvals under this master program. Permits may be issued with limitations or conditions to assure consistency with the Act and this program.

5. All applications for shoreline substantial development permits or permit revisions shall be submitted to the Department of Ecology upon a final decision by local government pursuant to WAC 173-27-130. "Final decision by local government" shall mean the order of ruling, whether it be an approval or denial, that is established after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals has lapsed.

C. Exemptions from Substantial Development Permits.

1. Certain activities, developments or uses are exempt from the substantial development permit requirements of the Act and this program. These developments are those set forth in WAC 173-27-040 (or as amended), and do not meet the definition of substantial development under RCW 90.58.030(3)(e). A summary of exempt developments is listed in subsection (C)(3) of this section, the application of which shall be guided by WAC 173-27-040 (or as amended).

2. Application and Interpretation of Exemptions.

a. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the substantial development permit process.

b. An exemption from the SDP process is not an exemption from compliance with the Act or this master program, or from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of this master program and the Act and obtain a statement of exemption approved by the director on receipt of a qualifying shoreline exemption application and minimum submittal requirements established by the department. A development or use that is listed as a conditional use pursuant to this master program, or is an unlisted use must obtain a CUP even though the development or use does not require an SDP. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards found in Chapters 22.400 and 22.600, such development or use can only be authorized by approval of a shoreline variance (see subsection (E) of this section).

c. An exemption from the SDP process is not an exemption from a CUP or an administrative CUP where applicable.

d. The burden of proof that a development or use is exempt from the permit process is on the applicant.

e. If any part of a proposed development is not eligible for exemption, then an SDP is required for the entire proposed development project.

f. The county may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the Act and this master program.

3. The following list of developments, summarized from WAC 173-27-040, shall not require SDPs:

a. Any development of which the total cost or fair market value, whichever is higher, does not exceed ~~\$5,000.00~~ 7,047.00, if such development does not materially interfere with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection is adjusted for inflation by the Washington State Office of Financial Management every five years. The total cost or fair market

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Chapter 22.100
INTRODUCTION

Sections:

- 22.100.105 Title.
- 22.100.110 Purpose and intent.
- 22.100.115 Adoption authority.
- 22.100.120 Applicability (including legally existing uses, structures and lots).
- 22.100.125 Relationship to other plans and regulations.
- 22.100.130 Governing principles.
- 22.100.135 Liberal construction.
- 22.100.140 Severability.

22.100.105 Title.

The goals, policies and regulations herein shall be known as the Kitsap County shoreline master program, and may be referred to as the “master program” or the “program.”

22.100.110 Purpose and intent.

The Kitsap County Comprehensive Plan explains that Kitsap County’s shorelines provide valuable habitat for fish and wildlife, economic diversity, and recreational opportunities used by residents of all ages. Shorelines play an important role in enhancing the quality of life for our county’s citizens. Therefore, the purpose of the master program is to guide the future development of the shorelines in Kitsap County in a manner consistent with the Shoreline Management Act of 1971, hereinafter the “Act.” The Act and this program comprise the basic state and county law regulating use of shorelines in the county.

22.100.115 Adoption authority.

This master program is adopted pursuant to the authority granted under the Shoreline Management Act of 1971, Chapter 90.58 RCW and Chapter 173-26 WAC.

22.100.120 Applicability (including legally existing uses, structures and lots).

A. Unless specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to Chapter 90.58 RCW, the Act, and this master program whether or not a permit is required. This master program applies to every person, firm, corporation, government agency, or department who or which:

1. Proposes any new use, activity, development or structure within the unincorporated area of Kitsap County subject to the Act, as now or hereafter amended; or
2. Proposes a change, modification, addition or alteration to an existing use, activity, development or structure within the unincorporated area of Kitsap County subject to the Act, as now or hereafter amended.

B. Development not required to obtain shoreline permits or local reviews. Requirements to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

1. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70A.305 RCW, or to the Washington State Department of Ecology when it conducts a remedial action under chapter 70A.305 RCW is not required to obtain shoreline permits or review.
2. Existing boyard stormwater improvements. Pursuant to RCW 90.58.355, any person installing site improvements for stormwater treatment in an existing boyard facility to meet requirements of a National Pollutant Discharge Elimination System stormwater general permit is not required to obtain shoreline permits or review.

3. ~~WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain shoreline permits or review.~~

4. ~~Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.~~

5. ~~Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.~~

6. ~~Projects on shorelands that are under the exclusive federal jurisdiction as established through federal or state statutes, e.g., military bases, national parks, and tribal trust lands. However, projects on nonfederal shorelands lying within the exterior boundaries of federal lands and those shorelands leased to other persons, remain subject to this master program pursuant to WAC 173-22-070.~~

CB. Direct federal agency activities affecting the uses or resources subject to the Act must be consistent to the maximum extent practicable with the enforceable provisions of the Act and with this master program as required by WAC 173-27-060.

C. ~~The Act and this program, including the permit system, shall apply to all nonfederal developments and uses undertaken on federal lands and on lands subject to nonfederal ownership, lease or agreement, even though such lands may fall within the external boundaries of a federal ownership.~~

D. This master program shall apply to all unincorporated urban lands until such time as a city meets the requirements of WAC 173-26-150 or 173-26-160 for predesignation of urban growth areas (UGAs) or amends its master program as appropriate.

22.100.125 Relationship to other plans and regulations.

A. Uses, developments, and activities regulated by the master program may be independently subject to the Kitsap County Comprehensive Plan, the Washington State Environmental Policy Act, the Kitsap County Code (KCC) Zoning (Title 17), Environment (Title 18), the critical areas ordinance (Title 19), and various other provisions of federal, state, and county laws. The applicant must comply with all applicable laws prior to commencing any use, development, or activity.

B. Should a conflict occur between the provisions of this program or between this program and the laws, regulations, codes or rules promulgated by any other authority having jurisdiction within Kitsap County, the more restrictive requirements shall apply, except when constrained by federal or state law, or where specifically provided otherwise in this program.

C. When achieved in accordance with Title 17 (Zoning), building and lot dimension flexibility may be allowed on shorelines within urban areas or limited areas of more intensive rural development (LAMIRDs) when consistent with the Act and all other applicable requirements of this program, including the requirement to achieve no net loss of shoreline ecological functions.

Further, in order to preclude fragmentation of review and the necessity for individual shoreline permits, a combined shoreline permit is encouraged for proposed activities within the shoreline jurisdiction where feasible.

D. Consistent with RCW 36.70A.480, the goals and policies of this master program approved under Chapter 90.58 RCW shall be considered an element of the county's comprehensive plan, including Chapter 22.300 (General Goals and Policies). All regulatory elements of this program, including but not limited to Chapter 22.100 (Introduction), Chapter 22.150 (Definitions), Chapter 22.200 (Shoreline Jurisdiction and Environment Designations), Chapter 22.400 (General Regulations), Chapter 22.500 (Permit Provisions, Review and Enforcement), Chapter 22.600 (Shoreline Use and Modification Development Standards), Chapter 22.700 (Special Reports), and Chapter 22.800, Appendix A (Shoreline Environment Designations Map), Appendix B (Mitigation Options to Achieve No Net Loss for New or Re-Development Activities), ~~and~~ Appendix D (Channel Migration Zone Maps) ~~and Appendix F (List of Shoreline Waterbodies)~~, shall be considered a part of the county's development regulations. Certain nonregulatory elements of this master program, including but not limited to

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- k. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking system;
- l. Any project with a certification from the governor pursuant to Chapter 80.50 RCW;
- m. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under the Act and this program;
- n. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the Washington Department of Agriculture or Ecology jointly with other state agencies under Chapter 43.21C RCW;
- o. Watershed restoration projects as defined at WAC 193-27-040(2)(o). Kitsap County shall review watershed restoration projects for consistency with this program in an expeditious manner and shall issue its decision along with any conditions within forty-five days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration projects as used in this section;

~~p. Consistent with WAC 173-27-040, a public or private project that is designed to improve fish or wildlife habitat or fish passage, and that conforms to the provisions of RCW 77.55.181 when all of the following apply. The county may not require permits or charge fees for fish habitat enhancement such projects, that meet the criteria and that are reviewed and approved according to the WAC provisions cited herein:~~

- ~~i. The project has been approved in writing by WDFW;~~
- ~~ii. The project has received hydraulic project approval (HPA) from WDFW pursuant to Chapter 77.55 RCW;~~
- ~~iii. The county has determined that the project is substantially consistent with this shoreline master program. The county shall make such determination in a timely manner and provide it by letter to the project proponent; and~~

~~g. iv. Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with this program.~~

~~q. The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act, 1990 or as amended, to otherwise provide physical access to the structure by individuals with disabilities.~~

4. ~~Documentation of Exemption Documentations.~~ For any project qualifying for a permit exemption, also known as a shoreline exemption, that requires Federal Rivers and Harbors Act Section 10 permits, Federal Clean Water Act Section 404 permits, or state hydraulic project approval, a shoreline permit exemption letter must be prepared on receipt of a shoreline exemption application and minimum submittal requirements. The county shall also prepare shoreline permit exemption letters for other types of exempt, generally for activities at or below the OHWM, including but not limited to single-use buoys and floats. Permit exemption requests may be obtained through the county permit center. The county shall document exemptions in the permit system.

D. Conditional Use Permits, Including Administrative Conditional Use Permits.

- 1. The purpose of a CUP is to provide flexibility in authorizing uses in a manner consistent with RCW 90.58.020. Accordingly, special conditions may be imposed to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the Act and this program.
- 2. CUPs shall be classified as a Type III permit under Chapter 21.04. Where administrative CUPs are allowed, they shall be classified as a Type II permit under Chapter 21.04. Unless specified otherwise in this

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Commented [A78]: Consistency Analysis, Table 5-1, Item #15

#	Topic	KCC	Action	Department Recommendation
	Consistency with State law (required amendments)	SMP App. E	e. Update all superseded critical area ordinance references to 2017 CAO.	e. <u>Update KCC Tile 19 Critical Areas Ordinance</u> with 2018 Ecology guidance for wetland habitat rating, and reference updated CAO.
		SMP App. F 22.100.125	f. List all lakes and streams in shoreline jurisdiction in SMP.	f. Include an Appendix F. List of Shoreline Waterbodies based on 2010 Shoreline Inventory and Characterization Report
RECOMMENDED BY ECOLOGY				
2	Consistency with State law (recommended amendments)	22.150.230	a. Revise the definition of “Development” to clarify that development does not include dismantling or removing structures using example language from Ecology.	a. Development does not include dismantling or removing structures if there is no other associated development or re-development.
		22.600.145.A	b. Revise language to clarify that forest practices that involve only timber cutting are not SMA “developments” and do not require an SDP.	b. Forest practice conducted under DNR permit is not regulated by SMP unless activity involves conversion to non-forest within shoreline jurisdiction. Forest practice that only involve timber harvest accompanied by replanting is not a development and does not require SDP or shoreline exemption. Forest practice that includes new or reopened right of ways, grading, culvert installations or stream crossings may be considered development.
		22.100.120.D	c. Clarify that the SMA does not apply to lands under exclusive federal jurisdiction.	c. SMP does not apply to projects on shorelands under exclusive federal jurisdiction such as military bases, national parks, and tribal trust lands.
		22.500.100.A.5	d. Define special procedures for WSDOT projects per WAC 173-27-125.	d. Reference WAC 173-27-125 to target ninety-days permit review time and procedures for projects on a state highway.
		22.150.321	e. Add Ecology recommended definition for ‘Floating Homes’.	e. Add definition for Floating homes.
		15.08.140	f. Revise the existing ‘Floodway’ definition in Title 15 ‘Flood Hazard Zones.’ to SMP for consistency with FEMA regulations.	f. Update definition of “Floodway” in <u>KCC Flood Hazard Zones</u> chapter and add the definition to the SMP.

Rating of Impact From Proposed Changes in Land Use	Examples of Land Uses That Cause the Impact Based on Common Zoning Categories
	courses, ball fields), hobby farms
Moderate	Single-family residential lots, residential subdivisions with 1 unit/acre or less, moderate-intensity open space (parks), new agriculture (moderate-intensity such as orchards and hay fields), transportation enhancement projects
Low	Forestry, open space (low-intensity such as passive recreation and natural resources preservation, minor transportation improvements)

Table 19.200.220(B)
Width of Buffers for Category IV Wetlands

Wetland Characteristics	Buffer Width by Impact of Proposed Land Use	Other Measures Recommended for Protection
Score for all 3 basic functions is less than 16 points	Low – 25 feet Moderate – 40 feet High – 50 feet	None

Table 19.200.220(C)
Width of Buffers for Category III Wetlands

Wetland Characteristics	Buffer Width by Impact of Proposed Land Use	Other Measures Recommended for Protection
Moderate level of function for habitat (6.5- 7 points)*	Low – 75 feet Moderate – 110 feet High – 150 feet	None
Score for habitat 3 - 4.5 points	Low – 40 feet Moderate – 60 feet High – 80 feet	None

*If wetland scores 8 – 9 habitat points, use Table 19.200.220(D) for Category II buffers.

Table 19.200.220(D)
Width of Buffers for Category II Wetlands

Wetland Characteristics	Buffer Width by Impact of Proposed Land Use (most protective applies if more than one criterion met)	Other Measures Recommended for Protection
High level of function for habitat (score 8 – 9 points)	Low – 150 feet Moderate – 225 feet High – 300 feet	Maintain connections to other habitat areas
Moderate level of function for habitat (6.5- 7 points)	Low – 75 feet Moderate – 110 feet High – 150 feet	None
High level of function for water quality improvement (8 – 9 points) and low for habitat (less than 6.5 points)	Low – 50 feet Moderate – 75 feet High – 100 feet	No additional surface discharges of untreated runoff
Estuarine	Low – 75 feet Moderate – 110 feet High – 150 feet	None
Interdunal	Low – 75 feet Moderate – 110 feet High – 150 feet	None

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Commented [A3]: Consistency Analysis, Table 3-1, Item #2 & 3

Commented [A4]: Consistency Analysis, Table 3-1, Item #2 & 3

Wetland Characteristics	Buffer Width by Impact of Proposed Land Use (most protective applies if more than one criterion met)	Other Measures Recommended for Protection
Not meeting above characteristics	Low – 50 feet Moderate – 75 feet High – 100 feet	None

TABLE 19.200.220(E)
Width of Buffers for Category 1 Wetlands

Wetland Characteristics	Buffer Width by Impact of Proposed Land Use (most protective applies if more than one criterion met)	Other Measures Recommended for Protection
Wetlands of high conservation value	Low – 125 feet Moderate – 190 feet High – 250 feet	No additional surface discharges to wetland or its tributaries No septic systems within 300 feet of wetland Restore degraded parts of buffer
Bogs	Low – 125 feet Moderate – 190 feet High – 250 feet	No additional surface discharges to wetland or its tributaries Restore degraded parts of buffer
Forested	Buffer width to be based on score for habitat functions or water quality functions	If forested wetland scores high for habitat (8-9 points), need to maintain connections to other habitat areas Restore degraded parts of buffer
Estuarine	Low – 100 feet Moderate – 150 feet High – 200 feet	None
Wetlands in coastal lagoons	Low – 100 feet Moderate – 150 feet High – 200 feet	None
High level of function for habitat (8 – 9 points)	Low – 150 feet Moderate – 225 feet High – 300 feet	Maintain connections to other habitat areas Restore degraded parts of buffer
Interdunal wetland with high level of function for habitat (8 – 9 points)	Low – 150 feet Moderate – 225 feet High – 300 feet	Maintain connections to other habitat areas Restore degraded parts of buffer
Moderate level of function for habitat (6.5 – 7 points)	Low – 75 feet Moderate – 110 feet High – 150 feet	None
High level of function for water quality improvement (8 – 9 points) and low for habitat (less than 6.5 points)	Low – 50 feet Moderate – 75 feet High – 100 feet	None
Not meeting any of the above characteristics	Low – 50 feet Moderate – 75 feet High – 100 feet	None

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Commented [A6]: Consistency Analysis, Table 3-1, Item #2 & 3

B. Modification of Buffer Widths. The following modifications to buffer widths may be considered provided the applicant first demonstrates that reductions or alterations to the required wetland buffer cannot be avoided, minimized or mitigated (in that order):

1. Buffer Averaging. Standard buffer widths may be modified by the department for a development proposal first by averaging buffer widths, but only where the applicant can demonstrate that such averaging can clearly provide as great or greater functions and values as would be provided under the standard buffer. The following standards shall apply to buffer averaging:

- a. The decrease in buffer width is minimized by limiting the degree or magnitude of the regulated activity.

Appendix F. List of Shoreline Waterbodies

All marine waters within Kitsap County are considered shorelines of the state. Those freshwater “shorelines” within Kitsap County, are all or a portion of the waters listed in Table F-1 and are subject to the provisions of this Program. A list of the upstream extent of rivers and streams in shoreline jurisdiction is identified by section, township, and range, for these waters and shown in Appendix A ‘Shoreline Environment Designations Maps’.

Table F-1 Shoreline Waterbodies*

Shoreline Rivers and Streams WAC 173-18-044		
Big Beef Creek (Sec. 24, T24N, R2W)	Chico Creek – Lower (Sec. 7, T24N, R1E)	Gorst Creek (Sec. 7, T23N, R1E)
Blackjack Creek (Sec. 28, T23N, R1E)	Coulter Creek (Sec. 7, T23N, R1E)	Tahuya River (Sec. 14, T22N, R3W)
Burley Creek (Sec. 13, T23N, R1E)	Curley Creek (Sec. 8, T23N, R2E)	Union River (Sec. 14, T24N, R1W)
Shoreline Lakes		
Big Lake	Lake Symington	Square Lake
Buck Lake	Lider Lake	Tahuya Lake
Carney Lake	Long Lake	Tiger Lake
Fern Lake	Mace Lake	Tin Mine Lake
Hintzville Beaver Pond	Miller Lake	Wicks Lake
Horseshoe Lake	Mission Lake	Wildcat Lake
Island Lake	Newberry Hill Heritage Park Pond	Wye Lake
Kitsap Lake	Oakridge Lake	
Lake Flora	Panther Lake	

*This list is based on information from the Kitsap County Inventory and Shoreline Characterization Study (2010).

22.150.210 Conditional use permit (CUP).

A permit for a use, development, or substantial development that is classified as a conditional use or is not a listed use in the use and modifications matrix in Chapter 22.600.

22.150.215 Critical freshwater habitats.

Includes those portions of streams, rivers, wetlands, lakes and their associated channel migration zones and floodplains that provide habitat for priority species at any stage in their life cycles, and provide critical ecosystem-wide processes, as established in WAC 173-26-221(2)(c)(iv). This is distinguished from the term “critical habitat” as utilized in relation to the Endangered Species Act.

22.150.220 Critical saltwater habitats.

As defined in WAC 173-26-221(2)(c)(iii), include all kelp beds; eelgrass beds; spawning and holding areas for forage fish, such as herring, smelt and sand lance; subsistence, commercial and recreational shellfish beds; mudflats; intertidal habitats with vascular plants; and areas with which priority species have a primary association. See this chapter for definitions of each type of critical saltwater habitat. This is distinguished from the term “critical habitat” as utilized in relation to the Endangered Species Act.

22.150.225 Department.

For the purposes of this program, means the Kitsap County department of community development.

22.150.230 Development.

A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of sand, gravel or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface waters overlying lands subject to the Act at any stage of water level. Development does not include dismantling or removing structures if there is no other associated development or re-development.

22.150.235 Development standards.

Controls placed on development or land uses, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a shoreline master program other than goals and policies approved or adopted under Chapter 90.58 RCW, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto.

22.150.240 Dock.

The collective term for a moorage structure that typically consists of a nearshore fixed-pile pier, a ramp (or gangway), and a float that is used as a landing place for marine transport or for recreational purposes. It does not include recreational decks, storage facilities or other appurtenances.

22.150.245 Dredge.

The removal of earth, gravel, sand or other mineral substances from the bottom of a stream, river, lake, bay, or other water body, including wetlands.

22.150.250 Ecological functions.

The work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline’s natural ecosystem.

22.150.255 Ecologically intact.

Those shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses. In forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent water bodies. Recognizing that there is a continuum of ecological conditions ranging from near natural conditions to totally degraded and contaminated sites, this term is intended to delineate those shoreline areas that provide valuable functions for the larger aquatic and terrestrial environments which could be lost or significantly reduced by human development. Whether or not a shoreline is ecologically intact is determined on a case-by-case basis.

Commented [A11]: Consistency Analysis, Table 2-1, Item# 2017b

8. If archaeological resources are uncovered during excavation, developers and property owners must immediately stop work and notify Kitsap County, the Department of Archaeology and Historic Preservation, and affected Indian tribes. Permits may be conditioned after review by a professional archaeologist, pursuant to MOU KC-442-07.

22.600.145 Forest practices/timber harvest.

A. Environment Designations Permit Requirements. Forest practices conducted under a forest practices permit (Class I, II, III and IV special) from the Washington Department of Natural Resources shall not be regulated by this program and shall not require a local shoreline permit. However, forest practice conversions and other Class IV general forest practices where there is a likelihood of conversion to nonforest uses, and timber harvest within shorelines of statewide significance, shall be regulated by this program. A forest practice that only involves timber harvesting accompanied by replanting is not a development under the Act and does not require a shoreline substantial development permit or shoreline exemption. However, a forest practice that includes activities other than timber cutting, such as new or reopened rights-of-ways, grading, culvert installation, or stream crossings, or similar development activities may be considered development. Therefore these activities will require a substantial development permit per WAC 222-50-020. Where such forest practices are proposed in the following designations, the identified permit requirements shall apply:

1. Natural: CUP.
2. Rural conservancy: SDP.
3. Urban conservancy, shoreline residential, high intensity:
 - a. Prohibited for commercial forestry;
 - b. SDP for Class IV general permit.
4. All designations: CUP for exceptions to shorelines of statewide significance standards in subsection (C)(4) of this section.

B. Application Requirements. In addition to the general permit requirements of this program, a Kitsap County timber harvest permit (Class IV general, Class III conversion option harvest plan, and timber harvest within shorelines of statewide significance) shall be required. This includes all other application requirements as outlined in Chapter 18.16 (Timber Harvest).

C. Development Standards.

1. Forest practices within shoreline jurisdiction shall comply with the requirements of the Forest Practices Act (Chapter 76.09 RCW) and the Forest and Fish Report (United States Fish and Wildlife Service et al., 1999). The following standards shall apply to those activities subject to this program, including forest practices conducted under a Class IV general forest practice permit or Class III forest practices conversion option harvest plan, and timber harvest activities conducted within shorelines of statewide significance.
2. Timber harvest permit activity shall assure no net loss of shoreline ecological functions and shall maintain ecological quality of the watershed's hydrologic system.
3. Timber harvest permit activity in all shoreline areas shall comply with the policies and regulations outlined in this program, Chapter 18.16 (Timber Harvest) and Title 12 (Storm Water Drainage) for silt and erosion control.

Commented [A93]: Consistency Analysis, Table 2-1, 2017e

3. ~~WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain shoreline permits or review.~~

4. ~~Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.~~

5. ~~Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.~~

6. ~~Projects on shorelands that are under the exclusive federal jurisdiction as established through federal or state statutes, e.g., military bases, national parks, and tribal trust lands. However, projects on nonfederal shorelands lying within the exterior boundaries of federal lands and those shorelands leased to other persons, remain subject to this master program pursuant to WAC 173-22-070.~~

CB. Direct federal agency activities affecting the uses or resources subject to the Act must be consistent to the maximum extent practicable with the enforceable provisions of the Act and with this master program as required by WAC 173-27-060.

C. ~~The Act and this program, including the permit system, shall apply to all nonfederal developments and uses undertaken on federal lands and on lands subject to nonfederal ownership, lease or agreement, even though such lands may fall within the external boundaries of a federal ownership.~~

D. This master program shall apply to all unincorporated urban lands until such time as a city meets the requirements of WAC 173-26-150 or 173-26-160 for predesignation of urban growth areas (UGAs) or amends its master program as appropriate.

22.100.125 Relationship to other plans and regulations.

A. Uses, developments, and activities regulated by the master program may be independently subject to the Kitsap County Comprehensive Plan, the Washington State Environmental Policy Act, the Kitsap County Code (KCC) Zoning (Title 17), Environment (Title 18), the critical areas ordinance (Title 19), and various other provisions of federal, state, and county laws. The applicant must comply with all applicable laws prior to commencing any use, development, or activity.

B. Should a conflict occur between the provisions of this program or between this program and the laws, regulations, codes or rules promulgated by any other authority having jurisdiction within Kitsap County, the more restrictive requirements shall apply, except when constrained by federal or state law, or where specifically provided otherwise in this program.

C. When achieved in accordance with Title 17 (Zoning), building and lot dimension flexibility may be allowed on shorelines within urban areas or limited areas of more intensive rural development (LAMIRDs) when consistent with the Act and all other applicable requirements of this program, including the requirement to achieve no net loss of shoreline ecological functions.

Further, in order to preclude fragmentation of review and the necessity for individual shoreline permits, a combined shoreline permit is encouraged for proposed activities within the shoreline jurisdiction where feasible.

D. Consistent with RCW 36.70A.480, the goals and policies of this master program approved under Chapter 90.58 RCW shall be considered an element of the county's comprehensive plan, including Chapter 22.300 (General Goals and Policies). All regulatory elements of this program, including but not limited to Chapter 22.100 (Introduction), Chapter 22.150 (Definitions), Chapter 22.200 (Shoreline Jurisdiction and Environment Designations), Chapter 22.400 (General Regulations), Chapter 22.500 (Permit Provisions, Review and Enforcement), Chapter 22.600 (Shoreline Use and Modification Development Standards), Chapter 22.700 (Special Reports), and Chapter 22.800, Appendix A (Shoreline Environment Designations Map), Appendix B (Mitigation Options to Achieve No Net Loss for New or Re-Development Activities), ~~and~~ Appendix D (Channel Migration Zone Maps) ~~and Appendix F (List of Shoreline Waterbodies)~~, shall be considered a part of the county's development regulations. Certain nonregulatory elements of this master program, including but not limited to

Commented [A1]: Consistency Analysis, Table 2-1, 2017c; mandatory

Commented [A2]: Per County recommendation, this provision was included in the new B.6 above.

Commented [A3]: Consistency Analysis, Table 2-1, 2007b; mandatory

Chapter 22.500

PERMIT PROVISIONS, REVIEW AND ENFORCEMENT

Sections:

- 22.500.050 Statement of applicability and purpose.
- 22.500.100 Permit application review and permit types.
- 22.500.105 Procedure.
- 22.500.110 Enforcement and penalties.

22.500.050 Statement of applicability and purpose.

RCW 90.58.140(3) requires local governments to establish a program, consistent with the rules adopted by Ecology, for the administration and enforcement of shoreline development. Also, in accordance with RCW 90.58.050, which provides that this program is intended to establish a cooperative program between Kitsap County and the state, Kitsap County shall have the primary responsibility for administering the regulatory program, and Ecology shall act primarily in a supportive and review capacity.

The applicable provisions of Title 21 shall govern the processing of permits required under this title. If any conflict should exist between Title 21 and this program, the provisions of this program will be followed.

22.500.100 Permit application review and permit types.

A. Permit Application Review.

1. No authorization to undertake use or development on shorelines of the state shall be granted by Kitsap County unless upon review the use or development is determined to be consistent with the policy and provisions of the Act and this program.
2. No permit shall be issued for any structure of more than thirty-five feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines, except where allowed through a variance, and then only when overriding considerations of the public interest will be served.
3. Consolidated permit review shall occur pursuant to the procedures in Chapter 21.04.
4. State Environmental Policy Act (SEPA) compliance shall be required for non-SEPA exempt projects, pursuant to the procedures in Title 18.

5. Permit review times and procedures for projects on a state highway shall be processed in accordance with RCW 47.01.485 and RCW 90.58.140.

Commented [A69]: Consistency Analysis, Table 2-1, Item 2015a

B. Substantial Development Permit.

1. The Act provides that no substantial development shall be undertaken on the shorelines of the state without first obtaining a substantial development permit (SDP).
2. An SDP shall be classified as a Type III permit under Chapter 21.04.
3. An SDP shall be granted only when the applicant can demonstrate that the proposed development is consistent with the policies and procedures of the Act and this program, as well as criteria in WAC 173-27-150.
4. The Act provides a limited number of exceptions to the definition of substantial development. Those exceptions are contained in RCW 90.58.030 and are summarized below in subsection (C)(3) in the section below, and do not require an SDP. Whether or not a development constitutes a substantial development, all

Commented [A70]: Per County recommendation for code consistency; see Title 21 amendments.

Commented [A71]: Per county staff recommendation for code organization.

22.150.310 Fee in lieu (in-lieu fee).

A fee paid to a sponsor (e.g., Kitsap County, Hood Canal Coordinating Council, etc.) to satisfy compensatory mitigation requirements when mitigation is precluded from being completed on site due to site development or physical constraints.

22.150.315 Fill.

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

22.150.320 Float.

An anchored (not directly to the shore) floating platform that is free to rise and fall with water levels and is used for water-dependent recreational activities such as boat mooring, swimming or diving. Floats may stand alone with no over-water connection to shore or may be located at the end of a pier or ramp.

22.150.325 Floating homes.

A single-family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed.

Commented [A13]: Consistency Analysis, Table 2-1, Item 2011c

22.150.330 Floodway.

The area that has been established in effective federal emergency management flood insurance rate maps or floodway maps. The floodway does not include lands that can be reasonably expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state or a political subdivision of the state.

Commented [A14]: Consistency Analysis, Table 2-1, Item 2007a; consistent with Title 15. See Title 15 amendments

22.150.325 Forage fish.

Small, schooling fishes that are key prey items for larger predatory fish and wildlife in a marine food web. Puget Sound species include, but are not limited to, Pacific herring, surf smelt, Pacific sand lance and northern anchovy. Each species has specific habitat requirements for spawning, such as sediment grain size, tidal heights, or vegetation types. Known spawning and holding areas have been mapped by the Department of Fish and Wildlife.

Commented [A15]: We don't have to keep numbering at every 5. We did that to have room to add in definitions without needing to modify all numbering.

22.150.330 Forest practices (commercial forestry).

Any activity conducted on or directly pertaining to forestland and relating to growing, harvesting or processing timber, including, but not limited to:

- A. Road and trail construction;
- B. Harvesting, final and intermediate;
- C. Precommercial thinning;
- D. Reforestation;
- E. Fertilization;
- F. Prevention and suppression of diseases and insects;
- G. Salvage of trees; and
- H. Brush control.

22.150.335 Groin.

Barrier-type structures extending waterward from the back shore across the beach to interrupt and trap sand movement.

22.150.340 Guidelines (Washington Administrative Code WAC).

Those standards adopted by the Department of Ecology pursuant to RCW 90.58.200 to assist in the implementation of Chapter 90.58 RCW for the regulation of shorelines of the state. The standards may be referenced at Chapters 173-26 and 173-27 WAC.

Commented [A16]: Consistency Analysis, Table 5-1, Item #24; clarification.

15.08.087 Elevation certificate.

“Elevation certificate” means the official form (FEMA Form 81-31) used to track development, provide elevation information necessary to ensure compliance with community floodplain management ordinances, and determine the proper insurance premium rate with Section B completed by community officials.

15.08.090 Existing manufactured home park or subdivision.

“Existing manufactured home park” means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before April 14, 1980.

15.08.100 Expansion to an existing manufactured home park or subdivision.

“Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

15.08.110 Flood, flooding.

“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and/or
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

15.08.120 Flood Insurance Rate Map (FIRM).

“Flood Insurance Rate Map” (FIRM) means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

15.08.130 Flood Insurance Study.

“Flood Insurance Study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water-surface elevation of the base flood.

15.08.140 Floodway.

“Floodway” means ~~the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, area that has been established in effective federal emergency management flood insurance rate maps or floodway maps. The floodway does not include lands that can be reasonably expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state or a political subdivision of the state.~~

Commented [A2]: Consistency Analysis, Table 2-1, 2007a; consistent with SMP definition.

15.08.150 Habitable floor.

“Habitable floor” means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a “habitable floor.”

15.08.153 Definitions – Increased cost of compliance claim.

“Increased cost of compliance claim” means a flood insurance claim payment up to \$30,000.00 directly to a property owner for the cost to comply with floodplain management regulations after a direct physical loss caused by a flood.

#	Topic	KCC	Action	Department Recommendation
3	Consistency with DOE Wetland Guidance	19.200.220-Tables (C)-(E)	a. Update SMP to align with recent 2018 Ecology Wetland Guidance; calibrating wetlands with a habitat score of 5 as 'low functioning' rather than 'low/medium' functioning; reflected in many ongoing and adopted State SMP Periodic Updates.	a. Update KCC Chapter 19.200 Wetland Buffer requirements to reference 2018 Ecology guidance for wetland buffers
DISCRETIONARY DEPARTMENT RECOMMENDATIONS				
4	Definitions	22.150.100 22.150.190 22.150.485 22.400.135	a. Clarify 'View Blockage' and 'Building Line' definitions.	a. Remove definition of 'Accessory Structure-View Blockage' and include clarification in Section 22.400.135 'View Blockage Standards;' and clarify definition of 'Principal Building' to exclude boathouses, converted boathouses, and ADUs.
5	Miscellaneous	NA	a. Fix spelling, grammar, and correct scrivener's errors throughout SMP.	a. Fix spelling, grammar, and correct scrivener's errors throughout SMP.
6	Existing Development	22.400.100.B.1.d	a. Increase the timeline to rebuild development after accidental destruction or damage from six-months to twelve-months for reasonable timing for permit preparation.	a. Legally existing structures destroyed or damaged by fire, explosion, or other casualty may be reconstructed to existing configurations provided permit applications are submitted within twelve months of the date of damage and restoration is completed within two years of permit issuance.
7	Vegetation Conservation Buffers	22.400.120.B.2	a. Apply buffer reduction review criteria consistently across all designations.	a. Ensure consistent buffer reduction criteria across all designations; applicant must prove compliance with mitigation sequencing, variances, and administrative variances and provide adequate documentation demonstrating need.
		22.400.120.D.1.d 22.150.611	b. Establish beach trams as a use in shoreline buffers and draft development regulations consistent with 'no net loss'.	b. Define 'Tram' and establish development standards for trams as use in shoreline buffers. Landing maximum size of 100 sq. ft.; 15ft. maximum width for clearing corridor for development and operation; installation limited to geologically hazardous areas and subject to 'Special Studies;' and must follow mitigation sequencing requirements and compensate for any impacts; enhancement of shoreline buffer vegetation is required.

Chapter 22.150

DEFINITIONS

Sections:

- 22.150.050 Construction of provisions.
- 22.150.100 ~~Reserved. Accessory structure. View blockage.~~
- 22.150.105 Adaptive management.
- 22.150.110 Adjacent principal building.
- 22.150.115 Agriculture.
- 22.150.120 Amendment.
- 22.150.125 Anchor.
- 22.150.130 Appurtenance.
- 22.150.135 Aquaculture.
- 22.150.140 Aquatic lands.
- 22.150.145 Associated wetlands.
- 22.150.150 Barrier structure.
- 22.150.155 Best management practices.
- 22.150.160 Boat house.
- 22.150.165 Boat launch.
- 22.150.170 Boating facilities.
- 22.150.175 Breakwater.
- 22.150.180 Buffer.
- 22.150.185 Building.
- 22.150.190 Building line.
- 22.150.195 Buoy.
- 22.150.200 Census-defined urban areas.
- 22.150.205 Commercial, commercial development.
- 22.150.210 Conditional use permit (CUP).
- 22.150.215 Critical freshwater habitats.
- 22.150.220 Critical saltwater habitats.
- 22.150.225 Department.
- 22.150.230 Development.
- 22.150.235 Development standards.
- 22.150.240 Dock.
- 22.150.245 Dredge.
- 22.150.250 Ecological functions.
- 22.150.255 Ecologically intact.
- 22.150.260 Eelgrass.
- 22.150.265 Emergency.
- 22.150.270 Enhancement.
- 22.150.275 Environmental limitations.
- 22.150.280 Excavation.
- 22.150.285 Exemptions.
- 22.150.290 Existing lots.
- 22.150.295 Existing structures.
- 22.150.300 Existing uses.
- 22.150.305 Feasible.
- 22.150.310 Fee in lieu (in-lieu fee).
- 22.150.315 Fill.
- 22.150.320 Float.
- 22.150.321 Floating homes.
- 22.150.322 Floodway.
- 22.150.325 Forage fish.
- 22.150.330 Forest practices (commercial forestry).

Commented [A4]: Consistency Analysis, Table 5-1, Item #1

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Commented [A5]: Consistency Analysis, Table 2-1, Item 2011c

Commented [A6]: Consistency Analysis, Table 2-1, Item 2007a

naturally change thereafter, or as it may change thereafter in accordance with permits issued by the county or Ecology; provided, that in any area where the OHWM cannot be found, the OHWM adjoining salt water shall be the line of mean higher high tide and the OHWM adjoining fresh water shall be the line of mean high water.

22.150.470 Pier.

A rigid structure built over the water and typically constructed on piles, attached to the shore and used as a landing place for marine transport or for recreational purposes.

Commented [A18]: Consistency Analysis, Table 5-1, Item #24; code clarification

22.150.475 Platted.

Land that has been divided following the applicable laws for divisions of land under Title 16, including land subject to a current application for such division.

22.150.480 Predator exclusion.

An object or activity used to implement pest management in aquaculture practices with the intent of deterring or excluding predators such as moon snails, sea star, crabs, diving ducks, burrowing shrimp or sand dollars. Common methods include, but are not limited to, large canopy nets, mesh, PVC tubes with net caps, flexar plastic tunnels, oyster bags and suspended culture systems.

22.150.485 Principal building.

That building on a lot closest to the ordinary high water mark that is not a boathouse, converted boathouse, accessory dwelling unit or other accessory structure.

Commented [A19]: Consistency Analysis, Table 5-1, Item #2, recommended.

22.150.490 Priority species.

Species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below:

- A. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011(1)), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the Washington Department of Fish and Wildlife (POL-M 6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.
- B. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.
- C. Species of recreational, commercial, and/or tribal importance. Native and non-native fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.
- D. Species listed by the National Marine Fisheries Service or the U.S. Fish and Wildlife Service under the federal Endangered Species Act as either proposed, threatened, or endangered.

22.150.495 Prohibited.

Not permitted to occur in a particular designation.

22.150.500 Public access.

The ability of the general public or, in some cases, a specific community, to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

22.150.505 Qualified professional or qualified consultant.

In accordance with WAC 365-195-905(4), a qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, soil science, engineering, environmental studies, fisheries, geology, geomorphology or related and relevant field to the subject in question, have related work experience and meet the following criteria:

- A. A qualified professional for wetlands must have a degree in biology, ecology, soil science, botany, or a closely related field and a minimum of three years of professional experience in wetland identification and assessment associated with wetland ecology in the Pacific Northwest or comparable systems.

4. Work on sites with identified archaeological resources shall not start until authorized by the Department of Archaeology and Historic Preservation through an archaeological excavation and removal permit, which may condition development permits pursuant to KC 442-07.

C. Discovered HASCE Sites.

1. If archaeological resources are uncovered during excavation, developers and property owners must immediately stop work and notify Kitsap County, the Office of Archaeology and Historic Preservation and affected Indian tribes.

2. Uncovered sites shall require a site inspection by a professional archaeologist in coordination with the affected tribe(s). Tribal historic preservation officers shall be provided the opportunity to evaluate and comment on cultural resources evaluations conducted by the professional archaeologist.

3. Work shall not recommence until authorized by the Office of Archaeology and Historic Preservation through an archaeological excavation and removal permit, which may condition development permits pursuant to KC 442-07.

22.400.135 View blockage.

A. In order to protect water views, all principal buildings, and all additions to or reconstruction of a principal building, shall be so located as to maintain the minimum shoreline structure setback line. All such buildings must also be designed not to significantly impact views from principal buildings on adjoining and neighboring property or properties. The shoreline structure setback line for the purpose of this subsection is based on the location of the principal building(s) at the time of a permit for a new principal building, and shall be determined as follows:

1. No Adjacent Principal Buildings. Where there are no adjacent principal buildings, the shoreline structure setback line shall be the standard vegetation conservation buffer and setback specified in Section 22.400.120 elsewhere in this program. See Figure 22.400.135(A)(1).

Commented [A53]: Consistency Analysis, Table 5-1, Item #12; County recommendation

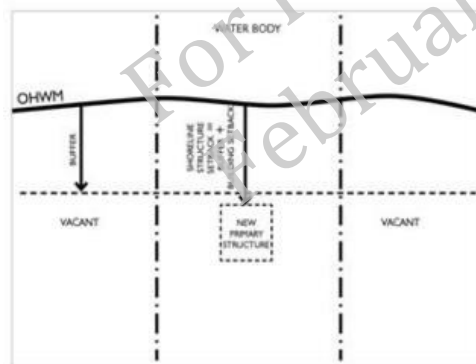


Figure 22.400.135(A)(1)
Buffer and shoreline structure setback with no adjacent primary structure.

2. Adjacent Principal Building on One Side. Where there is an adjacent principal building on one side, the shoreline structure setback line shall be a distance no less than that of the adjacent principal building to the shoreline or the buffer and setback specified elsewhere in this program, whichever is greater. See Figures 22.400.135(A)(2)(a) and 22.400.135(A)(2)(b).

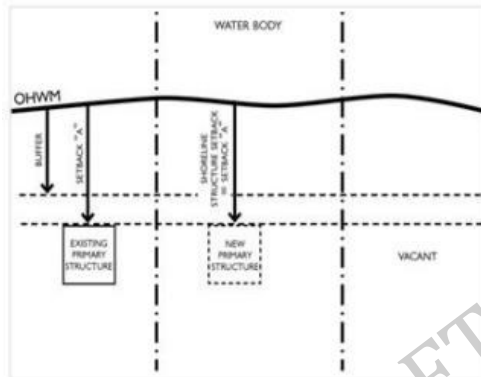


Figure 22.400.135(A)(2)(a)
Buffer and shoreline structure setback with adjacent primary structure landward of buffer on one side.

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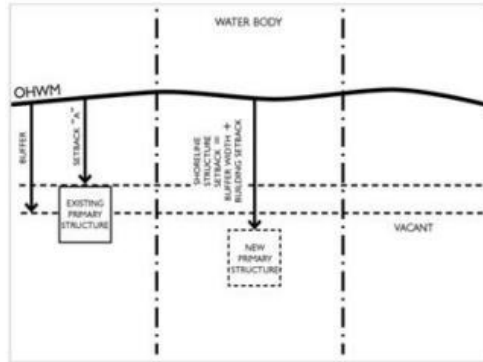


Figure 22.400.135(A)(2)(b)
Buffer and shoreline structure setback with adjacent primary structure within buffer on one side.

3. Adjacent Principal Buildings on Both Sides on a Regular-Linear Shoreline. Where there are adjacent principal buildings on both sides of the proposed structure on a regular-linear shoreline (not along a peninsula or cove), the shoreline structure setback line shall be determined by a stringline setback, a line drawn between the building line of the adjacent principal buildings or the buffer and setback specified elsewhere in this program, whichever is greater. A stringline setback means a straight line drawn between the points on the primary structures having the greatest projection waterward. If one of the adjacent properties is developed landward of the vegetation conservation buffer and setback, the line shall not be drawn to that adjacent structure but be drawn to the point where the standard buffer meets the side property line of the lot to be improved. See Figure 22.400.135(A)(3).

Commented [A54]: Consistency Analysis, Table 5-1, Item #12

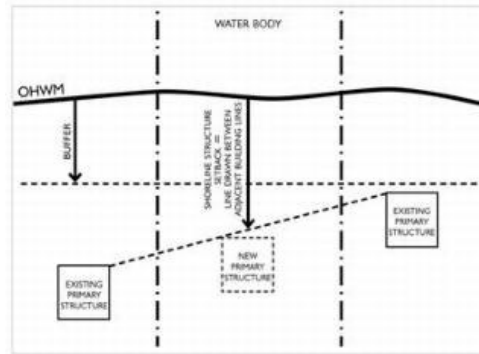


Figure 22.400.135(A)(3)
Buffer and shoreline structure setback on a regular shoreline with adjacent primary structures on both sides.

4. ~~Adjacent Principal Buildings on Both Sides on an Irregular Shoreline~~ - Where there are two adjacent principal structures on a shoreline which forms a cove, ~~or~~ peninsula, ~~or~~ irregular shoreline, the shoreline structure setback line shall be determined by averaging the ~~existing~~ setbacks lines of the two adjacent principal buildings or the buffer and setback specified elsewhere in this program, whichever is greater. See Figure 22.400.135(A)(4).
5. Consideration of Existing Mitigating Circumstances. The shoreline structure setback line may ~~not~~ be ~~administratively waived~~ applied to limit distance from the shoreline where an elevation survey prepared by a qualified professional demonstrates that ~~existing~~ due to a difference in topography or a vegetation survey demonstrates that due to the presence of already significantly blocks views - view blocking vegetation on or adjacent to the common border of the two parcels, ~~and~~ the proposed principal building will not result in any additional view blockage to an existing adjacent principal building(s). In such cases, the buffer and setback specified elsewhere in this program shall apply.

Commented [A55]: Consistency Analysis, Table 5-1, Item #12

Commented [A56]: Consistency Analysis, Table 5-1, Item #12; County language recommendation.

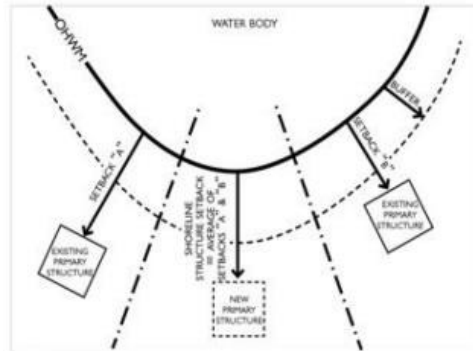


Figure 22.400.135(A)(4)
Buffer and shoreline structure setback on an irregular shoreline with adjacent primary structures on both sides.

6. Setback line for Additions, Remodels or Rebuilds. Where there will be additions or rebuilt structures on a subject parcel with existing primary structures on adjacent parcel(s), the shoreline structure setback line(s) shall be based on the straight line drawn between the points on the primary structures having the greatest projection waterward of the existing/previously existing primary structure(s) on the subject parcel and to that of the adjacent primary structure(s) or the buffer and setback specified elsewhere in this program, whichever is greater. If there are primary structures on each adjacent parcel, there will be two intersecting shoreline structure setback lines representing the existing view lines that must be maintained for the addition/rebuild.

B. Accessory Structures. Accessory structures, for the purpose of this Section, include but may not be limited to accessory dwelling units, boat houses, sheds, decks, and fences as defined for the purposes of view blockage may be sited within the shoreline structure setback area; provided, that they do not substantially obstruct the view of adjacent principal buildings and comply with applicable buffer provisions.

1. Siting Accessory Structures. Accessory structures, as noted above, may be sited within the shoreline structure setback area; provided, that they do not substantially obstruct the view of adjacent principal buildings and comply with applicable buffer provisions. Fences 6-feet or less, unenclosed decks 18-inches or less from average grade, and structures less than ten feet in height from grade level and under 200 square feet, do not constitute view blockage but are still subject to the other provisions of this Program including vegetation conservation buffers. Water orientated storage structures that meet the requirements in Section 22.400.120(D)(1)(e) do not constitute a view blockage.
2. Use of Accessory Structures in determining view line. Accessory structures, as noted above, shall not be used to determine a view line for a new or replacement primary structure on the same or adjacent parcels.

For additions and remodels, the shoreline structure setback line(s) shall be based on the line drawn between the waterward-most building edge of the existing/previously existing primary structure(s) on the subject parcel and to that of the adjacent primary structure(s) or the buffer and setback specified elsewhere in this program, whichever is greater.

C. Appeal Procedure. Determinations of shoreline structure setback lines are classified as Type I decisions under Chapter 21.04 and may be subject to appeal as provided therein.

D. Conditional Waiver Procedure.

Commented [A57]: Consistency Analysis, Table 5-1, Item #12

Commented [A58]: Consistency Analysis, Table 5-1, Item #12, County staff recommendation.

Commented [A59]: Consistency Analysis, Table 5-1, Item #12

Commented [A60]: Consistency Analysis, Table 5-1, Item #12, County staff recommended language inserted.

1. An applicant aggrieved by the strict application of this chapter section may seek a conditional waiver from the director. Such a waiver shall be a Type II administrative decision and the applicant may file an application to the department. A conditional waiver may be granted after the applicant demonstrates the following:

Commented [A61]: Per County recommendation

a. The hardship which results from the application of the requirements of this section serves as the basis for granting the conditional waiver is specifically related to the property of the applicant and does not apply generally to other property in the vicinity;

Commented [A62]: Per County recommendation

b. The hardship which serves as the basis for granting the conditional waiver is specifically related to the property of the applicant and does not apply generally to other property in the vicinity;

Commented [A63]: Consistency Analysis, Table 5-1, Item #12

be. The hardship which results from the application of the requirements of this chapter section is not a result of the applicant's own actions;

Commented [A64]: Per County recommendation, clarification.

cd. The conditional waiver, if granted, will be in harmony with the general purpose and intent of the Act and this program in preserving the views of the adjacent shoreline residences; and

fe. The conditional waiver, if granted, will not cause more harm to adjacent neighbors than would occur to the applicant in applying the county's view blockage requirements in Section 22.400.135. In balancing the interest of the applicant with adjacent neighbors, if more harm will be done by granting the conditional waiver than would be done by denying it, the conditional waiver shall be denied.

Commented [A65]: Per County staff recommendation.

2. The applicant seeking a conditional waiver of the strict application of this chapter may file an application with the department accompanied by an application fee per the Kitsap County development permit fee schedule (Section 21.10.010).

Commented [A66]: Consistency Analysis, Table 5-1, Item #12 & 2; redundant removed

22.400.140 Bulk and dimension standards.

A. The standards in Table 22.400.140(A) shall apply to all shoreline use and development activities except where specifically modified in this master program. Where there is a conflict with other county codes, the more restrictive standards shall apply.

Table 22.400.140(A) Development Standards

Standard	High Intensity	Shoreline Residential	Urban Conservancy	Rural Conservancy	Natural	Aquatic
Minimum Lot Width (feet)	40-60 ²	40-80 ²	60	140	140	Not-Applicable
Minimum Lot Width (feet)	See Title 17					Not-Applicable
Shoreline Buffer	See Section 22.400.120(B)					
Side Setbacks (feet)	5	5 ³	5	20 ⁴	20 ⁴	5
Side Setbacks (feet) ³	See KCC Chapter 17.420					
Maximum Impervious Area (percentage of lot area)	50/85 ⁵	6	25/50 ⁵	6	6	Not-Applicable
Maximum Impervious Area (percentage of lot area)	See KCC Chapter 17.420	See Section 22.400.125	See KCC Chapter 17.420	See Section 22.400.125	See Section 22.400.125	Not-Applicable
Maximum Building Height (feet)	35	35	35	35	35	35

Notes:

1. Forty-foot lot width for single-family residential uses. Sixty-foot lot width for multifamily and nonresidential uses.

d. In the event that a legally existing structure is damaged or destroyed by fire, explosion or other casualty, it may be reconstructed to configurations existing immediately prior to the time the structure was damaged or destroyed, provided a complete the application submittal is made for the necessary permits within ~~twelve~~ ~~six~~ months of the date the damage or destruction occurred, and the restoration is completed within two years of permit issuance or the conclusion of any appeal on the permit.

e. Any legally existing structure that is moved any distance must be brought into conformance with the Act and this program.

2. Existing Appurtenances to Single-Family Residences. Those legally existing appurtenances that are common to existing single-family residences shall be considered conforming to this program. Such appurtenances may include garages and sheds, but shall not include bulkheads, over-water structures or other shoreline modifications.
3. Vegetation conservation standards of this program shall not apply retroactively in a way which requires lawfully existing uses and developments, including residential landscaping and gardens, to be removed, except as required as mitigation for new and expanded development.
4. Structures, improvements, docks, fills or developments lawfully placed in or over navigable waters prior to December 4, 1969, shall be considered nonconforming, but may continue in accordance with RCW 90.58.270.

C. Existing Lots.

1. An undeveloped lot, tract, parcel, site, or division of land located landward of the OHWM that was created or established in accordance with local and state subdivision requirements prior to the effective date of this program or the Act, but which does not conform to the present lot size standards, may be developed if permitted by other land use regulations so long as such development conforms to all other requirements of this program or the Act.
2. This section does not modify the rules regarding the development of plats under RCW 58.17.170 as now or hereafter amended.

22.400.105 Proposed development.

A. Location.

1. New development shall be located and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.
2. New development shall be located and designed to avoid the need for future shoreline stabilization for the life of the structure. Likewise, any new development which would require shoreline stabilization which causes significant impacts to adjacent or down-current properties shall not be allowed.
3. New development on lots constrained by depth, topography or critical areas shall be located to minimize, to the extent feasible, the need for shoreline stabilization.
4. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis.
5. Subdivision shall be planned to avoid the need for shoreline stabilization for newly created lots, utilizing geotechnical analysis where applicable.
6. Non-water-oriented facilities and accessory structures, except for preferred shoreline uses, such as single-family residences and single-family residential appurtenances when consistent with buffer provisions in this

Commented [A30]: Consistency Analysis, Table 5-1, Item #3

Commented [A31]: Per county recommendation; clarification on the exact timing/when application must be made by

- c. Urban conservancy: one hundred feet.
- d. Rural conservancy: one hundred thirty feet.
- e. Natural: two hundred feet.
- f. The standard buffer for shoreline jurisdictional freshwater streams and rivers is two hundred feet.

2. Reduced Standard Buffer. Utilizing the 'mitigation options to achieve no net loss for new or redevelopment activities' table (Chapter 22.800, Appendix B) to achieve no net loss of shoreline ecological functions, the standard buffer may be reduced down to ~~the~~ reduced standard buffer as specified below. Mitigation options shall be reviewed and approved by the county for applicability to the project site commensurate with project impacts. The shoreline restoration plan (Appendix C ~~to the ordinance codified in this title~~) shall serve as an initial review source.

Commented [A37]: Consistency Analysis, Table 5-1, Item #24; grammar/streamline text

An applicant shall have the burden of proving they have complied with Sections 22.400.110(A), Mitigation Sequencing and 22.500.100(E), Variances and Administrative Variances. This may be documented within a shoreline mitigation plan. Buffer reductions shall provide adequate documentation demonstrating need. The department shall deny a buffer reduction request if the applicant either created or exacerbated the condition that forms the limitation on the use and development of the property. The reduced standard buffers for each environment designation are as follows:

Commented [A38]: Consistency Analysis, Table 5-1, Item #4

- a. High intensity: fifty feet ~~(no reduction without variance)~~.
- b. Shoreline residential: fifty feet.
- c. Urban conservancy: eighty-five feet; fifty feet where a net gain in shoreline ecological functions can be achieved. Applications for reductions below eighty-five feet shall include information documenting: (i) mitigation necessary to achieve no net loss of shoreline ecological functions for the reduced eighty-five-foot buffer; (ii) additional mitigation necessary to achieve no net loss for any reduction below eighty-five feet; and (iii) additional actions proposed to achieve a net gain in shoreline ecological functions. Proposed restoration activities shall not include projects previously identified for public funding, except that public-private partnerships may be utilized. A minimum five-year monitoring plan shall be required to demonstrate project success, in accordance with Section 22.400.110(C), Mitigation Compliance.
- d. Rural conservancy: one hundred feet.
- e. Natural: one hundred fifty feet.
- f. Shoreline jurisdictional freshwater streams and rivers: buffers may be reduced pursuant to the standards in subsection (C) of this section.

Commented [A39]: Per County recommendation. Reduces confusion with other reduced buffers.

3. Additional Standards for Applying the Reduced Standard Buffer within the Rural Conservancy and Natural Designations and Shorelines of Statewide Significance. Buffers may be reduced for single-family residences and water-oriented uses in the rural conservancy designation, natural designation, and shorelines of statewide significance (Hood Canal) only under the following circumstances:

- a. The lot is physically constrained by slopes, wetlands or other natural features such that the standard buffer cannot be met;
- b. The lot is legally constrained by its size or shape, such that it would not support a home and garage with a footprint of at least one thousand two hundred square feet if placed at or above the standard buffer; or
- c. The existing condition is such that the lot was previously cleared below the standard buffer, and intact, mature native vegetation is located at or above the standard buffer which would otherwise be removed in order to comply with the standard buffer.

4. Bulkheads; and

5. Seawalls; and

6. Pile Walls;

22.150.575 Shoreline structure setback line.

The closest distance measured on a horizontal plane between the ordinary high water mark and the building line.

22.150.580 Shorelines of the state.

Includes all "shorelines" and "shorelines of statewide significance" within the state, as defined in RCW 90.58.030.

22.150.585 Shorelines of statewide significance.

Shorelines in Kitsap County designated as shorelines of statewide significance are:

A. Hood Canal: from Foulweather Bluff to the southwestern corner of the boundary of Kitsap County, near Chinum Point, between the ordinary high water mark and the line of extreme low tide, together with shorelands associated therewith per RCW 90.58.030(2)(f)(vi).

B. Puget Sound: seaward from the line of extreme low tide.

22.150.590 Should.

A term that means a particular action is required unless there is a demonstrated, sufficient reason, based on a policy of the Act or this program, for not taking the action.

22.150.595 State Environmental Policy Act (SEPA).

An environmental review process designed to work with other regulations to provide a comprehensive review of a proposal. Most regulations focus on particular aspects of a proposal, while SEPA requires the identification and evaluation of probable impacts for all elements of the environment. See Chapter 197-11 WAC.

22.150.600 Structure.

A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except vessels.

22.150.605 Substantial development.

Any development of which the total cost or fair market value exceeds \$5,000,000, or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold must be adjusted for inflation every five years, as defined in WAC 173-27-040(2).

22.150.610 Substantial development permit.

A permit for any substantial development.

22.150.625 Tram.

A power-assisted access device or vehicle that runs on rails or overhead cables and includes a car or gondola or similar structure to move passengers or goods up and down a hillside. The access device may be supported by a series of towers or poles.

22.150.615 Transportation.

Systems for automobiles, public transportation, pedestrians, and bicycles. This includes, but is not limited to, roads, parking facilities, bridges, sidewalks and railroads.

22.150.620 Urban Growth Area (UGA).

Those areas designated by Kitsap County pursuant to RCW 36.70A.110 for urban development.

22.150.625 Use.

The end to which a land or water area is ultimately employed.

Commented [A22]: Consistency Analysis, Table 5-1, Item #22, and text added for consistency per County recommendation.

Commented [A23]: Consistency Analysis, Table 5-1, Item #23

Commented [A24]: Consistency Analysis, Table 2-1, Item 2017a, Mandatory

Commented [A25]: Consistency Analysis, Recommended: Table 5-1, Item #5

variance, except under the conditions of subsection (iv) below. Expansion within the waterward seventy-five percent of the reduced standard buffer shall require a Type III variance.

iv. Expansion of a single-family residence below the reduced standard buffer may be allowed through an administrative variance for limited expansions of no more than 25% of the existing gross floor area or 625 square feet, whichever is less, if expanding into an existing legally cleared area and located no further waterward than the existing structure.

Commented [A41]: Consistency Analysis, Table 5-1, Item #10

D. Other Uses and Modifications in Vegetation Conservation Buffers.

1. In order to accommodate water-oriented uses and modifications within the buffer, the following standards shall apply subject to shoreline permit review unless otherwise exempted:

Commented [A42]: Per County recommendation.

a. Trails. Trails may be permitted but shall be limited to five feet in width, except where demonstrated necessary for a water-dependent use, and shall be designed in accordance with Title 12 (Storm Water Drainage). Disturbance to soil, hydrological character, trees, shrubs, snags and important wildlife habitat shall be minimized. Pervious surface materials, such as mulch, organics, raised boardwalks composed of untreated wood or an equivalent, are required. Gravel trails shall be considered impervious surfaces pursuant to Title 12. Pervious surfaces shall be utilized except where determined infeasible.

Commented [A43]: Consistency Analysis, Table 5-1, Item #9

Commented [A44]: Per County recommendation. To use consistent terminology.

i. Trails in vegetation conservation critical area buffers shall should be located in the outer twenty-five percent of the buffer, except where necessary for direct access or viewing points.

Commented [A45]: Consistency Analysis, Table 5-1, Item #8

Commented [A46]: Consistency Analysis, Table 5-1, Item #24; clarification

ii. Trails that meet the definition of water-oriented use may be located within shoreline buffers when it can be demonstrated that buffer impacts are limited through mitigation sequencing in accordance with Section 22.400.110(A).

Commented [A47]: Consistency Analysis, Table 5-1, Item #24; 'should' indicates provision is optional.

b. Decks and Viewing Platforms. Decks and viewing platforms may be permitted, but shall be limited to one hundred square feet in size, unless demonstrated that a larger structure in order to provide opportunities for small viewing decks or platforms that will not result in a net loss of shoreline ecological function. Applicants shall through demonstrate no net loss submittals par of a shoreline mitigation plan prepared by a qualified professional (Section 22.700.140). Viewing platforms shall not have roofs, except where otherwise permitted through the view blockage standards (Section 22.400.135). Creosote and pentachlorophenol should not be utilized in construction materials for decks, viewing platforms or boardwalks.

Commented [A48]: Consistency Analysis, Table 5-1, Item # 24

c. Beach Stairs. Beach stairs are may be permitted, subject to the exemption provisions in Section 22.500.100(C)(3). Beach stairs placed below the OHWM will normally require a shoreline exemption from Kitsap County, and a hydraulic project approval (HPA) from WDFW. Beach stairs with stair towers shall require an SDP where exemption provisions are not met.

Commented [A49]: Consistency Analysis, Table 5-1, Item #6

i. Stair landings in the vegetation conservation buffer or below OHWM must be composed of grating or other materials that allows a minimum of 40 percent light to transmit through.

ii. Viewing platforms associated with beach stairs shall comply with Section 22.400.120.D.1.b.

d. Trams. Trams may be permitted, subject to the exemption provisions in Section 22.500.100(C)(3) and are considered accessory or appurtenances to the upland use. Trams utilizing towers require an SDP where exemption provisions are not met. They are prohibited in the Aquatic and Natural Shoreline Environment Designations. The following development standards apply:

i. Tram landings may not exceed 100-square feet each.

ii. The width of a clearing for a tram shall be a maximum of five feet on either side of the tram, with a maximum clearing corridor of fifteen feet.

iii. The installation of a tram shall be limited only to geologically hazardous areas as defined in KCC 19.400 and subject to 'Special Studies' as outlined in Section 22.700.120.

iv. Mitigation sequencing must be used to avoid, minimize, and compensate for any impacts; enhancement of shoreline buffer vegetation will be required. See KCC 22.700.140, Shoreline Mitigation Plan, for guidance on minimum submittal requirements.

ed. Boat Launches and Marine Railways. Boat launches and marine railways, when consistent with requirements in Section 22.600.160(C)(6), may be permitted with an exemption or SDP in the shoreline residential or high intensity environments, or as a CUP in the rural conservancy or urban conservancy environments, provided all applicable provisions are met to avoid net loss of shoreline functions.

fe. Water-Oriented Storage. Water-oriented storage, including boat houses or boat storage facilities, may be ~~allowed-permitted~~ within the buffer provided:

- i. The width shall be no greater than twenty-five feet or twenty-five percent of the lot width, whichever is less.
 - ii. The height shall not be greater than fourteen feet above grade, and shall also comply with the view blockage provisions of this program.
 - iii. The overall size shall not exceed two hundred square feet. Exceptions may be considered upon demonstration of need. In such cases, applicable mitigation options to achieve no net loss for new or redevelopment activities (Chapter 22.800, Appendix B), view blockage (Section 22.400.135), and buildings and construction (Title 14) provisions shall apply.
 - iv. Allowance of a boat house within a buffer shall not justify the need for shoreline armoring to protect the structure.
 - v. Boat houses shall be prohibited in the natural environment.
 - vi. Boat storage facilities within the high intensity buffer shall not be subject to subsections (D)(1)(e)(i) through (iii) of this section, when supporting a water-dependent use and where consistent with the policies for the high intensity shoreline environment designation.
- f. In no case shall non-water-dependent uses and activities be allowed below the reduced standard buffer. This includes swimming pools and sport courts on fields.

2. Hand removal or spot-spraying of invasive or noxious weeds is permitted within vegetation conservation buffers.

3. Standards for View Thinning.

- a. View thinning activities shall be limited to twenty-five percent of the total buffer length in the high intensity and shoreline residential designations, and shall retain a minimum of thirty percent of the live crown.
- b. View thinning activities shall be limited to fifteen percent of the total buffer length in the urban conservancy and rural conservancy designations, and shall retain a minimum of thirty percent of the live crown.
- c. No tree removal is allowed in the natural designation for view enhancement; however, limited tree limbing may be allowed upon review and approval by the department.
- d. View thinning within the limited areas specified above shall generally be limited to tree limbing. Where tree removal is demonstrated to be necessary, replanting of native trees shall occur at a three-to-one ratio (planted to removed) within the buffer area.
- e. Topping of trees is prohibited, except where demonstrated necessary for safety.

Commented [A50]: Consistency Analysis, Table 5-1, Item #5

Commented [A51]: Per staff county staff recommendation; use of consistent terms

#	Topic	KCC	Action	Department Recommendation
		22.400.120.D	c. Establish standards for stair platforms and deck landings in vegetation conservation buffers.	c. Clarify stair landings in vegetation conservation buffer or below OHWM must be composed of grating material that allow 40% light transmittal; viewing platforms associated with beach stairs limited to 100 sq. ft.
		22.400.120-D.1.a	d. Clarify which multi-use trail materials are pervious and those that are not.	d. Clarify pervious surface materials used for constructing trails include mulch, organics, and raised boardwalk with untreated wood shall be used except where infeasible. Gravel trails are impervious.
		22.400.120.D.1.c	e. Clearly indicate that allowed uses <i>may</i> require a shoreline exemption.	e. Clarify allowed uses still require shoreline exemption permit documentation.
		22.400.120.D.1.b	f. Revise regulations on viewing decks and platforms normally appurtenant to a single-family residence; the current SMP language does not achieve the SMP's intent and local circumstances and the misconception of these provisions result in the construction of abnormally large platforms and viewing decks.	f. Clarify viewing decks and platforms normally appurtenant to single family residence shall be limited to 100 sq. ft. to provide opportunities for small viewing areas that will not result in a net loss of shoreline ecological function.
		22.400.120.C.2.c	g. Minor lateral expansions on existing single-family developments into the buffer, even if an existing lawn or developed areas, require a shoreline variance.	g. Establish reasonable review criteria for proposed lateral expansions in buffers over legally cleared areas and no closer to the water. All proposals shall be subject to a mitigation plan and demonstration of NNL. to ensure no net loss. Such an expansion could be reviewed administratively during the building permit review for compliance with the SMP.
8	Water Quality & Quantity	22.400.125.A	a. Match impervious surface limits in shoreline jurisdiction with KCC Title 12 'Stormwater Drainage' provisions.	a. Clarify and ensure consistency with KCC Title 12 'Stormwater Drainage' provisions for creation of impervious surfaces within shoreline jurisdiction.
9	View Blockage Chapter	22.400.135	a. Evaluate entire SMP chapter to clarify regulations for county staff and applicants.	a. Clarify establishment of structure setback line where there are adjacent principal buildings on both sides of property on a linear shoreline and along a cove or peninsula. Clarify setback line for additions, remodels or rebuilds. Clarify siting of

variance, except under the conditions of subsection (iv) below. Expansion within the waterward seventy-five percent of the reduced standard buffer shall require a Type III variance.

iv. Expansion of a single-family residence below the reduced standard buffer may be allowed through an administrative variance for limited expansions of no more than 25% of the existing gross floor area or 625 square feet, whichever is less, if expanding into an existing legally cleared area and located no further waterward than the existing structure.

Commented [A41]: Consistency Analysis, Table 5-1, Item #10

D. Other Uses and Modifications in Vegetation Conservation Buffers.

1. In order to accommodate water-oriented uses and modifications within the buffer, the following standards shall apply subject to shoreline permit review unless otherwise exempted:

Commented [A42]: Per County recommendation.

a. Trails. Trails may be permitted but shall be limited to five feet in width, except where demonstrated necessary for a water-dependent use, and shall be designed in accordance with Title 12 (Storm Water Drainage). Disturbance to soil, hydrological character, trees, shrubs, snags and important wildlife habitat shall be minimized. Pervious surface materials, such as mulch, organics, raised boardwalks composed of untreated wood or an equivalent, are required. Gravel trails shall be considered impervious surfaces pursuant to Title 12. Pervious surfaces shall be utilized except where determined infeasible.

Commented [A43]: Consistency Analysis, Table 5-1, Item #9

Commented [A44]: Per County recommendation. To use consistent terminology.

i. Trails in vegetation conservation critical area buffers shall/should be located in the outer twenty-five percent of the buffer, except where necessary for direct access or viewing points.

Commented [A45]: Consistency Analysis, Table 5-1, Item #8

Commented [A46]: Consistency Analysis, Table 5-1, Item #24; clarification

ii. Trails that meet the definition of water-oriented use may be located within shoreline buffers when it can be demonstrated that buffer impacts are limited through mitigation sequencing in accordance with Section 22.400.110(A).

Commented [A47]: Consistency Analysis, Table 5-1, Item #24; 'should' indicates provision is optional.

b. Decks and Viewing Platforms. Decks and viewing platforms may be permitted, but shall be limited to one hundred square feet in size, unless demonstrated that a larger structure in order to provide opportunities for small viewing decks or platforms that will not result in a net loss of shoreline ecological function. Applicants shall through demonstrate no net loss submittals part of a shoreline mitigation plan prepared by a qualified professional (Section 22.700.140). Viewing platforms shall not have roofs, except where otherwise permitted through the view blockage standards (Section 22.400.135). Creosote and pentachlorophenol should not be utilized in construction materials for decks, viewing platforms or boardwalks.

Commented [A48]: Consistency Analysis, Table 5-1, Item # 24

c. Beach Stairs. Beach stairs are may be permitted, subject to the exemption provisions in Section 22.500.100(C)(3). Beach stairs placed below the OHWM will normally require a shoreline exemption from Kitsap County, and a hydraulic project approval (HPA) from WDFW. Beach stairs with stair towers shall require an SDP where exemption provisions are not met.

Commented [A49]: Consistency Analysis, Table 5-1, Item #6

i. Stair landings in the vegetation conservation buffer or below OHWM must be composed of grating or other materials that allows a minimum of 40 percent light to transmit through.

ii. Viewing platforms associated with beach stairs shall comply with Section 22.400.120.D.1.b.

d. Trams. Trams may be permitted, subject to the exemption provisions in Section 22.500.100(C)(3) and are considered accessory or appurtenances to the upland use. Trams utilizing towers require an SDP where exemption provisions are not met. They are prohibited in the Aquatic and Natural Shoreline Environment Designations. The following development standards apply:

i. Tram landings may not exceed 100-square feet each.

ii. The width of a clearing for a tram shall be a maximum of five feet on either side of the tram, with a maximum clearing corridor of fifteen feet.

iii. The installation of a tram shall be limited only to geologically hazardous areas as defined in KCC 19.400 and subject to 'Special Studies' as outlined in Section 22.700.120.

4. An additional fifteen-foot building setback shall be maintained beyond the outer boundary of the buffer. This building setback may be reduced; provided, that the resulting setback is protective of existing vegetation within the buffer.

C. Constrained Lot and Infill Provisions.

1. Alternatives for New Development. New single-family and water-dependent development may qualify for an alternative buffer if the following apply:

a. Infill Provision. For new construction on a vacant parcel adjoined by existing homes on both sides, the reduced standard buffer may be administratively reduced by up to ten percent in compliance with Section 22.400.135 (View blockage). This shall be a Type I administrative review process. The mitigation options to achieve no net loss for new or redevelopment activities table (Chapter 22.800, Appendix B) shall apply to such reductions.

b. Constrained Lot Provisions.

i. Legally platted lots with a depth that would not allow for compliance with the reduced standard buffer. Proposals to reduce the buffer below the reduced standard buffer shall require a shoreline mitigation plan (Section 22.700.140), starting with review of existing conditions as presented in the Kitsap County Shoreline Inventory and Characterization report and supplemented with appropriate field verification.

ii. If the development requires less than a twenty-five percent reduction of the reduced standard buffer, or any amount of buffer reduction within the shoreline residential designation, a Type II administrative variance shall be required. If the development is not within the shoreline residential designation and requires greater than a twenty-five percent reduction of the reduced standard buffer, a Type III variance shall be required.

c. Water-Dependent Development. Buffers may be modified and reduced to accommodate water-dependent uses when consistent with the Act and this master program, and when conducted so that no net loss of critical areas or shoreline ecological functions occurs.

2. Alternatives for Existing Development.

a. Expansion of Development outside of the Standard Buffer. Expansion of existing development outside the standard buffer shall be permitted, provided all other applicable provisions are met.

b. Expansion of Development within the Standard Buffer. Structures in existence on the effective date of this program that do not meet the setback or buffer requirements of this program may be remodeled or reconstructed; provided, that the new construction or related activity does not exceed the standard height limit, and does not further intrude into the standard buffer except where mitigation is applied pursuant to the mitigation options to achieve no net loss for new or redevelopment activities table (Chapter 22.800, Appendix B). Mitigation may be waived where the expansion occurs directly upland of the existing structure and where such expansion does not require removal of intact native vegetation or expansion of impervious surfaces.

c. Expansion of Development below the Reduced Standard Buffer. Expansion of existing development below the reduced standard buffer may occur according to the following criteria.

i. Expansion of development shall not occur further waterward of the existing structure, unless no other feasible option exists due to physical constraints of the property.

ii. Any expansion below the reduced standard buffer shall require a shoreline mitigation plan (see Section 22.700.140).

iii. Expansion within the outer twenty-five percent of the reduced standard buffer or within any portion of the buffer in the shoreline residential designation shall require a Type II administrative

Commented [A40]: Consistency Analysis, Table 5-1, Item #10

- f. See the forest practices/timber harvest standards (Section 22.600.145) for danger tree removal requirements.
- g. An advance site visit may be required by the department of community development in order to confirm the proposed thinning is consistent with this section and critical area protection standards. Site visit request applications may be obtained online or in person at Kitsap County's permit center. The county may also utilize site photographs in lieu of a site visit where sufficient detail is available to make a determination on consistency with thinning standards.

22.400.125 Water quality and quantity.

New development shall provide stormwater management facilities designed, constructed and maintained in accordance with the current stormwater management standards in Title 12. An SDAP shall also be required for impervious surface creation in areas of the shoreline mapped as critical drainage areas and those meeting minimum critical drainage area criteria, defined in Title 12, including but not limited to the following:

- A. For sites within the census-defined urban areas, or the UGAs, the creation or cumulative addition of five thousand square feet or greater of impervious surface area from predevelopment conditions is considered major development and requires stormwater mitigation through a site development activity permit (SDAP).
- B. For sites outside of the census-defined urban areas, or the UGAs, the creation or cumulative addition of impervious surfaces that results in five percent or more of the development site being covered in impervious surfaces or the creation or cumulative addition of ten thousand square feet of impervious surfaces from the predevelopment conditions, whichever is greater, is a major development, and requires stormwater mitigation through an SDAP.
- C. An SDAP shall also be required for impervious surface creation in critical drainage areas, as defined in Title 12.

Commented [A52]: Consistency Analysis, Recommended Table 5-1, Item #11

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

- A. Applicability and Other Regulations.
 - 1. This section applies to archaeological and historic resources either recorded by the Department of Archaeology and Historic Preservation, local jurisdictions or applicable tribal databases or predictive models.
 - 2. HASCE sites shall comply with Kitsap County Contract KC 442-07 (Agreement with Department of Archaeology and Historic Preservation), Chapter 25-48 WAC (Archaeological Excavation and Removal Permit), Chapter 27.44 RCW (Indian Graves and Records), and Chapter 27.53 RCW (Archaeological Sites and Resources).
- B. Known or Potential HASCE Sites.
 - 1. Tribal historic preservation officers (THPOs) for tribes with jurisdiction will be provided the opportunity to review and comment on all development proposals in the Kitsap County shoreline jurisdiction, both terrestrial and aquatic, in order to ensure all known or potential archaeological sites, traditional cultural properties and traditional cultural landscapes are acknowledged, properly surveyed and adequately protected.
 - 2. If archaeological resources are known in advance, developers and property owners must notify Kitsap County, the Department of Archaeology and Historic Preservation, and applicable tribes.
 - 3. Sites with known or potential archaeological resources, as determined pursuant to the resources listed at the beginning of this section, shall require a site inspection by a professional archaeologist in coordination with the affected tribe(s). The THPO shall be provided the opportunity to evaluate and comment on cultural resources evaluations conducted by the professional archaeologist.

4. Work on sites with identified archaeological resources shall not start until authorized by the Department of Archaeology and Historic Preservation through an archaeological excavation and removal permit, which may condition development permits pursuant to KC 442-07.

C. Discovered HASCE Sites.

1. If archaeological resources are uncovered during excavation, developers and property owners must immediately stop work and notify Kitsap County, the Office of Archaeology and Historic Preservation and affected Indian tribes.

2. Uncovered sites shall require a site inspection by a professional archaeologist in coordination with the affected tribe(s). Tribal historic preservation officers shall be provided the opportunity to evaluate and comment on cultural resources evaluations conducted by the professional archaeologist.

3. Work shall not recommence until authorized by the Office of Archaeology and Historic Preservation through an archaeological excavation and removal permit, which may condition development permits pursuant to KC 442-07.

22.400.135 View blockage.

A. In order to protect water views, all principal buildings, and all additions to or reconstruction of a principal building, shall be so located as to maintain the minimum shoreline structure setback line. All such buildings must also be designed not to significantly impact views from principal buildings on adjoining and neighboring property or properties. The shoreline structure setback line for the purpose of this subsection is based on the location of the principal building(s) at the time of a permit for a new principal building, and shall be determined as follows:

1. No Adjacent Principal Buildings. Where there are no adjacent principal buildings, the shoreline structure setback line shall be the standard vegetation conservation buffer and setback specified in Section 22.400.120 elsewhere in this program. See Figure 22.400.135(A)(1).

Commented [A53]: Consistency Analysis, Table 5-1, Item #12; County recommendation

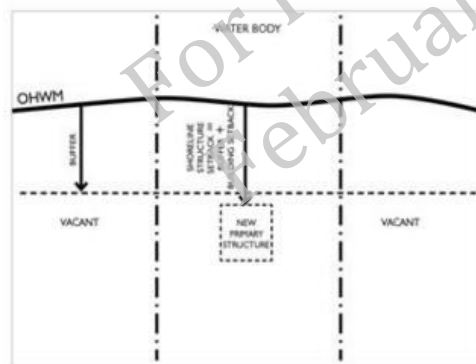


Figure 22.400.135(A)(1)
Buffer and shoreline structure setback with no adjacent primary structure.

2. Adjacent Principal Building on One Side. Where there is an adjacent principal building on one side, the shoreline structure setback line shall be a distance no less than that of the adjacent principal building to the shoreline or the buffer and setback specified elsewhere in this program, whichever is greater. See Figures 22.400.135(A)(2)(a) and 22.400.135(A)(2)(b).

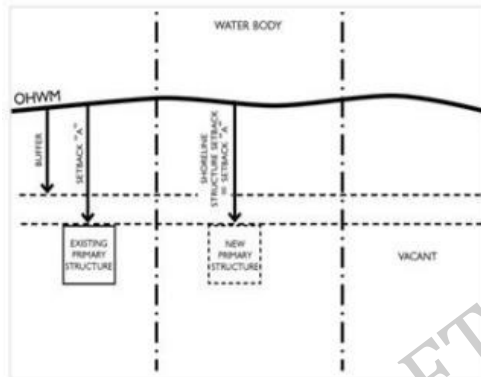


Figure 22.400.135(A)(2)(a)
Buffer and shoreline structure setback with adjacent primary structure landward of buffer on one side.

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For Public Review
February 2, 2021

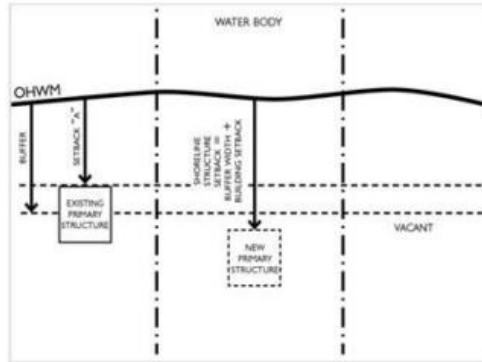


Figure 22.400.135(A)(2)(b)
Buffer and shoreline structure setback with adjacent primary structure within buffer on one side.

3. Adjacent Principal Buildings on Both Sides on a Regular-Linear Shoreline. Where there are adjacent principal buildings on both sides of the proposed structure on a regular-linear shoreline (not along a peninsula or cove), the shoreline structure setback line shall be determined by a stringline setback, a line drawn between the building line of the adjacent principal buildings or the buffer and setback specified elsewhere in this program, whichever is greater. A stringline setback means a straight line drawn between the points on the primary structures having the greatest projection waterward. If one of the adjacent properties is developed landward of the vegetation conservation buffer and setback, the line shall not be drawn to that adjacent structure but be drawn to the point where the standard buffer meets the side property line of the lot to be improved. See Figure 22.400.135(A)(3).

Commented [A54]: Consistency Analysis, Table 5-1, Item #12

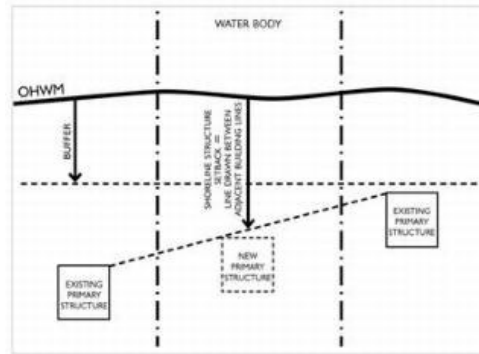


Figure 22.400.135(A)(3)
Buffer and shoreline structure setback on a regular shoreline with adjacent primary structures on both sides.

4. ~~Adjacent Principal Buildings on Both Sides on an Irregular Shoreline~~ - Where there are two adjacent principal structures on a shoreline which forms a cove, ~~or~~ peninsula, ~~or~~ irregular shoreline, the shoreline structure setback line shall be determined by averaging the ~~existing~~ setback lines of the two adjacent principal buildings or the buffer and setback specified elsewhere in this program, whichever is greater. See Figure 22.400.135(A)(4).
5. Consideration of Existing Mitigating Circumstances. The shoreline structure setback line may ~~not~~ be ~~administratively waived~~ applied to limit distance from the shoreline where an elevation survey prepared by a qualified professional demonstrates that ~~existing~~ due to a difference in topography or a vegetation survey demonstrates that due to the presence of already significantly blocks views - view blocking vegetation on or adjacent to the common border of the two parcels, ~~and~~ the proposed principal building will not result in any additional view blockage to an existing adjacent principal building(s). In such cases, the buffer and setback specified elsewhere in this program shall apply.

Commented [A55]: Consistency Analysis, Table 5-1, Item #12

Commented [A56]: Consistency Analysis, Table 5-1, Item #12; County language recommendation.

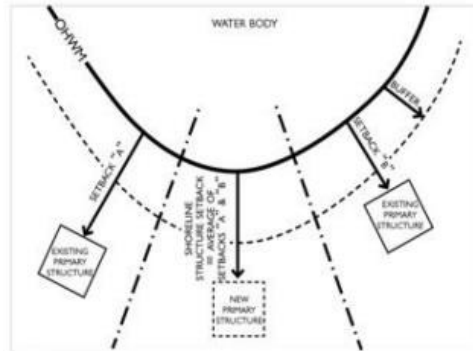


Figure 22.400.135(A)(4)
Buffer and shoreline structure setback on an irregular shoreline with adjacent primary structures on both sides.

6. Setback line for Additions, Remodels or Rebuilds. Where there will be additions or rebuilt structures on a subject parcel with existing primary structures on adjacent parcel(s), the shoreline structure setback line(s) shall be based on the straight line drawn between the points on the primary structures having the greatest projection waterward of the existing/previously existing primary structure(s) on the subject parcel and to that of the adjacent primary structure(s) or the buffer and setback specified elsewhere in this program, whichever is greater. If there are primary structures on each adjacent parcel, there will be two intersecting shoreline structure setback lines representing the existing view lines that must be maintained for the addition/rebuild.

B. Accessory Structures. Accessory structures, for the purpose of this Section, include but may not be limited to accessory dwelling units, boat houses, sheds, decks, and fences as defined for the purposes of view blockage may be sited within the shoreline structure setback area; provided, that they do not substantially obstruct the view of adjacent principal buildings and comply with applicable buffer provisions.

1. Siting Accessory Structures. Accessory structures, as noted above, may be sited within the shoreline structure setback area; provided, that they do not substantially obstruct the view of adjacent principal buildings and comply with applicable buffer provisions. Fences 6-feet or less, unenclosed decks 18-inches or less from average grade, and structures less than ten feet in height from grade level and under 200 square feet, do not constitute view blockage but are still subject to the other provisions of this Program including vegetation conservation buffers. Water orientated-storage structures that meet the requirements in Section 22.400.120(D)(1)(e) do not constitute a view blockage.
2. Use of Accessory Structures in determining view line. Accessory structures, as noted above, shall not be used to determine a view line for a new or replacement primary structure on the same or adjacent parcels.

For additions and remodels, the shoreline structure setback line(s) shall be based on the line drawn between the waterward-most building edge of the existing/previously existing primary structure(s) on the subject parcel and to that of the adjacent primary structure(s) or the buffer and setback specified elsewhere in this program, whichever is greater.

C. Appeal Procedure. Determinations of shoreline structure setback lines are classified as Type I decisions under Chapter 21.04 and may be subject to appeal as provided therein.

D. Conditional Waiver Procedure.

Commented [A57]: Consistency Analysis, Table 5-1, Item #12

Commented [A58]: Consistency Analysis, Table 5-1, Item #12, County staff recommendation.

Commented [A59]: Consistency Analysis, Table 5-1, Item #12

Commented [A60]: Consistency Analysis, Table 5-1, Item #12, County staff recommended language inserted.

1. An applicant aggrieved by the strict application of this chapter section may seek a conditional waiver from the director. Such a waiver shall be a Type II administrative decision and the applicant may file an application to the department. A conditional waiver may be granted after the applicant demonstrates the following:

Commented [A61]: Per County recommendation

a. The hardship which results from the application of the requirements of this section serves as the basis for granting the conditional waiver is specifically related to the property of the applicant and does not apply generally to other property in the vicinity;

Commented [A62]: Per County recommendation

b. The hardship which serves as the basis for granting the conditional waiver is specifically related to the property of the applicant and does not apply generally to other property in the vicinity;

Commented [A63]: Consistency Analysis, Table 5-1, Item #12

be. The hardship which results from the application of the requirements of this chapter section is not a result of the applicant's own actions;

Commented [A64]: Per County recommendation, clarification.

cd. The conditional waiver, if granted, will be in harmony with the general purpose and intent of the Act and this program in preserving the views of the adjacent shoreline residences; and

fe. The conditional waiver, if granted, will not cause more harm to adjacent neighbors than would occur to the applicant in applying the county's view blockage requirements in Section 22.400.135. In balancing the interest of the applicant with adjacent neighbors, if more harm will be done by granting the conditional waiver than would be done by denying it, the conditional waiver shall be denied.

Commented [A65]: Per County staff recommendation.

2. The applicant seeking a conditional waiver of the strict application of this chapter may file an application with the department accompanied by an application fee per the Kitsap County development permit fee schedule (Section 21.10.010).

Commented [A66]: Consistency Analysis, Table 5-1, Item #12 & 2; redundant removed

22.400.140 Bulk and dimension standards.

A. The standards in Table 22.400.140(A) shall apply to all shoreline use and development activities except where specifically modified in this master program. Where there is a conflict with other county codes, the more restrictive standards shall apply.

Table 22.400.140(A) Development Standards

Standard	High Intensity	Shoreline Residential	Urban Conservancy	Rural Conservancy	Natural	Aquatic
Minimum Lot Width (feet)	40-60 ²	40-80 ²	60	140	140	Not-Applicable
Minimum Lot Width (feet)	See Title 17					Not-Applicable
Shoreline Buffer	See Section 22.400.120(B)					
Side Setbacks (feet)	5	5 ³	5	20 ⁴	20 ⁴	5
Side Setbacks (feet) ³	See KCC Chapter 17.420					
Maximum Impervious Area (percentage of lot area)	50/85 ⁵	6	25/50 ⁵	6	6	Not-Applicable
Maximum Impervious Area (percentage of lot area)	See KCC Chapter 17.420	See Section 22.400.125	See KCC Chapter 17.420	See Section 22.400.125	See Section 22.400.125	Not-Applicable
Maximum Building Height (feet)	35	35	35	35	35	35

Notes:

- Forty-foot lot width for single-family residential uses. Sixty-foot lot width for multifamily and nonresidential uses.

#	Topic	KCC	Action	Department Recommendation
				accessory structures and make clear that ADUs shall not be used to determine view line.
10	Bulk & Dimensional Standards	22.400.140.A 22.600.105 - Note 2	a. Compare Title 17 'Zoning' with the SMP Development Standards' Chart. Resolve discrepancies between both standards tables.	a. Cross reference Title 17 for SMP Development Standards; clarify that docks and mooring facilities in the aquatic designation shall be consistent with underlying zoning, except no side yard will apply when a shared facility is located near a property boundary.
11	Process & Enforcement	'Review Authority Table' 21.04	a. Remove Hearing Examiner requirement for stand-alone shoreline substantial development permits to eliminate 'no value added' permit processes.	a. <u>Update</u> Project Permit Application Procedures for Shoreline Substantial Development Permits. Change SSDP from Type III to Type II which removes Hearing Examiner decision requirement. Shoreline Variance greater than 25% remains a Type III with Hearing Examiner decision; Shoreline Variance less than 25% or within any portion of the reduced shoreline buffer shall be a Type II with Director decision.
		22.500.105.A.7	b. Evaluate the 'Shoreline Application Flow Chart'.	b. Shoreline Application Flow Chart removed from SMP and provided as a brochure or information sheet online or over the counter to permit applicants.
		22.500.100.C.11. c and d	c. Update minimum permit application requirements in SMP.	c. Update minimum requirements for site development plans to include location of shoreline buffer and setback upland from OHWM to determine extent of work proposed within the buffer; delineation of critical areas and critical area buffers for wetlands, streams, geologically hazardous areas, floodways, and flood hazard areas that will be altered.
		22.500.100.C.2.b	d. Include Title 21 'Land Use and Development Procedures' cross references where applicable to clarify shoreline permit review time requirements.	d. Clarify all SDPs, variances, conditional use permit, and all activities exempt from SDP shall meet permit review time requirements and expiration consistent with Title 21.
12	Shoreline Use & Modification Standards	22.600.115	a. Add language addressing commercial net pen provisions for non-native salmon operations (HB2957).	a. New provision clarifying that all marine finfish aquaculture programs shall comply with RCW 77.125. New or expanded leases of nonnative finfish aquaculture are prohibited.
		22.600.160.C.3.b	b. Clarify replacement pilings to meet minimum spacing standards.	b. Clarify that replacement pilings must be spaced twenty feet apart lengthwise when installed to support a replacement structure.

1. An applicant aggrieved by the strict application of this chapter section may seek a conditional waiver from the director. Such a waiver shall be a Type II administrative decision and the applicant may file an application to the department. A conditional waiver may be granted after the applicant demonstrates the following:

Commented [A61]: Per County recommendation

a. The hardship which results from the application of the requirements of this section serves as the basis for granting the conditional waiver is specifically related to the property of the applicant and does not apply generally to other property in the vicinity;

Commented [A62]: Per County recommendation

b. The hardship which serves as the basis for granting the conditional waiver is specifically related to the property of the applicant and does not apply generally to other property in the vicinity;

Commented [A63]: Consistency Analysis, Table 5-1, Item #12

be. The hardship which results from the application of the requirements of this chapter section is not a result of the applicant's own actions;

Commented [A64]: Per County recommendation, clarification.

cd. The conditional waiver, if granted, will be in harmony with the general purpose and intent of the Act and this program in preserving the views of the adjacent shoreline residences; and

fe. The conditional waiver, if granted, will not cause more harm to adjacent neighbors than would occur to the applicant in applying the county's view blockage requirements in Section 22.400.135. In balancing the interest of the applicant with adjacent neighbors, if more harm will be done by granting the conditional waiver than would be done by denying it, the conditional waiver shall be denied.

Commented [A65]: Per County staff recommendation.

2. The applicant seeking a conditional waiver of the strict application of this chapter may file an application with the department accompanied by an application fee per the Kitsap County development permit fee schedule (Section 21.10.010).

Commented [A66]: Consistency Analysis, Table 5-1, Item #12 & 2; redundant removed

22.400.140 Bulk and dimension standards.

A. The standards in Table 22.400.140(A) shall apply to all shoreline use and development activities except where specifically modified in this master program. Where there is a conflict with other county codes, the more restrictive standards shall apply.

Table 22.400.140(A) Development Standards

Standard	High Intensity	Shoreline Residential	Urban Conservancy	Rural Conservancy	Natural	Aquatic
Minimum Lot Width (feet)	40-60 ²	40-80 ²	60	140	140	Not-Applicable
Minimum Lot Width (feet)	See Title 17					Not-Applicable
Shoreline Buffer	See Section 22.400.120(B)					
Side Setbacks (feet)	5	5 ³	5	20 ⁴	20 ⁴	5
Side Setbacks (feet) ³	See KCC Chapter 17.420					
Maximum Impervious Area (percentage of lot area)	50/85 ⁵	6	25/50 ⁵	6	6	Not-Applicable
Maximum Impervious Area (percentage of lot area)	See KCC Chapter 17.420	See Section 22.400.125	See KCC Chapter 17.420	See Section 22.400.125	See Section 22.400.125	Not-Applicable
Maximum Building Height (feet)	35	35	35	35	35	35

Notes:

1. Forty-foot lot width for single-family residential uses. Sixty-foot lot width for multifamily and nonresidential uses.

2. ~~Forty-foot lot width for lots in limited areas of intensive rural development or urban growth areas. Eighty-foot lot width for all other shoreline residential lots.~~
3. ~~Docks and mooring facilities in the aquatic designation shall be consistent with underlying zoning, except no side yard will apply when a shared facility is located on or near a property boundary.~~
3. ~~Where parcel occurs in a rural zone and is greater than one acre in size, a minimum twenty-foot side yard setback shall apply in accordance with Chapter 17.420.~~
4. ~~Where parcel size is less than one acre, a five-foot minimum side setback shall apply in accordance with Chapter 17.420.~~
5. ~~Low range number applies to lots greater than one-half acre in area and high range number applies to lots less than one-half acre in area. Where there is a conflict with other county codes, the more restrictive stormwater standards shall apply.~~
6. ~~Impervious surface thresholds for shoreline residential, rural conservancy, and natural: see Section 22.400.125.~~

Commented [A67]: Consistency Analysis, Table 5-1, Item #13

- B. The maximum allowable height of structures in shoreline jurisdiction is thirty-five feet. Building heights above thirty-five feet, but consistent with underlying zoning allowances, require authorization via a shoreline variance pursuant to Section 22.500.100(E).
- C. All new subdivided shoreline lots shall be, at a minimum, a one-to-two width-to-depth ratio. Exceptions may be granted in cases where such ratio would negatively impact critical areas or their buffers.

22.400.145 Public access.

- A. All recreational and public access facilities shall be designed, located and operated in a manner consistent with the purpose of the environment designation in which they are located.
- B. Except as provided in subsections (E) and (F) of this section, substantial developments or conditional uses shall provide public access where any of the following conditions are present:
1. A development or use will create increased demand for public access to the shoreline.
 2. A development or use will interfere with an existing public access way.
 3. New non-water-oriented uses are proposed.
 4. A use or activity will interfere with public use of lands or waters subject to the public trust doctrine.
- C. Shoreline development by public entities, port districts, state agencies, and public utility districts shall include public access measures as part of each shoreline development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment.
- D. Ensure that publicly financed or subsidized shoreline erosion control measures do not restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions. See public access provisions of WAC 173-26-221(4). Where feasible, incorporate ecological restoration and public access improvements into the project.
- E. Off-site public access may be allowed where it results in an equal or greater public benefit than on-site public access, or when on-site limitations relating to security, environment, use conflict, intervening improvements, or feasibility are present. Sites on the same water body, or secondarily within the same watershed, are preferred. Where feasible, off-site public access should include both visual and physical elements. Off-site public access may include, but is not limited to, enhancing an adjacent public property (e.g., existing public or recreation access site, road, street, or alley abutting a body of water, or similar) in accordance with county standards; providing, improving or enhancing public access on another property under the control of the applicant/proponent; or another equivalent measure.
- F. Public access shall not be required for single-family residential development of four or fewer lots.
- G. Public access shall not be required if an applicant/proponent demonstrates to the satisfaction of the county that one or more of the following conditions apply:
1. Unavoidable health or safety hazards to the public exist and cannot be prevented by any practical means;

	Permit/Activity/Decision	Review Authority	Type I	Type II	Type III	Type IV
12	Shoreline Substantial Development Permits	DHE		X	X	
13	Shoreline Variance (> 25%)	HE			X	
14	Shoreline Variance (< 25% or within any portion of the reduced buffer in shoreline residential designation)	D		X		
154	Timber Harvest Permit	D	X			
LAND USE PERMITS – See also Title 17, Zoning						
165	Administrative Conditional Use Permit	D		X		
176	Administrative Conditional Use Permit Major Amendment – Proposed After Approval	D		X		
187	Administrative Conditional Use Permit Minor Amendment – Proposed After Approval	D	X			
198	Conditional Use Permit	HE			X	
2049	Conditional Use Permit Major Amendment – Proposed After Approval	HE			X	
210	Conditional Use Permit Minor Amendment – Proposed After Approval	D	X			
224	Development Agreement	BC				X
232	Home Business	D	X			
243	Master Plan	HE			X	
254	Master Plan – Amendments	D		X		
265	Performance Based Development	HE			X	
276	Performance Based Development Major Amendment – Proposed After Approval	HE			X	
287	Performance Based Development Minor Amendment – Proposed After Approval	D	X			
298	Rezone ¹	PC/BC			X	
3029	Sign	D	X			
310	Zoning Variance – Director’s (<= 10%)	D	X			
324	Zoning Variance – Administrative (> 10% to <= 25%)	D		X		
332	Zoning Variance – Hearing Examiner (> 25%)	HE			X	
LAND DIVISION PERMITS – See also Title 16, Land Division and Development						
343	Binding Site Plan	D		X		
354	Binding Site Plan Alteration	D		X		
365	Final Large Lot Plat	D	X			

Commented [A1]: Consistency Analysis, Table 5-1, Item #14; housekeeping amendment; revised per County recommendation.

Commented [A2]: Consistency Analysis, Table 5-1, Item #14; housekeeping amendment; revised per County recommendation.

Commented [A81]: Consistency Analysis, Table 5-1, Item #16

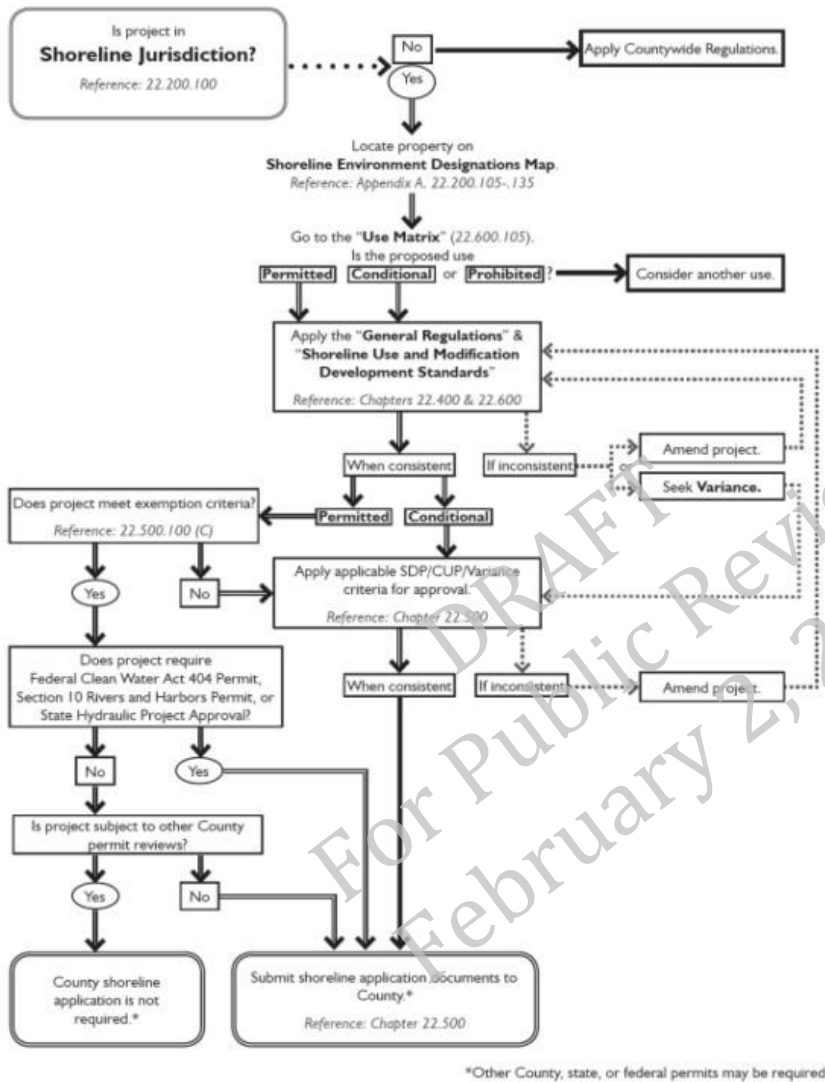


Figure 22.500.105(A)(7)
 Shoreline Application Flow Chart

9.8- The public hearing will be conducted pursuant to Chapter 21.04.

10.9- Following a decision by the county, the application will be forwarded to Ecology in accordance with the filing procedures at WAC 173-27-130.

B. Pre-Application and Staff Consultations.

1. A pre-application conference, described in Section 21.04.120, is required when the proposal involves state lands, and is highly recommended for any activities near or below the OHWM. This conference will result in clarification with regard to required permits and potential conditions as recommended by applicable state and tribal agencies.
 2. A staff consultation, described in Section 21.04.120, is required for any over-water structure, shoreline armoring, or new primary structures or additions within the standard buffer (Section 22.400.120(B)(1)), except where waived by the department.
 3. For leases of over-water structures on state-owned aquatic lands managed by Washington Department of Natural Resources (DNR), approval will be conditioned in accordance with state standards, including but not limited to buffer requirements.
- C. Minimum Application Requirements. A complete application for a substantial development, conditional use, or variance permit shall contain, at a minimum, the following information:
1. The name, address and phone number of the applicant. The applicant should be the owner of the property or the primary proponent of the project and not the representative of the owner or primary proponent.
 2. The name, address and phone number of the applicant's representative if other than the applicant.
 3. The name, address and phone number of the property owner, if other than the applicant.
 4. Location of the property. This shall, at a minimum, include the property address and identification of the section, township and range to the nearest quarter, quarter section or latitude and longitude to the nearest minute. All applications for projects located in open water areas away from land shall provide a longitude and latitude location.
 5. Identification of the name of the shoreline (water body) with which the site of the proposal is associated. This should be the water body from which jurisdiction of the Act over the project is derived.
 6. A general description of the proposed project that includes the proposed use or uses and the activities necessary to accomplish the project.
 7. A general description of the property as it now exists including its physical characteristics and improvements and structures.
 8. A general description of the vicinity of the proposed project including identification of the adjacent uses, structures and improvements, intensity of development and physical characteristics.
 9. A SEPA checklist, when required.
 10. Special reports, when required (see Chapter 22.700).
 11. A site development plan consisting of maps and elevation drawings, drawn to an appropriate scale to depict clearly all required information, photographs and text which shall include:
 - a. The boundary of the parcel(s) of land upon which the development is proposed.
 - b. The OHWM of all water bodies located adjacent to or within the boundary of the project. This may be an approximate location; provided, that for any development where a determination of consistency with the applicable regulations requires a precise location of the OHWM, the mark shall be located precisely and the biological and hydrological basis for the location as indicated on the plans shall be included in the development plan. Where the OHWM is neither adjacent to or within the boundary of the project, the plan shall indicate the distance and direction to the nearest OHWM of a shoreline.
 - c. The location of the shoreline buffer and setback upland from the OHWM to determine the extent of the work proposed within the buffer.

Commented [A82]: Consistency Analysis, Table 5-1, Item #17

de. Existing and proposed land contours. The contours shall be at intervals sufficient to accurately determine the existing character of the property and the extent of the proposed change to the land that is necessary for the development. Areas within the boundary that will not be altered by the development may be indicated as such and contours approximated for that area.

ed. A delineation of all ~~wetland areas, critical areas and critical area buffers including but not limited to wetlands, streams, geologically hazardous areas, floodways, and flood hazard areas~~ that will be altered or used as a part of the ~~development~~.

Commented [A83]: Consistency Analysis, Table 5-1, Item #17

fe. A general indication of the character of vegetation found on the site.

gf. The dimensions and locations of all existing and proposed structures and improvements including, but not limited to: buildings, paved or graveled areas, roads, utilities, septic tanks and drainfields, material stockpiles or surcharge, and stormwater management facilities.

hg. Where applicable, a landscaping plan for the project.

ih. Where applicable, plans for development of areas on or off the site as mitigation for impacts associated with the proposed project shall be included and contain information consistent with the requirements of this section.

ji. Quantity, source and composition of any fill material that is placed on the site whether temporary or permanent.

kj. Quantity, composition and destination of any excavated or dredged material.

lk. A vicinity map showing the relationship of the property and proposed development or use to roads, utilities, and existing development and uses on adjacent properties.

ml. Where applicable, a depiction of the impacts to views from existing residential uses and public areas.

nm. On all variance applications, the plans shall clearly indicate where development could occur without approval of a variance, the physical features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and uses.

12. The applicable permit fees in accordance with the department of community development fee schedule.

D. Notice of Application. Following receipt of a complete application, the county will issue a notice of application for nonexempt projects, pursuant to the procedures in Chapter 21.04. In addition to the requirements of Section 21.04.210, the notice of application must provide for a thirty day comment period, and include the date, time and place of public hearing (if applicable and scheduled), in accordance with WAC 173-27-110(2)(e).

E. Public Hearings and Notice of Decision.

1. The applicant has the burden of proof to establish that the proposed development is consistent with the Act, this program, and other applicable county policies and regulations. Upon consideration of the evidence offered at the public hearing, the hearing examiner will issue a decision. The decision will contain findings of fact and conclusions describing the manner in which the decision is consistent with the Act and this master program. The decision will be mailed to the applicant and other interested parties, Ecology, and the State's Attorney General.

2. Hearings shall follow the process as described in Chapter 21.04. The "hearing examiner rules of procedure" shall also serve as reference for the hearing procedure.

F. Initiation of Development. As set forth in WAC 173-27-190, each permit for a substantial development, conditional use or variance issued by local government shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one days from the date of filing as defined in RCW

development must comply with the requirements contained in the Act and this program and may require other permits or approvals under this master program. Permits may be issued with limitations or conditions to assure consistency with the Act and this program.

5. All applications for shoreline substantial development permits or permit revisions shall be submitted to the Department of Ecology upon a final decision by local government pursuant to WAC 173-27-130. "Final decision by local government" shall mean the order of ruling, whether it be an approval or denial, that is established after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals has lapsed.

C. Exemptions from Substantial Development Permits.

1. Certain activities, developments or uses are exempt from the substantial development permit requirements of the Act and this program. These developments are those set forth in WAC 173-27-040 (or as amended), and do not meet the definition of substantial development under RCW 90.58.030(3)(e). A summary of exempt developments is listed in subsection (C)(3) of this section, the application of which shall be guided by WAC 173-27-040 (or as amended).

2. Application and Interpretation of Exemptions.

a. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the substantial development permit process.

b. An exemption from the SDP process is not an exemption from compliance with the Act or this master program, or from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of this master program and the Act ~~and obtain a statement of exemption approved by the director on receipt of a qualifying shoreline exemption application and minimum submittal requirements established by the department.~~ A development or use that is listed as a conditional use pursuant to this master program, or is an unlisted use must obtain a CUP even though the development or use does not require an SDP. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards found in Chapters 22.400 and 22.600, such development or use can only be authorized by approval of a shoreline variance (see subsection (E) of this section).

~~c. An exemption from the SDP process is not an exemption from a CUP or an administrative CUP where applicable.~~

d. The burden of proof that a development or use is exempt from the permit process is on the applicant.

e. If any part of a proposed development is not eligible for exemption, then an SDP is required for the entire proposed development project.

f. The county may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the Act and this master program.

3. The following list of developments, summarized from WAC 173-27-040, shall not require SDPs:

a. Any development of which the total cost or fair market value, whichever is higher, does not exceed ~~\$5,000.00~~ 7,047.00, if such development does not materially interfere with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection is adjusted for inflation by the Washington State Office of Financial Management every five years. The total cost or fair market

Commented [A72]: Consistency Analysis, Table 5-1, Item #15

Commented [A73]: County staff recommendation, code relocation from 22.600.175.B.1.

Commented [A74]: Consistency Analysis, Table 2-1, Item 2017a, Mandatory

- b. All permits shall take into account that commercial geoduck operators have the right to harvest geoduck once planted.
 - c. All subsequent cycles of planting and harvest shall not require a new CUP, subject to WAC 173-27-100.
 - d. A single CUP may be submitted for multiple sites within an inlet, bay or other defined feature, provided the sites are all under control of the same applicant and within the program's jurisdiction.
 - e. Commercial geoduck aquaculture workers shall be allowed to accomplish on-site work during low tides, which may occur at night or on weekends. Where such activities are necessary, noise and light impacts to nearby residents shall be mitigated to the greatest extent practicable.
3. Additional Standards for Net Pens. Fish net pens and rafts shall meet the following criteria:
- a. Fish net pens shall meet, at a minimum, state approved administrative guidelines for the management of net pen cultures. In the event there is a conflict in requirements, the more restrictive shall prevail.
 - b. Alternative facilities and technologies that reduce ecological and aesthetic impacts shall be preferred to traditional floating net pens.
 - c. Anchors that minimize disturbance to substrate, such as helical anchors, shall be employed.
 - d. Net pen facilities shall be located no closer than one thousand five hundred feet from the OHWM, unless a specific lesser distance is determined to be appropriate based upon a visual impact analysis or due to potential impacts to navigational lines.
 - e. Net cleaning activities shall be conducted on a frequent enough basis so as not to violate state water quality standards.
 - f. In the event of a significant fish kill at the site of the net pen facility, the facility operator shall submit a timely report to the Kitsap public health district and the Kitsap County department of community development stating the cause of death and shall detail remedial action(s) to be implemented to prevent reoccurrence.
 - g. Floating net pens shall be prohibited in Kitsap County's Hood Canal jurisdictional area south of the east-west line between Hazel Point (Jefferson County) and the corresponding easterly shoreline in Kitsap County. (Citation: Recommended Interim Siting Guidelines for the Management of Salmon Net Pen Culture in Puget Sound, p. 7.)

[h. All marine finfish aquaculture programs shall comply with RCW 77.125 as amended. New or expanded leases of nonnative marine finfish aquaculture are prohibited.](#)

Commented [A91]: Consistency Analysis, Table 5-1, Item #23, Table 5-1, Item #19

22.600.120 Barrier structures and other in-stream structures.

A. Environment Designations Permit Requirements. Where barrier structures and other in-stream structures are proposed in the following upland designations, the following permit requirements shall apply. Where proposed in the adjacent aquatic designation, the corresponding upland designation shall be used to determine permit requirements.

1. Natural: prohibited, except as otherwise stated in this section.

- c. New or expanded mooring structures shall be located the greater or most protective of:
- i. A horizontal distance of twenty-five feet from the outside edge of the structure to native aquatic vegetation attached to or rooted in substrate;
 - ii. A horizontal distance equal to the maximum distance shade will be cast by the structure and vessel;
 - iii. A four-foot vertical distance from eelgrass or relevant submerged aquatic vegetation;
 - iv. A distance the diameter of the turning circle, if the structure is to be utilized for motorized vessels. The turning circle is defined as three and one-half times the length of the longest vessel to use the structure;
 - v. Alternative measures that demonstrate no net loss of ecological functions.
- d. In areas that have not been documented as spawning sites, but contain characteristics that would support forage fish spawning, a habitat survey shall be conducted over a two-year period throughout the assumed local spawning season. If the proponent is unwilling to bear the time and expense of such a survey, the project must be designed and operated under the presumption that forage fish spawning does occur at the site, pursuant to WDFW standards.
- e. For sites adjacent to sand lance and surf smelt spawning areas, all in-water work that has the potential to increase suspended sediments in the spawning area during the spawning period shall require at least two feet vertical separation from the tidal elevation of the spawning bed, or a setback of one hundred eighty feet horizontal distance from the lower edge of the spawning habitat zone. In-water work should occur during an outgoing tide when the water line is below the lower edge of a surf smelt sand lance spawning habitat zone (five to six feet MLLW).
3. Pilings.
- a. New or replacement pilings may be made of steel, concrete, plastic, untreated wood or treated wood where approved for the marine or freshwater environment, except creosote and similar products.
 - b. New pilings must be spaced twenty feet apart lengthwise. **Replacement pilings must be spaced twenty feet apart lengthwise when installed to support a replacement structure.** If the new or replaced structure is less than twenty feet in length, pilings may be allowed at the ends of the structure only. In areas with forage fish spawning or rearing and submerged aquatic vegetation, when allowed, pilings must be spaced forty feet apart lengthwise.
 - c. A maximum of two moorage pilings beyond or parallel to a mooring structure may be allowed to accommodate moorage of boats exceeding the length of the mooring structure or to provide supplementary tie-down locations for boats that require additional stabilization.
 - d. New or replacement pilings shall be driven only during construction windows approved by WDFW. These include protection for spawning periods and periods of presence of juvenile salmonids, forage fish and groundfish.
4. Piers.
- a. Single-use piers may not exceed four feet in width (six feet if wheelchair access is needed), and joint-use piers may not exceed six feet in width, unless otherwise approved by the U.S. Army Corps of

Commented [A94]: Consistency Analysis, Table 5-1, Item #20

#	Topic	KCC	Action	Department Recommendation
		22.600.170.A.3	c. Subdivisions near but outside shoreline jurisdiction in certain circumstances should not be subject to an SDP, rectify unclear regulations.	c. SDP required for subdivisions unless every new lot created by the subdivision is entirely outside the shoreline jurisdiction. Where development of the subdivision is within shoreline jurisdiction and does not meet SDP exemption criteria, SDP shall be required.
		22.600.175.A 22.150.570	d. Define soft shore stabilization measures in the SMP per Ecology guidance documents.	d. Clarify permits for shoreline use and modification development standards for soft, hybrid, and hard shoreline stabilization alternatives.
13	Special Reports	22.700.140	a. 'Qualified professionals' as defined by the SMP shall prepare all shoreline mitigation plans.	a. Clarify that a 'Qualified Professional' is required to prepare mitigation plans and net loss reports.

c. CUP for multifamily units, accessory dwelling units and subdivisions.

3. Shoreline residential and high intensity:

a. Primary single-family residences are exempt pursuant to criteria in Section 22.500.100(C);

b. SDP if exemption criteria not met.

c. SDP for multifamily units, accessory dwelling units, and.

d. SDP for subdivisions unless every new lot created by the subdivision is entirely outside the shoreline jurisdiction. Where development of the subdivision, e.g., grading, road construction, or installation or construction of infrastructure, is within the shoreline jurisdiction and does not meet the SDP exemption criteria, an SDP shall be required for such development.

Commented [A95]: Consistency Analysis, Table 5-1, Item #22

4. Aquatic: prohibited.

B. Development Standards.

1. All new residential development, including subdivision of land, shall be designed, configured and developed in a manner that ensures no net loss of shoreline ecological function.

2. All sewage disposal and water systems shall comply with compliance with state and local health regulations including but not limited to Kitsap County board of health Ordinance 2008A-01 for on-site sewage requirements.

Commented [A96]: Consistency Analysis, Table 5-1, Item #24, code clarity

3. New and remodeled residential development and new subdivisions shall be designed, located and constructed so that structural improvements, including bluff walls and other stabilization structures, are not required to protect such structures and uses.

4. New over-water residences, including floating homes, are prohibited. Where such homes exist as of the adoption date of this program, were permitted or legally established prior to January 1, 2011, they shall be reasonably accommodated to allow improvements associated with life safety matters, and property rights and considered a conforming use.

Commented [A97]: Consistency Analysis, Table 2-1, 2011c.

5. Stormwater quality and quantity measures for residential development must comply with current codes.

6. Flood hazard reduction measures for residential development shall comply with Chapter 19.500, as incorporated here by Section 22.400.115 (Critical areas), and Section 22.400.150 (Flood hazard reduction measures) of this program and shall be designed to prevent net loss of shoreline ecological functions.

7. New multi-unit residential development, including the subdivision of land for five or more parcels, shall provide for joint or community and/or public access, except where demonstrated to be infeasible due to any of the following:

a. Incompatible uses;

b. Safety;

c. Security;

d. Impact to the shoreline environment;

e. Constitutional or other legal limitations that may be applicable.

22.150.555 Shellfish beds.

A general area of shoreline, both intertidal and subtidal, where shellfish congregate. This includes natural subsistence, recreational and commercial beds. Shellfish include, but are not limited to, abalone, hardshell clam, subtidal clam, Dungeness crab, geoduck clam, manila clam, oysters, razor clam, pandalid shrimp and red urchin. Where disputed as a critical saltwater habitat, appropriate state agencies and affected tribes shall be consulted in order to assist with the determination.

22.150.560 Shorelands.

Those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; all floodways and up to two hundred feet of contiguous floodplain area; and all wetlands and river deltas associated with the streams, lakes and marine waters which are subject to the provisions of this program.

22.150.565 Shoreline Management Act (Act).

The Washington State Shoreline Management Act, Chapter 90.58 RCW.

22.150.570 Shoreline stabilization.

Actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind or wave action.

These actions include structural and nonstructural methods. Nonstructural methods, for example, include approaches such as building setbacks, structure relocation, groundwater management, and land use planning. Structural methods can be "hard" or "soft." "Hard" structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads, while "soft" structural measures rely on less rigid materials, such as bioengineering vegetation measures or beach enhancement.

"Hybrid" structures are a composite of both soft and hard elements and techniques along the length of the armoring. If any portion of a proposed development contains a measure or measures related to those listed in Section 22.150.570(B), except hard measures necessary to protect the connection to existing hard stabilization on adjoining properties, the whole development must be considered a "hybrid". Generally, the harder the construction measure, the greater the impact on shoreline processes including sediment transport, geomorphology, and biological functions.

There are a range of measures for shoreline stabilization varying from soft to hard that include, but are not limited to:

A. Soft.

1. Vegetation enhancement;
2. Beach enhancement;
3. Bioengineering measures;
4. Anchor logs and stumps; and
5. Gravel placement/beach nourishment.

B. Hard.

1. Rock revetments;
2. Gabions;
3. Groins;

8. In cases where on-site access is infeasible, alternate methods of providing public access shall be considered, such as off-site improvements.
9. Lot area shall be calculated using only those lands landward of the OHWM.
10. Single-family residential uses are a priority use only when developed in a manner consistent with control of pollution and prevention of damage to the natural environment.

22.600.175 Shoreline stabilization.

A. Environment Designations Permit Requirements. Based on the type of shoreline modification proposed, the identified permit requirements shall apply for all designations:

1. SDP for soft shoreline stabilization, unless otherwise exempt.
2. Administrative CUP for hard shoreline stabilization. |
3. ~~Administrative CUP for hybrid shoreline stabilization, unless the applicant can demonstrate the project meets the intent of soft shore as described in Ecology's Soft Shoreline Stabilization SMP Planning and Implementation Guidance (Ecology Publication No. 14-06-009). all of the following:~~
 - ~~a. At least fifty percent or more of the proposed shoreline length is composed of natural shoreline or soft shoreline stabilization, calculated by percent of total shoreline length.~~
 - ~~b. Hard stabilization elements are either repair or replacement and do not constitute new stabilization.~~
 - ~~c. The proposal includes areas of restored natural shoreline, including but not limited to the removal of shoreline modifications and enhancement of natural features without the use of hard materials.~~

Commented [A98]: Consistency Analysis, Table 5-1, Item #23; language from the DOE's 2014 guidance.

B. Exemptions from Substantial Development Permit for Shoreline Stabilization

1. The construction of a normal protective bulkhead common to single-family residences shall not require an SDP if it meets the exemption criteria listed in Section 22.500.100(C)(3)(c), or as further amended in WAC 173-27-040. ~~An exemption from an SDP is not an exemption from a CUP or an administrative CUP where applicable.~~
2. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the OHWM for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion.
3. A letter of permit exemption will be prepared for qualifying shoreline stabilization activities in accordance with Section 22.500.100(C)(4). The county shall track exemption activities in the permit system.

Commented [A99]: Consistency Analysis, Table 5-1, Item #23

C. Application Requirements. In addition to the general application requirements, applications for shore protection and bluff stabilization shall include the following information, when applicable:

1. Upland, on-site improvements and any existing shoreline structures;

SHORELINE USES and MODIFICATIONS						
<i>The following permits apply to the specific uses, modifications and development. Individual uses, modifications and development shall comply with the provisions of this program, particularly Section 22.400.110 (Mitigation), and the Kitsap County Comprehensive Plan as of the effective date of this program.</i>						
Legend: P = Permitted with substantial development permit (SDP) or exempt if exemption criteria in Section 22.500.100(C) are met C = Conditional use permit (CUP) C(A) = Administrative CUP X = Prohibited	Natural	Rural Conservancy	Urban Conservancy	Shoreline Residential	High Intensity	Aquatic
Mining						
General	X	C ⁹	X	X	C ⁹	X
Mooring Structures and Activities (Includes Piers, Docks, Floats, Ramps and Buoys)						
Single Use	X ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	2
Joint or Public Use	X ¹¹	P	P	P	P	2
Recreation and Public Access						
Nonmotorized, Water-Oriented	P	P	P	P	P	13
Other Water-Oriented	C ¹²	P	P	P	P	13
Non-Water-Oriented	X	P ¹⁴	P ¹⁴	P ¹⁴	P ¹⁴	X
Residential						
Single-Family	C(A)	P ¹⁵	P ¹⁵	P ¹⁵	P ¹⁵	X
Multifamily, Subdivisions, and Accessory Dwelling Units	X ¹⁶	C	C	P	P	X
Restoration and Enhancement						
General	P	P	P	P	P	P
Shoreline Stabilization (New/Repair and Maintenance)						
Hard	C(A)	C(A)	C(A)	C(A)	C(A)	18
Hybrid	C(A)	C(A)	C(A)	C(A)	C(A)	24

Commented [A86]: Consistency Analysis, Table 5-1, Item # 23

SHORELINE USES and MODIFICATIONS						
<i>The following permits apply to the specific uses, modifications and development. Individual uses, modifications and development shall comply with the provisions of this program, particularly Section 22.400.110 (Mitigation), and the Kitsap County Comprehensive Plan as of the effective date of this program.</i>						
Legend: P = Permitted with substantial development permit (SDP) or exempt if exemption criteria in Section 22.500.100(C) are met C = Conditional use permit (CUP) C(A) = Administrative CUP X = Prohibited	Natural	Rural Conservancy	Urban Conservancy	Shoreline Residential	High Intensity	Aquatic
Soft	p ¹⁷	p ¹⁷	p ¹⁷	p ¹⁷	p ¹⁷	p ¹⁹
Transportation						
General	X ²⁰	C	C	P	P	P ²¹
Utilities						
General	X ²²	p ²³	p ²³	p ²³	p ²³	C

Footnotes:

- Does not modify or limit agricultural activities occurring on lands currently in agricultural use.
- Adjoining upland designation applies; see applicable regulations in Title 17 (Zoning) of the underlying zoning and Section 22.600.110.
- Floating net pens are prohibited south of Hazel Point on Hood Canal, otherwise a CUP shall be required for floating net pens in all other areas and for aquaculture activities in the natural environment designation where the proposal requires new structures or facilities (see Section 22.600.115).
- See barrier structures and other in-stream structures (Section 22.600.120) for qualifying ecological restoration.
- If the use is water-dependent or necessary to support an allowed use in the adjoining upland designation, then may be permitted through an SDP.
- See commercial development (Section 22.600.130) for allowances with a CUP.
- See dredging and dredge disposal (Section 22.600.135) for qualifying ecological restoration.
- If the use is water-dependent or necessary to support an allowed use in the adjoining upland designation, then may be permitted with a CUP.
- Provided consistent with the Kitsap County Comprehensive Plan mineral resources overlay.
- Single-use buoys are exempt from substantial development permit in certain environments, in accordance with Sections 22.500.100(C)(2)(b); 22.500.100(C)(3)(f); and 22.600.160(A)(1).
- If the adjoining upland use is a public park, then up to two buoys allowed.
- May be permitted through an SDP if consistent with an approved park plan.
- See recreation and public access (Section 22.600.165) for applicability in the aquatic designation.
- Non-water-oriented uses shall be subject to shoreline buffer standards (Section 22.400.120).
- Exempt if single-family residence exemption criteria in Section 22.500.100(C)(3) are met.
- May be permitted through a CUP for subdivisions.
- Soft shore shoreline stabilization is exempt from an SDP if exemption criteria in Section 22.500.100(C)(3)(c) are met.
- Hard or hybrid shoreline stabilization is prohibited in aquatic unless demonstrated necessary, then may be permitted with a CUP (see Section 22.600.175).
- Soft and hybrid shoreline stabilization may be permitted with an SDP in the aquatic shoreline environment designation where demonstrated necessary, or through an exemption where criteria are met (see Sections 22.500.100(C) and 22.600.175(D)).

Commented [A87]: Consistency Analysis, Table 5-1, Item #13

Commented [A88]: Consistency Analysis, Table 5-1, Item #23

Commented [A89]: Consistency Analysis, Table 5-1, Item #23, clarification

22.700.140 Shoreline mitigation plan.

When required, a shoreline mitigation plan shall include the following:

- A. Requested biological and/or habitat surveys (Section 22.700.145) to determine the existing site condition.
- B. A description of the existing conditions, functions and processes.
- C. A plan for mitigating any development impacts so that the proposed development does not result in a net loss of those identified conditions, functions and processes.
- D. The mitigation must be completed or installed prior to development activity, unless demonstrated infeasible.
- E. The mitigation will require ~~semi~~ annual progress updates until the department determines the mitigation is successful.
- F. Mitigation done as part of a shoreline mitigation plan shall be subject to all other mitigation requirements of the program.

Commented [A102]: Consistency Analysis, Table 5-1, Item #24, staff request

22.700.145 Biological and habitat surveys.

- A. When a biological or habitat survey is required, it shall be conducted according to the WDFW, Washington Department of Natural Resources, and the U.S. Army Corps of Engineers parameters, where applicable.
- B. A vegetation habitat survey must be conducted according to the most current WDFW eelgrass and macroalgae survey guidelines.
- C. Surveys should be conducted by consultants or staff trained and certified in forage fish spawning survey protocols.

DRAFT
For Public Review
February 2, 2021

1. After mitigation sequencing is applied in accordance with subsection (A) of this section, Chapter 22.800, Appendix B, Mitigation Options to Achieve No Net Loss for New or Re-Development Activities, shall be utilized for compensatory mitigation options.

2. Site selection for compensatory mitigation shall consider factors to determine the most ecologically suitable potential mitigation site. References for consideration when determining appropriate site selection may include the Hood Canal Coordinating Council In-Lieu Fee Program Instrument, Appendix H, Watershed Approach to Mitigation, or other current resources informing mitigation decisions.

3. Proposals that use ratios different from those prescribed in this program, that seek to obtain alternative buffers (Section 22.400.120(C)), or that include larger modifications in a buffer (Section 22.400.120(D)) may be approved if justified in a shoreline mitigation plan consistent with Section 22.700.140 when prepared by a qualified professional as defined in Section 22.150.505(B). Where applicable, a shoreline variance may be required in accordance with Section 22.500.100(E).

Commented [A32]: Consistency Analysis, Table 5-1, #23; recommended

4. Activities not listed in Chapter 22.800, Appendix B, that result in adverse impacts to shoreline ecological functions shall also be subject to compensatory mitigation requirements.

5. When compensatory mitigation becomes necessary on a site where documented restoration activities have occurred within the previous five years, but after the effective date of this program, such documented restoration may be utilized as mitigation to offset new development impacts, provided the restoration was voluntary and not required as mitigation for prior development impacts. Mitigation credit for prior restoration activities shall be determined upon application for the impacting project, and shall, at a minimum, be commensurate with the proposed level of impact unless additional compensatory mitigation is provided.

C. Mitigation Compliance.

1. Unless otherwise specified, mitigation shall take place prior to final project inspection to provide assurance that it will be completed and to mitigate for temporal loss of shoreline functions.

2. Kitsap County shall require monitoring reports on an annual basis for a minimum of five years and up to ten years, or until mitigation success is demonstrated through at least two consecutive monitoring reports. The mitigation plan shall provide specific criteria for monitoring the mitigation project. Results and additional conditions shall be electronically tagged to the parcel for future reference.

3. Mitigation requirements shall run with the parcel, and notice of such requirements shall be recorded as a notice to title. Mitigation as conditioned under project approval shall be maintained in perpetuity, except where authorized through review of an alternative mitigation plan.

4. In the event that a subsequent landowner applies for additional permits, the electronic permit database will be queried for past mitigation requirements. If such mitigation is no longer in place or functioning, it shall be reinstalled prior to permit issuance.

5. Mitigation enforcement shall occur under the authority of Chapter 22.500, Permit Provisions, Review and Enforcement.

22.400.115 Critical areas.

A. Incorporation of Title 19. The following sections of Title 19, Critical Areas Ordinance, dated ~~February 26, 2007~~ ~~XXXX, 2021~~, are incorporated herein by this reference, and provided in Chapter 22.800, Appendix E, for reference purposes only, except as supplemented or modified under subsections (B) through (E) of this section:

1. Standards for existing development (Section 19.100.130*), as applicable and consistent with Chapter 22.500.

~~2. Critical area and buffer notice to title (Section 19.100.150*).~~

Commented [A33]: Consistency Analysis, Table 2-1, 2016b & 2011a; Table 3-1, Item 1; pending date of ordinance adoption if approved by BoCC.

variance, except under the conditions of subsection (iv) below. Expansion within the waterward seventy-five percent of the reduced standard buffer shall require a Type III variance.

iv. Expansion of a single-family residence below the reduced standard buffer may be allowed through an administrative variance for limited expansions of no more than 25% of the existing gross floor area or 625 square feet, whichever is less, if expanding into an existing legally cleared area and located no further waterward than the existing structure.

Commented [A41]: Consistency Analysis, Table 5-1, Item #10

D. Other Uses and Modifications in Vegetation Conservation Buffers.

1. In order to accommodate water-oriented uses and modifications within the buffer, the following standards shall apply subject to shoreline permit review unless otherwise exempted:

Commented [A42]: Per County recommendation.

a. Trails. Trails may be permitted but shall be limited to five feet in width, except where demonstrated necessary for a water-dependent use, and shall be designed in accordance with Title 12 (Storm Water Drainage). Disturbance to soil, hydrological character, trees, shrubs, snags and important wildlife habitat shall be minimized. Pervious surface materials, such as mulch, organics, raised boardwalks composed of untreated wood or an equivalent, are required. Gravel trails shall be considered impervious surfaces pursuant to Title 12. Pervious surfaces shall be utilized except where determined infeasible.

Commented [A43]: Consistency Analysis, Table 5-1, Item #9

Commented [A44]: Per County recommendation. To use consistent terminology.

i. Trails in vegetation conservation critical area buffers shall should be located in the outer twenty-five percent of the buffer, except where necessary for direct access or viewing points.

Commented [A45]: Consistency Analysis, Table 5-1, Item #8

Commented [A46]: Consistency Analysis, Table 5-1, Item #24; clarification

ii. Trails that meet the definition of water-oriented use may be located within shoreline buffers when it can be demonstrated that buffer impacts are limited through mitigation sequencing in accordance with Section 22.400.110(A).

Commented [A47]: Consistency Analysis, Table 5-1, Item #24; 'should' indicates provision is optional.

b. Decks and Viewing Platforms. Decks and viewing platforms may be permitted, but shall be limited to one hundred square feet in size, unless demonstrated that a larger structure in order to provide opportunities for small viewing decks or platforms that will not result in a net loss of shoreline ecological function. Applicants shall through demonstrate no net loss submittals part of a shoreline mitigation plan prepared by a qualified professional (Section 22.700.140). Viewing platforms shall not have roofs, except where otherwise permitted through the view blockage standards (Section 22.400.135). Creosote and pentachlorophenol should not be utilized in construction materials for decks, viewing platforms or boardwalks.

Commented [A48]: Consistency Analysis, Table 5-1, Item # 24

c. Beach Stairs. Beach stairs are may be permitted, subject to the exemption provisions in Section 22.500.100(C)(3). Beach stairs placed below the OHWM will normally require a shoreline exemption from Kitsap County, and a hydraulic project approval (HPA) from WDFW. Beach stairs with stair towers shall require an SDP where exemption provisions are not met.

Commented [A49]: Consistency Analysis, Table 5-1, Item #6

i. Stair landings in the vegetation conservation buffer or below OHWM must be composed of grating or other materials that allows a minimum of 40 percent light to transmit through.

ii. Viewing platforms associated with beach stairs shall comply with Section 22.400.120.D.1.b.

d. Trams. Trams may be permitted, subject to the exemption provisions in Section 22.500.100(C)(3) and are considered accessory or appurtenances to the upland use. Trams utilizing towers require an SDP where exemption provisions are not met. They are prohibited in the Aquatic and Natural Shoreline Environment Designations. The following development standards apply:

i. Tram landings may not exceed 100-square feet each.

ii. The width of a clearing for a tram shall be a maximum of five feet on either side of the tram, with a maximum clearing corridor of fifteen feet.

iii. The installation of a tram shall be limited only to geologically hazardous areas as defined in KCC 19.400 and subject to 'Special Studies' as outlined in Section 22.700.120.

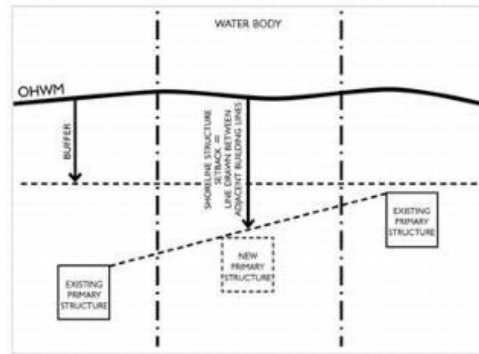


Figure 22.400.135(A)(3)
Buffer and shoreline structure setback on a regular shoreline with adjacent primary structures on both sides.

4. ~~Adjacent Principal Buildings on Both Sides on an Irregular Shoreline~~ - Where there are two adjacent principal structures on a shoreline which forms a cove, ~~or~~ peninsula, ~~or~~ irregular shoreline, the shoreline structure setback line shall be determined by averaging the ~~existing~~ setback lines of the two adjacent principal buildings or the buffer and setback specified elsewhere in this program, whichever is greater. See Figure 22.400.135(A)(4).

5. Consideration of Existing Mitigating Circumstances. The shoreline structure setback line may ~~not~~ be ~~administratively waived~~ applied to limit distance from the shoreline where an elevation survey prepared by a qualified professional demonstrates that ~~existing~~ due to a difference in topography or a vegetation survey demonstrates that due to the presence of already significantly blocks views - view blocking vegetation on or adjacent to the common border of the two parcels, ~~and~~ the proposed principal building will not result in any additional view blockage to an existing adjacent principal building(s). In such cases, the buffer and setback specified elsewhere in this program shall apply.

Commented [A55]: Consistency Analysis, Table 5-1, Item #12

Commented [A56]: Consistency Analysis, Table 5-1, Item #12; County language recommendation.

QUESTIONS

Kitsap County Shoreline Master Program Periodic Review

Contact:

Kirvie Mesebeluu-Yobech, DCD Planner

ReviewSMP@co.Kitsap.wa.us

360-337-5777