17.05A.090 – Shoreline use and development regulations.

All developments and uses located within the jurisdiction of this Shoreline Master Program shall comply with all the regulations of this section.

A. General shoreline development standards.

…

3. The location, design, construction, and management of all shoreline developments and uses shall protect the quality and quantity of surface and ground water on and adjacent to the lot and shall adhere to applicable water quality management programs and regulatory agencies.

4. No structure within the shoreline shall exceed thirty-five (35) feet in height, except in the following specific circumstances.

   a. ~~that~~ bridges and ferry facilities may be allowed to exceed thirty-five (35) feet in height when necessary to accommodate navigation and docking requirements.

   b. In cases where a legally existing home must raise its foundation to meet FEMA flood elevations, the height above grade level may exceed 35ft provided such a height will not obstruct the view of any residences on or adjoining such shorelines, and that the legally existing home is not considered a replacement as defined in section 17.05A.070.

5. Land clearing, grading, filling, or alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. Surfaces cleared of vegetation and not developed shall be replanted and maintained in perpetuity. Surface drainage systems or substantial earth modifications shall be professionally designed to prevent maintenance problems or adverse impacts on shoreline features.

…

17. Development and use of the shoreline shall be conducted in such a manner that unreasonable levels of noise, light, or glare will not intrude into adjacent areas. Shoreline activities may be restricted to reasonable hours and days of operation when necessary to protect residents and properties from adverse impacts such as noise, light, and glare.

~~11~~18. Subdivision of property shall be in a configuration that will not require significant vegetation removal or shoreline modification and that will not adversely impact ecological functions. Each new parcel must be able to support its intended development without significant ecological impacts to the shoreline ecological functions.

19. Subdivision of property for residential development is subject to the density limits in the underlying zone described in chapter 17.03 ICC and the maximum density limits outlined in section 17.05A.100.J, whichever is more restrictive.

20. No lot segregation, land division, or boundary line adjustment shall create a lot which does not include an adequate building site outside of critical areas and their associated buffers unless the resulting lot is being created solely for conservation purposes and a conservation easement encompassing the lot is established and recorded which prohibits all future development.

Commented [MP1]: From Jefferson County

Commented [MP2R1]: Would this require an SDP, or does that only apply to newly constructed SFR? See list of items exempt from SDP.

Commented [GJ3]: Based on TRC feedback

Commented [MP4]: Moved from 17.05A.090.K.11

Commented [MP5]: Added reference to 17.05A.100.J

Commented [MP6]: Copied from Critical Areas Ordinance ICC 17.02B.410.A

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…

C. Environmental protection and critical areas.

…

3. Uses and developments shall provide a level of protection equal to or better than countywide critical areas regulations and result in no net loss of ecological functions.

4. The county shall consider the cumulative impacts of individual uses and developments, including preferred uses and uses that are exempt from permit requirements, when determining whether a proposed use or development could cause a net loss of ecological functions.

   a. The county shall have the authority to require the applicant/proponent to prepare special studies, assessments and analyses as necessary to identify and address cumulative impacts including, but not limited to, impacts on fish and wildlife habitat, public access/use, aesthetics, and other shoreline attributes.

   b. Proponents of shoreline use and development shall take the following factors into account when assessing cumulative impacts:

      (i) Current ecological functions and human factors influencing shoreline natural processes; and

      (ii) Reasonably foreseeable future use and development of the shoreline; and

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

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

Commented [MP7]: From Jefferson County, adapted for Island County

10. Compensatory mitigation measures shall occur in the vicinity of the impact or at an alternative location within the same watershed sub-basin for impacts to freshwater shorelines or within the same marine shoreline drift cell for marine shoreline impacts, if the off-site location provides greater and more sustainable ecological benefits. When determining whether offsite mitigation provides greater and more sustainable benefits, the county shall consider limiting factors, critical habitat needs, and other factors identified by the locally adopted shoreline restoration plan, or an approved watershed or comprehensive resource management plan. The county may also approve use of alternative mitigation practices such as in-lieu fee programs, mitigation banks, and other similar approaches provided they have been approved and sanctioned by the Department of Ecology, the Department of Fish and Wildlife, the Army Corps of Engineers, and Island County. Mitigation banks shall comply with the standards and procedures in RCW 90.84 and WAC 173-700.

11. Land that is constrained by critical areas or buffers shall not be subdivided to create parcels that do not contain a buildable site outside of critical areas and their required buffers, unless the parcel is an open space tract created for the purposes of protecting and managing a critical area, and a conservation easement indicating that the parcel cannot be built upon is recorded with the County Auditor.

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12. Modifications to wetlands and stream buffers shall not exceed 25 percent of the original buffer width without approval through a Shoreline Variance in accordance with the criteria in section 17.05A.130.G.7 ICC.

Commented [MP8]: From Pierce County, adapted for Island County

~~12.~~13. Geologically hazardous areas shall be regulated pursuant to the following:

...

~~13.~~14. Fish and wildlife habitat conservation areas.

a. Fish and wildlife habitat conservation areas (FWHCAs) are defined in section 17.05A.070 and include their associated buffers.

b. Buffers and use restrictions for each shoreline environment designation (see Table 3) have been developed in consideration of the protection of fish and wildlife habitat conservation Areas (FWHCAs). Buffer restrictions for portions of streams within shoreline jurisdiction are provided in Table 2. Buffers or restrictions on proposed shoreline uses or modifications may be required for the protection of FWHCAs if, through project specific project review, the Administrator finds that a significant impact on a FWHCA would occur as a direct result of the project.

c. Applications for projects ~~located adjacent to~~ within marine waters, shoreline buffers, their associated wetlands, or any other FWHCA, shall include a complete and accurate biological site assessment (BSA). Biological site assessments shall be prepared by a professional ecologist, biologist, or similarly qualified professional at the applicant's expense.

d. The requirement for a Biological Site Assessment for development within the shoreline buffer may be waived by the Planning Director in the following circumstances.

(i) The repair of a legally existing single family residence or normal appurtenances, to include shoreline stabilization;

(ii) the replacement of a legally existing single family residence or normal appurtenance within the same footprint, not to include shoreline stabilization;

(iii) the development of a single family residence located within the shoreline buffer in accordance with the provisions of ICC 17.05A.090.E and the portion of the development within the marine buffer does not exceed 1,000 square feet of gross floor area;

(iv) the installation of a tight-line for storm water management when permitted as a normal appurtenance to a single family residence; and

(v) where the marine buffer is not being reduced through a Shoreline Variance.

e. A Biological Site Assessment ~~and~~ shall include the following information:

...

f.~~d.~~ If the biological site assessment (BSA) concludes that protected habitat may be affected by the proposed development, a habitat management plan must be prepared by a professional ecologist, biologist, or similarly-qualified professional at the expense of the applicant. The habitat management plan may be combined

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with the BSA, or a wetland mitigation plan, if required for the project. The habitat management plan must consider management Recommendations adopted by the Washington Department of Fish and Wildlife, and the specific attributes of the affected properties, such as, but not limited to, property size and configuration, surrounding land use, the practicability of implementing the habitat management plan, and the adaptation of the species to human activity.

...

g.~~e.~~ Any person may nominate for designation a species or habitat of local importance within shoreline jurisdiction. Nominations for a species or habitat of local importance must meet the following criteria:

...

h.~~f.~~ Nominations for designation of a species or habitat of local importance within shoreline jurisdiction shall be processed pursuant to chapter 16.26. The burden for providing information required for designation rests with the party nominating the habitat or species. Nominations shall be reviewed and approved as follows:

...

i.~~g~~. Portions of streams within the shoreline jurisdiction of Island County shall be classified using the water type classification system of WAC 222-16-030, which include the following classifications and criteria:

...

j.~~h.~~ Stream buffers: Protective buffers shall be required to preserve stream and riparian functions within shoreline jurisdiction. Buffer distances shall be measured horizontally from the ordinary high water mark of the stream. The following standard buffers apply to streams regulated under this Shoreline Master Program. If a conflict exists between the stream buffers outlined in this chapter and those of another chapter of Island County Code, the more restrictive shall apply.

...

k.~~i.~~ Standards: Critical saltwater habitats. The following standards apply to all development adjacent to or containing critical saltwater habitat:

...

l.~~j.~~ Protection standards: Nesting sites and territory. The following buffers and standards shall apply to all Heron, Osprey, and Bald Eagle nesting sites within shoreline jurisdiction:

...

m.~~k.~~ Protection standards: Washington Natural Heritage Program Areas.

(i) For designated significant plant communities dominated by Big Leaf Maple (Acer macrophyllum) or Douglas Fir (Pseudotsuga menziesii), natural vegetation between the ordinary high water mark and a line fifty (50) feet

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landward of the top of banks and bluffs ten (10) feet or higher shall be retained, except for removal of hazardous~~, diseased or damaged~~ trees and to allow for pedestrian waterfront access. Removal of invasive non-native species is authorized. Trimming but not removal for view enhancement is authorized.

(ii) For designated significant plant communities including white-top aster (Aster curtus) and golden indian paintbrush (Castileja levisecta), a biological site assessment and habitat management plan shall be prepared to ensure protection of the protected species.

(iii) All other designated Washington Natural Heritage Program Areas. Requests for permit approval by Island County will be acted on only after consultation with the Washington Natural Heritage Program.

n.~~l.~~ Protection standards: Habitats of local importance. Property owners within these areas are required to comply with chapter 17.02A, the Island County Critical Areas Ordinance; chapter 17.03, the Island County Zoning Ordinance; chapter 11.02, the Island County Clearing and Grading Ordinance; the Island County Shoreline Master Program; and all other applicable federal, state, and county regulations. Variances from any shoreline or critical areas regulations shall specifically address any designated habitats of local importance located on or adjacent to the property proposed for development. Additional protections may be adopted with designation of a habitat of local importance.

o.~~m.~~ Protection standards: All other fish and wildlife habitat conservation areas shall be protected on a case-by-case basis. A biological site assessment shall be prepared pursuant to section 17.05A.090.C.13.c, and a habitat management plan, if required, shall be prepared pursuant to section 17.05A.090.C.13.d.

~~14.~~15. Critical areas regulations adopted by reference:

a. The following critical areas provisions of chapter 17.02B~~A~~ dated ~~July 1, 2008~~ August 15, 2017 (Ordinance C-86-17~~C-02-08~~), are incorporated into this Shoreline Master Program by reference:

~~(i) 17.02A.030 Definitions.~~

~~(ii) 17.02A.040(B) Critical area protection~~.

~~(iii) 17.02A.040(E) Alteration of critical areas.~~

~~(iv) 17.02A.040(F) Property assessment.~~

~~(v) 17.02A.070 General Mitigation Requirements Critical area mitigation.~~

~~(vi) 17.02A.080 Monitoring and adaptive management.~~

~~(vii) 17.02A.090 Wetlands.~~

(i) 17.02B.060 Definitions

(ii) 17.02B.080 General Mitigation Requirements

(iii) 17.02B.240 Wetlands

(iv) 17.02B.410(A-D) General Standards

(v) 17.02B.460 Wetlands

(vi) 17.02B.500 Mitigation Requirements

(vii) 17.02B.510 Wetlands

b. In the event development or performance standards in chapter 17.02B~~A~~ are inconsistent with standards and requirements in this Shoreline Master Program, the standard that is more protective of natural resources in the shoreline shall govern.

c. The standards for protection of aquifer recharge areas in section 8.09.097 are incorporated into this Shoreline Master Program by reference.

D. Shoreline buffers, ~~building~~ shoreline setbacks, and impervious surface limits.

1. In order to protect shoreline ecological functions and shoreline scenic quality, minimum shoreline buffers are established as follows for all SMA shorelines in Island County. The minimum required buffer widths for each shoreline environment designation are shown in Table 3.

2. Residential development, including principal structures and all associated impervious surfaces, shall be located landward of the shoreline buffer plus ~~building~~ shoreline setback except as specified in this SMP or with the approval of a shoreline variance.

3. In all shoreline environment designations, a ~~building~~ shoreline setback shall be maintained from the landward edge of the required buffer. The minimum required ~~building~~ shoreline setbacks for each shoreline environment designation are shown in Table 3. Without a shoreline variance as provided in section 17.05A.130.G, ~~N~~o permanent structure or impervious surface may extend within the ~~building~~ setback, except as ~~follows:~~ as outlined in ICC 17.05A.090.E below.

   ~~a. Impervious surfaces may not cover more than twenty (20) percent of the building setback area; and~~

   ~~b. Structures less than thirty (30) inches in height may be allowed; and~~

   ~~c. A single garden or storage structure over thirty (30) inches in height may be allowed as accessory to a single family residence. Such structures shall be limited to 200 square feet and shall be subject to a maximum height of twelve (12) feet.~~

4. The steep slope buffers in Table 3 below are established to allow the natural erosion of bluffs as an important component of natural shoreline processes, while minimizing threats to structures. For this reason, any structures as defined in ICC 17.05A.070, except for upland retaining walls where necessary to protect a primary structure as documented by a geotechnical report, shall not be allowed within the steep slope buffer without approval of a Shoreline Variance.

Commented [MP9]: Moved to ICC 17.05A.090.E.1.b

Commented [MP10]: TRC recommendation

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TABLE 3. Minimum Shoreline Buffers, Setbacks, Lot Widths, & Maximum Impervious Surface Limits

Shoreline/Resource Type	Shoreline Environment Designation[1]						
	N	RC	UC	SR	SRCC	SRHBC[5]	HI
Marine buffer -measured landward from OHWM on marine shorelines (feet)[2]	125	75	50	30	0	20	30
Lake buffer -measured landward from OHWM on lake shorelines (feet)[2]	130	80	80	30	N/A	N/A	NA
Steep slope buffer -measured landward from top of bluff on marine shorelines with slopes greater than 40% (feet)	50	30	30	30	N/A	N/A	50
Steep slope buffer -measured landward from top of bluff on marine shorelines with exceptional feeder bluffs (feet)	50	50	50	30	N/A	N/A	N/A
Setback , measured landward from the most landward of the required marine, lake, or steep slope buffer (feet)[2]	25	25	25	45	40	10	20
Minimum lot width (feet)	150	150	60	60	60	N/A	0
Maximum impervious surface (~~percent of lot within~~ applies to only that portion of the lot within shoreline jurisdiction)[3, 4]	10%	10%[6]	10%	35%	40%	80%	80%
Environment Designations							

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N: Natural RC: Rural Conservancy UC: Urban Conservancy		SR: Shoreline Residential SRCC: Shoreline Residential-Canal Community SRHBC: Shoreline Residential-Historic Beach Community HI: High Intensity
1. The buffers and setbacks in this table only apply within shoreline jurisdiction and do not extend beyond the 200ft jurisdiction. 2. These standards may be amended in accordance with the provisions of ICC 17.05A.090.E. 3. Pervious pavement or surfaces shall be considered as 50% pervious for the calculations of impervious surface area. Specifications of the proposed pervious product shall be submitted with the land use/building permit application. Pervious pavement of surfaces shall be installed per manufacturer's standards. 4. Decks with gaps of at least 1/8" between boards located over a pervious surface shall be considered pervious. 5. The Shoreline Residential-Historic Beach Community Marine buffer and setback shall not be used to develop structures waterward of those on adjacent lots, based on a measurement of the commonline, using the provisions of ICC 17.05A.090.E.1.f.i. 6. Lots legally created prior to adoption of the Shoreline Management Act in 1972, may develop impervious surfaces to a maximum of 15%. Note: The Aquatic designation does not have a minimum buffer or ~~building~~ shoreline setback.		

5. ~~4.~~ Buffers shall be measured landward in a horizontal direction perpendicular to the Ordinary High Water Mark (OHWM) of the shoreline water body, and shall be a three-dimensional space that includes the airspace above.

6. ~~5.~~ Native vegetation within shoreline buffers shall be maintained in a predominately natural, undisturbed, undeveloped, and well-vegetated condition. Shoreline buffer vegetation may be modified only as specified in this SMP.

7. ~~6.~~ Shoreline buffers may be modified to include a trail up to five (5) feet in width that is the minimum length necessary to provide access to the shoreline. Beach access structures may be allowed as provided in section 17.05A.100.C.

8. ~~7.~~ Shoreline buffer areas that contain non-native trees, shrubs, and herbaceous vegetation may be maintained in their existing condition until such time as the existing landscaping in the shoreline buffer is removed. At such time, the landscaping shall be replaced with native vegetation in accordance with section 17.05A.090.G ICC. ~~or the entire site is developed or redeveloped under these regulations.~~

~~8. When development is proposed on a site where the shoreline buffer area does not have native vegetation throughout, the buffer shall be required to be enhanced with native trees and shrubs that contribute to habitat quality and ecological functions, proportionate to the impacts of the proposed development as determined by the~~

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~~Shoreline Administrator. If the site will not support trees and shrubs, the Shoreline Administrator may allow use of native herbaceous plants. As a general guideline, for development outside of any required setback or buffer, the percentage of the buffer to be enhanced should equal the percentage increase in impervious lot coverage on the site. Any enhancement required pursuant to setback or buffer modification provisions of this Program would be in addition to this general guideline.~~

9. Buffer areas and any required enhancement plantings, shall be shown on the site plan, require approval of the Administrator, and be recorded with the County Auditor as requirements that remain for as long as the approved development remains on the property.

10. The applicant shall monitor the condition of any buffer enhancement required by this Program and report annually in accordance with section 17.05A.090.G.1.d. ~~for a period of five (5) years on the condition of any buffer enhancement required by this Program. Monitoring shall include photographs of the plantings and an inventory of plant survival and cover expressed as a percent of the planting area. Buffer enhancement plantings shall have targets for vegetative cover that must be met within or by the fifth growing season. At that time, if the vegetative cover does not meet the target, additional planting or other action may be required and the monitoring period extended. The target for vegetative cover shall be ninety (90) percent unless the Shoreline Administrator modifies the required target after determination that environmental conditions indicate less vegetative cover more nearly matches what a naturally occurring plant community would achieve at the particular location.~~

...

E. Shoreline setback, ~~and~~ shoreline buffer and impervious surface modifications permitted without a shoreline variance. Before the placement of any structures within the shoreline setback or buffer, property owners are encouraged to consult the Projected Sea Level Rise for Washington State, a 2018 Assessment and all related risk assessment and sea level rise planning guidance prepared by Island County.

~~1. On lots where the area of the lot outside of the standard shoreline buffer and building setback as indicated in Table 3, the required side setbacks in chapter 17.03, and any required critical area buffer is less than 2,200 square feet, development may extend into the building setback provided:~~

~~a. The maximum building footprint (including principal structures and all associated impervious surfaces) shall be no larger than 2,200 square feet;~~

~~b. There is no opportunity to consolidate lots under common ownership that will alleviate the nonconformity;~~

~~c. The proposed development has utilized the maximum portion of the lot outside of the shoreline buffer, building setback, critical areas, and critical area buffers before extending into the building setback; and~~

1. Shoreline setback and buffer alterations

a. Requirements for all development proposed in the shoreline buffer or shoreline setback.

Commented [MP11]: Per ECY: A rational for language removal will need to be provided in the checklist/table. Also, ensure the findings in the CIA/NNL documentation still apply or revise documentation if necessary

Commented [MP12]: Used language here in combination with language in 090.H.1.d (old section 090.H changed to new section 090.G)

Commented [MP13]: This section would be added to accommodate parcels split by shoreline jurisdiction, or split by a road. May be solved by adjusting the impervious surface limits in Rural Conservancy

Commented [MP14]: TRC recommendation

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(i). Buffer enhancement ~~is~~ shall be provided consistent with section 17.05A.090.F and G.

(ii). If the proponent removes impervious surface between the OHWM and the shoreline buffer or setback, the area (square feet) of removed impervious surface may be deducted from the total of new impervious surface area for which enhancement of the buffer is required.

(iii). The residence shall be located in the least environmentally damaging location relative to the shoreline and any critical areas;

(iv). The residence shall be located outside of areas subject to geologic hazards;

(v). A geologic geocoastal analysis indicates that with the reduced setback or buffer, the proposed structure will not require shoreline stabilization for the life of the single-family residence, typically 100 years;

(vi). The applicant has signed and recorded with the county a covenant that meets all the requirements as provided in section 11.02.170 and runs with the title of the property that waives any claim against Island County by reason of or arising out of issuance of the permit or approval by Island County for the development of the property and acknowledges that the structure was built in a location on the lot closer than normally permitted on the condition that it would not require future shoreline stabilization over the life of the structure, and that county regulations would not allow stabilization to protect the structure or other improvement should this presumption prove incorrect.

(vii). Any septic drainfield shall be located landward of the single-family residence, whenever possible, in compliance with Island County Health regulations;

(viii). Measures shall be taken to mitigate all adverse impacts, including using low impact development measures where appropriate, such as pervious pavement for driveways and other hard surfaces and infiltrating stormwater runoff through bioswales except where this would threaten slope stability, increase erosion, or potentially degrade groundwater quality;

(ix). Copper shall not be used in any exterior finish material; and

(x). Any alteration to the buffer area will not result in a net loss of shoreline ecological function nor increase the risk of slope failure or downslope stormwater drainage impacts.

b. Development permitted within the shoreline setback.

(i). Impervious surfaces may not cover more than twenty (20) percent of the shoreline setback area.

(ii). Structures less than thirty (30) inches in height may be allowed, such as patios, decks, planter beds, or short fences.

(iii). In the Shoreline Residential environment, a single garden or storage structure over thirty (30) inches in height may be allowed as accessory to a single-family residence. Such structures shall be limited to 200 square feet and shall be subject to a maximum height of twelve (12) feet.

Commented [MP15]: Moved from 17.05A.090.E.2.d

Commented [MP16]: Moved from 090.J

Commented [MP17]: Needs evaluation

Commented [MP18]: Moved from 17.05A.090.E.5

Commented [MP19]: From Pierce County, adapted for Island County

Commented [MP20]: Planning Commission Recommendation

Commented [MP21]: TRC Recommendation

Commented [MP22]: Moved from 17.05A.090.D.3 above

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(iv). Single-family residential development may be allowed in a shoreline setback per the requirements of section 17.05A.090.E.1.d through f below.

(v). Beach access established in accordance with ICC 17.05A.100.C.

c. Development permitted within the shoreline buffer.

(i). In the Shoreline Residential Environment Designation, a single boathouse may be allowed as accessory to a single-family residence. Such structures shall meet the requirements of ICC 17.05A.100.D.31.

(ii) Beach access established in accordance with ICC 17.05A.100.C.

(iii) Boating facilities established in accordance with ICC 17.05A.100.D.

(iv). Shoreline stabilization established in accordance with ICC 17.05A.110.A.

(v). Moorage facilities established in accordance with ICC 17.05A.100.D.

(vi). Breakwaters, jetties, groins, tidegates, and weirs established in accordance with ICC 17.05A.110.E.

(vii). Single-family residential development may be allowed in a shoreline setback per the requirements of section 17.05A.090.E.1.d through f below.

d. Development on non-conforming lots. New single-family development on any legal lot in shoreline jurisdiction that is nonconforming with respect to the required buffer and setback standards may be allowed without a shoreline variance when:

(i). The depth of the lot (distance from the ordinary high water mark to the inside edge of the front yard setback) is equal to or less than the standard shoreline buffer and setback as indicated in Table 3 of this section; or

(ii). The buildable area lying landward of the shoreline buffer and interior to required side and front yard setbacks is not more than 2,200 square feet and the driveway is not more than 1,100 square feet. The buildable area means the entire area that will be disturbed to construct the home, normal appurtenances (except drainfields), and landscaping; and

(iii) Appropriate measures are taken to mitigate all adverse impacts, including using low impact development measures such as pervious pavement for driveways and other hard surfaces within the buffer and setback; and

(iv) Opportunities to vary the side yard and/or frontage setbacks are implemented to reduce the nonconformity when doing so will not create a hazardous condition or a condition that is inconsistent with this program or other chapters of Island County Code; and

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

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

(vii) The lot is not subject to steep or unstable slopes; and

(viii) All structures are as far landward as possible and shall not reduce the buffer by 50 percent; and

Commented [MP23]: New section will require justification for the addition

Commented [MP24]: Utilized same existing threshold for commonline buffer reduction of previous section 17.05A.090.F.3 – now new proposed section 17.05A.090.E.1.e.i.1

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(ix) At least 80 percent of the buffer area between the structures and the shoreline and/or critical area is maintained in a naturally vegetated condition under a buffer enhancement plan developed in accordance with ICC 17.05A.090.G.1.

Commented [MP25]: Consultant recommendation

e. Replacement and expansion of existing residential structures in shoreline setbacks and buffers.

Permit Processes for Replacement and Expansion Existing Residential Structures in Shoreline Setbacks and Buffers			
	Shoreline Buffer	Shoreline Setback	Steep Slope Setback[1]
Replacement[2] (same footprint)	P	P	P
Expansion/Modification[3] (including upwards expansion in height and expansion underneath existing footprint)	V	C	V
1. A geotechnical report will first be required for replacement or expansion of existing residential structures in the steep slope setback to determine if proposed action is safe. 2. As defined in ICC 17.05A.070 3. As defined in ICC 17.05A.070 P – Shoreline permitted use V – Shoreline variance			

Commented [MP27]: Currently conditional use permit. Is there a reason this is not a variance?

Commented [MP26]: TRC recommendation

~~2.~~ (i). Expansion of existing residential structures into the shoreline setback. A legally established residential structure (including principal structures and all associated impervious surfaces) located wholly or partially within shoreline buffer or ~~building~~ shoreline setback may expand into the shoreline ~~building~~ setback provided:

(1) ~~a.~~ The maximum building footprint (including principal structures and all associated impervious surfaces) within shoreline jurisdiction shall be no larger than 2,200 square feet;

(2) ~~b.~~ There is no opportunity to consolidate lots under common ownership that will alleviate the nonconformity;

(3) ~~c.~~ The proposed development has utilized the maximum portion of the lot outside of the shoreline buffer, building setback, critical areas, and critical area buffers before extending into the building setback~~; and~~

~~d. Buffer enhancement is provided consistent with section 17.05A.090.G.~~

~~3.~~ (ii). Replacement of existing residential structures. A legally established residential structure (including principal structures and all associated

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impervious surfaces) located wholly or partially within shoreline buffer or ~~building~~ shoreline setback may be replaced provided the footprint and height of the replacement structure in the ~~building~~ shoreline setback and shoreline buffer is less than or equal to the footprint and height of the original structure, the replacement structure is placed in the same location or no closer to the OHWM as the original structure~~, and buffer enhancement is provided per section 17.05A.090.G~~.

~~4.~~ (iii). Expansion or modification of existing residential structures in the Rural Conservancy environment. In the rural conservancy environment, an existing legally established or nonconforming residential structure (including principal structures and all associated impervious surfaces) located wholly within the shoreline buffer may be modified or expanded provided:

(1) ~~a.~~ Any expansion of the building's footprint or any new impervious surface are located landward of the rear foundation wall (the wall furthest from the water) of the existing structure; and

(2) ~~b.~~ There is no opportunity to consolidate lots under common ownership to alleviate the nonconformity.~~;~~

~~c. Buffer enhancement is provided consistent with section 17.05A.090.G.~~

~~5. The following provisions shall apply to any development proposed within a shoreline buffer or building shoreline setback:~~

~~a. The residence shall be located in the least environmentally damaging location relative to the shoreline and any critical areas;~~

~~b. The residence shall be located outside of areas subject to geologic hazards;~~

~~c. A geologic geocoastal analysis indicates that with the reduced setback or buffer, the proposed structure will not require shoreline stabilization for the life of the single-family residence, typically 100 years;~~

~~d. The applicant has signed and recorded with the county a covenant that meets all the requirements as provided in section 11.02.170 and runs with the title of the property that waives any claim against Island County by reason of or arising out of issuance of the permit or approval by Island County for the development of the property and acknowledges that the structure was built in a location on the lot closer than normally permitted on the condition that it would not require future shoreline stabilization over the life of the structure, and that county regulations would not allow stabilization to protect the structure or other improvement should this presumption prove incorrect.~~

~~e. Any septic drainfield shall be located landward of the single-family residence, whenever possible, in compliance with Island County Health regulations;~~

~~f. Measures shall be taken to mitigate all adverse impacts, including using low impact development measures where appropriate, such as pervious pavement for driveways and other hard surfaces and infiltrating stormwater runoff through bioswales except where this would threaten slope stability, increase erosion, or potentially degrade groundwater quality; and~~

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~~g. Copper shall not be used in any exterior finish material.~~

~~F.~~ F. ~~Commonline~~ Shoreline setback and shoreline buffer reductions (refer to Figure 1 at the end of this chapter). The common line setback and shoreline buffer reduction procedures described in this section shall only apply to the main residence and shall not be used to reduce a steep slope buffer.

(i). ~~1.~~ Commonline setback reduction. Single-family residential development may be allowed in a shoreline setback, or a marine-or lake buffer, where there are legally established residences on abutting parcels ~~adjacent to~~ and within 100 feet of the proposed residence ~~project site~~ that are waterward or partially waterward of the required shoreline buffer or ~~building~~ shoreline setback. In such cases, a single-family residential structure may be constructed within a marine or lake buffer, or within a shoreline setback provided the proposed structure is set back from the OHWM to a common line drawn between the waterward-~~side~~ corners of the facades of each adjacent residence ~~residential structure~~ that are nearest to the proposed structure.

(1) If the common line setback allows the placement of a residential structure in the shoreline buffer, the area of the buffer shall not be reduced by more than fifty (50) percent.

(2) If the common line setback allows the placement or expansion of a residential structure in the shoreline buffer or shoreline setback the proponent shall enhance the remainder of the buffer that is unaffected by the placement or expansion of the residential structure and any accessory structures.

(3) Use of the commonline setback shall not allow for upper-story decks or other components of the residence to project over the commonline, except for eaves which may extend over the commonline by 18 inches.

(ii). ~~2.~~ Setback Averaging reduction. If a lot proposed for development has only one (1) legally established residence on an abutting parcel ~~residentially developed lot adjacent to~~ and within 100 feet of the proposed residence ~~project site~~ and where the~~re is a~~ legally established residence ~~that~~ is waterward or partially waterward of the required marine or lake buffer or ~~building~~ shoreline setback, the minimum ~~building~~ shoreline setback may be reduced:

(1). to the average of the two (2) nearest residences~~tial structures~~ within 100 feet of the proposed residence~~project site~~ on lots abutting the same shoreline; or

(2). may be reduced to the required buffer width for the shoreline designation in which the proposed structure is located, whichever is the greater distance from the OHWM.

~~3. If the common line setback allows the placement of a residential structure in the shoreline buffer, the area of the buffer shall not be reduced by more than fifty (50) percent.~~

Commented [MP28]: Moved to new 17.05A.090.E.1

Commented [MP29]: Moved from 17.05A.090.F

Commented [MP30]: TRC Recommendation

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~~4. If the common line setback allows the placement or expansion of a residential structure in the shoreline buffer or building setback the proponent shall enhance the remaining buffer consistent with section 17.05A.090.G~~

(iii). Setback reductions within canal communities. Within canal communities, the shoreline setback may be reduced to 24ft for new residential development or expansion of existing residential development, including the primary structure, all accessory structures and appurtenances and all impervious surfaces under the following conditions:

(1) The setback may not be reduced less than the amount that would be allowed under the common line setback reduction regulations or setback averaging regulation at section 17.05A.090.E; and

(2) For any new structure or expansion of an existing structure, in which the footprint of the expansion will increase total impervious surface in the setback, the proponent shall enhance an equal area of the setback with native vegetation meeting the requirements of section 17.05A.090.H.

Commented [MP31]: Moved from 090.J

(iv) Modification of shoreline buffer and setback requirements to encourage restoration. If a property owner removes existing structural shoreline stabilization and replaces it with natural soft shore stabilization in accordance with Army Corps of Engineers and National Marine Fisheries Service standards for shoreline restoration, and after such removal of the shoreline stabilization the OHWM shifts inland toward the principal structure on the site, causing the structure to be non-conforming with regards to the shoreline setback or buffer, then the standard shoreline buffer (or setback in the canal communities) may be reduced in accordance with the following standards.

Commented [MP32]: TRC recommendation

(1) The standard shoreline buffer (or setback in canal communities) may be reduced by a distance equal to the distance that the OHWM has shifted inland toward the principal structure on the site; and

(2) The shoreline buffer shall in no case be reduced by more than fifty (50) percent of the required buffer width.

(3) Approval of a shoreline buffer reduction for removal of structural shoreline stabilization shall be contingent on Island County approval of a project shoreline restoration plan. The Shoreline Administrator shall make final decisions on approval of buffer reduction requests based on the information provided and compliance with the provisions of this Program.

(4) An approved buffer reduction granted by the county as the result of removal of structural shoreline stabilization may be held as a credit for up to five (5) years and used to reduce the standard shoreline buffer (or setback in a canal community) from section 17.05A.090.D (Table 3) only for expansions or modifications of structures which existed at the time the hard armoring was proposed for removal.

Commented [MP33]: TRC recommendation

Commented [MP34]: Moved from old section 17.05A.090.I, which is now new section 17.05A.090.H

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F~~G~~. **Shoreline buffer enhancements required** (refer to Figure 2 at the end of this chapter).

Commented [GJ35]: Added draft Figure 2 at end of chapter

~~1. In cases where new, expanded (greater than 200 square feet), or replaced residential structures (including principal structures and all associated impervious surfaces) are permitted in the shoreline building setback or buffer, b~~Buffer enhancement shall be provided in accordance with the table below for residential structures, including principal structures, all accessory structures and appurtenances, and all associated impervious surfaces, when allowed within the shoreline setback or buffer under the provisions of ICC 17.05A.090.E. ~~as follows:~~

Shoreline Buffer Enhancements Required[1]	
	Buffer Enhancements Required/Not Required
New ≤ 50sqft	Not Required
New > 50sqft	Required
Replacement, same footprint	Not Required
Replacement, different footprint	Required[2]
Expanded or Modified ≤ 200sqft and adds impervious surface[3]	Required
Expanded or Modified ≤ 200sqft and does not add impervious surface[3]	Not Required
Expanded or Modified > 200sqft and adds impervious surface[3]	Required
Expanded or Modified > 200sqft and does not add impervious surface[3]	Required
Expanded upwards, within same footprint	Not Required[4]

1. For residential structures, including principal structures, all accessory structures and appurtenances, and all associated impervious surfaces, in accordance with ICC 17.05A.090.G below.
2. Except where the difference between the existing and new footprint is ≤ 200sqft and does not add impervious surface to the shoreline setback or buffer.
3. Does not add impervious surface to the shoreline setback or buffer specifically.
4. The permit process shall be consistent with the requirements of ICC 17.05A.090.E.1.c.

~~a. If the expansion or modification is greater than 200 square feet and adds impervious surface to the building setback, including the primary structure and all accessory structures and appurtenances, the proponent shall be required to enhance an equal area of the shoreline buffer with native vegetation.;~~

~~b. If the expansion or modification is greater than 200 square feet and adds any new impervious surface within the shoreline buffer, including the primary structure and all accessory structures and appurtenances, the proponent shall be required to enhance an equal area of the shoreline buffer with native vegetation; and~~

~~2. Buffer enhancement shall meet the requirements of section 17.05A.090.H.~~

Commented [MP36]: Converted into table above. Provisions added for new structures, replacement structures, and structures expanded upwards in same footprint.

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3. Requirements for vegetation enhancement associated with development in the ~~building~~ shoreline setback or buffer shall apply to the total of all new building area added on a project site after the effective date of this Program.

4. If the proponent removes impervious surface from within the shoreline buffer or ~~building~~ shoreline setback, the horizontal area (square feet) of removed impervious surface may be deducted from the total of new impervious surface area for which enhancement of the buffer is required.

5. For shoreline property owners that have removed structural shoreline stabilization in advance of shoreline development or redevelopment, Island County may give mitigation credit to any beneficial restoration action that occurred within five (5) years of the proposed development or redevelopment activity, provided that:

   a. The applicant or property owner provides conclusive evidence of the pre- and post-restoration conditions using photographs, reports, plans, affidavits, or similar evidence;

   b. The county confirms via site inspection, photographs, affidavits or other evidence that the restoration actions have improved shoreline conditions; and

   c. The applicant or property owner provides assurances that the restoration area will be maintained for the life of the project. The assurance can be in the form of a notice on title, conservation easement, or similar mechanism.

G~~H~~. Shoreline buffer enhancement standards.

1. In all cases where shoreline buffer enhancement is a required condition of development in the shoreline buffer or ~~building~~ shoreline setback, the following shall apply:

   a. An approved ~~landscape~~ buffer enhancement plan subject to county approval is required and shall contain the following:

      (i) ~~A buffer enhancement plan subject to county approval shall be submitted.~~ The plan will describe how the requirements of this section will be met;

      (ii) The plan shall take into account native growing conditions and specify appropriate plants and planting density for achieving a viable and self-sustaining buffer. If the site will not support trees and shrubs, native herbaceous plants shall be planted; and

   ~~(iii)~~b. An approved certificate of occupancy and/or final building inspection shall be contingent upon installation of the shoreline buffer enhancement. ~~Failure to implement the approved landscape enhancement plan is a violation of this chapter and will result in immediate revocation of all issued development permits.~~

   ...

   d. Monitoring requirements.

      (i) Monitoring reports shall be submitted annually to the Shoreline Administrator for at least five (5) years after planting, unless the Shoreline Administrator

Commented [MP37]: Needs review.

Commented [MP38]: Moved from 090.I

Commented [GJ39]: Consultant recommendation

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determines that a longer period or different frequency is appropriate. Monitoring must continue until all vegetation standards are met.

(ii) Monitoring reports shall include photographs of plantings taken at approximately the same locations and time each year, preferably during the growing season.

(iii) Monitoring ~~shall~~ reports shall describe the extent and type of vegetation present in the enhancement area as the proportion (percent cover) of the enhancement area they cover. The methods used to determine the cover shall be described and reported for the following categories of plants: native trees, shrubs, and herbaceous plants; non-native trees, shrubs, and herbaceous plants.

(iv) Buffer enhancement plantings shall have targets for vegetative cover that must be met within or by the fifth growing season. Buffer enhancement shall be inspected by County staff upon installation of plantings and upon completion of the fifth year of monitoring, but inspections may occur throughout the monitoring period. Upon completion of the fifth year, if the vegetative cover does not meet the target, additional planting or other action may be required and the monitoring period extended.

(v) The target for vegetative cover shall be ninety (90) percent within the enhancement area unless the Shoreline Administrator modifies the required target after determination that environmental conditions indicate less vegetative cover more nearly matches what a naturally occurring plant community would achieve at the particular location.

Commented [MP40]: Language pulled from 090.D.10 and additional sentence regarding inspections added.

~~I. Modification of shoreline buffer and setback requirements to encourage restoration.~~

~~1. If a property owner removes existing structural shoreline stabilization and replaces it with natural soft shore stabilization in accordance with Army Corps of Engineers and National Marine Fisheries Service standards for shoreline restoration, the standard shoreline buffer (or setback in the canal communities) may be reduced by a distance equal to the distance that the OHWM is moved toward the principal structure on the site following removal of the structural stabilization, up to fifty (50) percent of the required buffer width.~~

Commented [MP41]: Do we want to keep this provision? Concerns include sea level rise, other incentives for soft shore included already in stabilization section

~~2. Approval of a shoreline buffer reduction for removal of structural shoreline stabilization shall be contingent on Island County approval of a project shoreline restoration plan. The Shoreline Administrator shall make final decisions on approval of buffer reduction requests based on the information provided and compliance with the provisions of this Program.~~

~~3. An approved buffer reduction granted by the county as the result of removal of structural shoreline stabilization may be held as a credit for up to five (5) years and used to reduce the standard shoreline buffer (or setback in a canal community) from section 17.05A.090.D (Table 3) for future onsite development.~~

Commented [MP42]: Moved to section 17.05A.090.E.1.e.(iv)

~~4. For shoreline property owners that have removed structural shoreline stabilization in advance of shoreline development or redevelopment, Island County may give mitigation credit to any beneficial restoration action that occurred within five (5) years of the proposed development or redevelopment activity, provided that:~~

a. The applicant or property owner provides conclusive evidence of the pre- and post-restoration conditions using photographs, reports, plans, affidavits, or similar evidence;

b. The county confirms via site inspection, photographs, affidavits or other evidence that the restoration actions have improved shoreline conditions; and

c. The applicant or property owner provides assurances that the restoration area will be maintained for the life of the project. The assurance can be in the form of a notice on title, conservation easement, or similar mechanism.

J. Shoreline setback modification in canal communities.

1. New residential development or expansion of existing residential development, including the primary structure, all accessory structures and appurtenances and all impervious surfaces may be placed in the landward forty (40) percent of the shoreline setback under the following conditions:

a. The setback may not be reduced by an amount greater than would be allowed under the common line setback reduction regulations at section 17.05A.090.F; and

b. For any new structure or expansion of an existing structure, in which the footprint of the expansion will increase total impervious surface in the setback, the proponent shall enhance an equal area of the setback with native vegetation meeting the requirements of section 17.05A.090.H.

2. Requirements for vegetation enhancement associated with development in the setback shall apply to the total of all new building area added on a project site after the effective date of this Program.

3. If the proponent removes impervious surface between the OHWM and the shoreline buffer or building setback, the area (square feet) of removed impervious surface may be deducted from the total of new impervious surface area for which enhancement of the buffer is required.

K. Shoreline vegetation conservation.

1. Unless otherwise specified, all shoreline use and development, including preferred uses and uses exempt from permit requirements, shall comply with the buffer provisions of this Program to protect and maintain shoreline vegetation and habitat.

2. Removal of native vegetation shall be avoided, where feasible. Where removal of native vegetation cannot be avoided, it shall be minimized to protect ecological functions. If non-native vegetation is to be removed, then it shall be replaced with native vegetation within the shoreline jurisdiction.

3. Native plant materials that are equivalent to those which would typically occur with respect to size, structure, and diversity at maturation shall be used in restoration, rehabilitation, or enhancement projects.

4. Natural features such as snags, stumps, logs, drift logs, or uprooted trees shall be left undisturbed to support fish and other aquatic systems, except where they would adversely affect navigation or represent a human health or safety risk.

Commented [MP43]: Moved to old section 090.G, now new section 090.F

Commented [MP44]: Moved to 090.E

Commented [MP45]: Already stated exactly this way in 090.G.3 (renumbered to 4 above)

Commented [MP46]: Moved to 090.E

Commented [MP47]: Moved to 17.05.110.C and renamed to Shoreline Vegetation Maintenance

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~~5. Proponents of all new shoreline uses or developments shall demonstrate that site designs and layouts are consistent with the policies of this section to ensure shoreline functions, values, and processes are maintained and preserved. A shoreline permit or written statement of exemption shall not mandate, nor guarantee, unobstructed horizontal or lateral visibility of the water, shoreline, or any specific feature near or far.~~

~~6. Topping trees is prohibited.~~

~~7. Selective pruning or thinning of trees for safety or view protection or maintenance may be allowed when it is limited to:~~

~~a. Removal of no more than twenty-five (25) percent of the canopy of any tree or group of trees (calculated based on the area of the crown, or upper portion(s) comprised of branches and leaves or as determined by a certified arborist) in any given five-year period; or~~

~~b. Pruning of trees that does not affect ecological functions. No more than twenty (20) percent of the limbs on any single tree may be removed and no more than twenty (20) percent of the canopy cover in any single stand of trees may be removed in a given five-year period. Pruning shall comply with the National Arborist Association pruning standards, unless the tree is a hazard tree as certified by an arborist and approved by the Shoreline Administrator.~~

~~8. The Shoreline Administrator may deny a request or condition approval of vegetation management or removal proposals for view maintenance if it is determined the action will result in an adverse effect to any of the following:~~

~~a. Slope stability;~~

~~b. Habitat value;~~

~~c. Health of surrounding vegetation;~~

~~d. Risk of wind damage to surrounding vegetation;~~

~~e. Nearby surface or ground water; or~~

~~f. Water quality of a nearby water body.~~

~~9. Clearing by hand-held equipment of invasive or non-native shoreline vegetation or plants listed on the state noxious weed list is permitted in shoreline locations if provision is made for re-establishment of native vegetation in the disturbed area. Ground based motorized equipment may be used if accompanied by a plan for the re-establishment of native vegetation, and with prior written approval of the Shoreline Administrator.~~

~~10. Aquatic weed control shall occur in compliance with all other applicable laws and standards. Use of chemical methods of weed control shall only be allowed when done by a qualified professional.~~

~~11. Subdivision of property shall be in a configuration that will not require significant vegetation removal or shoreline modification and that will not adversely impact ecological functions. Each new parcel must be able to support its intended development without significant ecological impacts to the shoreline ecological functions.~~

Commented [MP48]: Moved to 17.05A.090.A.18

H~~L~~. Flood hazard reduction

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8. New flood control works are only allowed in the shoreline jurisdiction if it is demonstrated by analyses prepared by qualified professionals that: ~~Flood control works shall only be allowed in the shoreline if~~

a. they are necessary to protect existing development or to mitigate or resolve existing stormwater problems; ~~and~~

b. ~~-~~the primary use being protected is consistent with this Program;

c. non-structural flood hazard reduction measures have been demonstrated to be infeasible~~.~~;

d. the flood control works can be developed in a manner that is compatible with multiple use of shoreline resources for the long term, including shoreline ecological functions, fish and wildlife management, and recreation;

e. . Impacts to critical areas can be successfully mitigated to result in no net loss of shoreline ecological functions; and

f. Appropriate vegetation conservation actions will be undertaken.

~~9. Flood control works to protect existing development shall be permitted only when the primary use being protected is consistent with this Program, and the flood control works can be developed in a manner that is compatible with multiple use of shoreline resources for the long term, including shoreline ecological functions, fish and wildlife management, and recreation.~~

~~10.~~9. When allowed, new structural flood hazard reduction measures shall be located landward of associated wetlands and buffer areas except where no alternative exists as documented in a geotechnical analysis.

~~11.~~10. Solid waste shall not be stored in areas subject to flooding unless it can clearly be demonstrated that complete and effective flood-proofing of structures or equipment can be accomplished.

~~12.~~11. All new development proposals must select the least impactful area for development. Where feasible, development should be located outside of the Special Flood Hazard Area.

12. Small scale structural flood hazard reduction measures such as raising a building above the base flood elevation, or the creation of underfloor spaces meeting the requirements of FEMA/FIA Technical Bulletin (TB) 11-1 (as amended), are not subject to the regulations of this section, ICC 17.05A.090.I.

13. The removal of substrate for flood management purposes is prohibited.

14. The applicant must provide the following information:

a. Flood hazard area characteristics adjacent to the project area;

b. Physical, geological and soil characteristics of the area;

c. An analysis of alternative flood protection measures, both structural and nonstructural;

d. Shoreline stabilization measures and flood protection works within the area existing at the time of application;

Commented [MP49]: Per ECY: This seems to contradict the WAC, in that stormwater issues can't be "fixed" through stabilization. What is meant by "stormwater"?

Commented [MP50]: Used items from San Juan County to help reformat into a list

Commented [MP51]: ECY recommendation

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e. Predicted impact upon area shore and hydraulic processes, adjacent properties, and shoreline and water uses; and

f. Biological resources and predicted impact to fish, vegetation and animal habitat associated with shoreline ecological systems.

Commented [MP52]: From San Juan County, adapted for Island County

I~~M~~. Public Access

...

5. Physical public access shall be incorporated into all development proposals on public lands, all public and private commercial and industrial developments, all publicly funded projects, and all residential subdivisions of five (5) or more lots as required by section 17.05A.100.J, unless the project proponent demonstrates that any of the following conditions exist:

...

J~~N~~. Water quality and quantity

...

K. Lighting.

1. Except as necessary to meet federal, state, and local safety or navigation standards, all external lighting fixtures must be shielded, recessed and dark sky rated. Light must be directed downward and away from:

   a. Wetlands and associated buffers;

   b. Fish and wildlife habitat conservation areas and associated buffers;

   c. Adjoining properties; and

   d. Public roads or rights-of-way.

2. All glare and reflections from external light sources must be contained within lot boundaries.

3. Flashing or blinking lights are prohibited.

Commented [MP53]: From San Juan County, adapted for Island County

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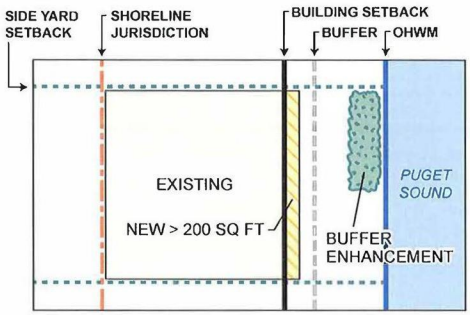
Commented [GJ54]: Removed 2200 sq ft reference in image. Is this figure still needed after adding table 090.F?

Expansion of Existing Residential Structures within Shoreline Setback

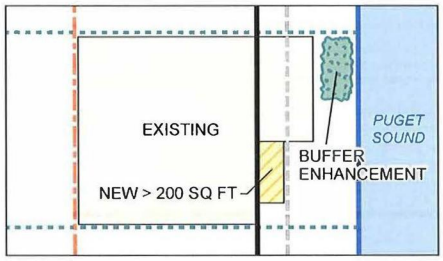


EXAMPLE 1

- Existing structure outside of shoreline setback
- Expansion within shoreline setback allowed
- Expansion > 200 square feet
- Buffer enhancement required next to water

EXAMPLE 2

- Existing structure within shoreline setback
- Expansion within shoreline setback allowed
- Expansion < 200 square feet
- Buffer enhancement not required



EXAMPLE 3

- Existing structure within shoreline setback and buffer
- Expansion within shoreline setback allowed
- Expansion > 200 square feet
- Buffer enhancement required next to water