

Title 19

SHORELINE MASTER PROGRAM

Chapters:

19.04 Shoreline Master Program

19.08 *Repealed*

Friday Harbor Municipal Code

Chapter 19.04

SHORELINE MASTER PROGRAM

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Article I. General Provisions

19.04.010 Title.

This document shall be known and may be cited as the shoreline master program for Friday Harbor, Washington. (Ord. 1137 § 1(1.01), 2000)

19.04.020 Short title.

This document may be referred to internally as the master program. (Ord. 1137 § 1(1.02), 2000)

19.04.030 Official map.

A. There are hereby made a part of this master program two maps which shall be known officially as the town of Friday Harbor shoreline designated environments map and the town of Friday Harbor shoreline view corridors map, but which for purposes of brevity may be referred to as the maps. The maps shall show all areas of Friday Harbor which fall under the jurisdiction of this master program

and the official designated environments for all affected lands and water. Copies of the maps are attached to the ordinance codified in this chapter, as Attachments 1 and 2.*

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

C. As the maps are an inseparable part of this master program, no part of the maps may be altered or amended without the approval of the Washington State Department of Ecology, as provided in RCW 90.58.190.

D. When questions arise as to the precise boundaries of any designated environment, the shoreline administrator shall make the final determination, subject to the provisions of FHMC Title 20.

E. Unofficial copies of the maps may be included herein and prepared for administrative purposes as needed. (Ord. 1137 § 1(1.03), 2000)

*Ordinance No. 1137 can be found on file in the town clerk's office.

19.04.040 General applicability.

This master program shall apply to all land and waters in or under the jurisdiction of the town of Friday Harbor as the same may fall under jurisdiction of Chapter 90.58 RCW, the Shoreline Management Act, referred to herein as the Act. The master program provides goals, policies and regulations which are additional to all other ordinances of the town of Friday Harbor. If the provisions of the master program conflict with other applicable local ordinances, policies, and regulations, the most restrictive shall apply. Changes to comprehensive plans and associated ordinances shall be consistent with the policies of the Shoreline Management Act and this master program pursuant to RCW 90.58.340. (Ord. 1137 § 2(2.01), 2000)

19.04.050 Applicability to persons.

This master program shall apply to every person, individual, firm, partnership, association, corporation, local or state governmental agency, public or municipal corporation, or other nonfederal entity which develops, owns, leases or administers lands, shorelands or waters which fall under jurisdiction of the Act. (Ord. 1137 § 2(2.02), 2000)

19.04.060 Applicability to federal agencies.

A. Federal agencies shall not be required to obtain permits for substantial developments undertaken by the federal government on lands owned in fee simple by the federal government, except in those cases where the federal government grants or reserves to the state or local government substantial jurisdiction over activities on those lands; provided, that if and when the Washington State Shoreline Management Program is approved under the Federal Coastal Zone Management Act (16 USC 1451, et seq.), the federal government shall be subject to the State Shoreline Management Act, as provided by the Coastal Zone Management Act.

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

C. The substantial development permit system shall apply to substantial development undertaken on lands not federally owned but under lease, easement, license, or other similar property right short of fee ownership, to the federal government. (Ord. 1137 § 2(2.03), 2000)

19.04.070 Applicability to development.

This master program shall apply to all development as defined in FHMC 19.04.100. No development shall be undertaken on the local shoreline except development that is consistent with the policy of the Shoreline Management Act of 1971 and this master program. (Ord. 1137 § 2(2.04), 2000)

19.04.080 Requirement for permit.

Except as exempt in FHMC 19.04.090, no substantial development shall be undertaken on the local shoreline until a permit for such development has been approved in accordance with this program. All work undertaken pursuant to a substantial development permit shall proceed in compliance with the permit and with the applicable local and state regulations. (Ord. 1137 § 2(2.05), 2000)

19.04.090 Exemptions from substantial development.

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

A. Any development of which the total cost or fair market value, whichever is higher, does not exceed \$2,500, if such development does not materially interfere with normal public use of the local shoreline.

B. Normal maintenance and repair of existing structures or developments, including damage by accident, fire or the elements.

C. Construction of the normal protective bulkhead common to single-family residences; provided, that such bulkheads are entirely located at or landward of the ordinary high water mark (OHWM).

D. Construction of a single-family residence on shorelands by an owner, lessee or contract purchaser, for his or her own use or the use of his or her family, which residence does not exceed a height of 35 feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction.

E. Construction of a dock, designed for pleasure craft only, for the private, noncommercial use of the owner, lessee or contract purchaser of a single-family residence, for which the total cost or fair market value, whichever is higher, does not exceed \$2,500.

F. Construction or modification of navigational aids such as channel markers. (Ord. 1137 § 2(2.06), 2000)

Article II. Definitions**19.04.100 Definitions.**

For the purpose of this chapter, the terms set out in this section shall have the meanings indicated. Unless stated to the contrary, the definitions contained in WAC 173-27-030, as amended from time to time, shall also apply.

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

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

3. "Construction limit line" means the line identified as that on the town of Friday Harbor designated shoreline environments map.

4. "Council" means the town council of Friday Harbor.

5. "Department" means the Washington State Department of Ecology.

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

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

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

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

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

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

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

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

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

15. "Local shoreline" means the shorelands located within the town of Friday Harbor and all of the salt water areas lying within the town's jurisdiction.

16. "Mean lower low water" or "MLLW" means the 0.0 tidal elevation. It is determined by averaging each day's lowest tide at a particular location over a period of 19 years. It is the tidal datum for vertical tidal references in the salt water area.

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

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

19. "Nonconforming structure" means a structure which was lawfully designed and

constructed prior to adoption of this master program, but which does not conform to the provisions of this master program.

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

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

22. "Public access" is an unobstructed access available to the general public to enjoy the local shoreline. Primary public access is a means of physical approach to and along the water's edge. Views to the water are considered a secondary type of public access. Public access may combine visual and physical elements in a variety of ways and generally means access without charge or cost to the public. Whenever public access is made available only in exchange for payment of some cost or charge, whether direct or indirect, it shall not be deemed to satisfy the public access requirements of this program unless, under all of the circumstances, it is clear that large numbers of the public will be likely to enjoy the access on a regular basis at a cost that would not be unreasonable, or prohibitive to any segment of the public.

23. "Public shoreline view" means a view of the local shoreline and all salt water and all territorial views beyond the salt water, or any significant portion thereof, which is consistently available to general members of the public from any street, park, or other publicly owned area, or any such view that is consistently available to substantial numbers of peo-

ple from privately owned property that is open to use by general members of the public on a regular basis.

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

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

26. "Shoreline administrator" means the administrator of the town of Friday Harbor or his or her designated representative.

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

28. "Shorelines" means all the water areas of the state and underlying land, including associated shorelands, except shorelines of statewide significance.

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

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

31. "Substantial development" means any development of which the total cost or fair market value, whichever is higher, exceeds \$2,500, or any development which materially interferes with normal public use of the water or shorelines, except as provided in FHMC 19.04.090.

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

33. "Water-dependent use" means a use that is dependent on the water due to the intrinsic nature of its operation and which cannot function other than in a waterfront location. Examples include, but are not limited to, ferry terminals; boat construction, repair and maintenance; marinas and other moorings; tug and barge operations; waterfront parks and fishing piers.

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

35. “Water-oriented use” means any one or a combination of water-dependent, water-related or water-enjoyment uses.

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

37. “Waterfront” means those portions of the shoreline area that are not separated from the water by a public street or road. (Ord. 1137 § 13, 2000)

Article III. Shorelines of Statewide Significance

19.04.110 General.

The Shoreline Management Act designates certain water areas of the state as shorelines of statewide significance. Water areas so designated are important to the entire state. Because

these areas are resources from which all people in the state benefit, local master programs must give preference to uses of such areas which favor public and long-range goals. (Ord. 1137 § 3(3.01), 2000)

19.04.120 Designation of shorelines of statewide significance.

The State Legislature has designated all salt waters surrounding the islands of San Juan County, seaward from the line of extreme low tide, as shorelines of statewide significance (RCW 90.58.030(2)(e)). (Ord. 1137 § 3(3.02), 2000)

19.04.130 Policies governing the use of shorelines of statewide significance.

A. Introduction. The Shoreline Management Act establishes policies which govern the use of shorelines of statewide significance (WAC 173-16-040(5)). All proposed activities within shorelines of statewide significance must first be consistent with the policies of this section before meeting the other provisions of this master program. Uses which are consistent with the following policies, cited in order of descending preference, shall be given preference by local government. Uses which are not generally consistent with these policies should not be permitted on shorelines of statewide significance.

B. Policies.

1. The statewide interest should be recognized and protected over the local interest on shorelines of statewide significance.

2. The natural character of shorelines of statewide significance should be preserved.

3. Shorelines of statewide significance should be used in ways which will produce long-term benefits as opposed to short-term benefits or conveniences.

4. Actions that would commit resources to irreversible uses or would detrimentally alter natural conditions characteristic of such shorelines should be severely limited.

5. The short-term economic gain or convenience associated with a proposed development should be evaluated in relationship to

long-term and potentially costly impairments to the natural environment.

6. The visual impact of every proposed project should be thoroughly evaluated and adverse impacts should be minimized.

7. The natural resources and natural systems of shorelines of statewide significance should be protected. Areas containing unusual or fragile natural resources or natural systems should be left undeveloped.

8. Public access to publicly owned areas of the shorelines of statewide significance should be increased.

9. Recreational opportunities for the public in shorelines of statewide significance should be increased. (Ord. 1137 § 3(3.03), 2000)

Article IV. Goals and General Shoreline Use and Development Policies

19.04.140 General.

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

B. The following goals and policies provide the foundation on which this entire master program rests. (Ord. 1137 § 4(4.01), 2000)

19.04.150 Shoreline use.

A. Goal.

1. To assure protection of the unique character of Friday Harbor, as recognized and described in the town's comprehensive plan, while providing for uses of the local shoreline which do not needlessly diminish the quality of the shoreline environment, and to assure the optimum opportunity for participation by local residents in the decision-making processes which may affect that unique character.

2. As most of the factors which create the unique character of the town depend upon the type of development that occurs within the local shoreline, preservation of Friday Harbor's uniqueness especially requires that all such development be essentially consistent

with the pattern, scale, and character of existent development within the local shoreline and its adjacent areas. Evaluation of proposed development shall include consideration of the impact upon the town's character when viewed from the water, as well as from the land.

B. Policies.

1. Uses which protect the potential long-term benefits to the public against compromise for reasons of short-term economic gain or convenience should be fostered.

2. Areas of the local shoreline which are particularly appropriate for specific shoreline and water area uses should be designated and reserved for those uses.

3. Except for residential uses the local shoreline should be reserved for water-oriented uses. Uses which are not water-oriented should not be permitted.

4. Shoreline land which does not abut the waterfront should be reserved for residential uses or for water-oriented uses; provided, that other uses may be permitted if they provide public open spaces and public shoreline views, consistent with this master program.

5. Continuing studies of the physical and economic aspects of shoreline systems should be encouraged in order to provide a continuously updated information base against which the impact of any proposed shoreline or water use can be measured.

6. Residents of Friday Harbor should be permitted to review any application for a shoreline permit prior to the town council action on the application. In addition, public meetings and hearings may be held upon request in order to further serve this purpose.

7. The goals and policies of this master program should be considered in all land use decisions that affect uplands adjacent to the shoreline. (Ord. 1137 § 4(4.02), 2000)

19.04.160 Economic development.

A. Goal.

1. To acknowledge the critical importance of a balanced and diversified local economy for the long-range well-being of Friday Harbor and the island community, by evaluating proposals for economic development along

the shoreline or over the water with regard to the degree to which physical and social qualities of the town will be enhanced.

2. In recognition of the fact that the foundation of the town's economic structure is its unique retained character, the long-range well-being of Friday Harbor requires that development within the local shoreline areas be designed and located in ways which are essentially consistent with the pattern, scale, and character of existing development within the local shoreline and its adjacent areas.

B. Policies.

1. Commercial development on shorelines and over water should occur where such development already exists, and such development should be consistent with the provisions of this master program.

2. All shoreline and over-water development and use activities should be designed and constructed in a manner appropriate to the site and vicinity and to minimize adverse effects on the land and water environments.

3. All shoreline and over-water development and use activities, including construction of commercial, industrial, residential and recreational uses, should be required to use all available and practical methods to minimize erosion, siltation and interference with natural water and sand circulation.

4. Any shoreline or over-water use which generates sewage or other wastes should have waste disposal facilities that are of approved design and sufficient capacity to prevent any adverse environmental impacts.

5. Preservation of public shoreline views should be accomplished by maintaining open space between buildings, by clustering buildings and by minimizing building height and total lot coverage by buildings.

6. Preservation of open space should be encouraged in all proposed uses of shorelines.

7. Off-premises commercial signs should be prohibited within the local shoreline.

8. Upon completion of public service and/or utilities projects, shorelines, tidelands, and bedlands should be restored to preproject configurations and replanted with native species. Locations should be chosen which will not obstruct or destroy public shoreline views.

Whenever possible these facilities should be placed underground or designed to do minimal damage to the scenic qualities of the area.

9. The handling or processing of oil, other than that necessary for local consumption, is not compatible with the biological and physical character of Friday Harbor and should be prohibited.

10. Development and use of public lands should conform to the same limitations and standards imposed on development and use of private lands. (Ord. 1137 § 4(4.03), 2000)

19.04.170 Public access and public shoreline views.

A. Goal.

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

2. To protect the economic base of Friday Harbor and the surrounding community by preserving, among other unique characteristics, the quality and scope of existing public shoreline views.

3. The Shoreline Management Act places emphasis on the right of the general public to enjoy the physical and aesthetic qualities of the shoreline and water areas, while allowing for controlled development consistent with the public interest. Public access can include activities ranging from shellfish harvesting to simple appreciation of a water view. Access can be to uplands adjacent to the shoreline, to tidelands, beaches, stream corridors, and to the water itself.

4. While public access is most frequently gained over public land, it can also be a mitigating component in a development on private land. In such cases, the public may gain some form of access to or near the water or shoreline, while the developer is able to complete a project that otherwise may have unacceptable impacts on public views, access to and use of the shoreline and water. Most often,

this right of public access is obtained via a development condition and is expressed in an easement or conveyance in fee simple. In addition to acquisition of public access on private lands, public access may also be achieved by developers contributing to the cooperative development of public properties.

5. The intent of the Shoreline Management Act and this master program is to plan, provide and maintain a comprehensive system of public access. Such a system should be designed to provide safe and abundant access to water and shoreline recreational areas while preventing trespass onto private properties. Water-oriented uses and activities are encouraged that provide an opportunity for substantial numbers of the public to enjoy the local shoreline.

B. Policies.

1. A comprehensive public access plan should be developed and adopted.

2. Public agencies should acquire or otherwise assure appropriate public access to public shorelines.

3. Rights-of-way in the shoreline should be made available for public access.

4. Public access should be designed with provisions for physically impaired persons.

5. Public access afforded by shoreline street-ends should be enhanced.

6. Buffer zones or other appropriate design features should be provided in public access areas where necessary to protect private property and to clearly separate public and private use areas. On the other hand, development should not impair or degrade existing or planned public access.

7. Public access provisions should be designed to provide for public safety and to alleviate potential impacts to private property and individual privacy.

8. The nature and time of use of public access areas should be regulated where potential hazards for injury exist by specification of use limitations in conditions of permit approval.

9. Public access to local shorelines should be required in association with most proposed private and public developments.

10. Public access as close as possible to the water's edge should be provided.

11. Public access to local shorelines should be appropriately marked and maintained.

12. Public access areas should be connected by trails and paths where appropriate.

13. Public access development should be designed, located and constructed to protect ecological and aesthetic values as well as private property.

14. Substantial development within the local shoreline should not impair or detract from the public's physical access to the water.

15. Public shoreline views should be preserved to the maximum extent consistent with the rights of the owner whose property is proposed for development. Wherever reasonable, existing public shoreline views should be enhanced; provided, that enhancement of views should not be construed to mean excessive removal of vegetation that obstructs or impairs views.

16. New public shoreline views should be created. (Ord. 1137 § 4(4.04), 2000)

19.04.180 Circulation.

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

B. Policies.

1. The capacity of the local shoreline to absorb circulation impacts should be considered when reviewing proposals for development within the local shoreline.

2. Pedestrian and bicycle routes to and along the shoreline should be encouraged.

3. Motorized vehicles should be prohibited along the shoreline except on roads and in specifically designated areas.

4. Public agencies should, where appropriate, acquire parking areas and screen them from the water and shoreline areas.

5. Roads should be maintained at widths consistent with safety standards for limited speeds.

6. In building, improving or maintaining roads the ecological impact should be considered.

7. Roads should follow the natural terrain as much as possible in maintaining reasonable levels of safety.

8. Where the land is scarred or stripped of natural cover it should be replanted with native species or landscaped.

9. Wherever practical new roads proposed near shorelines should be set back at least 200 feet from the OHWM. (Ord. 1137 § 4(4.05), 2000)

19.04.190 Recreation.

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

B. Policies.

1. Recreational use of local shoreline areas must be recognized as only one of many potential uses and should be subject to the same constraints as other recognized uses.

2. Recreational use of public local shorelines should be encouraged for local residents, and visitors, consistent with environmental limitations.

3. Privately and publicly owned recreational facilities should provide adequate water supply, fire protection and waste control, and otherwise meet public health, safety and general welfare standards.

4. The town and Port of Friday Harbor should coordinate review of public and private recreational developments on the local shoreline to ensure consistency and compatibility with adopted plans and policies.

5. Recreational uses which are not water-oriented should be required to locate outside the local shoreline. Recreational uses which are not water-dependent should not be allowed over water.

6. Recreational facilities and activities incompatible with shoreline locations should not be permitted within the shoreline area. (Ord. 1137 § 4(4.06), 2000)

19.04.200 Conservation.

A. Goal. To assure preservation of scenic and nonrenewable natural resources and to assure conservation of renewable natural resources for the benefit of existing and future generations.

B. Policies.

1. Aesthetic and ecological qualities of the local shoreline should be recognized as valuable resources and preserved.

2. The natural, dynamic processes of shoreline formation and change should not be interfered with except for urgent reasons of public necessity or benefit.

3. Public shoreline views and public access to the local shoreline should be preserved.

4. Removal of flora and fauna from shorelines shall be in compliance with any applicable state law.

5. Natural vegetation on shorelines should be retained to the extent possible in new shoreline development.

6. Sand, gravel and mineral extraction is incompatible with existing and planned shoreline use and should not be permitted. When grading and/or excavation are necessary for site preparation for development, all available practical methods to control erosion, siltation and other impacts on adjoining properties and water quality should be provided.

7. Commercial harvesting of timber is incompatible with existing and planned use of the shoreline and should not be permitted. When noncommercial timber cutting occurs on shorelines, in conjunction with other development, aesthetic effects and protection against erosion and siltation should be considered.

8. Appropriate conservation easements may be accepted by the town. (Ord. 1137 § 4(4.07), 2000)

19.04.210 Historic and cultural preservation.

A. Goal. To protect and/or restore local shoreline areas which have archaeological, historic, cultural, educational or scientific value.

B. Policies.

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

2. Historic sites having significant value should be kept free of development until their value for preservation and/or removal is determined by the appropriate authorities. (Ord. 1137 § 4(4.08), 2000)

Article V. Designated Shoreline Environments

19.04.220 General.

A. In order to employ the goals and policies of this master program effectively, the local shoreline areas are assigned environment designations as set forth in WAC 173-16-040(4) and are shown on Attachment 1.* The designations are applied to each area based on existing development patterns, the known biological and physical limitations of the area and the goals and desires of the public.

B. The system of environment categories is intended to encourage uses that will enhance the character of the environment in which they occur and to provide reasonable restrictions on development to prevent degradation of that character. (Ord. 1137 § 5(5.01), 2000)

*Attachment 1 is attached to Ordinance No. 1137 on file in the town clerk's office.

19.04.230 Urban environment.

A. Statement of Purpose. The urban environment is an area of intensive and diverse land use. The purpose of this environment is to ensure full use of already urbanized shorelines by providing for and maintaining a variety of uses, particularly those that are water-dependent, water-related, or water-enjoyment.

B. Designation Criteria. Areas to be designated urban should meet one or more of the following criteria:

1. Shorelines used or planned for high-intensity commercial, port, public recreational and/or residential development;

2. Shorelines designated for expansion of urban uses based on adopted town plans for utilities, roads and other services; or

3. Shorelines without biological or physical limitations for urban development.

C. Management Policies.

1. Because shorelines suited to urban uses are limited, new urban development should be located in already developed areas which are consistent with the provisions of this master program.

2. Only uses which are water-dependent or water-enjoyment should be located on the waterfront portion of the shoreline.

3. Public physical and visual access to the local shoreline should be provided wherever possible. Planning for acquisition and development of public access areas should be pursued. New and expanded development should be designed to include public access.

4. Public access points should be linked by pedestrian routes where practical.

5. To make maximum use of available waterfront land and accommodate future water-dependent uses, nonconforming uses may not be renewed after the use has been discontinued for 12 consecutive months. Subsequent uses should conform to the policies and regulations of this master program.

6. The character and appearance of urban development should be enhanced through the application of sign, landscaping and site planning standards.

7. All urban shoreline development should be regulated in a manner designed to minimize adverse impacts on adjacent shoreline and upland areas. (Ord. 1137 § 5(5.02), 2000)

19.04.240 Urban residential environment.

A. Statement of Purpose. The purpose of the urban residential designation is to recognize and provide for residential areas and other uses compatible with residential use.

B. Designation Criteria. Areas to be designated urban residential should meet one or more of the following criteria:

1. Shoreline areas in which single-family residential uses predominate; or

2. Areas planned for single-family residential use, in terms of utilities, access, and amenities.

C. Management Policies.

1. Urban residential shorelines should be restricted to uses compatible with residential use.

2. Nonresidential uses permitted on urban residential shorelines should protect the residential character of the area. Permitted uses should not generate traffic, noise or pollutants at a level greater than that generated by existing residential uses and should not detract from the aesthetic quality of the area. (Ord. 1137 § 5(5.03), 2000)

19.04.250 Natural environment.

A. Statement of Purpose. The purpose of the natural environment is to preserve unusual and/or valuable resource systems and to regulate all potential activities or uses which might degrade or alter the natural characteristics which make these areas unusual and/or valuable.

B. Designation Criteria. Areas to be designated natural should meet one or more of the following criteria:

1. Shorelines which represent undisturbed natural conditions;

2. Areas having a high scenic value in their natural states;

3. Areas which serve to maintain the natural character of adjoining natural shorelines occurring beyond town jurisdiction;

4. Areas with potential for valuable habitat.

C. Management Policies.

1. Natural areas should be kept free of all development which would adversely affect their character and scenic value.

2. Only those alterations which would not be detrimental to the forces which created and now maintain a natural area should be permitted.

3. Limited access to natural areas should be permitted for scientific, historic, educational and low-intensity recreational purposes;

provided, that no significant adverse impact on the area will result.

4. Uses which consume physical and biological resources should be prohibited. (Ord. 1137 § 5(5.04), 2000)

19.04.260 Aquatic environment.

A. Statement of Purpose. The aquatic environment is designed to protect the quality and quantity of surface water, to preserve water areas for water-dependent uses such as navigation and appropriate recreation, and to preserve natural features and resources of the harbor from unnecessary degradation.

B. Designation Criteria. Areas designated aquatic shall include all water bodies under jurisdiction of the Act and within the boundaries or under the jurisdiction of the town of Friday Harbor, including the water surface and underlying lands, seaward from the OHWM.

C. Management Policies.

1. Development in the aquatic environment should be compatible with the adjacent upland environment designation; provided, that in the event aquatic development is adjacent to two upland environments the most restrictive shall apply unless the shoreline administrator determines that application of the less restrictive would not compromise the public interest.

2. The natural circulation and volume of water should be maintained to the greatest extent possible.

3. Uses which are not water-dependent should be prohibited; provided, that water-enjoyment uses at or near the OHWM which provide public access to the local shoreline may be considered as a conditional use subject to applicable use policies and regulations.

4. Activities and uses which will degrade the ecological or aesthetic values of the area should be prohibited.

5. Developments and activities using aquatic areas should be located and designed to minimize interference with navigation, minimize adverse visual impacts, allow for passage of fish and other aquatic animals, and minimize adverse effects on water quality, geohydraulic shoreline processes, and biological resources.

6. Land-based motor vehicles should not be permitted on tidelands except when necessary for emergency vehicles or when authorized in permitted construction or repair or for boat launchings. (Ord. 1137 § 5(5.05), 2000)

Article VI. Use Policies and Regulations

19.04.270 Introduction.

A. Chapter 173-16 WAC establishes 21 categories of use to be addressed in local master programs to carry out the intent and purposes of the Shoreline Management Act. The policies and regulations for each category are the criteria to be used for evaluating proposals for any permit under this master program or for any development within any area which is under the shoreline jurisdiction of the town.

B. Policies were developed for each use category based on the goals and general policies in Article IV of this chapter. The use policies are followed by regulations which specify how the policies will be put into effect. Regulations for location of each use within a specific shoreline environment are also included. (Ord. 1137 § 6(6.01), 2000)

19.04.280 General regulations.

The following general regulations are based on the goals and general policies in Article IV of this chapter, and shall apply to all use activities in all shoreline environments in which they are permitted.

A. Environmental Protection.

1. All uses and developments within the local shoreline shall be located, designed and constructed to avoid disturbance of and detrimental effects on aquatic habitats, water circulation and erosion-accretion processes.

2. All local shoreline developments shall use measures to minimize increases in surface runoff and shall control runoff so that adjacent properties and water bodies are not degraded by sedimentation or pollutants.

3. The release of oil, chemicals and other hazardous materials into the water is prohibited.

4. All uses and developments within the local shoreline shall use effective methods for

control of erosion during construction and operation.

5. Clearing, grading and filling for site preparation shall be limited to the minimum amount necessary for development.

B. Public Access.

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

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

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

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

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

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

i. Regulating access by such means as a gate and/or limiting hours or use;

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

iii. Provisions of or contribution to an access site geographically separated from the proposal such as a trails system.

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

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

adjacent uses, and the existing and projected demand by the community.

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

5. Public access signs, such as the standard state-approved logo or equivalent, shall be constructed, installed and maintained by the applicant. If the council determines that use limitations are appropriate for reasons of public safety or to avoid use conflicts, such limitations shall be specified in permit conditions and posted on an on-premises sign.

6. Required public access sites shall be fully developed and available for public use at the time of occupancy or use of the development.

7. Provisions for physically impaired persons shall be included, where feasible.

8. Public access easements and permit conditions shall be recorded on property deeds and, in the case of a subdivision, on the face of a plat as a condition running in perpetuity with the land. The required easement and/or conditions shall be recorded with the county auditor's office at the time of permit approval.

9. Future actions shall not diminish the usefulness or value of the public access.

C. Public Shoreline View Protection.

1. All uses and developments within the local shoreline shall be located, designed and constructed to minimize the impact on public shoreline views. Development which would substantially reduce the extent or aesthetic quality of such views shall not be permitted, except where such a denial would be unduly oppressive to the property owner or would destroy or derogate a fundamental attribute of property ownership.

2. In recognition of the fact that nearly all development projects will include some increase in the extent to which structures will occupy a given site, the amount of acceptable public shoreline view loss, if any, shall be determined by giving due regard to the following factors:

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

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

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

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

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

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

ii. Whether or not any existing views will be enhanced or new view points created by the project; and

iii. Whether or not it appears that there will be a net gain or net loss of public shoreline views.

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

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

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

3. In evaluating the significance of existing public shoreline views, under subsections (C)(2)(a) and (C)(2)(b) of this section:

a. The public view corridors identified on Attachment 2* of this program shall be conclusively deemed of greater value than other public shoreline view points;

b. Public shoreline views from streets, sidewalks, parks or other public prop-

erty shall be presumed of greater value than public shoreline views from privately owned property;

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

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

D. Parking. In addition to parking requirements imposed by other town ordinances, the following regulations shall also apply:

1. Parking areas serving shoreline and over-water uses shall be located off the street and landward of uses served unless incorporated into authorized structures.

2. Wherever adequate on-site parking cannot be provided, an upland parking site shall be required. Upland sites may be used to serve individual uses or be used cooperatively, subject to applicable local regulations.

3. Where there is no land area available on the landward side of developments, parking areas shall be located no closer than 25 feet from the OHWM and shall be entirely screened from view from the water by planting or providing a solid fence of natural materials and of a design consistent with other applicable ordinances. In no case shall a fence or other screen block views of the water from public roads or areas.

4. If upland parking sites are acquired by the town, the council may require applicants to participate in their use.

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

E. Archaeological Sites. All substantial development permits shall contain the provision that if, during excavation or site development, any area of potential archaeological significance is uncovered, all activity in the immediate area of the site shall be stopped and the shoreline administrator notified immediately. Activities authorized by the permit shall not be delayed by more than five working days after the shoreline administrator receives notice, for inspection and disposition of the

find unless the permit holder agrees to an extension of time. (Ord. 1137 § 6(6.02), 2000)

*Attachment 2 is attached to Ordinance No. 1137 on file in the town clerk's office.

19.04.290 Agriculture.

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

B. Policies.

1. Erosion control measures consistent with standards established by the U.S. Department of Agriculture should be employed.

2. Commercial feedlots and similar practices which concentrate animal wastes, pesticides or herbicides should not be permitted on shorelines.

3. Agricultural practices typically require extensive land area and therefore should not be encouraged in areas intended for intensive, multiple uses.

C. Regulations by Environment.

1. Agricultural activities are prohibited in the urban and natural environments.

2. Agricultural activities are permitted within the urban residential environment subject to FHMC 19.04.280 and the policies and regulations of this master program.

3. Agriculture in the aquatic environment is considered to be aquaculture and is subject to the provisions of FHMC 19.04.300, Aquaculture. (Ord. 1137 § 6(6.03), 2000)

19.04.300 Aquaculture.

A. Introduction. Aquaculture is the culture or farming of food fish, shellfish or other aquatic plants and animals. Potential locations for aquaculture are relatively restricted

because of specific water quality, temperature, oxygen content, flow, salinity and other requirements. Aquaculture operations can impede surface navigation, and can have adverse visual and environmental impacts if not properly sited and operated.

B. Policy. Aquaculture should not be allowed in the following areas:

1. Areas that have little natural potential for the type(s) of aquaculture under consideration;

2. Areas that have water quality problems that make the areas unsuitable for the type(s) of aquaculture under consideration;

3. Areas devoted to established uses of the aquatic environment with which the proposed aquacultural methods(s) would substantially and materially conflict. Such uses would include but are not limited to navigation, mooring, sport or commercial fishing, log rafting, underwater utilities, and active scientific research;

4. Areas where the design or placement of the facilities would substantially degrade the aesthetic qualities of the shoreline or the water area;

5. Areas where navigation by recreational boaters and commercial traffic will be significantly restricted; or

6. Areas where an aquacultural proposal will result in any significant adverse environmental impacts that cannot be eliminated or adequately mitigated through enforceable conditions of approval.

C. Regulations by Environment.

1. Small scale aquaculture operations may be allowed by conditional use permit in the urban, urban residential, and aquatic environments subject to FHMC 19.04.280 and the policies and regulations of this master program including but not limited to Article III of this chapter.

2. Aquaculture is prohibited in the natural environment. (Ord. 1137 § 6(6.04), 2000)

19.04.310 Breakwaters.

A. Introduction.

1. Breakwaters are protective structures built offshore to protect harbor areas, moorings or beaches from wave action. Breakwa-

ters can be of rigid (rock or rubble), open-pile or floating construction. All types reduce or eliminate wave action but rigid breakwaters also obstruct the flow of sand and can starve beaches. Floating breakwaters do not generally have this effect.

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

B. Policies.

1. Rigid breakwaters should not be allowed.

2. Floating breakwaters should be constructed only where water-dependent uses are located seaward of the OHWM and where protection from strong wave action is essential.

3. Floating breakwaters should be permitted only where design features will eliminate significant detrimental effects on water circulation, sand movement and aquatic life.

4. Location, design and use of floating breakwaters should minimize restrictions on public use of the water.

5. Multiple use of floating breakwaters should be encouraged in order to increase public access to the water.

C. Regulations.

1. Rigid breakwaters are prohibited.

2. Floating breakwaters shall conform to all design requirements of the State Department of Fisheries and U.S. Army Corps of Engineers except where conformity would be incompatible with protection of aquatic habitat and water and sand circulation.

3. Floating breakwaters shall be designed in a manner which will not impede water circulation, navigation or visual access to the water.

4. Shoreline permit applications for floating breakwaters shall include at least the following information:

a. Purpose of breakwater and use to be protected;

b. Direction of net longshore drift;

c. Direction of strongest prevailing winds and tidal current; and

d. Proposed construction materials and construction method.

5. Floating breakwaters shall permit public pedestrian access.

D. Regulations by Environment.

1. Floating breakwaters are prohibited in the urban, urban residential and natural environments.

2. Floating breakwaters may be permitted as a conditional use permit in the aquatic environment subject to FHMC 19.04.280 and the policies and regulations of this master program including but not limited to Article III of this chapter. (Ord. 1137 § 6(6.05), 2000)

19.04.320 Bulkheads.

A. Introduction.

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

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

B. Policies.

1. Bulkheads should be located, designed and constructed so that adverse impacts on nearby beaches and on aquatic habitats will not result.

2. Bulkheads should be designed and constructed to minimize adverse effects on aesthetic qualities of the shoreline and the water.

3. Bulkheads should not be constructed seaward of OHWM and should not exceed the minimum height necessary to stabilize the bank.

4. Use of erosion-resistant vegetation or other nonstructural methods is preferred over the use of a bulkhead wherever possible.

C. Regulations.

1. Bulkheads which are exempt from shoreline substantial development permit requirements under FHMC 19.04.090 shall not be constructed until the shoreline administrator has reviewed the proposal and determined that the project is consistent with the policies and regulations of this master program.

2. Bulkheads shall be authorized only where the proponent demonstrates that one of the following conditions exists:

a. Erosion is seriously threatening an established use and structures on adjacent uplands;

b. A bulkhead is necessary in connection with a water-dependent use permitted by this master program; or

c. A bulkhead is the most feasible means to stabilize a landfill permitted by this master program.

3. Bulkheads shall not be constructed in conjunction with new developments when practical alternatives exist.

4. Bulkheads shall comply with all design requirements of the State Department of Fisheries and U.S. Army Corps of Engineers.

5. Shoreline permit applications for bulkheads shall provide at least the following information:

a. Purpose of bulkhead;

b. Demonstration and evidence of serious erosion problem;

c. Extreme low tide, mean lower tide, mean tide, mean higher tide and extreme high tide elevations;

d. Direction of net longshore drift;

e. Materials and method of construction; and

f. Elevations of the toe and crest of the proposed bulkhead with respect to water levels.

D. Regulations by Environment.

1. Bulkheads are permitted in the urban and urban residential environments subject to FHMC 19.04.280 and the policies and regulations of this master program.

2. Bulkheads are prohibited in the natural environment.

3. Bulkheads may be permitted in the aquatic environment as a conditional use only if either a location at or landward of the OHWM is not feasible, or they are in conjunction with stabilizing a permitted landfill; provided all upland and structural alternatives have been demonstrated to be infeasible. Bulkheads, where permitted, shall be subject to FHMC 19.04.280 and shall be in accordance with the provisions of this master program including but not limited to Article III of this chapter. (Ord. 1137 § 6(6.06), 2000)

19.04.330 Commercial development.

A. Introduction.

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

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

3. In many cases, commercial development will include associated uses which are identified as separate use categories in this master program. Associated signs, utilities, landfills, transportation facilities and ports and water-dependent industry are subject to policies and regulations established for those uses in addition to the provisions of this section.

B. Policies.

1. New commercial development within the local shoreline should occur only in areas where commercial development already exists, and only when it is consistent with the provisions of this master program.

2. Commercial development on waterfront land should be restricted to water-oriented uses.

3. Commercial development on shoreline land which is not waterfront should be restricted to water-enjoyment uses. Water-related uses, and other uses which provide outdoor open space, open to the public without charge, and which offer public shoreline views, may also be permitted, as a conditional use, provided such uses are set back a minimum of 100 feet from OHWM.

a. Where public access easements are not possible, public access policies may be satisfied by employing design elements such as wide walkways parallel to sidewalks, landscaping and benches.

b. Public sidewalks and adjoining private areas open to the public should be designed to create a physically and visually continuous pedestrian route along the landward side of Front Street to encourage use by the general public rather than by business patrons.

4. New and expanded commercial developments should be designed and located to protect and enhance public shoreline views consistent with this master program.

5. New and expanded commercial development should be permitted only where adequate parking area is or can be made available.

C. Regulations.

1. Shoreline permit applications for commercial development shall include a detailed statement explaining the nature and intensity of the relationship of the proposed development to the local shoreline, i.e., water-dependent, water-related or water-enjoyment. Such statements shall include at least the following:

a. Nature of the commercial activity;

b. Need for shoreline or over-water location;

c. Proposed measures to enhance the relationship of the activity to the shoreline or water; and

d. Proposed provisions for public physical and visual access to the local shoreline.

2. Draining or filling water bodies for commercial development is prohibited except that for water-dependent uses such activities may be permitted as a conditional use where alternative upland and structural solutions are infeasible.

3. Commercial docks and boat fueling stations shall be permitted to locate over water. No other commercial uses may include over-water structures, except bulkheads or landfills required by a water-dependent or public recreational use.

4. Bulkheads and/or land filling not necessary for water-dependent or public recreational use are prohibited seaward of the OHWM in association with commercial development.

5. Shoreline permit applications for commercial development shall include a parking plan, showing the location, dimensions and capacity of the proposed parking area and the proposed landscaping or screening.

6. Commercial development on the landward side of Front Street, or on land which does not otherwise abut the water, which is not water-dependent shall be subject to the following requirements:

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

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

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

D. Regulations by Environment.

1. Commercial development shall be permitted in the urban environment subject to FHMC 19.04.280 and the policies and regulations of this master program; provided, that commercial structures not permitted over the water shall be set back at least 20 feet from the OHWM and shall not exceed the average height of existing buildings within 200 feet of the proposal.

2. Commercial development is prohibited in the urban residential and natural environments.

3. Water-dependent commercial development shall be permitted in the aquatic environment subject to FHMC 19.04.280 and the policies and regulations of this master program including but not limited to Article III of this chapter. Other commercial development is prohibited. (Ord. 1137 § 6(6.07), 2000)

19.04.340 Dredging.

A. Introduction.

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

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

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

B. Policies.

1. Dredging operations should be located and conducted in a manner that will minimize damage to the natural resources and systems of the dredge area, surrounding bedlands and the area in which dredge spoils are to be deposited.

2. Dredge spoil disposal in water areas should not be allowed except for habitat improvement or where deposition on uplands would be more detrimental to shoreline resources than deposition in water.

3. Dredge spoil disposal sites should be identified with assistance of the State Department of Fisheries and Wildlife, State Department of Natural Resources, State Department of Ecology, U.S. Army Corps of Engineers and the U.W. Friday Harbor Marine Laboratories.

4. Dredging solely to obtain fill material should not be allowed.

C. Regulations.

1. Dredging may be permitted as a conditional use for any of the following purposes and only where other alternatives are impractical:

- a. To improve water quality or aquatic habitat;
- b. To maintain or improve navigability or water flow;
- c. To mitigate conditions which could endanger public safety; or
- d. To create or improve public recreational opportunities.

2. All dredge spoils shall be deposited at disposal sites which are consistent with the policies and regulations of this master program.

3. Applications for shoreline permits for dredging shall include at least the following information:

- a. Location, size and physical characteristics of proposed dredge site;
- b. Information on stability of bedlands adjacent to proposed dredge site;
- c. Total initial spoils volume and composition;
- d. Location, size, capacity and physical characteristics of proposed spoils disposal site; and
- e. Plan for disposal of maintenance spoils for life of project or period of 25 years, whichever is shorter.

D. Regulations by Environment.

1. Dredging may be permitted in the urban and urban residential environments as a conditional use subject to FHMC 19.04.280 and to the policies and regulations of this master program.

2. Dredging is prohibited in the natural environment.

3. Dredging may be permitted in the aquatic environment as a conditional use sub-

ject to FHMC 19.04.280 and the policies and regulations of this master program including but not limited to Article III of this chapter. (Ord. 1137 § 6(6.08), 2000)

19.04.350 Forest management.

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

B. Policy. Friday Harbor shorelines have been converted or are planned for conversion to nonforest uses. Commercial timber harvest is not an appropriate use of town shorelines.

C. Regulation. Commercial timber harvest may be permitted within 200 feet of the OHWM of any designated shoreline environment as a conditional use permit. (Ord. 1137 § 6(6.09), 2000)

19.04.360 Jetties and groins.

A. Introduction.

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

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

3. Since Friday Harbor does not experience littoral drift of a magnitude requiring a jetty, nor have a beach which a groin system would enhance, adverse effects of such structures are likely to outweigh benefits.

B. Policies.

1. Jetties and groins should not be permitted unless the applicant demonstrates that

the project would result in long-term public benefit which outweighs adverse impacts on natural shoreline processes.

2. In reviewing applications for jetties or groins the town should consider carefully the ecological and aesthetic effects on the shoreline and the water.

C. Regulations.

1. Jetties and groins may be permitted only as conditional uses.

2. Applicants for shoreline permits for jetties or groins shall have the burden of proving consistency with subsection (B)(1) of this section.

D. Regulations by Environment.

1. Jetties and groins may be permitted in the urban and urban residential environments as a conditional use subject to the policies and regulations of this master program.

2. Jetties and groins are prohibited in the natural environment.

3. Jetties may be permitted in the aquatic environment as a conditional use subject to FHMC 19.04.280 and the policies and regulations of this master program including but not limited to Article III of this chapter. Groins are prohibited in the aquatic environment. (Ord. 1137 § 6(6.10), 2000)

19.04.370 Landfills.

A. Introduction.

1. Fill is placement of soil, sand and/or gravel in water areas to create new land area in water, or on shorelines to raise the elevation of the land. Solid waste disposal is depositing garbage, ashes, construction waste, vehicles and vehicle parts and other discarded material in water or on land.

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

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

B. Policies.

1. Landfills should not be permitted where any feasible upland or structural alternative exists and, where permitted, should be tightly controlled.

2. While landfill may be appropriate for some water-oriented uses, priority should be given to water-dependent uses and for public uses. Several factors should be considered in evaluating fill proposals, and in designating areas appropriate for fill. These factors include the total water surface area reduction, impacts on water flow, circulation and quality, impacts on natural resources and systems, potential destruction of habitats, potential erosion problems and potential restrictions of navigation.

3. Landfills and associated development, where permitted, should provide public access to the local shoreline.

4. Landfill for solid waste disposal is an inappropriate use of the shoreline.

5. Landfill should be authorized only for water-oriented uses.

C. Regulations.

1. Landfills located seaward of the OHWM shall be permitted only as conditional uses and shall be permitted only when in conjunction with and where necessary to support water-dependent uses or public recreational uses, consistent with the provisions of this master program. Landfills for uses associated with water-dependent uses but which are not themselves water-dependent, including parking, are prohibited seaward of the OHWM.

2. Landfills shall be permitted only when they conform to an approved development plan for an activity or use which has already been approved or is being reviewed concurrently, include methods to contain materials on the fill site and provide methods to control erosion of the perimeter. Speculative landfills are prohibited.

3. Pile or pier supported structures, such as wharves or boardwalks, shall be used instead of landfills in water areas where seaward extension of the shoreline is necessary and where such structures are feasible. Landfills may be authorized only where no feasible alternative upland or structural solution exists.

4. Sanitary landfills and/or the disposal of solid wastes are prohibited within shoreline jurisdiction.

5. Applications for shoreline permits which include landfilling shall include at least the following information:

- a. Source, volume and physical composition of fill material;
- b. Purpose and proposed use of fill area;
- c. Documentation of authorized use or proposed use;
- d. Method and schedule of placement and compaction;
- e. Surfacing and runoff treatment controls;
- f. Perimeter erosion controls; and
- g. Location of fill relative to the OHWM, extreme high tide, mean tide, and mean lower tide level.

6. Where fills are permitted the amount of material used shall be the minimum necessary for the proposed uses.

7. Landfills for the sole purpose of creating additional land area are prohibited.

D. Regulations by Environment.

1. Landfills shall be permitted in the urban and urban residential environments subject to FHMC 19.04.280 and the policies and regulations of this master program; provided, that landfills are prohibited for the sole purpose of creating additional land area.

2. Landfills are prohibited in the natural environment.

3. Landfills may be permitted in the aquatic environment only as a conditional use, subject to FHMC 19.04.280 and the policies and regulations of this master program including but not limited to Article III of this chapter. (Ord. 1137 § 6(6.11), 2000)

19.04.380 Marinas.

A. Introduction.

1. Marinas are facilities that provide wet mooring and/or dry storage and services for pleasure craft and commercial craft. Marinas are located over intertidal and subtidal areas and may extend landward from the OHWM, or a marina may be an upland based facility with water access via a travel lift, hoist or marine

railway. They can be of open construction (floating breakwater, buoys, piers and floats) or solid (rigid breakwater or fill). Marinas are sometimes associated with other uses such as fuel and public launching facilities, boat rental, repair services, equipment sales and parking.

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

B. Policies.

1. Marinas should be located and designed so their structures and operations will be aesthetically compatible with the area visually affected, and will not unreasonably impair public shoreline views.

2. Marinas should be designed to provide adequate navigational access to and from the proposed development and existing and future development on adjacent properties.

3. Marina facilities should be designed to accommodate public access and enjoyment of the shoreline, including provisions for walkways, view points, restroom facilities, and other recreational uses according to the scale of the facility.

4. Marinas, wherever possible, should use open-type construction to prevent degradation of fish and/or shellfish resources and habitat.

5. Installation and maintenance of sewage disposal (pump-out) facilities or services should be required and conveniently available to all users of marina facilities.

6. Floating homes should be prohibited. Houseboats and live-aboard vessels should be allowed.

C. General Regulations.

1. The town shall require the following information in its review of marina proposals:

a. Existing natural shoreline and backshore features and uses and bathymetric contours (one-foot increments);

b. Geohydraulic processes and flushing characteristics, volume, rates, and frequencies;

c. Biological resources and habitats for the local shoreline;

d. Existing and proposed aquatic land leases in the immediate area;

e. Site orientation; exposure to wind, waves, flooding or tidal/storm surges; and type and extent of shore defense works or shoreline stabilization and flood protection necessary;

f. Impact upon existing and created demand for shoreline and water uses including physical access, recreation, and public shoreline views;

g. The need for additional facilities;

h. The design of the facilities including but not limited to sewage disposal, restrooms, solid waste disposal, proposed signage, proposed exterior lighting, a proposed landscaping plan, and proposed use of noise-generating equipment;

i. Management and operations including accommodation of live-aboard vessels, including houseboats, provisions for the prevention and control of fuel spillage, and restrictions related to disposal of wastes and toxic materials; and

j. Other information that may be requested by the shoreline administrator.

2. Marina development shall comply with all applicable federal, state and local agency policies and regulations.

3. Public and private marinas shall be equipped to contain and clean up oil, gasoline and other hazardous substance spills.

4. Where landfill seaward of the OHWM is permitted it shall be only for the necessary water-dependent portions of the facility and shall conform in particular to the policies and regulations of FHMC 19.04.370.

Landfill is prohibited for the creation of new parking areas or accessory uses within 25 feet from the OHWM.

D. Regulations – Design/Renovation/Expansion.

1. Marinas shall be designed to:

a. Maintain a minimum setback of 30 feet from the preferential rights line as established by survey; and

b. Maintain a minimum setback of 50 feet from existing development in the aquatic environment; and

c. Provide access to every mooring slip by a fairway that has a width that equals or exceeds one and one-half times the length of that slip.

2. Marinas shall not extend seaward farther than the following limits:

a. The construction limit line; or

b. Where no construction limit line exists the seaward boundary of the preferential lease right area as set forth in WAC 332-30-122(1)(A)(ii) or its successor and WAC 332-30-142(8)(d) or its successor.

3. Marina design shall provide thorough flushing of all enclosed water areas and shall not restrict the movement of aquatic life requiring shallow water.

4. The marina design shall minimize interference with geohydraulic processes and disruption of existing shore forms.

5. Marinas shall be designed so their structures and operations will be aesthetically compatible with or will enhance existing shoreline features and uses. Marinas shall mitigate for adverse development impacts on-site and to adjacent properties.

6. Shoreline embankments of all marinas shall be stabilized both above and below the water's edge both during and after construction.

7. Long-term dry mooring (for six or more vessels) and all other storage areas shall be set back not less than 100 feet from the OHWM. This shall not apply to hand-launch vessels.

8. Unless native vegetation on the perimeter of parking, dry mooring, and other storage areas is retained, these perimeter areas shall be landscaped with native plants or other

approved materials. The permit application shall identify the size, location, and species of landscaping materials stressing native vegetation.

9. Marinas may include specific areas restricted for security reasons. The incorporation of reasonable public access facilities into the design shall be required.

10. Marina development shall require the installation of vessel pump-out and on-shore sewage and waste disposal facilities.

11. New marinas and expansion areas in existing marinas shall not have covered mooring.

E. Regulations – Parking and Circulation.

1. Parking facilities shall be provided according to the following schedule:

a. One vehicle space per two slips; and

b. One additional parking space shall be provided for every 300 square feet of interior floor space devoted to accessory retail sales or services.

2. Parking and outdoor storage areas associated with marinas shall be landscaped in a manner which provides a visual buffer between these uses and the top of the bank.

3. Short-term loading areas may be located at ramps or near berthing areas. Long-term parking and paved storage areas shall be separated from the OHWM by a vegetated native vegetation zone of at least 50 feet.

F. Regulations – Utilities.

1. All marinas shall have accessible boat sewage disposal systems on-site or other pump-out services.

2. All marinas shall provide facilities for the adequate collection and dumping of marina-originated materials including, but not limited to, sewage, solid waste, and petroleum waste.

3. All marinas shall provide restrooms for boaters' use. They shall be located within 75 feet of the landward end of the dock or pier, be identified by signs and be accessible to tenants 24 hours a day. Marinas with fewer than 10 slips shall provide one toilet and hand washing facility. Marinas with 10 to 100 slips shall provide one toilet and hand washing facility for each gender. Marinas exceeding

100 slips shall provide an additional toilet and lavatory for each gender.

4. Marinas in public ports may, by conditional use permit, install public floating restrooms; provided, that existing restrooms are more than 600 feet by direct walkable route from vessel mooring spaces, said restrooms are connected to shoreside utility systems, and said restrooms do not block views more than vessels moored in the vicinity.

5. Distribution systems for plumbing and wiring at a marina site shall be placed at or below ground and dock levels.

6. Public boat launch facilities shall provide and maintain dump stations and restrooms or portable toilets.

G. Regulations – Management and Operations.

1. The discharge of sewage and/or toxic material from boats and/or shore installations shall be prohibited.

2. No commercial fish or shellfish processing discharge or discarding of unused bait, scrapfish, or viscera shall be permitted.

3. Marinas which dispense fuel shall have adequate facilities and establish posted operational procedures for fuel handling and storage in order to prevent/minimize accidental spillage.

4. Marinas shall have facilities, equipment, and established posted procedures for containment, recovery, and mitigation of spilled petroleum, sewage, and toxic products.

5. Signs shall be posted where they are readily visible to all marina users describing regulations:

a. Pertaining to handling and disposal of waste, wastewater, toxic materials, and recycling;

b. Prohibiting the use of marine toilets (i.e., no untreated sewage discharge);

c. Describing best management practices (BMPs) for boat maintenance and repairs on-site.

6. Refuse or litter receptacles shall be provided and maintained at several locations convenient to users in sufficient numbers to properly store all solid waste generated on-site.

7. Marina docks shall be equipped with adequate lifesaving equipment such as life rings, hooks, and ropes.

8. Current best management practices to control environmental pollution shall be applied to boat construction, repair and maintenance activities and, where applicable, shall be made a condition to shoreline permits.

9. Mooring of floating homes shall be prohibited in marinas.

H. Regulations by Environment.

1. Marinas shall be permitted in the urban environment subject to FHMC 19.04.280 and the policies and regulations of this master program.

2. Marinas are prohibited in the urban residential and natural environments.

3. Marinas shall be permitted in the aquatic environment subject to FHMC 19.04.280 and the policies and regulations of this master program including but not limited to Article III of this chapter. (Ord. 1137 § 6(6.12), 2000)

19.04.390 Mineral extraction.

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

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

C. Regulation. Mineral extraction is prohibited in all environment designations. (Ord. 1137 § 6(6.13), 2000)

19.04.400 Mooring buoys.

A. Introduction. A mooring buoy is a device which floats on the water and is

attached to the bottom, and which is, or can be, used for holding a vessel in place.

B. Policies.

1. Mooring buoys should be located only where they will not materially interfere with navigation.

2. Mooring buoys should be located and designed to minimize adverse impacts on the bedland and aquatic environments.

3. Mooring buoys should only be used for water-dependent uses.

C. Regulations.

1. Mooring buoys shall be permitted only by conditional use permit which shall include a condition that the conditional use permit expires no later than five years from the date of issuance.

2. Applicants for mooring buoys must first demonstrate that the use of a dock or pier would be infeasible.

3. Mooring buoys shall not be installed prior to the owner receiving a license or approval from DNR.

4. Mooring buoys shall not be located seaward of the construction limit line. Where no construction limit line exists, mooring buoys shall not be located in areas which are subject to intensive vessel traffic.

5. Mooring buoys shall not be located within 200 feet of the OHWM without the written consent of the upland property owner and vessels moored to mooring buoys shall not swing within 200 feet of OHWM without written consent of all affected upland property owners.

6. Buoys located within 200 feet of OHWM shall lie between preferential rights lines, as established by survey, extended beyond the shoreline and vessels moored to the buoys shall not swing across the preferential rights lines without the written consent of the adjoining upland property owner.

7. Vessels moored to buoys shall not swing within 50 feet of existing piers, docks, or floats.

8. Mooring buoys shall be used only for the mooring of vessels that are in navigable condition.

D. Regulations by Environment.

1. Mooring buoys may be permitted off-shore from the urban and urban residential environments as a conditional use and shall be subject to FHMC 19.04.280 and the provisions of Article III of this chapter.

2. Mooring buoys are prohibited off-shore from the natural environment. (Ord. 1137 § 6(6.14), 2000)

19.04.410 Piers and docks.

A. Introduction.

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

2. Piers and docks can be used for recreational or commercial purposes but not for residential purposes. Those containing more than four mooring spaces are considered marinas and are regulated only under FHMC 19.04.380.

3. Docks generally have less visual impact than piers but can alter sand movement and water circulation in areas where tides and littoral drift are significant. Piers do not obstruct sand movement and can provide diverse marine habitat. Both types can impede navigation, increase cluttered look of the harbor, reduce usable water surface area and increase local levels of pollutants (e.g., fuel, oil, heavy metals, organic wastes) associated with boat use. Pile driving for dock or pier construction can temporarily disrupt water quality and may, depending on location and time of construction, harm spawning areas.

B. Policies.

1. Piers and docks should be limited to the minimum length and size necessary to obtain adequate mooring depth at low tide.

2. Piers and docks should be designed to provide adequate navigational access to and from the proposed development and existing and future development on adjacent properties.

3. In evaluating applications for piers or docks, the capacity of the site to absorb effects of waste discharges and gas and oil spills should be considered.

C. Regulations.

1. All shoreline permit applications for piers or docks shall be evaluated on the basis of multiple considerations, including but not limited to potential impacts on littoral drift, sand movement, water circulation and quality, fish and wildlife, navigation, scenic values and public access to the shoreline and the water.

2. All docks shall have stops to keep floats off the tidelands at low tide.

3. Piers and docks shall not extend seaward of the construction limit line, as depicted on Attachment 1,* or where no such line exists more than 200 feet seaward of the OHWM.

4. Piers and docks shall be limited in size to not more than 120 lineal feet as measured around the perimeter of that portion located seaward of the minus four-foot line as measured at MLLW.

5. Pier and dock moorings shall be designed to:

a. Maintain a minimum setback of 30 feet from the preferential rights line as established by survey; and

b. Maintain a minimum setback of 50 feet from existing development in the aquatic environment; and

c. Provide access to every mooring slip by a fairway that has a width that equals or exceeds one and one-half times the length of that slip.

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

D. Regulations by Environment.

1. Piers and docks shall be permitted in the urban environment subject to FHMC 19.04.280, and the policies and regulations of this master program.

2. Piers and docks used only for recreational purposes shall be permitted in the urban residential environment subject to FHMC 19.04.280 and the policies and regulations of this master program.

3. Piers and docks are prohibited in the natural environment.

4. Piers and docks are permitted in the aquatic environment subject to FHMC 19.04.280 and the policies and regulations of this master program including but not limited

to Article III of this chapter. (Ord. 1137 § 6(6.15), 2000)

*Attachment I is attached to Ordinance No. 1137 on file in the town clerk's office.

19.04.420 Ports and water-dependent industry.

A. Introduction.

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

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

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

B. Policies.

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

2. Port docks and facilities should be designed to minimize potential adverse effects on other water-oriented uses and on shoreline resources.

3. Port development decisions should be based on community needs and should be consistent with port and town comprehensive plans.

4. Nonwater dependent industries should not be permitted in the local shoreline.

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

6. New and or expanded port facilities should include public access to the local shoreline.

C. Regulations.

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

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

3. Development which is not water-dependent is prohibited within the local shoreline.

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

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

6. New port development shall be set back at least 20 feet landward from the OHWM to protect water quality, minimize erosion and provide a visual buffer between the bank and structures; provided, that this shall not apply to new developments which require location over the water.

7. Parking associated with ports and water-dependent industry shall be subject to the policies and regulations of FHMC 19.04.280 and 19.04.460.

D. Regulations by Environment.

1. Ports and water-dependent industry shall be permitted in the urban environment subject FHMC 19.04.280 and to the policies and regulations of this master program.

2. Ports and water-dependent industry are prohibited in the urban residential and natural environments.

3. Ports and water-dependent industry shall be permitted in the aquatic environment subject to FHMC 19.04.280 and the policies and regulations of this master program includ-

ing but not limited to Article III of this chapter. (Ord. 1137 § 6(6.16), 2000)

19.04.430 Recreation.

A. Introduction.

1. Recreational developments that depend on or use the water or the shorelines include various boating activities, swimming, fishing, viewing of water-dependent commercial and port activities, walkways and parks. Parking areas for recreational developments are subject to FHMC 19.04.280 and 19.04.460. Piers and docks and marinas are separate land uses categories with policies and regulations in other sections of this master program.

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

B. Policies.

1. Preference should be given to developments which provide for recreational activities and improvements facilitating public access to the local shoreline.

2. A variety of water-oriented recreational activities should be encouraged to locate on shorelines to satisfy diverse needs and interests of residents and visitors.

3. Linkages, such as sidewalks, walking and/or bicycle paths, between shoreline recreational and public access areas should be provided.

4. Recreational developments should be located, designed and operated to be compatible with adjacent uses and to minimize adverse effects on ecological and aesthetic qualities of the local shoreline.

5. Recreational developments should be designed to preserve or create open space and public shoreline views, consistent with this master program.

C. Regulations.

1. The town may adjust or require changes to project dimensions, use intensity, parking provisions or landscaping in approving recreational developments, to ensure that public shoreline views and ecological qualities of the site are protected.

2. In efforts to meet recreational demands of visitors, the town shall seek to pro-

tect the rights and property of residents from adverse impacts.

3. Safe pedestrian walkways shall be provided between parking areas and recreational facilities they serve.

4. Recreational development shall be permitted only where adequate water supply, sewage disposal, solid waste disposal and parking can be assured.

5. Recreational facilities which normally require the use of large quantities of chemical fertilizers and herbicides, such as playing fields, shall not be located over water or in shoreline areas, unless adequate provisions can be made for protection of water areas from drainage and surface runoff.

6. Shoreline permit applications for recreational development shall include a parking and landscaping plan.

D. Regulations by Environment.

1. Recreational development shall be permitted in the urban and urban residential environments subject to FHMC 19.04.280 and the policies and regulations of this master program.

2. Recreational development of a nature and intensity consistent with the purpose and management policies of the natural environment shall be permitted subject to FHMC 19.04.280 and the policies and regulations of this master program; provided, that roads, parking areas, restrooms and other facilities shall not be located within 200 feet of the OHWM. Use of chemical fertilizers, pesticides and herbicides shall not be permitted. Any permitted landscaping shall consist solely of native vegetation.

3. Recreational development shall be permitted in the aquatic environment subject to FHMC 19.04.280 and the policies and regulations of this master program including but not limited to Article III of this chapter. (Ord. 1137 § 6(6.17), 2000)

19.04.440 Residential development.

A. Introduction.

1. "Residential development" means one or more buildings or portions of buildings, short plats, or subdivisions, designed and/or used for dwellings. Residential development

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

2. Landfills, bulkheads, utilities and docks associated with residential development are subject to policies and regulations for those use categories. Parking areas for developments other than detached, single-family units are subject to FHMC 19.04.280(D).

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

B. Policies.

1. Residential development is not a water-dependent use and should not be permitted to locate over the water; provided, that mooring of liveaboard boats and houseboats should not be considered residential development, but shall be subject to FHMC 19.04.260.

2. The scenic qualities of the shoreline and the water should be considered in every application for residential development.

3. To protect the scenic qualities, all structures should be located where they will blend into their surroundings as much as possible. On wooded shorelines this can be accomplished by locating structures at or behind the tree line.

4. Residential development should not be permitted on shorelines where bulkheading or other structural fortification would be necessary at the time of construction or in the foreseeable future to protect the development.

5. New residential development should occur where residential uses already exist which are consistent with the provisions of the master program.

C. Regulations.

1. New and/or expanded residential development shall be located and designed to preclude the need for shoreline stabilization structures.

2. Multifamily residential development which will require bulkheads or other structural fortification at the time of construction or in the foreseeable future is prohibited.

3. Single-family residences and appurtenant structures shall be located at least 20 feet landward from the OHWM unless existing development within 200 feet of side property lines has a lesser average shoreline setback. In such cases the minimum setback required shall be the average established by existing development, provided the minimum setback shall only be reduced upon demonstration that significant view blockage will occur. Multifamily development shall be located at least 25 feet landward of OHWM and the public access requirements as set forth in FHMC 19.04.280(B) shall apply.

4. Residential development and accessory uses shall also meet standards provided in other appropriate town ordinances.

5. Residential and appurtenant structures which will exceed the physical capability of the site to absorb impacts of development or which will significantly and adversely alter aesthetic qualities of the site shall not be approved.

6. Creation of landfills in water bodies for the purpose of residential development is prohibited.

7. Appurtenant uses shall be designed and located to be compatible with adjacent uses and to avoid obstruction of water and shoreline views from neighboring properties.

8. Barriers, signs or impediments to public access of publicly owned tidelands shall not be allowed.

D. Regulations by Environment.

1. Residential development shall be permitted in the urban and urban residential environments subject to FHMC 19.04.280 and the policies and regulations of this master program.

2. Residential development is prohibited in the natural and aquatic environments. (Ord. 1137 § 6(6.18), 2000)

19.04.450 Signs.

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

B. Policy. Local shorelines should be kept free of all unnecessary signs.

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

D. Regulations by Environment.

1. Signs and outdoor advertising shall be permitted in the urban and urban residential environments subject to FHMC 19.04.280 and the policies and regulations of this master program.

2. Signs and outdoor advertising are prohibited in the natural environment, except official warning signs or signs required by law.

3. Signs and outdoor advertising shall be permitted in the aquatic environment subject to FHMC 19.04.280 and in accordance with Article III of this chapter, and only in conjunction with water-dependent uses and only if they could not be located effectively on land. (Ord. 1137 § 6(6.19), 2000)

19.04.460 Transportation facilities.

A. Introduction.

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

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

line uses and of the impacts of their construction and use.

B. Policies.

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

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

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

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

5. Inter-island transportation should be confined to air and waterborne craft.

6. Airport facilities other than for seaplanes should not be located on shorelines.

7. Trails and bicycle routes along shorelines should be provided.

C. Regulations.

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

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

3. Cut and fill slopes shall be stabilized and, where appropriate, planted with native vegetation.

4. Roadside brush shall be controlled by mechanical rather than chemical means.

5. Provisions for pedestrian access, where appropriate, shall be included in new public transportation facilities to and along the shoreline.

D. Regulations by Environment.

1. Transportation facilities shall be permitted in the urban and urban residential environments subject to FHMC 19.04.280 and the policies and regulations of this master program.

2. Transportation facilities are prohibited in the natural environment.

3. Only ferry, seaplane and port terminal facilities, where shoreline crossings are essential, shall be permitted in the aquatic environment, subject to FHMC 19.04.280 and the policies and regulations of this master program including but not limited to Article III of this chapter. (Ord. 1137 § 6(6.20), 2000)

19.04.470 Utilities.

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

B. Policies.

1. Utilities and transportation facilities should be installed in the same rights-of-way when the effect will be to reduce adverse impacts on the shoreline.

2. Disturbance of the shoreline resulting from installation and/or maintenance of utilities should be minimized.

3. New utility facilities should be located underground to prevent adverse effects on public shoreline views, consistent with this master program.

C. Regulations.

1. Immediately upon completion of utilities installation or maintenance projects, shoreline areas disturbed shall be restored to preproject configurations, replanted with local vegetation and the vegetation maintained until it is firmly established.

2. Utility lines, pipes, stations, plants and other apparatus shall not be installed in shoreline areas unless there is no feasible alternative.

3. Utility lines shall be installed underground.

4. Underwater cables which must cross shorelines shall be installed underground from the OHWM to at least 15 feet landward from the OHWM.

5. Where utility installation in shoreline areas is approved, clearing shall be confined to the minimum necessary for installation and to prevent interference with operation by vegetation.

6. Where utility lines or similar apparatus must cross shorelines they shall be located within the route which will cause the least ecological and aesthetic damage to the shoreline.

D. Regulations by Environment.

1. Utility development shall be permitted in the urban and urban residential environments subject to FHMC 19.04.280 and the policies and regulations of this master program.

2. Utility development shall be permitted in the natural and aquatic environments, subject to FHMC 19.04.280 and the policies and regulations of this master program including but not limited to Article III of this chapter, only if no feasible alternative exists and if the facilities are installed underground. (Ord. 1137 § 6(6.21), 2000)

Article VII. Variances

19.04.480 General.

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

B. Construction under this permit will not begin or is not authorized in a thwarting of the policy enumerated in RCW 90.58.020. In all instances extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

C. An applicant for a variance must show that if he or she complies with these regulations he or she cannot make a reasonable use of his or her property. The fact that he or she

might make a greater profit by using his or her property in a manner contrary to the intent of this master program is not sufficient reason for granting a variance.

D. Requests to vary a use to which a shoreline area is to be put are requests for conditional uses and are to be evaluated using the provisions of Article VIII of this master program. (Ord. 1137 § 7(7.01), 2000)

19.04.490 Authority.

The town council shall have the authority to issue variances from the standards of this master program. (Ord. 1137 § 7(7.02), 2000)

19.04.500 Criteria.

A. On Shorelands. Variance permits for development that will be located landward of the ordinary high water mark (OHWM) as defined in RCW 90.58.030(2)(b), except within those areas designated by the Department as wetlands pursuant to Chapter 173-22 WAC, may be authorized provided the applicant can demonstrate all of the following:

1. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes or significantly interferes with a reasonable use of the property not otherwise prohibited by the master program;

2. That the hardship described in subsection (A)(1) of this section is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;

3. That the design of the project is compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment;

4. That the requested variance does not constitute a grant of special privilege not enjoyed by the other properties in the area, and is the minimum necessary to afford relief; and

5. That the public interest will suffer no substantial detrimental effect.

B. Over Water. Variance permits for development that will be located either waterward of the ordinary high water mark (OHWM) as defined in RCW 90.58.030(2)(b), or within wetlands as designated by the Department under Chapter 173-22 WAC, may be authorized provided the applicant can demonstrate all of the following:

1. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes a reasonable use of the property not otherwise prohibited by the master program;

2. That the proposal is consistent with the criteria established under subsections (A)(2) through (A)(5) of this section; and

3. That the public rights of navigation and use of the shorelines will not be adversely affected. (Ord. 1137 § 7(7.03), 2000)

19.04.510 Cumulative impacts.

In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment. (Ord. 1137 § 7(7.04), 2000)

19.04.520 Procedure.

Applications for variances shall be made in a form prescribed by the shoreline administrator. Application, notice and town review procedures shall be identical to those required for substantial development permits. If a variance application is directly related to a project for which a substantial development permit is required the two shall be treated as one application and all notices shall identify the nature of the variance requested. (Ord. 1137 § 7(7.05), 2000)

19.04.530 Department review.

Variance permits issued pursuant to this article shall be subject to review by the Department of Ecology as required by RCW 90.58.140(10). (Ord. 1137 § 7(7.06), 2000)

19.04.540 Conditional uses distinguished.

Requests for varying the use to which a shoreline area is to be put are not requests for variances, but rather requests for conditional uses. Such requests shall be evaluated using the criteria set forth in Article VIII of this chapter. (Ord. 1137 § 7(7.07), 2000)

19.04.550 Relationship to other local regulations.

Variances granted from the provisions of other local regulations shall not be construed to constitute variances from the provisions of this master program. (Ord. 1137 § 7(7.08), 2000)

Article VIII. Conditional Uses**19.04.560 General.**

The purpose of a conditional use permit is to allow greater flexibility in varying the application of the use regulations of this master program in a manner consistent with the policies of RCW 90.58.020; provided, that conditional use permits should also be granted in a circumstance where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit to prevent undesirable effects of the proposed use. (Ord. 1137 § 8(8.01), 2000)

19.04.570 Authority.

A. Permitted. The town council shall have the authority to issue conditional use permits in the following cases:

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

B. Prohibited. Uses which are specifically prohibited by this master program may not be authorized by conditional use permit. (Ord. 1137 § 8(8.02), 2000)

19.04.580 Criteria.

A. Classified Uses. Uses which are expressly classified as conditional uses in this master program shall be approved only when the applicant can demonstrate that all of the following criteria are met:

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

B. Unclassified Uses. With respect to uses which are not expressly classified or set forth in this master program as conditional uses, the applicant must demonstrate, in addition to the criteria set forth in subsection A of this section, that extraordinary circumstances preclude reasonable use of the property in a manner consistent with the use regulations of this master program. (Ord. 1137 § 8(8.03), 2000)

19.04.590 Cumulative impacts.

In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment. (Ord. 1137 § 8(8.04), 2000)

19.04.600 Procedure.

Applications for conditional uses shall be made in a form prescribed by the shoreline administrator. Notice and town review procedures for conditional use permit applications shall be identical to those required for standard shoreline permit applications. (Ord. 1137 § 8(8.05), 2000)

19.04.610 Department review.

Conditional use permits issued pursuant to this article shall be subject to review by the Department of Ecology as required by RCW 90.58.140(10). (Ord. 1137 § 8(8.06), 2000)

19.04.620 Relationship to other local regulations.

Approval of conditional uses granted under other local regulations shall not be construed to constitute approval of a shoreline conditional use. (Ord. 1137 § 8(8.07), 2000)

Article IX. Revisions to Permits**19.04.630 General.**

A permit revision is required whenever a permit holder proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. No change shall be made until the administrator has first determined if the proposed change is substantive. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, this master program or the policies and provisions of the Act. (Ord. 1137 § 9(9.01), 2000)

19.04.640 Authority.

The administrator shall have the authority to issue permit revisions. (Ord. 1137 § 9(9.02), 2000)

19.04.650 Criteria.

A. Scope and Intent. Applications for revisions shall only be approved if the proposed changes are within the scope and intent of the original permit and are consistent with this

master program and the Act. For purposes of this article, "within the scope and intent of the original permit" means all of the following:

1. No additional over-water construction is involved, except that pier, dock, or float construction may be increased by 500 square feet or 10 percent from provisions of the original permit, whichever is less; and

2. Ground area coverage and height of each structure may be increased a maximum of 10 percent from the provisions of the original permit; and

3. Additional separate structures may not exceed a total of 250 square feet; and

4. The revised permit does not authorize development to exceed height, lot coverage, setback, or any other under requirements of the master program; and

5. Additional landscaping is consistent with conditions attached to the original permit and with the master program; and

6. The use authorized pursuant to the original permit is not changed; and

7. No adverse environmental impacts will be caused by the project revision; and

8. That all the original permit conditions and improvements have been met; and

9. That the permit has not expired.

B. Time Limitation. If the permit time frame has expired, as defined in WAC 173-27-090, proposed changes may not be approved as a revision even if they are within the scope and intent of the original permit unless the changes are such as would not constitute substantial development as defined in the master program. In such cases, the proposed changes require a new permit.

C. Cumulative Impacts. If the sum of the revision and any previously approved revisions would violate the provisions of subsection A of this section, no revision may be issued. In such cases, the proposed changes require a new permit. (Ord. 1137 § 9(9.03), 2000)

19.04.660 Procedure.

A. Within eight days of the final town action, the revision including the revised site plan, text and final ruling on consistency with

this article shall be filed with the Department. In addition the town shall notify parties of record of its action.

B. If the revision would alter or in any way affect a shoreline, a conditional use or variance which has been issued for the property, the town shall submit the revision to the Department for the Department's approval, approval with conditions, or denial. The revision shall indicate that it is being submitted under the requirements of WAC 173-27-100(6). The Department shall render and transmit to the town and the applicant its final decision within 15 days of the date of the Department's receipt of the submittal. The town shall notify parties of record of the Department's final decision. (Ord. 1137 § 9(9.04), 2000)

19.04.670 Effective date.

The revised permit shall become effective immediately upon final action by the town or, when appropriate under FHMC 19.04.660, by the Department. (Ord. 1137 § 9(9.05), 2000)

19.04.680 Appeals.

A. Appeals shall be in accordance with RCW 90.58.180 and shall be filed within 21 days from the date of receipt of the town's action by the Department or, when appropriate under FHMC 19.04.660, the date the Department's final decision is transmitted to the town and the applicant. Appeals shall be based only upon contentions of noncompliance with the provisions of FHMC 19.04.650.

B. Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit is at the applicant's own risk until the expiration of the appeals deadline. If an appeal is successful in proving that a revision is not within the scope and intent of the original permit, the decision shall have no bearing on the original permit. (Ord. 1137 § 9(9.06), 2000)

Article X. Nonconforming Uses

19.04.690 General.

Nonconforming uses and nonconforming structures which were lawfully established or constructed prior to the effective date of this

master program and amendments hereto, but which do not conform to present regulations, standards and policies may continue in accordance with the following sections. (Ord. 1137 § 10(10.01), 2000)

19.04.700 Nonconforming use of land.

A nonconforming use of land may be continued, provided that:

A. The use is not enlarged, increased, or extended to occupy a greater area of land than was occupied on the date the use became nonconforming; and

B. If the use is superseded by a conforming use, the nonconforming use may not thereafter be resumed; and

C. If the use ceases for a period of more than 12 months, the subsequent use of the land shall be conforming. (Ord. 1137 § 10(10.02), 2000)

19.04.710 Nonconforming structure.

A nonconforming structure may remain and be used, provided that:

A. The structure is not enlarged or altered so as to increase its nonconformity;

B. If damaged, it is reconstructed only to pre-existing size and height; and

C. If moved, it is made to conform to the regulations of this master program. (Ord. 1137 § 10(10.03), 2000)

19.04.720 Nonconforming use of structure.

A nonconforming use of a structure may be continued, provided that:

A. The structure is not enlarged or extended;

B. If the use is superseded by a conforming use, the nonconforming use may not thereafter be resumed; and

C. If the use ceases for a period of more than 12 months, the subsequent use of the structure shall be conforming. (Ord. 1137 § 10(10.04), 2000)

Article XI. Administration

19.04.730 General.

The administration of the provisions of this master program shall be governed by the pro-

visions of Chapter 90.58 RCW, Chapter 173-27 WAC, and FHMC Title 20, as amended from time to time. (Ord. 1137 § 11(11.01), 2000)

19.04.740 State Environmental Policy Act compliance.

Proposals for shoreline developments which are not categorically exempt from review requirements of the State Environmental Policy Act (SEPA), as provided in WAC 197-11-305, shall be subject to Chapter 43.21C RCW, Chapter 197-11 WAC, and FHMC Title 18, as amended from time to time. (Ord. 1137 § 11(11.02), 2000)

19.04.750 Application fees.

The nonrefundable application fee for all shoreline use permits governed by this chapter shall be reviewed annually by the town council who shall direct the town clerk to adjust the fee appropriately and post such list in a conspicuous place within Town Hall and make such list available to the public upon request. (Ord. 1137 § 11(11.03), 2000)

19.04.760 Enforcement and penalties.

A. Use or occupancy of any land, building or structure in violation of any provision of this chapter shall be and hereby is declared both a public nuisance and a Class 1 civil infraction, as defined in FHMC Title 1. Each day that a violation of this chapter exists may be treated as a separate infraction. In addition a violation of the provisions of this chapter shall be and hereby is declared subject to the provisions of RCW 90.58.210 through 90.58.230 and Chapter 173-27 WAC.

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

C. The penalty for committing a civil infraction under this chapter shall be as set forth in FHMC Title 1. (Ord. 1137 § 12, 2000)

Chapter 19.08

SHORELINE USE PERMITS

(Repealed by Ord. 1109)