

Attachment C: The following changes are recommended to comply with the SMA (RCW 90.58) and the SMP guidelines (WAC 173-26, Part III);

ITEM	SMP PROVISION	TOPIC	Bill Format Changes [ <u>underline-additions</u> ; <del>strikethrough-deletions</del> ]	ECOLOGY - DISCUSSION/RATIONALE
1.	17.05A.070 Definitions	WAC 173.26-020 (28) "Priority Habitat" Definition.	<p><b>Priority Habitat:</b> A habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes: comparatively high fish or wildlife density; comparatively high fish or wildlife species diversity; fish spawning habitat; important wildlife habitat; important fish or wildlife seasonal range; important fish or wildlife movement corridor; rearing and foraging habitat; important marine mammal haul-out; refugia habitat; limited availability; high vulnerability to habitat alteration; unique or dependent species; or shellfish bed.</p> <p><u>A priority habitat may also be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as a consolidated marine/estuarine shoreline, talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife.</u></p>	Additional language improves consistency with WAC 173-26-020 (28) "Priority Habitat" Definition.
2.	17.05A.090.C.9:	Environmental Protection and Critical Areas	9. The County shall require the applicant or owner to post a bond or provide other financial surety equal to the estimated cost of the mitigation <u>or restoration</u> in order to ensure the mitigation <u>or restoration</u> is carried out successfully. The Bond or surety shall be refunded to the applicant upon completion of the mitigation <u>or restoration</u> activity and any required monitoring.	Additional clarification requested by Island County staff. Because this requirement appears in the SMP "General Shoreline Use and Development Regulations" section it is applicable to all projects and developments. Several other references to bonding relate to restoration work as opposed to mitigation. Adding a reference to restoration in this section makes those code sections unnecessary and will allow them to be eliminated, thereby eliminating any conflicts. See required changes
3.	17.05A.090.C.13(c):	Environmental Protection and Critical Areas	c) Applications for projects located adjacent to marine waters, their associated wetlands, or any other FWHCA, shall include a complete and accurate Biological Site Assessment. <u>Biological site assessments shall be prepared by a professional ecologist, biologist, or similarly qualified professional at the applicant's expense and shall include with</u> the following information.	Additional clarification requested by Island County staff. Under ICC 17.05A.13 (d), habitat management plans (HMP) must be prepared by a "professional ecologist, biologist, or similarly qualified professional at the expense of the applicant." This clarification ensures the same requirement applies to Biological Site Assessments.
4.	17.05A.090.13.i).(iii)	Environmental Protection and Critical Areas (Critical Saltwater	(iii) New docks, bulkheads, bridges, fill, floats, jetties, and utility crossings shall <u>not intrude into or over critical saltwater habitats below the ordinary high water mark, except when only be allowed for water-dependent uses, public access, or ecological restoration, and only when:</u>	Proposed change improve consistency with WAC 173-26-221-2-c-iii-C ( Critical Saltwater Habitat) <i>Docks, piers, bulkheads, bridges, fill, floats, jetties, utility crossings, and other human-made structures shall not intrude to or over critical saltwater habitats except when all of the</i>

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		Habitat)	<p>(1) Public need is clearly demonstrated;</p> <p>(2) Avoidance of impacts is not feasible or would result in unreasonable cost;</p> <p>(3) The project includes mitigation as required by this Chapter; and</p> <p>(4) The project is consistent with resource protection and species recovery.</p> <p>(iv) Private, non-commercial docks, piers, and floats for individual residential or community use may be allowed pursuant to the requirements of this Chapter.</p> <p>(v) New over-water structures shall only be allowed for water-dependent uses, public access, or ecological restoration, <u>except where otherwise allowed pursuant to requirements of this Chapter.</u></p>	<p>Conditions below are met:</p> <ul style="list-style-type: none"> <li>• The public's need for such an action or structure is clearly demonstrated and the proposal is consistent with protection of the public trust, as embodied in RCW <u>90.58.020</u></li> <li>• Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible or would result in unreasonable and disproportionate cost to accomplish the same general purpose;</li> <li>• The project including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat.</li> <li>• The project is consistent with the state's interest in resource protection and species recovery.</li> </ul> <p>Consistency is also improved with SMP definitions (17.05A.070) for critical saltwater habitat and primary association.</p> <p>The proposed change also eliminates conflict with SMP code 17.05A.110 A (Shoreline Stabilization) and 17.05A.110 B (Moorage Facilities).</p>
5.	17.05A.090.C.13.d).(vii)	Environmental Protection and Critical Areas	<p><del>(vii) Bonding. A performance bond or other security in an amount to enable the County to carry out any required mitigation should the applicant fail to do so shall be required; and</del></p>	<p>Additional clarification requested by Island County staff See required change number 2. The addition of "restoration" to 17.05A.090.C.9 eliminates the need for this standard.</p>
6.	17.05A.090 D. Shoreline Buffers, Setbacks, and Impervious Surface Limits	Size limits for allowed structures within a setback	<p>No structure or impervious surface may extend within the building setback, except as noted in ICC 17.05A.090(D) or as follows:</p> <p>a) Impervious surfaces may not cover more than 20 percent of the building setback area; and</p> <p>b) Structures less than 30 inches in height may be allowed; and</p> <p><u>c) A single garden or storage structure over 30 inches in height may be allowed as accessory to a single-family residence. Structures shall be limited to 200 square feet and shall subject to a maximum height of 12 feet.</u></p>	<p>Additional clarification requested by Island County staff, for consistency with existing county code permit exemptions for storage structures.</p>
7.	17.05A.090 D	Maximum Impervious	<p>SRHBC: Maximum impervious Surface Limits. Change NA to <u>80%</u></p>	<p>Shoreline Residential Historic Beach Communities consist of small lots with high levels of existing impervious surface.</p>

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	Table 3	Surface Limits		Recommend adding a reasonable standard for this shoreline environment.
8.	17.05A.090 J.1 Shoreline Setback Modifications	Setback in Canal Communities	1. New residential development or expansion of existing residential development, including the primary structure, all accessory structures and appurtenances and all impervious surfaces may be placed in the landward <del> fifty</del> <u>forty</u> percent (5 <del>40</del> %) of the shoreline setback under the following conditions:	The Whidbey Island canal communities are unique artificially created canals that call for specialized standards. Many residential lots are shallow and modest residential development can require intrusion into the 40 foot setback. Ecology recommends a 40% intrusion threshold to avoid and minimize impacts of development and expansion.
9.	17.05A.100.B Aquaculture	Recycling plan	29. In promotion of the Island County solid waste management plan and with the associated goal of eliminating marine debris, <u>aquaculture permit</u> applicants <del>are for finfish facilities will be required to submit for approval,</del> a solid waste reduction and recycling plan <u>for approval.</u>	County staff recommended clarifications to this requirement for a waste reduction and recycling plan.
10.	17.05A.100.B.30.(m) (new requirement)		<u>30. (m) Permit applications for commercial aquaculture shall include a biological site assessment and habitat management plan. The biological site assessment and habitat management plans shall be consistent with the requirements and standards described in ICC 17.05A.090.C.13. In addition, biological site assessments and habitat management plans associated with commercial aquaculture shall specifically address localized water quality effects, impacts to benthic species and habitats, and impacts to native salmonid species.</u>	Additional clarification requested by Island County staff. This provision ensures that all applications for commercial aquaculture include a Biological Site Assessment and Habitat Management Plan that addresses localized impacts.
11.	17.05A.110.A Shoreline Stabilization	Regulation reference correction	(1) (i) Construction of structural shoreline stabilization to protect a platted lot where no primary use or structure presently exists shall be prohibited except as provided in 17.05A.110.A.3.d. <u>c.vi.</u>	Correct incorrect cross reference.
12.	17.05A.110.A Shoreline Stabilization(3)	Regulation reference consistency	(3) d) (ii) The proposal is the minimum necessary to protect the primary structure or appurtenance <del>and is listed in</del> <u>consistent with the requirements of ICC 17.05A.110.A.1.b;</u>	Reference correction addresses consistency with SMP shoreline stabilization design criteria meant to minimize ecological and geologic impacts.
13.	17.05A.130.B. 8 (b)	Ordinary high water mark determination Guidance for permit applications	The Ordinary High Water Mark of all water bodies located adjacent to or within the boundary of the project. This may be an approximate location, provided that, for any development where a determination of consistency with the applicable regulations requires a precise location of the Ordinary High Water Mark, <del>the mark shall be located precisely, and the biological and hydrological basis for the location as indicated on the plans</del> <u>a description of the field indicators observed and rationale for determination shall be included in the development plan. Where the Ordinary High Water Mark is neither adjacent to or within the boundary of the project, the plan shall indicate the distance and direction to the nearest Ordinary High Water Mark of a shoreline;</u>	Ecology's recommended editorial changes clarify what should be included in a development plan to improve consistency of OHWM determinations between applicants and reviewing agencies.