

## ARTICLE 10 – ADMINISTRATION AND ENFORCEMENT

### 1. Administrative Authority and Responsibility

#### A. Administrator

1. The Director of the Jefferson County Department of Community Development or his/her designee (the Administrator) is vested with authority and responsibility to:
  - i. Administer this Master Program;
  - ii. Recommend to the Hearing Examiner approval, approval with conditions, or denial of any permit applications or revisions in accordance with the policies and regulations of this Master Program and the provisions of the Jefferson County Unified Development Code;
  - iii. Grant written permit exemptions from shoreline Substantial Development Permit requirements of this Master Program;
  - iv. Determine compliance with the State Environmental Policy Act (Chapter 43.21C RCW; Chapter 197-11 WAC);
  - v. Specify the required application forms and submittal requirements including the type, details and number of copies;
  - vi. Advise interested citizens and project proponents of the goals, policies, regulations and procedures of this Master Program;
  - vii. Make administrative decisions and interpretations of the policies and regulations of this Master Program and the Shoreline Management Act;
  - viii. Collect applicable fees;
  - ix. Determine that application submittals are substantially complete;
  - x. Make field inspections as necessary;
  - xi. Submit substantial development permit, variance permit and conditional use permit applications and make written recommendations and findings on such permits to the Hearing Examiner for his/her consideration and final action;
  - xii. Assure that proper notice is given to appropriate persons and the public for all hearings;
  - xiii. Provide technical and administrative assistance to the Hearing Examiner as required for effective and equitable implementation of this Master Program and the Act;
  - xiv. Provide a summary report of the shoreline permits issued in the past calendar year to the Hearing Examiner and the Jefferson County Board of County Commissioners;
  - xv. Investigate, develop and propose amendments to this Master Program as deemed necessary to more effectively and equitably achieve its goals and policies;

---

For Planning Commission Review

This Preliminary Draft SMP (PD SMP) is based on comments from staff, advisory committees, Ecology, and the general public on the May 2008 Revised Committee Working Draft SMP and subsequent revised sections thereof. The proposed SMP policies and regulations are packaged together here as a stand-alone document for Planning Commission review. Ultimately policies, regulations, and administrative provisions may reside in separate documents including the Jefferson County Comprehensive Plan and applicable sections of the County's Unified Development Code, Title 18 of the Jefferson County Code.

- xvi. Seek remedies for alleged violations of this Master Program, the provisions of the Act, or of conditions of any approved shoreline permit issued by the County;
- xvii. Coordinate information with affected agencies; and
- xviii. Forward any decision on any permit application to the Washington State Department of Ecology for filing or action.

#### B. Hearing Examiner

1. The Hearing Examiner is vested with the authority and responsibility to:
  - i. Approve, condition, or deny shoreline substantial development permits, variance permits and conditional use permits after considering the findings and recommendations of the Administrator;
  - ii. Decide local administrative appeals of the Administrator's actions and interpretations, as provided in this Program and the County Unified Development Code;
  - iii. Consider shoreline substantial development permit, variance permit and conditional use permit applications and administrative appeals of the Administrator's actions on regular meeting days or public hearings;
  - iv. Review the findings and recommendations for permit applications or appeals of the Administrator's actions and interpretations;
  - v. Approve, approve with conditions, or deny substantial development permits, variance permits and conditional use permits;
  - vi. Conduct public hearings on appeals of the Administrator's actions, interpretations and decisions;
  - vii. Base all decisions on shoreline permits or administrative appeals on the criteria established in this Master Program; and
  - viii. At his or her sole discretion, require any project proponent granted a shoreline permit to post a bond or other acceptable security with the County, conditioned to assure that the project proponent and/or his or her successors adhere to the approved plans and all conditions attached to the shoreline permit. Such bonds or securities shall have a face value of at least one hundred and fifty (150) percent of the estimated development cost including attached conditions.

#### C. Board of Commissioners

1. The Jefferson County Board of County Commissioners (the BOCC) is vested with the authority to approve any revisions or amendments to this Master Program in accordance with the applicable requirements of the Act and the Washington Administrative Code.
2. The BOCC shall review and act upon any recommendations of the Shoreline Administrator for amendments to, or revisions of, this Master Program. The BOCC shall enter findings and conclusions setting forth the factors it considered

---

For Planning Commission Review

This Preliminary Draft SMP (PD SMP) is based on comments from staff, advisory committees, Ecology, and the general public on the May 2008 Revised Committee Working Draft SMP and subsequent revised sections thereof. The proposed SMP policies and regulations are packaged together here as a stand-alone document for Planning Commission review. Ultimately policies, regulations, and administrative provisions may reside in separate documents including the Jefferson County Comprehensive Plan and applicable sections of the County's Unified Development Code, Title 18 of the Jefferson County Code.

1 in reaching its decision. To become effective any amendment to this Master  
2 Program must be reviewed and adopted by the Department of Ecology pursuant  
3 to RCW 90.58.190 and Chapter 173-26 WAC.

## 4 **2. Permit Application Review**

- 5 A. Determinations of the Administrator regarding the geographic applicability of this  
6 Master Program, permit exemptions and application submittal requirements shall be  
7 processed as Type I decisions pursuant to the JCC Chapter 18.40.
- 8 B. Applications for substantial development permits and variance permits shall be  
9 processed as Type III decisions pursuant to the JCC Chapter 18.40.
- 10 C. Applications for uses/development listed as an administrative conditional use permit  
11 (i.e., "C(a)") in Table 1 in Article 4 shall be processed according to the procedures for  
12 Type II land use decisions established in Article IV of JCC Chapter 18.40.
- 13 D. Applications for uses/developments listed as discretionary conditional use permits  
14 (i.e., "C(d)") in Table 1 in Article 4 shall, at a minimum, be processed according to  
15 the procedures for Type II land use decisions established in Article IV of JCC  
16 Chapter 18.40. However, in accordance with JCC Chapter 18.40, the Administrator  
17 may on a case-by-case basis refer a discretionary conditional use permit application to  
18 the hearing examiner to be processed according to the procedures for Type III land  
19 use decisions established in Article IV of JCC Chapter 18.40.
- 20 E. All amendments to this Master Program shall be processed as Type V decisions  
21 pursuant to the JCC Chapter 18.40.
- 22 F. Whenever the Administrator issues a determination or recommendation and/or  
23 conditions of approval on a proposal which will result in the denial or substantial  
24 alteration of a proposed action, such determinations will be provided in writing  
25 stating the relationship(s) between the ecological factors, the proposed action and the  
26 condition(s).

## 27 **3. Minimum Permit Application Requirements**

- 28 A. A complete application for a substantial development, conditional use, or variance  
29 permit shall contain, as a minimum, all of the information required in any applicable  
30 section of this Program, all of the information required in JCC Chapter 18.40.100,  
31 and any other information the Administrator deems pertinent, including at a  
32 minimum:
- 33 1. The name, address and phone number of the applicant/proponent, applicant's  
34 representative, and/or property owner if different from the applicant/proponent.
  - 35 2. The property address and identification of the section, township and range to the  
36 nearest quarter, quarter section or longitude and latitude to the nearest minute.

---

For Planning Commission Review

This Preliminary Draft SMP (PD SMP) is based on comments from staff, advisory committees, Ecology, and the general public on the May 2008 Revised Committee Working Draft SMP and subsequent revised sections thereof. The proposed SMP policies and regulations are packaged together here as a stand-alone document for Planning Commission review. Ultimately policies, regulations, and administrative provisions may reside in separate documents including the Jefferson County Comprehensive Plan and applicable sections of the County's Unified Development Code, Title 18 of the Jefferson County Code.

- 1           3.    The name of the shoreline (water body) that the site of the proposal is associated  
2           with.
- 3           4.    A general description of the property as it exists at the time of application  
4           including its use, physical and ecological characteristics, improvements and  
5           structures.
- 6           5.    A general description of the project vicinity including adjacent uses, structures  
7           and improvements, development intensity, and physical characteristics.
- 8           6.    A vicinity map showing the relationship of the property and proposed  
9           development or use to roads, utilities, existing developments and uses on  
10          adjacent properties.
- 11          7.    A site plan and/or engineered drawings identifying existing conditions  
12          consisting of photographs, text, maps and elevation drawings, drawn to an  
13          appropriate scale to clearly depict all required information.
- 14          8.    Location of the ordinary high water mark of all water bodies within or adjacent  
15          to the project boundary. For any development that requires a precise location of  
16          the ordinary high water mark, the applicant/proponent shall provide a survey  
17          and describe the biological and hydrological basis for the location as indicated  
18          on the plans. Where the ordinary high water mark is neither adjacent to or  
19          within the boundary of the project, the plan shall indicate the distance and  
20          direction to the ordinary high water mark of the adjacent shoreline.
- 21          9.    Existing land contours at intervals sufficient to accurately determine the existing  
22          character of the property. Areas within the project boundary that will not be  
23          altered by the development may be indicated as such and contours approximated  
24          for that area.
- 25          10.   Critical areas as designated in JCC Chapter 18.22.
- 26          11.   A general description of the character of vegetation found on the site.
- 27          12.   A description of the existing ecological functions and processes affecting,  
28          maintaining, or influencing the shoreline at/near the project site.
- 29          13.   The dimensions and locations of all existing structures and improvements.
- 30          14.   The dimensions and locations of all proposed structures and improvements  
31          including but not limited to buildings, paved or graveled areas, roads, utilities,  
32          septic tanks and drain fields, material stockpiles or surcharge, and stormwater  
33          management facilities.
- 34          15.   Proposed land contours overlain on existing contours. The contours shall be at  
35          intervals sufficient to accurately determine the extent of proposed change to the  
36          land that is necessary for the development. Areas within the project boundary  
37          that will not be altered by the development may be indicated as such and  
38          contours approximated for that area.

---

For Planning Commission Review

This Preliminary Draft SMP (PD SMP) is based on comments from staff, advisory committees, Ecology, and the general public on the May 2008 Revised Committee Working Draft SMP and subsequent revised sections thereof. The proposed SMP policies and regulations are packaged together here as a stand-alone document for Planning Commission review. Ultimately policies, regulations, and administrative provisions may reside in separate documents including the Jefferson County Comprehensive Plan and applicable sections of the County's Unified Development Code, Title 18 of the Jefferson County Code.

- 1           16. A summary characterization of the effects of the project on existing ecological  
2           functions and processes in the vicinity of the project. If the project is likely to  
3           have adverse effects on shoreline ecological functions or processes, a mitigation  
4           plan shall be provided demonstrating measures that will be taken to offset  
5           impacts.
- 6           17. On all variance applications the plans shall clearly indicate where development  
7           could occur without approval of a variance, the physical features and  
8           circumstances on the property that provide a basis for the request, and the  
9           location of adjacent structures and use.
- 10          18. The Administrator may vary or waive the requirements in 1 above on a case-by-  
11          case basis according to administrative application requirements.
- 12          19. Where other approvals or permits are required for a use or development that  
13          does not require an open record hearing, such approvals or permits shall not be  
14          granted until a shoreline approval or permit is granted. All shoreline approvals  
15          and permits shall include written findings prepared by the Administrator  
16          documenting compliance with bulk and dimensional standards and other  
17          policies and regulations of this Program.

#### 18   **4. Pre-application Conferences**

- 19          A. In accordance with JCC Chapter 18.40.090(2), pre-application conferences are  
20          required for:
  - 21               1. All Type II and Type III project applications;
  - 22               2. Type I project applications proposing impervious surfaces of 10,000 square feet  
23               or more and/or non-single-family structures of 5,000 square feet or more.
  - 24               3. All projects involving in-water work or work below the ordinary high-water  
25               mark.
- 26          B. Pre-application conferences for all types of applications not listed in A above are  
27          strongly encouraged, and requests for conferences will be considered by the  
28          Administrator on a time-available basis.

#### 29   **5. Notice of Application and Permit Application Review**

- 30          A. Public notice requirements shall occur in accordance with JCC Chapter 18.40, Article  
31          III and the following:
  - 32               1. Type I permits (Statements of Exemption) shall not require notice of application  
33               or open record hearing consistent with JCC Chapter 18.40.040. However, if a  
34               Type I permit is not categorically exempt under SEPA, then a notice may be  
35               required.

---

For Planning Commission Review

This Preliminary Draft SMP (PD SMP) is based on comments from staff, advisory committees, Ecology, and the general public on the May 2008 Revised Committee Working Draft SMP and subsequent revised sections thereof. The proposed SMP policies and regulations are packaged together here as a stand-alone document for Planning Commission review. Ultimately policies, regulations, and administrative provisions may reside in separate documents including the Jefferson County Comprehensive Plan and applicable sections of the County's Unified Development Code, Title 18 of the Jefferson County Code.

- 1           2. The Administrator shall issue a notice of application on all Type III project  
2           permit applications in accordance with JCC Chapter 18.40, Article III.
- 3           B. Permit application review shall occur in accordance with JCC Chapter 18.40, Article  
4           IV.

## 5   **6. Non-conforming Development**

- 6           A. The following provisions shall apply to lawfully established uses, buildings and/or  
7           structures that do not meet the specific standards of this Program.
- 8           1. The lawfully established use of any building, structure, land or premises  
9           existing on the effective date of initial adoption of the Program (August 27,  
10           1976), or any subsequent amendment thereto or authorized under a permit or  
11           approval issued, or otherwise vested, prior to August 27, 1976 or any  
12           subsequent amendment thereafter, shall be considered nonconforming and may  
13           be continued, subject to the provisions of this section; provided that, bulkheads  
14           shall conform to the provisions in Article 7.
- 15           2. An existing use designated as a conditional use that existed prior to the adoption  
16           of this Program or the adoption of an applicable amendment hereto and which  
17           has not obtained a conditional use permit shall be considered a non-conforming  
18           use.
- 19           3. A structure for which a variance has been issued shall be considered a legal non-  
20           conforming structure and the requirements of this section shall apply.
- 21           4. If a non-conforming development is damaged to an extent up to but not  
22           exceeding seventy-five percent(75%) of the replacement cost of the original  
23           development, it may be reconstructed to those configurations existing  
24           immediately prior to the time the development was damaged, provided that the  
25           applicant makes a good faith effort to apply for the permits necessary to restore  
26           the development within six (6) months of the date the damage occurred, and  
27           complete the restoration within two (2) years of permit issuance.
- 28           B. If a non-conforming development is damaged by fire, explosion, flood, or other  
29           casualty to an extent exceeding seventy-five percent (75%) of the replacement cost of  
30           the original development, it must be reconstructed in a location and manner that  
31           complies with the Program. A single family residential development shall be able to  
32           redevelop in kind if there is no ability to redevelop in a manner that conforms to the  
33           Program.
- 34           C. Replacement of any non-conforming structures or buildings or portions thereof within  
35           the Aquatic or Priority Aquatic shoreline area shall comply with Program  
36           requirements for materials that come in contact with the water pursuant to Article 6.
- 37           D. Non-conforming structures, other than non-conforming single-family residences that  
38           are expanded or enlarged, must obtain a variance or be brought into conformance

---

For Planning Commission Review

This Preliminary Draft SMP (PD SMP) is based on comments from staff, advisory committees, Ecology, and the general public on the May 2008 Revised Committee Working Draft SMP and subsequent revised sections thereof. The proposed SMP policies and regulations are packaged together here as a stand-alone document for Planning Commission review. Ultimately policies, regulations, and administrative provisions may reside in separate documents including the Jefferson County Comprehensive Plan and applicable sections of the County's Unified Development Code, Title 18 of the Jefferson County Code.

- 1 with this Program and the Act. Any non-conforming development that is moved any  
2 distance must be moved to comply with the bulk and dimensions requirements of this  
3 Program.
- 4 E. Non-conforming structures with conforming uses within commercial or mixed-use  
5 developments may be expanded or enlarged within the existing building footprint as a  
6 conditional use.
- 7 F. The Administrator may allow enlargement or expansion of single family residences  
8 by the addition of space to the exterior of the main structure or the addition of normal  
9 appurtenances without a shoreline conditional use permit or shoreline variance  
10 subject to the following and provided the structure is located landward of the ordinary  
11 high water mark:
- 12 1. Enlargements, expansions or additions that increase the total footprint of the  
13 existing structure(s) by up to ten (10) percent or increase the structure height up  
14 to the limits allowed by this Program shall be allowed provided the expansion or  
15 addition will not adversely affect critical areas or significantly impair the ability  
16 of a substantial number of people to view the shoreline.
  - 17 2. Enlargements, expansions or additions that increase the total footprint of the  
18 existing structure(s) by eleven (11) to twenty five (25) percent or increase the  
19 structure height up to the limits allowed by this Program shall be allowed  
20 provided that the addition will not adversely affect critical areas or significantly  
21 impair the ability of a substantial number of people to view the shoreline and  
22 further provided that an equivalent area of shoreline buffer is enhanced through  
23 planting. The Administrator shall require a planting plan to ensure this standard  
24 is implemented.
- 25 G. The Administrator shall require a conditional use permit for any of the following:
- 26 1. Enlargement or expansion of single family residences by the addition of space  
27 to the exterior of the main structure or normal appurtenances in excess of those  
28 allowances provided in 10.6.F.
  - 29 2. Enlargement or expansion of single family residences where the addition of  
30 space to the exterior of the main structure is likely to adversely affect critical  
31 areas, or is likely to obstruct the view of a substantial number of people.

---

For Planning Commission Review

This Preliminary Draft SMP (PD SMP) is based on comments from staff, advisory committees, Ecology, and the general public on the May 2008 Revised Committee Working Draft SMP and subsequent revised sections thereof. The proposed SMP policies and regulations are packaged together here as a stand-alone document for Planning Commission review. Ultimately policies, regulations, and administrative provisions may reside in separate documents including the Jefferson County Comprehensive Plan and applicable sections of the County's Unified Development Code, Title 18 of the Jefferson County Code.

- 1 H. Enlargement or expansion of single family residences that extend waterward of the  
2 existing residential foundation walls, further into a critical area, further into the  
3 minimum required side yard setback, or that increase the structure height above the  
4 limits established by this Program shall require a variance.
- 5 I. A structure that is being or has been used for a non-conforming use may be used for a  
6 different non-conforming use only upon the approval of a conditional use permit. To  
7 approve a change in non-conforming use, all of the following criteria shall be met:
- 8 1. No reasonable alternative conforming use is practical because of the  
9 configuration of the structure and/or the property; and
- 10 2. The proposed use will be at least as consistent with the policies and provisions  
11 of the Act and this Program and as compatible with the uses in the area as the  
12 preexisting use; and
- 13 3. The use or activity is enlarged, intensified, increased or altered only to the  
14 minimum amount necessary to achieve the intended functional purpose; and
- 15 4. The structure(s) associated with the non-conforming use shall not be expanded  
16 in a manner that increases the extent of the non-conformity including  
17 encroachment into areas, such as setbacks, and/or buffers established by this  
18 Program, where new structures, development or use would not be allowed; and
- 19 5. The vegetation conservation standards of Article 6 are met; and
- 20 6. The change in use, remodel or expansion will not create adverse impacts to  
21 shoreline ecological functions and/or processes; and
- 22 7. Uses which are specifically prohibited or which would thwart the intent of the  
23 Act or this Program shall not be authorized.
- 24 J. If a non-conforming use is discontinued for twelve (12) consecutive months or for  
25 twelve (12) months during any two (2) year period, the non-conforming rights shall  
26 expire and any subsequent use shall be conforming.
- 27 K. New single-family development on lots whose dimensions do not allow a residence to  
28 be constructed outside the required shoreline buffer may be allowed without a  
29 variance in accordance with the provision in Article 6 section 1 (Nonconforming  
30 Lots).

## 31 **7. State Environmental Policy Act (SEPA) Compliance**

- 32 A. Whenever an application for shoreline substantial development permit, shoreline  
33 variance, shoreline conditional use permit, or statement of exemption is subject to the  
34 rules and regulations of SEPA (RCW 43.21C), the review requirements of SEPA,  
35 including time limitations, shall apply, where applicable.

---

For Planning Commission Review

This Preliminary Draft SMP (PD SMP) is based on comments from staff, advisory committees, Ecology, and the general public on the May 2008 Revised Committee Working Draft SMP and subsequent revised sections thereof. The proposed SMP policies and regulations are packaged together here as a stand-alone document for Planning Commission review. Ultimately policies, regulations, and administrative provisions may reside in separate documents including the Jefferson County Comprehensive Plan and applicable sections of the County's Unified Development Code, Title 18 of the Jefferson County Code.

- 1           B. Applications for shoreline permit(s) or approval(s) that are not categorically exempt
- 2           shall be subject to environmental review by the responsible official of Jefferson
- 3           County pursuant to the State Environmental Policy Act (WAC 197-11).
- 4           C. As part of SEPA review, the responsible official may require additional information
- 5           regarding the proposed development in accordance with WAC 197-11.
- 6           D. Failure of the applicant/proponent to submit sufficient information for a threshold
- 7           determination to be made shall be grounds for the responsible official to determine
- 8           the application incomplete.

DRAFT

DRAFT

---

For Planning Commission Review

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

## **8. Burden of Proof**

- A. Permit applicants/proponents have the burden of proving that the proposed development is consistent with the criteria set forth in the Act and this Program.

## **9. Permit Conditions**

- A. In granting, revising, or extending a shoreline permit, the Administrator may attach such conditions, modifications, or restrictions thereto regarding the location, character, and other features of the proposed development deemed necessary to assure that the development will be consistent with the policy and provisions of the Act and this Program as well as the supplemental authority provided in RCW 43.21C as applicable. In cases involving unusual circumstances or uncertain effects, a condition may be imposed to require monitoring with future review or reevaluation to assure conformance with the Act and this Program.

## **10. Public Hearings**

- A. Public hearings shall occur in accordance with JCC Chapter 18.40.230 and Chapter 18.40.300.
- B. Public hearing requirements for permit appeals shall be processed according to JCC Chapter 18.40.330, provided that appeals of a determination regarding a statement of exemption, shall occur in accordance with JCC Chapter 18.40.390. The fee for such appeal shall be as set forth in the Jefferson County fee ordinance and must be paid by the appellant at the time of filing the appeal.

## **11. Expiration of Permits and Permit Exemptions**

- A. The following time requirements shall apply to all permit exemptions, substantial development permits and to any development authorized pursuant to a variance permit or conditional use permit:
  - 1. Construction shall be commenced or, where no construction is involved, the use or activity shall be commenced within two (2) years of the effective date of the permit or permit exemption, provided that the Administrator may authorize a single extension based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the Department of Ecology.
  - 2. Authorization to conduct development activities shall terminate five (5) years after the effective date of a permit or permit exemption; provided, that the Shoreline Administrator may authorize a single extension for a period not to exceed one (1) year based on reasonable factors, if a request for extension has

---

For Planning Commission Review

1                    been filed before the expiration date and notice of the proposed extension is  
2                    given to parties of record and the Department of Ecology.

### 3 **12. Permits and Permit Exemptions - Effective Date**

- 4            A. The effective date of a shoreline permit or permit exemption shall be the date of the  
5            last action required on the shoreline permit or permit exemption and all other  
6            government permits and approvals that authorize the development to proceed,  
7            including all administrative and legal actions on any such permit or approval.
- 8            B. It is the responsibility of the project proponent to inform the Administrator of the  
9            permit applications filed with agencies other than Jefferson County and of any related  
10           administrative and legal actions on any permit or approval. If no notice of the permits  
11           or approvals is given to the Administrator prior to the date established by the  
12           shoreline permit, permit exemption, or the provisions of this section, the expiration of  
13           a permit shall be based on the shoreline permit or permit exemption.

### 14 **13. Satisfaction of Conditions Required Prior to Occupancy or Use**

- 15           A. When permit or permit exemption approval is based on conditions, such conditions  
16           shall be satisfied prior to occupancy or use of a structure or prior to commencement  
17           of a nonstructural activity; provided that an alternative compliance limit may be  
18           specified in the permit or permit exemption.

### 19 **14. Revisions Following Expiration of Original Permit or Permit Exemption**

- 20           A. Revisions to permits and permit exemptions may be authorized after original permit  
21           or permit exemption authorization has expired; provided that this procedure shall not  
22           be used to extend the original permit or permit exemption time requirements or to  
23           authorize substantial development after the time limits of the original permit or permit  
24           exemption.

### 25 **15. Extensions - Notice to Ecology**

- 26           A. The Shoreline Administrator shall notify the Department of Ecology in writing of any  
27           change to the effective date of a substantial development permit, variance permit or  
28           conditional use permit as authorized by this section, with an explanation of the basis  
29           for approval of the change. Any change to the time limits of a permit or permit  
30           exemption other than those authorized by this section shall require a new permit  
31           application.

### 32 **16. Notice of Decision, Reconsideration and Appeal**

- 33           A. A notice of decision for action on a shoreline substantial development permit,  
34           shoreline variance, or shoreline conditional use permit shall be provided to the  
35           applicant/proponent and any party of record in accordance with the procedures of

---

For Planning Commission Review

This Preliminary Draft SMP (PD SMP) is based on comments from staff, advisory committees, Ecology, and the general public on the May 2008 Revised Committee Working Draft SMP and subsequent revised sections thereof. The proposed SMP policies and regulations are packaged together here as a stand-alone document for Planning Commission review. Ultimately policies, regulations, and administrative provisions may reside in separate documents including the Jefferson County Comprehensive Plan and applicable sections of the County's Unified Development Code, Title 18 of the Jefferson County Code.

1 JCC Chapter 320 and at least ten (10) days prior to filing such decisions with the  
2 Department of Ecology pursuant to WAC 173-27-130. Decisions filed with the  
3 Department of Ecology shall contain the following information:

- 4 1. A copy of the complete application;
- 5 2. Findings and conclusions that establish the basis for the decision including but  
6 not limited to identification of shoreline environment designation, applicable  
7 Master Program policies and regulations and the consistency of the project with  
8 appropriate review criteria for the type of permit(s);
- 9 3. The final decision of the local government;
- 10 4. Where applicable, local government shall also file the applicable documents  
11 required by SEPA, or in lieu thereof, a statement summarizing the actions and  
12 dates of such actions taken under RCW Chapter 43.21C; and
- 13 5. When the project has been modified in the course of the local review process,  
14 plans or text shall be provided that clearly indicate the final approved plan.

15 B. A notice of decision for shoreline statements of exemption shall be provided to the  
16 applicant/proponent and any party of record. Such notices shall also be filed with the  
17 Department of Ecology, pursuant to the requirements of WAC 173-27-050 when the  
18 project is subject to one or more of the following federal permitting requirements:

- 19 1. A U.S. Army Corps of Engineers Section 10 permit under the Rivers and  
20 Harbors Act of 1899; (The provisions of Section 10 of the Rivers and Harbors  
21 Act generally apply to any project occurring on or over navigable waters;  
22 specific applicability information should be obtained from the Corps of  
23 Engineers), or
- 24 2. A Section 404 permit under the Federal Water Pollution Control Act of 1972  
25 (the provisions of Section 404 of the Federal Water Pollution Control Act  
26 generally apply to any project which may involve discharge of dredge or fill  
27 material to any water or wetland area; specific applicability information should  
28 be obtained from the Corps of Engineers).

29 C. This Program shall only establish standing for parties of record for shoreline  
30 substantial development permits, shoreline variances, or shoreline conditional use  
31 permits. Standing as a party of record is not established by this Program for exempt  
32 actions; provided that, in such cases standing may be established through an  
33 associated permit process that provides for public notice and provisions for parties of  
34 record.

35 D. The applicant/proponent or any party of record may request reconsideration of any  
36 final action by the decision maker within ten (10) days of notice of the decision. Such  
37 requests shall be filed on forms supplied by the County. Grounds for reconsideration  
38 must be based upon the content of the written decision. The decision maker is not  
39 required to provide a written response or modify his/her original decision. He/she

For Planning Commission Review

1           may initiate such action as he/she deems appropriate. The procedure of  
2 reconsideration shall not preempt or extend the appeal period for a permit or affect  
3 the date of filing with the Department of Ecology, unless the applicant/proponent  
4 requests the abeyance of said permit appeal period.

5           E. Appeals to the Shoreline Hearings Board of a decision on a shoreline substantial  
6 development permit, shoreline variance or shoreline conditional use permit may be  
7 filed by the applicant/proponent or any aggrieved party pursuant to RCW 90.58.180  
8 within twenty-one (21) days of filing the final decision by Jefferson County with the  
9 Department of Ecology.

10          F. Jefferson County shall consider an appeal of a decision on a shoreline substantial  
11 development permit, shoreline variance or shoreline conditional use only when the  
12 applicant/proponent waives his/her right to a single appeal to the Shoreline Hearings  
13 Board. Such waivers shall be filed with the County in writing concurrent with a  
14 notice of appeal within ten (10) days of a final action. When an applicant/proponent  
15 has waived his/her right to a single appeal, such appeals shall be processed in  
16 accordance with the appeal procedures of JCC Chapter 18.40 Article V and shall be  
17 an open record hearing before the Hearing Examiner.

18           1. Permit appeals shall be processed according to JCC Chapter 18.40.330,  
19 provided that appeals of a determination regarding a statement of exemption  
20 shall occur in accordance with JCC Chapter 18.40.390. The fee for such appeal  
21 shall be as set forth in the Jefferson County fee ordinance and must be paid by  
22 the appellant at the time of filing the appeal.

23           2. In accordance with RCW 90.58.185, in the case of an appeal involving a single-  
24 family residence or appurtenance to a single-family residence, including a dock  
25 or pier designed to serve a single-family residence, or of appeals involving a  
26 penalty of fifteen thousand dollars (\$15,000) or less, the request for review may  
27 be heard by a panel of three Shoreline Hearings Board members, at least one  
28 and not more than two of whom shall be members of the Pollution Control  
29 Hearings Board. Two members of the three must agree to issue a final decision  
30 of the board.

31           3. The Shoreline Hearings Board shall define by rule alternative processes to  
32 expedite appeals, including those involving a single-family residence or  
33 appurtenance to a single-family residence, including a dock or pier designed to  
34 serve a single-family residence, or involving a penalty of fifteen thousand  
35 dollars (\$15,000) or less. These alternatives may include: Mediation, upon  
36 agreement of all parties; submission of testimony by affidavit; or other forms  
37 that may lead to less formal and faster resolution of appeals.

---

For Planning Commission Review

## 17. Initiation of Development

- A. Development pursuant to a shoreline substantial development permit, shoreline variance, or conditional use shall not begin and shall not be authorized until twenty-one (21) days after the "date of filing" or until all review proceedings before the Shoreline Hearings Board have terminated.
- B. Date of filing: "Date of filing" of a substantial development permit is the date of actual receipt of the decision by the Department of Ecology. The "date of filing" for a shoreline variance or shoreline conditional use permit shall mean the date the permit decision rendered by the Department of Ecology is transmitted by the Department of Ecology to the County and the applicant/proponent.

## 18. Permit Revisions

- A. A permit revision is required whenever the applicant/proponent proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. 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 Program or the Act. Changes that are not substantive in effect do not require a permit revision.
- B. An application for a revision to a shoreline permit shall be submitted to the Administrator. The application shall include detailed plans and text describing the proposed changes. The County decision maker that approved the original permit may approve the request upon a finding that the proposed changes are within the scope and intent of the original permit, and are consistent with this Program and the Act.
- C. "Within the scope and intent of the original permit" means all of the following:
  1. No additional overwater construction is involved except that a pier, dock or floating structure may be increased by ten percent (10%) over that approved under the original permit;
  2. Ground area coverage and/or height may be increased a maximum of ten percent (10%) over that approved under the original permit provided that the revised permit does not authorize development to exceed the height, lot coverage, setback or any other requirements of this Program except as authorized under a variance granted for the original development;
  3. Additional or revised landscaping is consistent with any conditions attached to the original permit and with this Program;
  4. The use authorized pursuant to the original permit is not changed; and
  5. The revision will not cause adverse environmental impacts beyond those originally authorized in the permit.
- D. Revisions to shoreline permits may be authorized after the original permit authorization has expired. Revisions made after the expiration of the original permit

---

For Planning Commission Review

1 shall be limited to changes that are consistent with this Program and that would not  
2 require a permit under this Program. If the proposed change is a substantial  
3 development as defined by this Program, then a new permit is required. The  
4 provisions of this paragraph shall not be used to extend the time requirements or to  
5 authorize substantial development beyond the time limits or scope of the original  
6 permit.

7 E. A new permit shall be required if the proposed revision and any previously approved  
8 revisions in combination would constitute development beyond the scope and intent  
9 of the original permit.

10 F. Upon approval of a permit revision, the decision maker shall file with the Department  
11 of Ecology a copy of the revised site plan and a detailed description of the authorized  
12 changes to the original permit together with a final ruling and findings supporting the  
13 decision based on the requirements of this section. In addition, the decision maker  
14 shall notify parties of record of the action.

- 15 1. If the proposed revision is to a development for which a shoreline conditional  
16 use or variance was issued, the decision maker shall submit the revision to the  
17 Department of Ecology for approval with conditions or denial, and shall indicate  
18 that the revision is being submitted under the requirements of this paragraph.  
19 Under the requirements of WAC 173-27-110(6), the Department of Ecology  
20 shall render and transmit to the decision maker and the applicant/proponent its  
21 final decision within fifteen (15) days of the date of the Department of  
22 Ecology's receipt of the submittal from the decision maker. The decision maker  
23 shall notify parties on record of the Department of Ecology's final decision.  
24 Appeals of a decision of the Department of Ecology shall be filed in accordance  
25 with the provisions of WAC 173-27-110(8).

## 26 **19. Rescission and Modification**

27 A. Any shoreline permit granted pursuant to this Program may be rescinded or modified  
28 upon a finding by the Hearing Examiner that the permittee or his/her successors in  
29 interest have not complied with conditions attached thereto. A specific monitoring  
30 plan may be required as a condition of a permit with specific reporting requirements.  
31 If the monitoring plan is not implemented, the permittee may be found to be non-  
32 compliant. The results of a monitoring plan may show a development to be out of  
33 compliance with specific performance standards, which may be the basis for findings  
34 of non-compliance.

35 B. The Administrator shall initiate rescission or modification proceedings by serving  
36 written notice of non-compliance to the permittee or his/her successors and notifying  
37 parties of record at the original address provided in application review files.

38 C. The Hearing Examiner shall hold a public hearing no sooner than fifteen (15) days  
39 following such service of notice, unless the applicant/proponent files notice of intent

---

For Planning Commission Review

1 to comply and the Administrator grants a specific schedule for compliance. If  
2 compliance is not achieved, the Administrator shall schedule a public hearing before  
3 the Hearing Examiner. Upon considering written and oral testimony taken at the  
4 hearing, the Hearing Examiner shall make a decision in accordance with the above  
5 procedure for shoreline permits.

- 6 D. These provisions do not limit the Administrator, the Prosecuting Attorney, the  
7 Department of Ecology or the Attorney General from administrative, civil, injunctive,  
8 declaratory or other remedies provided by law, or from abatement or other remedies.

## 9 **20. Violations and Penalties**

10 A. In addition to incurring civil liability under JCC Chapter 18.50.110 and RCW  
11 90.58.210, pursuant to RCW 90.58.220 any person found to have willfully engaged in  
12 activities on shorelines of the state in violation of the provisions of the Act or of this  
13 Program, or other regulations adopted pursuant thereto, shall be punished by:

- 14 1. A fine of not less than twenty-five dollars (\$25) or more than one thousand  
15 dollars (\$1,000);  
16 2. Imprisonment in the county jail for not more than ninety (90) days; or  
17 3. Both such fine and imprisonment; provided that, the fine for the third and all  
18 subsequent violations in any five (5) year period shall not be less than five  
19 hundred dollars (\$500) nor more than ten thousand dollars (\$10,000). Provided  
20 further, that fines for violations of RCW 90.58.550, or any rule adopted  
21 thereunder, shall be determined under RCW 90.58.560.

22 B. Any person who willfully violates any court order or regulatory order of injunction  
23 issued pursuant to this Program shall be subject to a fine of not more than five  
24 thousand dollars (\$5,000), imprisonment in the county jail for not more than ninety  
25 (90) days, or both.

## 26 **21. Remedies**

27 A. The Jefferson County Prosecuting Attorney, or Administrator, where authorized, shall  
28 bring such injunctive, declaratory, or other actions as are necessary to insure that no  
29 uses are made of the shorelines of the state located within Jefferson County in conflict  
30 with the provisions of this Program, the Act, or other regulations adopted pursuant  
31 thereto, and to otherwise enforce the provisions of this Program.

32 B. Any person subject to the regulatory provisions of this Program or the Act who  
33 violates any provision thereof, or permit or permit condition issued pursuant thereto,  
34 shall be liable for all damage to public or private property arising from such violation,  
35 including the cost of restoring the affected area to its conditions prior to violation.  
36 The Jefferson County Prosecuting Attorney shall bring suit for damages under this  
37 section on their own behalf and on the behalf of all persons similarly situated. If

---

For Planning Commission Review

1 liability has been established for the cost of restoring an area affected by a violation,  
2 the court shall make provision to assure that restoration will be accomplished within a  
3 reasonable time at the expense of the violator. In addition to such relief, including  
4 money damages, the court in its discretion may award attorney's fees and costs of the  
5 suit to the prevailing party.

- 6 C. A person who fails to conform to the terms of a substantial development permit,  
7 conditional use permit or variance issued under RCW 90.58.140, who undertakes a  
8 development or use on shorelines of the state without first obtaining a permit, or who  
9 fails to comply with a cease and desist order may be subject to a civil penalty. The  
10 penalty shall be imposed pursuant to the procedure set forth in WAC 173-27-280 and  
11 become due and recovered as set forth in WAC 173-27-290(3) and (4). Persons  
12 incurring a penalty may appeal the same to the Shoreline Hearings Board or the  
13 BOCC pursuant to WAC 173-27-290(1) and (2).

## 14 **22. Abatement**

- 15 A. Structures or development on shorelines considered by the Administrator to present a  
16 hazard or other public nuisance to persons, properties or natural features may be  
17 abated by the County under the applicable provisions of the Uniform Code for the  
18 Abatement of Dangerous Buildings, 1997 Edition or successor as adopted by  
19 Jefferson County, or by other appropriate means.

## 20 **23. Third-party Review**

- 21 A. The Administrator shall determine when third-party review shall be required. Third-  
22 party review requires any technical studies or inventories provided by the project  
23 proponent to be reviewed by an independent third party, paid for by the project  
24 proponent, but hired by the Administrator. A qualified professional shall conduct  
25 third-party review. In determining the need for third-party review, the Administrator  
26 shall base his/her decision upon, but shall not be limited to, such factors as whether  
27 there has been incomplete submittal of data or apparently inadequate design work,  
28 whether the project is large scale, or whether the development site is complex.

## 29 **24. Inspections**

- 30 A. Whenever it is necessary to make an inspection to enforce any of the provisions of  
31 this Master Program or whenever the Administrator has reasonable cause to believe  
32 that there exists in any building, or upon any premises, any condition that constitutes  
33 a violation of this Master Program, the Administrator may enter such building or  
34 premises. If the building or premises is occupied, the Administrator shall first present  
35 proper credentials and demand entry, and if the building or premises is unoccupied,  
36 the Administrator shall first make reasonable efforts to locate the owner or other  
37 persons having charge or control of the building or premises and demand entry. If  
38 such entry is refused, the Administrator shall have recourse to every remedy provided

---

For Planning Commission Review

This Preliminary Draft SMP (PD SMP) is based on comments from staff, advisory committees, Ecology, and the general public on the May 2008 Revised Committee Working Draft SMP and subsequent revised sections thereof. The proposed SMP policies and regulations are packaged together here as a stand-alone document for Planning Commission review. Ultimately policies, regulations, and administrative provisions may reside in separate documents including the Jefferson County Comprehensive Plan and applicable sections of the County's Unified Development Code, Title 18 of the Jefferson County Code.

1 by law to secure entry, including administrative search warrants. The Jefferson  
2 County Prosecuting Attorney shall provide assistance to the Administrator in  
3 obtaining administrative search warrants or other legal remedies.

## 4 **25. Master Program Amendments**

5 A. Pursuant to RCW 90.58.190 and RCW 36.70A.280, a decision by the Jefferson  
6 County Board of County Commissioners to amend this Master Program shall not  
7 constitute a final appealable decision until the Department of Ecology has made a  
8 decision to approve, reject, or modify the proposed amendment. Following the  
9 decision of the Department of Ecology regarding the proposed amendment, the  
10 decision may be appealed to the Western Washington Growth Management Hearings  
11 Board.

## 12 **26. Fees**

13 A. Required fees for all shoreline substantial development permits, shoreline conditional  
14 use permits, shoreline variances, statements of exemption, appeals, pre-application  
15 conferences and other required approvals shall be paid to the County at the time of  
16 application in accordance with the Jefferson County Unified Fee Schedule in effect at  
17 that time.

## 18 **27. Transfer of Permits**

19 A. An approved substantial development permit, conditional use permit or variance  
20 permit may be transferred from the original project proponent to any successor in  
21 interest to the project proponent provided that all of the conditions and requirements  
22 of the approved permit or variance shall continue in effect as long as the use or  
23 activity is pursued or the structure exists unless the terms of the substantial  
24 development permit, conditional use permit, or variance permit are modified in  
25 accordance with the relevant provisions of this Master Program.

---

For Planning Commission Review