

**CITY OF BREMERTON, WASHINGTON  
PLANNING COMMISSION AGENDA ITEM**

<b>AGENDA TITLE:</b>	<i>Workshop to discuss the 3 sections of the Draft SMP</i>
<b>DEPARTMENT:</b>	<i>Community Development</i>
<b>PRESENTED BY:</b>	<i>Nicole Floyd, City Planner</i>

**SUMMARY:**

A review and discussion of three sections of the Shoreline Master Program (SMP) that all relate to the regulations for uses along the shoreline. The three sections are:

- 20.16.600 – General Standards
- 20.16.700 – Use Regulations
- 20.16.800 – Shoreline Modifications

The Citizen Advisory Committee (CAG) held a meeting on June 15, 2011 to discuss these sections. Based on their comments Staff made edits to the document ensuring the intended message was clear and understandable. **Attachment I** is a chart that details questions and comments that were not fully resolved at the CAG meeting. The intent of the chart is to provide answers to the CAG that were unavailable at the meeting and to give the Planning Commission a summary of topic items that were brought up by the group.

**Attachment II** is the draft table of contents. It is being included in your packet in order to provide context to the location within the document which these requirements will be found.

**Attachment III** includes the three code sections. As you review these documents please remember that a substantive amount of the requirements are mandated by the State. Each jurisdiction has the ability to organize the document and emphasize different aspects of the requirements as necessary to achieve No Net Loss of ecological functions, but that means that to relax a standard in one place will most likely require another standard to be tightened.

Each chapter addresses different aspects of shoreline development. The following is a brief synopsis of proposed changes. Please be aware that this list is not exhaustive and does not include all the proposed changes, rather it is intended to help the reader get a general understanding of the types of changes proposed and their general location with the chapters.

**GENERAL STANDARDS:**

These regulations are applicable to all development types and are very broad in nature.

Buffers and setbacks:

These requirements are not new, but the specific dimensional requirements are. This section is relying heavily on the existing Critical Area Ordinance, but establishes specific amendments in order to comply with the State mandates.

Bremerton is in a unique situation where existing ecological functions are generally impaired due to the high level of development existing upland of, and along the shoreline. For this reason the setback/buffer requirements listed are smaller than many other jurisdictions. For residential lots a percentage of the lot depth is being used rather than a standard distance.

This system allows for very small lots to provide a smaller buffer than larger lots but maintains that all lots are providing a similar ratio of land area.

Vegetation Management:

Vegetation requirements within the buffer are new in order to comply with the State mandates. The intent is to provide a high quality buffer in a smaller space, rather than a larger buffer with potentially lower habitat functions. The new development will be required to plant vegetation in the buffer to improve habitat function, including trees, shrubs and ground covers. The City is proposing an exemption to the requirement for residential properties eliminating the requirement for trees, but to ensure shrubs and ground covers are planted.

Mitigation sequencing:

This section is not new and is directly from the RCW.

Public Access:

These requirements are not new, but modified to be more robust and clear. This section is requiring all new development, except for single family residential, to provide public access.

Provisions for public access easements are not new, but include a new twist. Any proposal that would require a shoreline permit would also require an easement to allow for pedestrians to walk along the beach. Single family residences, with a height up to 25', are exempt from shoreline permits.

View corridor requirements are only proposed in downtown. The current code requires them for all development including single family residential. These provisions have proved to be very difficult and arbitrary. They are not required, nor recommended by the State.

Water Quality, Stormwater, and Non-Point Pollution:

This section requires an applicant to comply with the current codes and standards. Also, there are specific requirements to reduce pesticide use.

Archaeologically Sensitive Areas:

This section is new and cites the existing State laws.

Lighting:

This is a new section not explicitly required by the State. This section addresses light pollution along the shoreline and is found in many other jurisdictions new SMP's. Light pollution has been found to be very damaging to habitat.

Parking:

This is a new section that addresses specific parking standards within the shoreline jurisdiction. It establishes where parking should be located so as to least impact habitat functions.

Shoreline Use Matrix and Height Table:

These are not new. They are intended to be an easy reference for what potential uses are permitted for a property within each designation. Any use not listed would require a Conditional Use Permit. The height table shows height limits for each shoreline designation.

## **SHORELINE USE REGULATIONS:**

These standards are very specific, addressing primary uses either upland or in the water.

### Aquaculture:

This is a new section addressing commercial scale harvesting of marine organisms. Aquaculture is a preferred shoreline use as it is water dependent.

### Commercial Development:

This section addresses the hierarchy of uses permitted along the waterfront, as established by the State. In order to locate a non-water related commercial facility on the shoreline the applicant must demonstrate that:

- 1) It is mixed with a water related use; or
- 2) Physical access to the shoreline is not feasible; therefore a more preferred water-related use would not be appropriate for the location.

### Forest Practices:

This section is new, but is only addressing existing State requirements.

### Industrial Development:

This section is very similar to the commercial development section. It addresses the State mandated hierarchy of priority uses establishing that water dependent uses are the most important use along the shoreline and businesses with no access to the shoreline being the least important.

### Marinas and Boating Facilities:

Marinas are a priority use, as they cannot be located away from the shoreline, but have a large impact on ecological functions. For this reason the code includes language that attempts to minimize the number of new facilities.

### Recreational Development:

Improving public access is a primary goal of the Shoreline Management Act, therefore public access along the waterfront is a preferred use. Over-water recreational structures are allowed, but restricted to those that will provide a significant community benefit.

### Residential:

This section addresses single family residential and multi-family residential. Single family residential is a preferred use, but multi-family residential is not unless it is mixed in with a water related use.

- The existing language allowing single family residential structures up to 35' in height has been modified to be clearer and to require a public access easement for homes above 25' in height.
- New subdivisions of more than 4 lots will be required to provide public access.

### Roads, Railways, and Utilities:

This section discusses transportation and facilities for existing and new development. The code establishes that such facilities should avoid impacting ecological functions.

## **SHORELINE MODIFICATIONS:**

This chapter addresses uses that would often be found as an accessory to another use. For example, a bulkhead is an accessory to a house. These are specific requirements for each of these accessory uses.

### Clearing and Grading:

Generally clearing and grading should be limited to the least extent possible and should not be performed during the “wet weather” months, except when accompanied by reports and erosion control measures appropriate for such work.

### Docks, Piers, and other In-Water Structures:

These structures have been shown to have substantial impacts to ecological functions and therefore should be limited. They are only permitted for single family residences, water dependent uses, and public access.

- All in-water structures must be designed to provide the most habitat function, with specific requirements.
- New subdivisions can only have community docks, no private docks.
- No reduction is proposed from the existing code for dock size permitted.
- Docks are prohibited in aquatic conservancy, however mooring buoys are allowed.

### Dredging:

This section discusses the removal of materials from a water body and establishes that such removal should not be done except for a few specific situations such as removal of contaminants.

### Flood Hazard Reduction:

This section primarily relates to river, stream, or creeks and the types of development implemented to prevent or control flooding. Although Bremerton does not have any rivers, this section is required by the State to address the portion of creeks and streams within the shoreline jurisdiction (200' from the OHWM).

### Landfill:

The creation of dry upland area by depositing fill into the water body generally causes significant damage to habitat functions and therefore should be severely limited. This section establishes when a landfill could be approved, which is a very small list.

### Restoration and Conservation:

This section establishes criteria for restoration projects to ensure they do not unintentionally negatively impact existing upland features or habitat function.

### Shoreline Stabilization:

This section addresses bulkheads, and all other types of measures intended to prevent erosion and deterioration of the shoreline banks. Soft, more natural shoreline armoring has been shown to be substantially better for habitat functions than hard armoring, thus the code encourages soft armoring.

- New stabilization methods for existing developments will only be permitted when an existing primary structure is at risk of damage from erosion.

- New water dependent development, or new single family homes can install stabilization methods if there is no other possible location for the new structure, and all other erosion control measures have been exhausted.

Stormwater Management Facilities:

These facilities such as detention ponds should be located as far away from the shoreline as possible and must comply with Ecology's Stormwater Manual for Western Washington.

**ATTACHMENTS:**

Attachment I: CAG Chart

Attachment II: Table of Contents

Attachment III: Proposed Code Sections

Topics Needing Further Clarification  
Citizen Advisory Committee Meeting  
June 21, 2011

The Citizen Advisory Committee held a meeting to discuss three sections of the SMP, General Standards, Use Regulations, and Shoreline Modifications. They reviewed the sections for content, clarity, and palatability. Many of the questions and comments raised were resolved at the meeting. The group suggested several edits that made the document easier to read. These edits have been incorporated into the document.

Other more complex questions and or proposed edits are summarized in the table below. Several items required research and input from experts. The chart is intended to be used by both the CAG and the Planning Commission to summarize and facilitate discussion.

SECTION	QUESTION / COMMENTS	STAFF RESPONSE / ANSWER
General Standards		
20.16.610 Page 1	What is the difference between the wetland rating scale and wetland type?	Category of wetland is based on the size, function, and ability to replace the wetland. Scores come from the wetland rating worksheet from DOE. Scores are as follows: Category I = Score >70 Category II = Score 51-69 Category III = Score 30-50 Category IV = Score < 30
20.16.620(b)(1) (vi) Page 5	Could noxious weed removal be required for targeted weeds instead of all noxious weeds? This seems more reasonable than all weeds because there are so many.	The City has called the Kitsap County Weed Control Board, but has not yet gotten a response.
20.16.620(b)(1) (vii) Page 5	Could 100% survival rate be reduced, seems really difficult.  Should there be yearly monitoring?	A reduced survival rate would reduce the overall requirement for trees, as the dead ones would not need to be replaced. This would reduce the overall requirement.  Yearly monitoring should be required in the way of photographs taken by the property owner. The code has been revised.
20.16.620(b)(1) (viii) Page 5	Can a notice to title ever be changed? If so how?	Kitsap County Auditors office stated that with the approval from a City official a Notice to Title can be amended or terminated. Cost is \$62 plus \$1 per additional page.

20.16.620(b) (2)  Page 5	Single Family Vegetation Plan: There should be more exemptions for single family. What if one build outside of the shoreline jurisdiction?  What about existing structures? Or if one builds on the landward side of the existing house?  Generally these requirements seem excessive and problematic.	Ecology said reduced buffer widths (like what Bremerton is proposing) must be offset by substantial vegetation management requirements.  There is flexibility for such requirements and the City should look to adopted codes to see what has been approved.  Staff is in the process of this review. No change is shown in the code as a full analysis has not been finished – but is in process.
20.16.640  Page 8	Is public access required for all development?	Most development within the shoreline requires public access except single family and those that can show it to be infeasible.
20.16.640(b)(6) Page 11	View Corridors: Are there vegetation height requirements? Should there be?	Views and vegetation height are very difficult to regulate and enforce. Typically involving numerous court cases, our code enforcement and legal departments are opposed to such regulations.
20.16.650 Page 11	Pet waste and yard waste should be addressed. Many people are unaware of the impacts from them.	Existing City code establishes regulations for pet and yard waste (BMC 6.04.050(b)). A reference to this section could be added.
20.16.670(b)	Should there be a requirement for lighting color?	Staff has reviewed other SMP documents and has not found any that address lighting color. It seems that the strength of the light being limited to 1 foot candle at the edge of water is enough.
<b>Use Regulations</b>		
20.16.740(b) (10)  Page 7	Are the City of Bremerton pump stations considered an industrial development? Do these requirements apply?	No, this requirement relates to facilities that are associated with an industrial use. There is a separate section on utilities later in the chapter.
20.16.750(b) (10)(a) Page 11	What are public aquatic lands? Where are they?	Public Aquatic Lands are those that are owned by the Department of Natural Resources. Typically they are past the inner harbor line, but can sometimes include other areas. Typically DNR would comment on the application noting their ownership of land.
20.16.760(b)(6)  Page 12	Does this section regulate mooring buoys?	No, this section relates only to over-water structures. The definition of which will state that mooring buoys are not included.
20.16.780 Page 15	Should railroads require public access? Seems like they should be exempt.	There may be locations that public access is appropriate. In cases where safety is a concern a railway could easily meet the exemptions in the public access section (20.16.640).
20.16.780(b)(17) Page 19	Storm drainage / sewer outfalls should exempt natural drainage areas.	These provisions are only applicable to new development and new stormwater runoff. Existing drainage is exempt.

Shore Modification		
20.16.820(b)(1)  Page 2	The requirements for docks are too strong. It seems impossible to prove that no net loss of ecological function will occur or that there will be no impact to sediment transport or light penetration.  Less restrictive wording such as “no significant impact” would be preferable.	This is language preferred by the Department of Ecology as their mission is to achieve no net loss of ecological functions.  Using “significant impact” is a value judgment that can be widely interpreted and would likely be difficult to interpret and enforce.
20.16.820(b) Page 3	Can someone have more than one dock?	For single family residential there is a 1 dock limit. Subdivisions may be allowed more than one.
20.16.820(b) (8)(vi)  Page 3	Docks requiring public access – what about liabilities?	State law protects property owners unless they are clearly negligent, RCW 424.210. This means that unless the dock were in serious disrepair and posing a safety risk the property owner would not be liable for injury.
20.16.860(b)(3)  Page 11	Potentially change language regarding restoration project impacts from no adverse impacts to minimal impacts.	No adverse impact implies that there will be an impact, but that overall that impact will not be adverse or harmful to habitat function. Changing to the word minimal would allow for some level of adverse or harmful impact which would not likely be supported by Ecology.
20.16.860(b)(9)  Page 14	Tying into other bulkheads seems to pose a liability. May want to revise language.	This language does not require one to tie in to another bulkhead. The intent is to ensure the new bulkhead is flush with adjacent ones and that there is no gap between that could harm the structural stability of both bulkheads.  This language is in the existing code and has not been a problem in the past.

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Green text denotes previously reviewed sections

Blue text denotes new reviewable sections

Black text denotes incomplete sections

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Draft

## 20.16.600 GENERAL STANDARDS AND REGULATIONS

- 20.16.610 – Buffers and Setbacks
- 20.16.620 – Vegetation Conservation
- 20.16.630 – Mitigation Sequencing for No Net Loss of Habitat Function
- 20.16.640 – Public Access
- 20.16.650 – Water Quality, Stormwater, and Non-Point Pollution
- 20.16.660 – Archaeologically Sensitive Areas
- 20.16.670 – Lighting Requirements
- 20.60.680 – Parking Requirements
- 20.16.690 – Use Matrix and Height Table

### 20.16.610 BUFFERS AND SETBACKS:

Upland areas adjacent to the shoreline perform essential functions necessary to sustain habitat and ecological processes. It is for this reason that development must be set back from the water's edge and that natural buffers must be created and or preserved. The City already regulates such areas through the Critical Areas Ordinance (BMC 20.14), however in areas that are regulated by this document (within 200' of shorelines of the state) the following policies and regulations will supersede:

#### (a) Policies:

- (1) Shorelines and areas directly adjacent to shorelines are considered critical areas. These critical areas that are within the shoreline jurisdiction are to be protected and managed in such a manner that the result of any use activity or development is no net loss of shoreline ecological functions.
- (2) The City should protect critical areas and their existing shoreline ecological functions so that they continue to contribute to existing ecosystem wide processes.
- (3) The City should promote uses and values that are compatible with other objectives of this section, such as public access and native vegetation management, provided there is no significant adverse impact to shoreline ecological functions.

#### (b) Regulations:

- (1) Critical areas shall be regulated in accordance with the provisions of BMC Chapter 20.14, the Critical Area Ordinance, with the modifications and exceptions as follows:
  - (i) The provisions of BMC 20.14.145 Exemptions, Subsection (d) Forest Practices shall comply with all policies and standards of this Chapter and RCW 90.58.150.
  - (ii) The provisions of BMC 20.14.155 Reasonable Use Exception shall not apply within shoreline jurisdiction.
  - (iii) The provisions of BMC 20.14.330(f)(1) relating to standard wetland buffers shall be governed by the following standards within Shoreline Management Act Jurisdiction:

Wetland Category	Low Wildlife Function (less than 20 points)	Moderate Wildlife Function (20 – 28 points)	High Wildlife Function (29 or more points)
	Buffer Width (feet)		
Category I	125	150	225
Category II	100	150	225
Category III	75	125	150
Category IV	50	50	50

- (iv) The provisions of BMC 20.14.330(g) and 20.14.340(f) relating to wetland mitigation shall not apply within the shoreline jurisdiction. The following standards shall apply:

Wetland Category	Wetland Mitigation Type and Replacement Ratio*			
	Creation	Re-establishment	Rehabilitation	Enhancement Only
Category I	6:1	6:1	8:1	Not allowed
Category II	3:1	3:1	4:1	6:1
Category III	2:1	2:1	3:1	4:1
Category IV	1.5:1	1.5:1	2:1	3:1

\* Ratio is the replacement area: impact area.

- (v) Within the shoreline jurisdiction, compensation for wetland buffer impacts shall occur at a minimum 1:1 ratio. Compensatory mitigation for buffer impacts shall include enhancement of degraded buffers by planting native species, removing structures and impervious surfaces within buffers.
- (vi) The provisions of BMC 20.14.630(c) relating to reduction of geologic hazard buffers shall be processed in accordance with the Conditional Use permit provisions of BMC 20.16.XXX. Report(s) must be submitted by a qualified professional(s) establishing the following:
- The modification will not result in foreseeable risk from geological hazards to people or improvements during the life of the development; and
  - For marine bluffs, demonstrate that the proposed development will be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary in the future; and
  - Clear evidence that there is no alternative to modifying the buffer to accommodate allowed development, including reduction in the size or area of the development, or relocation on the contiguous site; and
  - Establish that there is no loss of the ecological functions provided by buffer vegetation including habitat; and
  - Document that no net loss of ecological functions will result.

- (vii) The provisions of BMC 20.14.730(d) Buffers and Associated Building Setback Areas relating to fish and wildlife habitat conservation area shall be governed by the following standards within shoreline jurisdiction:

DESIGNATION	Minimum Building Setback	Buffer Width Standard
URBAN CONSERVANCY	15 feet beyond buffer	175 feet
<u>SINGLE FAMILY &amp; MULTI FAMILY RESIDENTIAL</u>		
Lot depth less than 125'	5 feet beyond buffer	20% of lot depth
Lot depth 125' to 199''	10 feet beyond buffer	20% of lot depth
Lot depth greater than 200'	15 feet beyond buffer	30% of lot depth
<u>RECREATIONAL</u>	15 feet beyond buffer	100 feet
<u>COMMERCIAL / INDUSTRIAL / DOWNTOWN WATERFRONT</u>	15 feet beyond buffer	50 feet
<u>ISOLATED</u>	None	None
<p>Please note: For all designations, setbacks and buffers listed above the following shall apply:</p> <p>(1) Where buffers/setbacks for other critical areas are required, the most stringent buffer/setback shall be applied.</p> <p>(2) Where lot depth is less than 150 feet on Commercial or Recreational lots, the buffers listed above may be reduced to 20% of the lot depth.</p>		

- (viii) The provisions of BMC 20.14.730(d)(1) Buffers and BMC 20.14.730(d)(5) Buffer Reduction shall not apply within the shoreline jurisdiction.
- (ix) The provisions of BMC 20.14.730(d)(6) Stormwater Management shall apply within shoreline jurisdiction only to buffers of 100 feet or greater width.
- (x) The provisions of BMC 20.14.730(d)(7) Low-Impact Development (LID) Facilities shall apply within the shoreline jurisdiction only to LID facilities involving minimal grading and removal of vegetation and shall be applied only to the outer fifty (50) percent of buffers of 100 feet or greater width.
- (xi) The provisions of BMC 20.14.730(d)(8) Habitat Conservation Area Buffers shall not apply within the shoreline jurisdiction.
- (xii) The provisions of BMC 20.14.740 relating to Habitat Management Plans may reduce the width of a shoreline buffer to no less than twenty five (25) feet provided enhancement features are installed that will provide a greater habitat function than the prescribed buffer would.
- (2) Exemptions: The following development activities are not subject to buffers and setbacks, provided that they are constructed and maintained in a manner that minimizes adverse impacts on shoreline ecological functions, and provided further that they comply with all the applicable regulations in BMC Title 20:
- (i) Those portions of approved water-oriented development that require a location waterward of the ordinary high water mark, and/or within their associated buffers and setbacks.
  - (ii) Underground utilities.

- (iii) Modifications to existing development that are necessary to comply with environmental requirements of any agency, when otherwise consistent with this Program, provided that the City determines that:
  - (a) The facility cannot meet the dimensional standard and accomplish the purpose for which it is intended; and
  - (b) The facility is located, designed, and constructed to meet specified dimensional standards to the maximum extent feasible; and
  - (c) The modification is in conformance with the provisions for non-conforming development and uses.
- (iv) Roads, railways, and other essential public facilities that must cross shorelines and are necessary to access approved water-dependent development subject to development standards in Section X.
- (v) Stairs, ramps, and walkways not greater than 5 feet in width or 18 inches in height above grade, not including railings.
- (vi) Shared moorages shall not be subject to side yard setbacks when located on or adjacent to a property line shared in common by the project proponents and where appropriate easements or other legal instruments have been executed providing for ingress and egress to the facility.

#### **20.16.620 VEGETATION CONSERVATION:**

##### (a) Policies:

- (1) The City should protect, conserve and establish native vegetation nears shorelines in order to protect and restore the ecological functions and ecosystem wide processes performed within riparian and near shore areas which include but are not limited to:
  - Protecting plant and animal species and their habitats;
  - Providing food sources for aquatic and terrestrial species in the form of various insects and benthic macro invertebrates;
  - Providing shade necessary to maintain water temperatures for salmonids, forage fish, and other aquatic biota;
  - Protecting and increasing stability of banks and bluffs;
  - Reducing the hazard of slope failures or accelerated erosion;
  - Reducing the need for structural shoreline stabilization measures;
  - Improving the visual and aesthetic qualities of the shoreline;
  - Protecting and improving water quality through filtration and vegetative uptake of nutrients and pollutants;
  - Providing habitat corridors parallel and perpendicular to the water body.

##### (b) Regulations:

- (1) A Vegetation Management Plan shall be submitted for all new development or redevelopment within the shoreline jurisdiction with the exception of water-dependent uses and single family residential use (for single family see (2) below). The plan shall provide for

substantial enhancement of shoreline ecological functions and must provide the maximum ecological functions feasible, in accordance with the following:

- (i) The plan shall preserve, enhance or establish native vegetation within the entire specified Critical Area buffer. Vegetation management plans shall be prepared by a qualified professional and shall describe actions that will be implemented to ensure that buffer areas provide ecological functions equivalent to a dense native vegetation community to the maximum extent feasible.
  - (ii) The Plan must provide for planting of trees not less than one (1) per one hundred (100) square feet, shrubs not less than ten (10) per one hundred (100) square feet, and a sufficient density of ground cover to provide effective coverage for erosion control purposes throughout the buffer. The Director may allow for a portion of the trees and shrubs to be placed in natural groups to allow for a shoreline access trail.
  - (iii) The Plan shall specify the predevelopment quantity, species type, distribution, approximate height of native vegetation, tree diameter at four (4) feet in height, successional stage of overall vegetative cover, potential native vegetation types, soil type / characteristics, and any existing hazard trees on the entire site. Said information shall be indicated and represented on a site plan drawn to scale and shall be reflected on an accompanying species and count matrix.
  - (iv) Identification of native vegetation to be removed and protected as a result of the proposal must be shown on the site plan, as well as any noxious vegetation onsite.
  - (v) All new trees shall be a minimum height of four (4) feet. Shrubs shall be of at least four different varieties.
  - (vi) Methodology for removal of noxious vegetation and long term maintenance is required.
  - (vii) A financial surety (an assignment of funds or surety bond with no expiration date) that accounts for 150% of the cost of a five year maintenance and monitoring plan that ensures a survival rate of 100% for trees and 85% for all other vegetation is required. The five year maintenance and monitoring period shall begin at the time the required native vegetation has been installed, and verified by a representative from the Department of Community Development. Monitoring shall consist of photographs taken by the applicant yearly to indicate the continued survival of the plants. Said photos shall be submitted at the end of the 5 years to the Department of Community Development for release of the financial surety.
  - (viii) Required vegetation shall be maintained over the life of the use and/or development. In order to ensure such maintenance a recorded conservation easement or a Notice to Title shall be placed on the deed of the property identifying the buffer area and required plantings so that a record of the plan is available to all future property owners. The Notice to Title shall be recorded prior to issuance of the permit.
  - (ix) Minor projects are exempt as defined in BMC 20.16.XXX and RCW 90.58.
- (2) Single Family Vegetation Management Plan: Expansion or alteration of existing single family residents within the shoreline jurisdiction shall provide a vegetation management plan outlining the native vegetation community to be planted within the critical area buffer. The native vegetation shall include the following:

- (i) The plan shall preserve, enhance or establish native vegetation within the entire specified Critical Area buffer. Vegetation management plans shall describe actions that shall be implemented to ensure that buffer areas provide ecological functions equivalent to a dense native vegetation community to the maximum extent feasible.
  - (ii) The Plan must provide for planting of shrubs (1 gallon in size) not less than ten (10) per one hundred (100) square feet, and a sufficient density of ground cover to provide effective coverage for erosion control purposes throughout the buffer. The Director may allow for a portion of the shrubs to be placed in natural groups to allow for a shoreline access trail.
  - (iii) The Plan shall specify the predevelopment quantity, species type, distribution, approximate height of native vegetation, tree diameter at breast height (4 feet), successional stage of overall vegetative cover, potential native vegetation types, soil type / characteristics, and any existing hazard trees on the entire site. Said information shall be indicated and represented on a site plan drawn to scale and shall be reflected on an accompanying species and count matrix.
  - (iv) Identification of native vegetation to be removed and protected as a result of the proposal must be shown on the site plan, as well as any noxious vegetation onsite.
  - (v) Shrubs shall be of at least four different varieties.
  - (vi) Methodology for removal of any noxious vegetation and long term maintenance is required.
  - (vii) Required vegetation shall be maintained over the life of the use and/or development. In order to ensure such maintenance, a recorded Notice to Title shall be placed on the deed of the property identifying the buffer area and required plantings so that a record of the plan is available to all future property owners. The Notice to Title shall be recorded prior to issuance of the permit.
  - (viii) Minor projects are exempt as defined in BMC 20.16.XXX or RCW 90.58.
- (3) Removal of or alteration of native vegetation within the shoreline jurisdiction is strictly prohibited unless such activity is required for a permitted use or is determined to be hazardous by a qualified professional. Removal of trees greater than 6 inches in diameter at four (4) feet in height shall be replaced at a ratio of 3:1 with native species and shall be re-established within any required buffer on the project site.
- (4) In the absence of a development proposal requiring a permit, existing landscaping and gardens within the buffer may be maintained in their existing condition including but not limited to, mowing lawns, weeding, removal of noxious and invasive species, harvesting and replanting of garden crops, pruning and replacement planting of ornamental vegetation or indigenous native species to maintain the condition and appearance of such areas as they existed prior to adoption of this code.

#### **20.16.630 MITIGATION SEQUENCING FOR NO NET LOSS OF ECOLOGICAL FUNCTIONS:**

- (a) Policy:

(1) For all developments, applicants must demonstrate that all efforts have been examined with the intent to avoid and minimize impacts to shoreline ecological functions.

(b) Regulations:

- (1) Shoreline use, development, and re-development shall be carried out in a manner that prevents or mitigates adverse impacts to ensure no net loss of ecological functions and processes in all developments and uses. Permitted uses shall be designed and conducted to minimize, in so far as practical, any resultant damage to the ecology and environment. Shoreline ecological functions that shall be protected include, but are not limited to, fish and wildlife habitat, food chain support, and water temperature maintenance. Shoreline processes that shall be protected include, but are not limited to, water flow; erosion and accretion; infiltration; ground water recharge and discharge; sediment delivery, transport, and storage; large woody debris recruitment; organic matter input; nutrient and pathogen removal; and stream channel formation/maintenance.
- (2) An application for any permit or approval shall demonstrate all reasonable efforts have been taken to provide sufficient mitigation such that the activity does not result in net loss of ecological functions. Mitigation shall occur in the following prioritized order:
  - (i) Avoiding the adverse impact altogether by not taking a certain action or parts of an action, or moving the action outside the shoreline area.
  - (ii) Minimizing adverse impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology and engineering, or by taking affirmative steps to avoid or reduce adverse impacts.
  - (iii) Rectifying the adverse impact by repairing, rehabilitating, or restoring the affected environment.
  - (iv) Reducing or eliminating the adverse impact over time by preservation and maintenance operations during the life of the action.
  - (v) Compensating for the adverse impact by following the mitigation sequence outlined herein.
  - (vi) Monitoring the adverse impact and taking appropriate corrective measures.
- (3) Applicants for permits have the burden of proving that the proposed development is consistent with the criteria set forth in the Shoreline Master Program and the Act, including demonstrating all reasonable efforts have been taken to provide sufficient mitigation such that the activity does not result in net loss of ecological functions.

**20.16.640 PUBLIC ACCESS:**

Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

(a) Policies:

- (1) Public access, in its variety of forms, should be promoted whenever feasible provided the result is no net loss of the shoreline's ecological function.
  - (2) Public access should be provided to the shoreline as a primary use or as development occurs while protecting private property rights and public safety.
  - (3) Public access should not compromise the rights of navigation and space necessary for water-dependent and water-related uses.
  - (4) To the greatest extent feasible and consistent with the overall best interest of the state and the people generally, the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state should be protected.
  - (5) Property owners should implement a variety of techniques including acquisition, leases, easements and design and development innovations to achieve public access goals and to provide diverse public access opportunities
- (b) Requirements:
- (1) Public Access shall be incorporated into a development for all of the following:
    - (i) New development that will generate a demand for one or more forms of public access.
    - (ii) Water-dependent uses and developments that:
      - (a) Increase public use of the shorelines and public aquatic lands, or
      - (b) Impair existing legal access opportunities, or
      - (c) Utilize public harbor or aquatic lands, or
      - (d) Are developed with public funding or other public resources.
    - (iii) Non-single family development or use, or more than four (4) single-family residential lots or single-family dwelling units, including subdivision, within a proposal or a contiguously owned parcel.
    - (iv) Any development located on public aquatic lands, except as related to single-family residential use of the shoreline.
    - (v) Publicly financed or subsidized flood control and shoreline stabilization facilities or measures.
  - (2) Location and Design Criteria: Public access shall incorporate the following location and design criteria:
    - (i) Proximity to water's edge: Design of public access shall provide the general public with opportunity to reach, touch, view, and enjoy the water's edge and shall be as close horizontally and vertically to the shoreline's edge as feasible, provided that public access does not adversely affect sensitive ecological features or lead to an unmitigated reduction in ecological functions.
    - (ii) Public access inside the buffer: Public access may be located inside the buffer provided the applicant demonstrates compliance with the mitigation sequencing requirements established above in BMC 20.16.630. Walkways shall be buffered from sensitive ecological features, may be set back from the water's edge, and may provide limited and controlled access to sensitive features and the water's edge where appropriate. Fencing of no taller than four (4) feet in height may be provided to control damage to

plants and other sensitive ecological features where appropriate. Trails shall be constructed of permeable materials and limited to 4 to 6 feet in width to reduce impacts to ecologically sensitive resources.

- (iii) Public access locations outside of buffers shall include:
  - (a) Not less than ten (10) percent of the developed area within the shoreline jurisdiction or three thousand (3,000) square feet, whichever is greater. Water dependent uses are exempt from this requirement; and
  - (b) Public access shall extend along the entire water frontage, unless such access will interfere with the functions of water-dependent uses. The minimum width of public access facilities shall be ten (10) feet and shall be constructed of materials consistent with the design of the development.
- (iv) The entire public access area shall be:
  - (a) Landscaped, preserving and enhancing native vegetation where feasible, and maintained by the property owner; and
  - (b) Connected to a nearby public street, an adjacent existing public walkway, or a future walkway.
  - (c) Compliant with the requirements of the American's with Disabilities Act and other applicable standards for barrier free for the physically disabled, where feasible.
  - (d) Generally the dedicated area shall be open to public access 24 hours a day unless specific exceptions are granted. If an exception is granted, access hours shall not be restricted from 10:00 a.m. to dusk (one-half hour after sunset) each day. Changes in access hours shall be processed as a Shoreline Conditional Use Permit and must meet the criteria of BMC 20.16.640(c).
  - (e) A submittal shall include specific design features of the walkway, landscaping, signs and other features as applicable.
- (3) Access Requirements for Overwater Structures: Public access is required on over-water structures that are located on public aquatic lands. Access shall include common use of walkway areas and shall comply with all applicable requirements within this section.
- (4) Modification of Public Access: Public access requirements may be modified through a Conditional Use Permit only when one or more of the following criteria are met:
  - (i) Unavoidable health or safety hazards to the public will occur which cannot be prevented by any practical means;
  - (ii) Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other reasonable solutions;
  - (iii) Unacceptable environmental harm will result from the public access that cannot be mitigated;
  - (iv) Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated;
  - (v) The cost of providing the access, or mitigating the impacts of the access, is unreasonably disproportionate to the total long-term development and operational cost over the lifespan of the proposed development;

- (vi) Significant unavoidable environmental impacts will result from the public access.
  - (vii) Should any one of the above mentioned criteria impede the ability to provide public access the applicant must demonstrate that all reasonable alternatives have been pursued, including but not limited to:
    - (a) Providing “limited public access” to protect specific identified features or limiting hours of use;
    - (b) Designing separation of uses and activities (e.g. terracing, use of one-way glazing, hedges, landscaping, etc.) to provide security for and protect adjacent sites from unreasonable intrusions into their privacy; and;
    - (c) Providing for specific facilities for public visual access, including viewing platforms that may be physically separated from the water’s edge. Viewing platforms shall only be utilized if access adjacent to the water is not possible.
- (5) Public Access Easements: Access easements are required for all developments requiring a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance.
- (i) Size and Design: Public access easements along shorelines are to be waterward of the Ordinary High Water Mark (OHWM) to allow for improved lateral beach access and shall be a minimum of thirty (30) feet in width.
  - (ii) Public access easements should connect to the nearest right-of-way through an easement of no less than ten (10) feet.
  - (iii) Minimum Width Exception: When the applicant demonstrates that undue hardship would result from minimum width standards, easement width may be reduced only to the minimum extent necessary to relieve the hardship.
  - (iv) Recording: Public access easements and permit conditions shall be recorded on the deed of title. Said recording with the Kitsap County Auditor's Office shall occur prior to permit approval.
  - (v) Signs: The sign(s) that indicate the public's right of access and hours of access shall be constructed, installed and maintained by the property owner in conspicuous locations at public access sites and at the nearest connection to an off-site public right of way. These sign(s) shall identify the public right of access and hours of access.
  - (vi) Occupancy: Required public access sites shall be fully developed and available for public use prior to occupancy of the use or activity.
  - (vii) No diminution: Future actions by the applicant or other parties shall not diminish the usefulness or value of the public access provided.
- (6) View Corridor Requirements: View corridors shall apply to proposals within the shoreline environment for multi-family and commercial development between Evergreen Park and the Puget Sound Naval Shipyard and shall include the following:

- (i) View Corridors are only applicable on sites with over 100 feet in width as measured parallel to the shoreline.
- (ii) The View Corridor shall be no less than 20% of the building site width for buildings equal to or less than 40 feet in height.
- (iii) The View Corridor shall be no less than 30% of the building site width for building greater than 40 feet in height.
- (iv) View Corridors may contain structures no higher than 10 feet and may include parking areas and landscaping, if topography permits.
- (v) The view corridor must be in one continuous piece.

#### **20.16.650 WATER QUALITY, STORMWATER, AND NON-POINT POLLUTION:**

##### (a) Policies:

- (1) Prevent impacts to water quality and stormwater quantity that would result in a net loss of shoreline ecological functions, or a significant impact to aesthetic qualities, or recreational opportunities.
- (2) Ensure mutual consistency between shoreline management provisions and other regulations that address water quality and stormwater quantity, including public health, stormwater, and water discharge standards.
- (3) **Need a statement about non-point pollution.**

##### (b) Regulations:

- (1) Development within the City's shoreline shall conform to all requirements of the most current version of the Bremerton Stormwater Management Plan and the most current Stormwater Management Manual for Western Washington.
- (2) The construction of new outfalls into water bodies and improvements to existing facilities shall comply with all appropriate Federal, State, and City regulations for water quality.
- (3) Use of pesticides in or near shoreline jurisdiction shall conform to the following:
  - (i) Pesticides applied using aerial spraying techniques within the shoreline jurisdiction, including over water bodies or wetlands, shall be prohibited unless specifically permitted under the Washington Departments of Agriculture or Ecology.

#### **20.16.660 ARCHAEOLOGICALLY SENSITIVE AREAS:**

##### (a) Policies:

- (1) The destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Indian tribes, and the Office of Archaeology and Historic Preservation, should be prevented.

- (2) Land owners should provide access to qualified professionals and the general public if appropriate for the purpose of public education related to a cultural resource identified on a property.

(b) Regulations:

- (1) The City will work with tribal, state, federal, and other local governments as appropriate to identify significant local historical, cultural, and archaeological sites in observance of applicable state and federal laws protecting such information from general public disclosure. Detailed cultural assessments may be required in areas with undocumented resources based on the probability of the presence of cultural resources.
- (2) Owners of property containing identified historical, cultural, or archaeological sites should coordinate well in advance of application for development to assure that appropriate agencies such as the Washington State Department of Archaeology and Historic Preservation, the Suquamish Tribe, and historic preservation groups have ample time to assess the site and identify the potential for cultural resources.
- (3) Upon receipt of an application for a development in an area of known cultural resources, the City shall require a site assessment by a qualified professional archaeologist or historic preservation professional and ensure review by qualified parties including the Washington State Department of Archaeology and Historic Preservation, and the Suquamish Tribe.
- (4) If historical, cultural, or archaeological sites or artifacts are discovered in the process of development, work on that portion of the site shall be stopped immediately, the site secured, and the find reported as soon as possible to the City. Upon notification of such find, the property owner shall notify the Washington State Department of Archaeology and Historic Preservation and Suquamish Tribe. The reviewing official shall provide for a site investigation by a qualified professional and may provide for avoidance, or conservation of the resources, in coordination with appropriate agencies.

**20.16.670 LIGHTING:**

Lighting within shorelines and lands adjacent to shorelines if not properly managed can have an adverse impact on the ecological function, most notably the migration patterns of salmonids and terrestrial species.

(a) Policies:

- (1) Lighting should be minimized within shorelines, especially within close proximity to the water.
- (2) Development should implement site lighting techniques that minimize the amount of spill-over into riparian and aquatic environments. These techniques should include but are not limited to reduction of pole heights, pole locations, and fixture designs including shading / shielding devices, bulb types and reduced wattages.

## (b) Regulations:

- (1) Development proposals requiring a permit within shorelines shall include a lighting plan that provides and or meets the following standards:
  - (i) The location of all outdoor lighting and building security lighting and associated wattages;
  - (ii) Pole heights that shall not exceed 20 feet in height;
  - (iii) Fixture designs for all outdoor lighting shall shield the source or bulb of the light; and
  - (iv) A Photometric plan is required and shall not exceed a strength of 1 foot-candle at the property lines or OHWM.
- (2) Where lighting is required for new streets, driveways or public access features, the lowest level lighting possible shall be used.
- (3) The lighting plan is required with the permit application and shall be reviewed as a component of the shoreline permit.

**20.16.680 PARKING:**

Parking includes private on-site, public lots/structures and loading areas. Parking within shorelines is a low priority. Converting land within shorelines for the sole use of vehicles is not an efficient land use.

## (a) Policies:

- (1) Parking as a primary use (stand-alone use) within the shoreline jurisdiction should be prohibited.
- (2) Parking should not be allowed between development and the adjacent water body.
- (3) Where surface parking is developed within the shoreline jurisdiction, Low Impact Development techniques should be implemented.
- (4) Lighting for parking areas should be minimized.

## (b) Regulations:

- (1) Parking as a primary or stand-alone use shall not be permitted within the shorelines jurisdiction of a property.
- (2) Parking shall not be located between shorelines and development unless no other location is feasible and it can be demonstrated that it will have no negative impact on ecological functions.
- (3) Parking facilities shall minimize the amount of impervious surface within the shoreline jurisdiction and should not disrupt planned public access or habitat restoration objectives.
- (4) Required parking for a permitted use on shorelines shall not be permitted between the development and the adjacent shoreline with the exception of parking that is required for water-dependent uses. Loading and unloading zones that are an inherent element of a water-dependent or a water-related use are allowed between the shoreline and the use

area when it is adjacent to the shoreline but, when feasible, should not be adjacent to a required buffer.

- (5) Parking ratios for all uses within the shoreline should follow BMC 20.48 parking standards. The applicant may provide a parking analysis that demonstrates the parking need for the use. This analysis shall include examples of other existing similar uses and how the parking demand has been met in those locations and/or in other jurisdiction.
- (6) When surface parking areas for permitted uses are designed and constructed, they shall achieve the following objectives:
  - (i) A safe and signed pedestrian entry point to an established or proposed shoreline trail / walkway or viewing area for physical and visual access to the shoreline;
  - (ii) Landscape screening around the perimeter and within the parking area to soften edges and break up large parking areas;
  - (iii) Implementation of Low Impact Development techniques for stormwater management; and
  - (iv) Located as far from a required shoreline or critical area buffer as possible.

#### **20.16.690 USE MATRIX AND HEIGHT TABLE:**

- (a) Use Matrix: The table determines which shoreline modifications and shoreline uses are allowed or prohibited in each Shoreline Designation.
  - (1) Except for the land uses prohibited in this table, land uses allowed in the underlying zoning are allowed in the Master Program, subject to the preference for water-oriented uses and subject to specific criteria for uses included in these regulations. If a use is prohibited in the underlying zoning district, it is also prohibited along the shoreline.
  - (2) Aquatic Uses are determined by the adjacent Designation and are limited to water-dependent uses and public access.
  - (3) Land uses in the underlying zoning that require a Conditional Use Permit, require a Shoreline Conditional Use Permit.
  - (4) Land uses are defined in BMC 20.42 the definitions section of the zoning code. Shoreline activities are defined in the definitions section of this code.
  - (5) A use located within the "Isolated" area must comply with the regulations of the underlying zone.

<b>KEY:</b> X= Prohibited P= Permitted CU= Conditional Use	<b>Urban Conservancy</b>	<b>Single Family Residential</b>	<b>Multi-Family Residential</b>	<b>Recreation</b>	<b>Commercial</b>	<b>Downtown Waterfront</b>	<b>Industrial</b>
Accessory Dwelling Units	CU	CU	CU	X	CU	CU	X
Adult Entertainment	X	X	X	X	X	X	X
Aquaculture	CU	X	X	CU	CU	CU	CU
Automobile Sales, Service, Repair and Car Wash	X	X	X	X	X	X	X
Bed and Breakfast	CU	CU	CU	X	CU	X	X
Boat Sales, Storage and Repair	X	X	X	CU	CU	CU	P
Boat Launches	CU	CU	CU	CU	CU	CU	CU
Community, Cultural, Educational Facilities and Services	CU	CU	CU	CU	CU	CU	CU
Day Care, Group and Family Homes	CU	CU	CU	X	CU	CU	X
Entertainment Use	X	X	X	X	P	P	X
Essential Public Facilities	CU	CU	CU	CU	CU	CU	CU
Flood Management, Levees, Shoreline Protection, Drainage, Storage and Pumping Facilities	CU	CU	CU	CU	CU	CU	CU
Golf Courses	X	CU	CU	X	X	X	X
Hotels and Lodging	X	X	X	X	P	P	X
Medical, Office and Clinic	X	X	X	X	P	P	CU
Mining	X	X	X	X	X	X	X
Marinas	CU	CU	CU	CU	CU	CU	CU
Office	X	X	X	X	P	P	CU
Parking Serving Primary Use Within the Shoreline Jurisdiction	P	P	P	P	P	P	P
Parking Not Serving Primary Use Within the Shoreline Jurisdiction	X	X	X	X	CU	CU	CU
Parks	CU	CU	CU	CU	CU	CU	CU
Personal Services	X	X	CU	X	CU	CU	X
Residential, Single Family	P	P	P	X	X	P	X
Residential, Multi-Family	X	X	P	X	P	P	X
Residential as a secondary use	X	X	X	X	P	P	X
Restaurants and Drinking Places	X	X	X	X	P	P	P
Retail	X	X	X	X	P	P	P

<b>KEY:</b> X= Prohibited P= Permitted CU= Conditional Use	<b>Urban Conservancy</b>	<b>Single Family Residential</b>	<b>Multi-Family Residential</b>	<b>Recreation</b>	<b>Commercial</b>	<b>Downtown Waterfront</b>	<b>Industrial</b>
Shoreline Ecological Restoration and Enhancement	P	P	P	P	P	P	P
Trails, public pedestrian and bicycle not including overwater trails	P	P	P	P	P	P	P
Utilities that serve uses within the shoreline	P	P	P	P	P	P	P
Worship and religious facilities	X	CU	CU	CU	CU	CU	X
<b>USES NOT SPECIFIED</b>	CU	CU	CU	CU	CU	CU	CU

#### Figure 20.16.690 (b) Height Restrictions:

This table establishes the allowable height in each designation based on the type of use. All other applicable City standards still apply. In the event the provisions of this Program conflict with provisions of other regulations, the more restrictive shall prevail. Height measurement is defined in BMC 20.16.900

ENVIRONMENT DESIGNATION	HEIGHT
Commercial	35 feet
Downtown Waterfront	175 feet
Industrial	35 feet
Multi Family Residential	40 feet
Over-Water Structures (All Designations)	15 feet
Recreation	35 feet
Single Family Residential	25 feet <sup>1</sup>
Urban Conservancy	25 feet

<sup>1</sup> Heights may be increased to 35' through a Shoreline Substantial Development Permit. The applicant must provide documentation that upland views will not be impaired and shall be required to provide a public access easement per the requirements in BMC 20.16.640(b)(5).

## **20.16.700 SHORELINE USE REGULATIONS**

- 20.16.701 – Intent
- 20.16.710 – Aquaculture
- 20.16.720 – Commercial Development
- 20.16.730 – Forest Practices
- 20.16.740 – Industrial Development
- 20.16.750 – Marinas and Boating Facilities
- 20.16.760 – Recreational Development
- 20.16.770 – Residential Development
- 20.16.780 – Roads, Railways, and Utilities

### **20.16.701 INTENT:**

The policies and regulations within this chapter shall apply to the specific common uses and types of development to the extent they occur within the shoreline jurisdiction. These policies and regulations are intended to achieve no net loss of shoreline ecological function. Each use or development type includes a brief explanation and examples of the subject use, policies which are intended to guide and interpret the accompanying regulations, and then the regulations themselves.

### **20.16.710 AQUACULTURE**

(1) Aquaculture is the commercial farming or culturing of food fish, shellfish or other aquatic plants and animals in marine waters, estuaries, inlets, lakes, streams and other natural or artificial water bodies. Aquaculture is a preferred water-dependent use. It should be encouraged to locate where it is not in conflict with other preferred water-dependent uses and where it includes specific conditions to protect ecological function. Harvest of wild stock free swimming fish, shellfish artificially planted or maintained by a fishery, and/or harvest of wild stock geoducks on state owned aquatic lands is not considered aquaculture and does not require a shoreline substantial development permit.

#### **(a) Policies:**

- (1) Aquaculture should not be located in areas where it would be detrimental to the ecological functions and processes of the aquatic system.
- (2) Aquaculture should only be utilized for shellfish, algal and plant species.
- (3) Aquaculture should not preclude the appropriate use of adjacent uplands.
- (4) Aquaculture should not interfere with established navigation channels and other water-dependent uses.

#### **(b) Regulations:**

- (1) Aquaculture shall not be located in areas where it would be detrimental to shoreline ecological functions and processes of the aquatic system,

- especially in near-shore areas where water quality, aquatic vegetation and co-occupying species habitats and migration corridors could be impacted.
- (2) Aquaculture shall meet all applicable State and Federal requirements including, but not limited to: Federal Clean Water Act, Section 401, and the Washington State Water Pollution Control Act (RCW 90.48) local health codes and the applicable requirements of the Washington State Department of Fish and Wildlife for said facilities.
  - (3) Aquaculture shall not preclude the appropriate use of adjacent shorelines or be detrimental to visual access of the water body.
  - (4) Aquaculture activities within the City shall not unduly interfere with the navigability of the water body for industrial, commercial or personal watercraft.
  - (5) The proponent shall demonstrate that the proposed location is suitable for aquaculture with little or no modification to the shoreline environment. Aquaculture shall not displace native plant or animal communities important to the food chain, particularly surf smelt spawning, beaches or areas important to the rearing of threatened or endangered species.
  - (6) Aquaculture sites shall be separated from other aquaculture sites to prevent cumulative impacts upon shoreline processes. Appropriate separation shall be determined by the City in consultation with State and federal agencies, and tribal interests, based upon attributes such as water body characteristics, drift cell patterns, and upland development patterns.
  - (7) Harvest activities shall be conducted in a manner that minimizes turbidity and the risk of impacts to aquatic vegetation and the intertidal bed by utilizing the following methods:
    - (i) Where water pumps are used, they must be placed on floating rafts and shall only be temporarily anchored to ensure water depths that avoid grounding.
    - (ii) Pump intakes shall be screened to minimize the capture of marine organisms.
    - (iii) Harvest activities within fine-grained beaches that are susceptible to sediment transport may be required to utilize sediment containment methods, such as fencing or cloth tubes.
  - (8) The installation of submerged or intertidal structures, or over-water structures shall be allowed only when the applicant demonstrates that no alternative method of operation is feasible and must comply with the view protection requirements below in BMC 20.16.701(b)(11).
  - (9) Navigational access must be guaranteed for floating or submerged aquaculture structures. The applicant must provide evidence that the proposal will not interfere with general navigation lanes and traffic and that all structures remain shoreward of principal navigation channels.

- (10) View Protection: Aquaculture structures and equipment, EXCEPT navigation aids, shall be designed, operated, and maintained to blend into their surroundings through the use of appropriate colors and materials.
  - (i) Over-water aquaculture structures shall be constructed of materials that blend in with the shoreline environment.
  - (ii) Storage of necessary tools and apparatus seaward of the OHWM shall be limited to containers of not more than three (3) feet in height, as measured from the surface of the raft or dock; EXCEPT: as permitted through a variance.
  - (iii) Materials which are not necessary for the immediate and regular operation of the facility shall not be stored seaward of the OHWM.
  - (iv) The applicant shall submit a visual impact analysis assessing the aesthetic, light, and glare impacts on adjacent uses and may condition a project to mitigate impacts or may deny a project if adverse impacts cannot be feasibly mitigated.
- (11) Aquaculture development shall control nuisance factors, such as noise and odor and shall comply with all applicable regulations. No garbage, wastes or debris shall be allowed to accumulate at the site of any aquaculture operation.
- (12) Structures or activities associated with aquaculture that are not water-dependent, such as an office, shall be located upland, away from the shoreline and shall comply with all buffers and setback requirements.
- (13) Equipment, structures, and material shall not be abandoned in the shoreline or wetland area. The City may require that a bond be posted to help to ensure that this regulation is implemented.
- (14) A complete baseline description of existing conditions including characteristics of the water, substrate, vegetation and aquatic species shall be provided by the applicant with the application. This analysis shall include a monitoring plan establishing how the proposal will not negatively impact existing ecological functions.
- (15) Public Access: All aquaculture proposals shall comply with the public access requirements found in BMC 20.16.640.
- (16) The applicant shall coordinate with the Suquamish Tribe regarding treaty rights to ensure the proposal does not negatively impact the tribes Usual and Accustomed areas.

#### **20.16.720 COMMERCIAL DEVELOPMENT**

Commercial development on the shorelines should be designed to bring large numbers of citizens to the shoreline.

##### **(a) Policies**

- (1) Commercial development should be designed and constructed in such a manner as to result in no net loss of ecological function including implementation of Low Impact Development techniques to the maximum extent feasible.
- (2) Public access should be provided in all locations except where it is demonstrated to conflict with the intended use for reasons of safety, security or if it adversely impact the ecological function of the shoreline.
- (3) Non-water-oriented commercial uses within the shoreline jurisdiction should be allowed to locate and operate within existing structures.

(b) Regulations

- (1) Priority of uses shall be in the following order: Water-dependent uses, water-related uses, water-enjoyment uses, and non-water related uses.
- (2) Water-dependent commercial development shall not interfere with or compromise the operation of existing adjacent water-oriented development or decrease opportunities for the general public to access adjacent shorelines.
- (3) Water-related uses shall not be approved if they displace existing water-dependent uses and must comply with the following:
  - (i) All water-related uses shall be reviewed to ensure that the use has a functional requirement for a waterfront location, or the use provides a necessary service supportive of the water-dependent uses, and/or the proximity of the use to its customers makes its services less expensive and/or more convenient.
  - (ii) Mixed use development within 100 feet of the OHWM that incorporates water-dependent use may not include non-water-oriented uses at the ground level within 100 feet of the OHWM.
  - (iii) Allowed water-related commercial uses shall be evaluated in terms of whether the use facilitates a community wide interest, including increasing public access and public recreational opportunities in the shoreline.
- (4) Water-enjoyment uses may not be approved if they displace existing water-dependent or water-related use. The applicant must demonstrate that the use will confirm that the public's ability to enjoy the physical and aesthetic qualities of the shoreline is a primary characteristic of the proposal and must include the following:
  - (i) The water-enjoyment use must be open to the general public.
  - (ii) The shoreline-oriented space within the project must be devoted to specifically foster shoreline enjoyment for a substantial number of people.
  - (iii) Development within 100 feet of the OHWM that incorporates water-enjoyment use may not include non-water-oriented uses on the ground floor within 100' of the OHWM.

(5) Non-water-oriented uses can be located in the shoreline jurisdiction when:

- (i) The site is physically separated from the shoreline by another private property, or a public right-of-way such that access for water-oriented use is precluded. Such conditions must be lawfully established prior to the effective date of this Program.
- (ii) A site where navigability is severely limited.
- (iii) The developable portion of the site is physically separated from the shoreline in such a way access is infeasible, or the use provides significant public benefit with respect to the objectives of the Act by:
  - (a) Restoring the ecological functions both in aquatic and upland environments that provide native vegetation buffers as specified in section 20.16.610 and in accordance with the Restoration Element of this plan.
  - (b) The balance of the water frontage not devoted to ecological restoration and associated buffers shall be provided as public access where feasible.

(6) All development shall provide opportunities for the public to access the shoreline adjacent to the subject use. Where public access has already been provided as part of a prior project or action, the said use shall be designed and constructed to be oriented towards the shoreline. ('Oriented towards the shoreline' means that the active space for customers and passersby is facing or directed towards the shoreline. Active space does not include service entries or load / unload areas.) Where physical access is unfeasible, visual access is required.

(7) Parking shall be upland of the associated use whenever possible, and located, designed and screened so as to have minimum visual impact.

(8) When parking or circulation elements must be located adjacent to the shoreline, they shall be designed to enable pedestrians access to and along the shoreline.

(9) All development shall implement a range of Low Impact Development techniques as feasible to minimize the impacts on riparian, near-shore and upland areas.

#### **20.16.730 FOREST PRACTICES:**

Forest practices within the City along shorelines would occur as a conversion of forested areas to a certain level of urban development (Class IV – General per the Forest Practices Act, RCW 76.09).

(a) Policy:

(1) Forested areas within shorelines should be preserved and protected where feasible.

## (b) Regulations:

- (1) Conversion of forested areas to urban development shall implement the mitigation sequencing as specified in BMC 20.16.640 of this Title.
- (2) Forest practices for the sole purpose of timber harvesting shall not be allowed in the shoreline jurisdiction.
- (3) Any forest practice activity on shorelines of statewide significance shall comply with RCW 90.58.150.

**20.16.740 INDUSTRIAL DEVELOPMENT:**

Water-dependent industrial uses are preferred and encouraged within shoreline areas.

## (a) Policies

- (1) Where necessary depth for industrial uses is adjacent, water-dependent industrial development should be given priority over water-related industrial uses provided, however, that in both instances, they do not conflict with planned or existing public access and habitat restoration.
- (2) Redevelopment of water-dependent industrial facilities and areas should be encouraged, provided it will not create a net loss of shoreline ecological function and processes.
- (3) New water-dependent industrial development should incorporate physical and/or visual public access to the water except when such access causes significant interference with operations or hazards to life or property.
- (4) On upland industrial sites, environmental cleanup and/or remediation should be implemented to serve a variety of future land uses.
- (5) Water-dependent and water-related industrial redevelopment is encouraged.
- (6) Priorities of uses are to be in the following order: Water-dependent uses, water-related uses, and water-enjoyment uses.

## B. Regulations

- (1) Water-dependent and water-related industrial development shall not degrade the ecological function of the shorelines or disrupt existing or proposed public access amenities.
- (2) Water-dependent development shall not interfere with or compromise the operation of existing adjacent water-oriented development or decrease opportunities for the general public to access adjacent shorelines.
- (3) Industrial uses proposed over the water shall be limited to water-dependent uses, limited to the smallest feasible dimensions and shall require a Conditional Use Permit.
- (4) Non-water-oriented uses may be located in the shoreline jurisdiction when:
  - (1) The site is physically separated from the shoreline by another private property, or a public right-of-way such that access for water-oriented

use is precluded. Such conditions must be lawfully established prior to the effective date of this Program.

- (2) A site where navigability is severely limited.
- (3) The developable portion of the site is physically separated from the shoreline in such a way access is infeasible, or the use provides significant public benefit with respect to the objectives of the Act by:
  - a. Restoring the ecological functions both in aquatic and upland environments that provide native vegetation buffers as specified in section 20.16.610 and in accordance with the Restoration Element of this plan.
  - b. The balance of the water frontage not devoted to ecological restoration and associated buffers shall be provided as public access where feasible.
- (5) Water-dependent and water-related industrial uses shall provide public access to the shoreline per the standards in BMC 20.16.660 provided said access does not compromise the integrity or operation of the use, does not threaten the safety and welfare of the general public, does not interfere with an existing adjacent use and does not compromise existing ecological functions.
- (6) Any type of industrial development on shorelines shall implement a range of Low Impact Development techniques to minimize the impacts on riparian and near-shore environments and upland areas.
- (7) Areas between industrial development and adjacent land uses and public access areas shall be located and landscaped so as to provide a transitional area as required for visual landscaped screening in BMC 20.50.050
- (8) Ports with water-dependent and/or water-related uses shall also comply with the sections in this Master Program including, but not limited to: Transportation Facilities; Utilities; Water Access and Moorage Facilities.
- (9) Only water-dependent features shall be located on the shoreline within the buffer. All other features associated to an industrial use including, but not limited to, waste treatment facilities, utilities, and transportation facilities not associated with water dependent elements of industrial shall be located as far away from the water's edge and recreational beaches as practical and must meet setbacks and buffers..
- (10) Outdoor storage is prohibited within shoreline jurisdiction, except by approval of a Shoreline Conditional Use permit. The applicant must demonstrate that the exterior storage is essential to the use and will not significantly impact shoreline views.
- (11) All proposed uses shall demonstrate that no spill or discharge to surface waters will result. The application must include a specific program to contain and clean up spills or discharges of pollutants associated with the activity.

- (12) Offshore log storage shall only be allowed to serve a processing use and shall be located where:
- (i) Water depth is sufficient without dredging; and
  - (ii) Where water circulation is adequate to disperse polluting wastes; and
  - (iii) Where log storage will not provide habitat for salmonid predators.

**20.16.750 MARINAS AND BOATING FACILITIES:**

Marinas and boating facilities are water-dependent uses which are a preferred use on shorelines. Bremerton has a variety of such facilities that are both privately owned commercial and industrial facilities and those that are available to the general public. Boating facilities can include uses such as marinas, shipping and ferry terminals, transient mooring facilities, boat-ramps, upland dry-stack storage, boat construction, and boat maintenance facilities.

(a) Policies:

- (1) New or expanded boating facilities should include restoration of ecological functions within the riparian and near-shore environment, especially for migrating salmonids and other aquatic species.
- (2) New or expanded boating facilities should be designed, constructed and managed such that there is no net loss of shoreline ecological function.
- (3) New or expanded boating facilities should provide the maximum amount of public access in a variety of forms. (Trail, view overlooks, transient and hand-carry craft moorage.)
- (4) New boating facilities should be located in areas where other water-oriented uses presently exist or could be established within close proximity.
- (5) New or expanded boating facilities should minimize the amount of associated parking and impervious surface within the shoreline jurisdiction.
- (6) New boating facilities should not include covered moorage and boathouses.
- (7) New boating facilities that require dredging for proper depth and/or removal of contaminated sediments should be consistent with all federal and state requirements for management of contaminated sediments and
- (8) Existing boating facilities, when retrofitted or as upgrades are necessary, should improve the existing ecological function by minimizing impacts to water quality, restoring hydrologic function and maintaining the viability of aquatic organisms.

(b) Regulations:

- (1) Boating facilities shall be designed to provide opportunities for aquatic ecological functions to establish and succeed. In order to do so, boating facilities shall be designed and located in areas that are previously disturbed or where impacts to existing ecological function can be avoided or minimized.

- (2) Boating facilities should be managed consistent with the Department of Ecology document titled "Resource Manual for Pollution Prevention in Marinas," May 1998, Publication #9811.
- (3) Dry upland boat storage is preferred rather than over-water facilities in order to protect shoreline ecological functions, efficiently use shoreline space, and minimize consumption of public water surface areas unless:
  - (i) No suitable upland locations exist for such facilities; or
  - (ii) It is demonstrated that wet moorage would result in fewer impacts to ecological functions; or
  - (iii) It is demonstrated that wet moorage would enhance public use of the shoreline.
- (4) New or expanded marinas shall be permitted only when the applicant has demonstrated that a specific need exists and there is not adequate supply in current facilities, permitted facilities, or facilities planned by public agencies, including Port Districts. Consideration of facilities shall include boat launching facilities and upland boat storage for smaller boats.
- (5) Marinas shall be permitted only on sites where it is demonstrated that:
  - (i) That they will not result in a net loss of ecological functions and specifically will not interfere with natural geomorphic processes including delta formation, water quality; water circulation and flushing or adversely affect native and anadromous fish.
  - (ii) Shoreline armoring is not required.
  - (iii) Future dredging is not required to accommodate navigability.
  - (iv) Shallow water embayments with poor flushing action or areas with extensive tidelands should not be considered.
- (6) Breakwaters constructed for protection of boating facilities shall be designed to allow public access along the top, where feasible. Open pile or floating breakwater designs shall be used unless the proponent demonstrates that there are specific safety considerations that warrant alternative approaches. A Conditional Use Permit shall be required for any boating facility that utilizes any construction other than open pile or floating piers.
- (7) Accessory uses at boating facilities shall be limited to those which are water-dependent, necessary for operation, or which provide physical or visual shoreline access to substantial numbers of the general public. Accessory uses shall be consistent in scale and intensity with surrounding boating uses.
- (8) New covered moorage is prohibited. Removal of existing covered moorage may be required as a condition of expansion or reconstruction of existing boating facilities.
- (9) Boating facilities shall be permitted only when it is demonstrated that:
  - (i) A specific need exists and there is not adequate supply in current facilities, permitted facilities, or facilities planned by public agencies, including Port Districts.

- (ii) That they will not result in a net loss of ecological functions and specifically will not interfere with natural geomorphic processes including erosion, transport, and deposition of materials, water quality and adverse impacts on aquatic species. Areas with extensive tidelands should not be considered
  - (iii) They are served by adequate access over a public road that will not adversely impact residential uses, shall provide adequate on-site parking, including trailer parking, to assure that parking spillover does not occur on adjacent streets and uses and shall be served by adequate utilities and public facilities, including restrooms.
  - (iv) Over water facilities such as docks shall be limited to the size and configuration needed to serve the boat launch function.
- (10) The following list must be adequately addressed with the permit application submittal for a boating facility:
- (i) Provide adequate onsite parking as outlined in BMC 20.48 and 20.16.680.
  - (ii) Provide adequate Utilities,
  - (iii) Address existing adjacent water-oriented uses, ensure new structures will not impact such uses.
  - (iv) Provide documentation showing that the use will not impair block or introduce a hazard to existing or potential public access along beaches.
  - (v) Ensure the use will not unreasonably impair shoreline views from upland residences and adjacent uses.
  - (vi) Include multiple uses such as dock fishing, boat lunching, and wet dry boat storage, and hand carry craft storage, as applicable for the boating facilities size and scope.
  - (vii) For marinas over forty (40) slips pump-out, holding, and waste treatment facilities and services shall be provided.
  - (viii) Provide public access as outlined in 20.16.640. A public access plan is required and must address both visual and physical access.
    - a. All marinas using public aquatic lands shall provide public access over at least twenty (20) percent of structures over aquatic lands, not including individual slips.
    - b. Public restroom facilities shall be provided on marinas with more than 40 slips.
  - (ix) Address operational procedures for fuel handling and storage in order to minimize accidental spillage and to provide satisfactory means for handling spills that may occur.

## **20.16.760 RECREATIONAL DEVELOPMENT**

Water-oriented recreational development can include but is not limited to parks, trails, open spaces, beaches, boat or other watercraft rentals, fishing piers, aquariums, view platforms and over-water boardwalks.

(a) Policies

- (1) Water-oriented recreational development is encouraged on shorelines provided it results in no net loss of ecological function and is a preferred use along shorelines of statewide significance.
- (2) Water-oriented recreational development on the shorelines should be consistent with the Comprehensive Plan and the City of Bremerton Park, Recreation and Open Space Plan in terms of satisfying future demand and design.
- (3) Water-oriented recreational development should take precedence over non-water-oriented recreational uses.
- (4) Wherever possible, shoreline recreational facilities should be linked to other adjacent recreational attractions by pedestrian and/or bicycle trails.
- (5) Recreational development, where applicable, should include interpretive displays describing cultural, historical and scientific information.
- (6) Non-water-oriented recreational development uses should not be located on shorelines.

(b) Regulations

- (1) Water-oriented recreation facilities shall be located and designed such that there is no net loss of shoreline ecological function.
- (2) Recreation activities are allowed when they do not displace water-dependent uses and are consistent with existing water-related and water-enjoyment uses. State-owned shorelines shall be recognized as particularly adapted to providing wilderness beaches, ecological study areas, and other recreational uses for the public in accordance with RCW 90.58.100(4).
- (3) Development of water-oriented recreation facilities shall comply with the mitigation sequencing specified in BMC 20.16.630.
- (4) Development of recreation facilities shall implement, where applicable, the elements within the City of Bremerton Park, Recreation and Open Space Plan.
- (5) Recreational development shall be oriented towards the shoreline and shall provide the maximum possible amount of public access to the shoreline as follows:
  - (i) Water-dependent recreation such as fishing, swimming, boating, and wading should be located on the shoreline.
  - (ii) Water-related recreation as picnicking, hiking, and walking should be located near the shoreline.
  - (iii) Non-water-related recreation facilities shall be located inland. Recreational facilities with large grass areas, such as golf courses

and playing fields, and facilities with extensive impervious surfaces shall observe Critical Area buffers and Vegetation Conservation standards providing for native vegetation buffer areas along the shoreline.

- (6) New over-water structures for recreation use shall be allowed only when:
- (i) They allow opportunities for substantial numbers of people to enjoy the shorelines of the state.
  - (ii) They are not located in or adjacent to areas of exceptional ecological sensitivity, especially aquatic and wildlife habitat areas.
  - (iii) They are integrated with other public access features, particularly when they provide limited opportunities to approach the water's edge in areas where public access is set back to protect sensitive ecological features at the water's edge.
  - (iv) No net loss of ecological functions will be achieved.
  - (v) The specific location and design is approved as a Shoreline Conditional Use.
- (7) Location and design of recreation facilities shall meet the following criteria:
- (i) The development shall provide parking and other necessary facilities to handle the designed public use.
  - (ii) Accessory facilities, such as restrooms, recreational halls and gymnasiums, commercial services, access roads and parking areas, shall be set back from the OHWM and shall meet Critical Area buffers unless it can be shown that such facilities are shoreline dependent. These areas may be linked to the shoreline by pedestrian walkways.
  - (iii) The development is located and designed to minimize detrimental impact on existing and planned use of nearby property.
  - (iv) The proposal will not create a net loss of ecological functions.
- (8) Street-end parks, where developed to serve community needs, shall be limited to walking on the beach, carry craft boat launching, waterfront viewing, swimming, or fishing, and shall be designed so as not to interfere with privacy of adjacent residential uses.
- (9) Private recreation uses and facilities that exclude the public from public aquatic lands are only permitted when the following additional criteria are met:
- (i) Reasonable public access shall be provided to the shoreline at no fee for sites providing recreational uses that are fee supported, including access along the water's edge where

appropriate. In the case of facilities on public aquatic lands, no-fee access will be provided to the public in common with any private use.

- (ii) The development is located and designed to have no substantial detrimental impact on existing and planned use of nearby property.
- (10) Motorized vehicular access including the use of all-terrain and off-road vehicles in the shoreline area is prohibited, EXCEPT for boat launching and maintenance activities and EXCEPT where specific areas for such use are set aside and controlled, and then only when it can be demonstrated that demand is sufficient to warrant such activity. Provided that the exceptions above shall not apply to beaches, bars, spits, and streambeds.
- (11) Signs indicating the public's right of access to shoreline areas shall be installed and maintained in conspicuous locations at the point of access and the entrance.

#### **20.16.770 RESIDENTIAL:**

Residential development includes subdivisions of large parcels, multi-family housing, condominiums, and single-family residences. Under the Shoreline Management Act, owner occupied single-family residences are a preferred use on the shorelines. Residential uses, however, can cause significant damage to the shoreline area through cumulative impacts resulting from vegetation loss, shoreline armoring, increased amount of impervious surfaces and resulting stormwater runoff, septic system failure, and additional vehicular trips.

##### **(a) Policies:**

- (1) Development of residential units should result in no net loss of ecological function.
- (2) Any residential development along the shoreline should be set back from steep slopes and eroding shoreline areas so that the shoreline is not further eroded nor structural improvements required to protect property.
- (3) In cases where either large tracts are subdivided into single-family residential parcels or where contiguous individual building sites are developed for single family residences, common public access areas and one joint-use dock should be developed for the use of residents of the subject subdivision.
- (4) Design of residential development should include preservation of existing native vegetation to the greatest extent possible.
- (5) Residential development should be designed to minimize the amount of impervious area and should utilize Low Impact Development techniques the greatest extent practicable (e.g., permeable pavers, stormwater infiltration and filtration).

- (6) New multi-unit residential development and the subdivision of land into more than five parcels should incorporate into the overall design planned public access amenities whenever feasible.

(b) Regulations:

- (1) Single family residential development is a priority use on the shoreline and provided the structure is equal to or less than 25' in height, it is exempt from obtaining a Shoreline Substantial Development Permit and from providing public access. Single family residential structures proposed above 25' shall apply for a Shoreline Substantial Development Permit and must provide a public access easement along the beach as required in BMC 20.16.640. All single family residential development must conform to all provisions of this Master Program.
- (2) Multi-family residential use is not a priority for location on the shoreline under the Shoreline Management Act and is subject to the preference for water-dependent and water-oriented use and must provide for meeting the requirements for ecological productivity and public access.
  - (1) Multi-family development may not be approved if it displaces existing water-dependent uses. Multi-family development is preferred as part of mixed used development including water-dependent, water-related and water-enjoyment use.
  - (2) Multi-family development uses may be permitted only where it provides significant public benefit with respect to the objectives of the Act by:
    - (i) Restoration of ecological functions both in aquatic and upland environments that shall provide native vegetation buffers according to the standards provided for Critical Areas or in accordance with the Restoration Element of this document.
    - (ii) Provision of public access is required in accordance with BMC 20.16.640.
- (3) Over-water residences are prohibited and floating homes may be permitted only in marinas.
- (4) New residential development shall not require shoreline stabilization. Prior to approval, a qualified professional must provide a site analysis establishing that shoreline stabilization is unlikely to be necessary for each new lot to support intended development during the life of the development.
- (5) New residential development shall meet all Critical Area requirements. Filling of, or into, water bodies or their associated

wetlands for the purpose of subdivision or multi-family construction shall not be permitted.

- (6) Residential developments, including subdivisions, and planned unit developments of five (5) or more lots/units shall provide "improved public access" for all residents of the development and the general public, in compliance with public access standards contained in BMC 20.16.640 public access.
- (7) All new subdivisions shall record a prohibition on new private individual docks on the face of the plat. An area reserved for shared moorage may be designated if it meets all requirements of this Program.
- (8) Application for development of subdivisions and multi-family developments shall include the following information (at minimum) in addition to other submittal requirements:
  - (i) Details (graphic and textual) of any proposed alteration in the natural character of the shoreline;
  - (ii) Provisions for lot owner or occupant access to the water body;
  - (iii) Provisions for public access to the water body.

#### **20.16.780 ROADS, RAILWAYS, AND UTILITIES:**

Roads, railways and utilities are necessary to provide efficient public circulation and the shipment of goods and services. These transportation circuits can include but are not limited to roads, highways and interstates, rail lines and spurs, public service water and sewer mains, power generation, transmission and distribution facilities, and wireless communication facilities.

- (a) Policies:
  - (1) All new roadways, arterials, utilities and railways, including expansions of these systems, should be designed and located to minimize impacts to shoreline ecological function including riparian and near-shore areas, and the natural landscape.
  - (2) Location and design of new roadways including arterials should not compromise existing and planned shoreline public access and existing and planned habitat restoration and enhancement.
  - (3) New roadways when necessary to be located within shorelines should be designed in such a manner that the minimum width and length of travel-way for vehicles is provided and that an appropriate amount of travel way is devoted to the pedestrian and/or multi-modal forms of transportation.
  - (4) New roadways should be designed and constructed to implement a range of available Low Impact Development techniques.

- (5) Utilities for the delivery of services and products such as but not limited to public sewer, water and storm mains and services, pipelines, power and transmission facilities should be located outside of shorelines, critical areas and their associated buffers unless intended specifically for a permitted use.
- (6) Whenever feasible, utilities should be co-located within existing right-of-way corridors.
- (7) Installation of utilities including maintenance and expansion of existing utilities should improve the project area from its original condition by native vegetation management or providing public access to the shoreline when practical.

(b) Regulations:

- (1) New roadways, utilities and railways shall mitigate their impacts such that the result is a no net loss of shoreline ecological function.
- (2) New or substantially expanded roads, railroads, and bridges may be located within shoreline jurisdiction only if:
  - (i) The facility is needed within the shoreline jurisdiction to support permitted shoreline activities.
  - (ii) No feasible upland alternative exists based on analysis of system options that assess the potential for alternative routes outside shoreline jurisdiction or set back further from the land/water interface.
- (3) Transportation facilities shall be located and designed to avoid significant natural, historic, archaeological or cultural sites to the maximum extent feasible, and mitigate unavoidable impacts to result in no net loss of ecological processes and functions.
- (4) Where permitted, facilities shall meet the following design criteria:
  - (i) Roads, railroads, and bridges shall cross the shoreline area by the shortest most direct route, unless such route would cause substantial environmental damage.
  - (ii) The project shall be located and designed to fit the existing topography as much as possible, thus minimizing alterations to the natural environment.
  - (iii) Facilities located within Critical Areas, particularly in wetlands areas should be designed to avoid the resource, and may be permitted only if in compliance with those standards.
    - (a) That the construction is designed to protect the shoreline against erosion, uncontrolled or polluting drainage and other factors detrimental to the environment, both during and after construction.

- (b) That all debris, cut and fill material, overburden, and other waste materials from construction will be disposed of in such a way as to prevent their entry by erosion from drainage into any water body.
  - (c) Provide for passage of high flows, flood waters, debris, fish passage, and wildlife movement by providing bridges with the longest span feasible and the greatest height feasible. When bridges are not feasible, providing culverts and other features that are large enough to provide for these functions.
  - (d) Provide facilities for safe pedestrian and other non-motorized travel along all public integrated with trail and bicycle systems along shorelines to the maximum extent feasible. When public roads will afford scenic vistas, viewpoint areas shall be provided.
  - (e) Landscape planting is required along all shoreline roads, parking, and turnout facilities to:
    - (1) Provide buffers between pedestrian and auto users;
    - (2) Enhance the shoreline driving experience; and
    - (3) Enhance and complement potential views of shoreline areas.
- (5) In order to improve public access to the shoreline the City should acquire and/or retain abandoned or unused road or railroad rights-of-way for public access to and/or along the water.
- (6) Road ends abutting water bodies shall be reviewed for potential use and development for public access to the water, and incorporate into the City's Comprehensive Public Access Plan as appropriate.
- (7) The City shall not vacate any public right-of-way in a shoreline location until adopting a Comprehensive Public Access plan for the area showing that the subject right-of-way cannot be used as a contributing element in that plan. The City shall vacate public right-of-way abutting a body of salt or fresh water only in compliance with RCW 35.79.035 which allows vacations of streets abutting bodies of water only when:
- (i) The vacation will enable acquisition of the property for public purposes;
  - (ii) The street or alley is not suitable for certain purposes (e.g. port, park, education); or
  - (iii) The vacation will enable implementation of a public access plan.
- (8) New or substantially expanded utilities may be located within shoreline jurisdiction only if:

- (i) The facility is needed within the shoreline jurisdiction to support permitted shoreline activities;
  - (ii) No feasible upland alternative exists based on analysis of system options that assess the potential for alternative routes outside shoreline jurisdiction or set back further from the land/water interface; and
  - (iii) Facilities will not destroy or obstruct scenic views.
- (9) Utilities shall be located and designed to avoid significant natural, historic, archaeological or cultural sites to the maximum extent feasible, and mitigate unavoidable impacts to result in no net loss of ecological processes and functions.
- (10) Utilities, where permitted, shall meet the following design criteria:
- (i) Facilities should occupy as little of the shoreline as feasible. Utility installation parallel to the shoreline should be avoided to the maximum extent feasible. Utilities shall cross the shoreline area by the shortest most direct route, unless such route would cause substantial significant environmental damage.
  - (ii) Utilities shall be located and designed to fit the existing topography as much as possible, thus minimizing alterations to the natural environment.
  - (iii) Facilities shall be located and designed to minimize obstruction of scenic views.
  - (iv) Utility crossings of water bodies shall be attached to bridges or located in other existing facilities, if feasible. If new installations are required to cross water bodies or wetlands they should avoid disturbing banks and streambeds and shall be designed to avoid the need for shoreline stabilization. Crossings shall be tunneled or bored where feasible. Installations shall be deep enough to avoid failures or need for protection due to exposure due to stream bed mobilization, aggregation or lateral migration. Underwater utilities shall be placed in a sleeve if feasible to avoid the need for excavation in the event the need for maintenance or replacement.
- (11) Facilities involving buildings, such as pump stations, electrical substation, or other facilities, shall be enclosed by architecturally compatible structures to the extent feasible and shall be landscaped to assure compatibility with natural features, public access facilities, and adjacent uses.

- (12) Construction shall be designed to protect the shoreline against erosion, uncontrolled or polluting drainage and other factors detrimental to the environment, both during and after construction
- (13) Undergrounding: New utility lines, including electricity, communications and fuel lines, shall be located underground, EXCEPT where the presence of bedrock or other obstructions make such placement infeasible.
- (14) Easements: Access easements to utility installations shall be no wider than needed to construct, maintain, or repair the utility.
- (15) Public Access: Utility development shall provide for compatible multiple uses of sites and rights-of-way through coordination with local government agencies. Such uses include shoreline access points, trail systems, and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, endanger public health and safety, or create a significant and disproportionate liability for the owner.
- (16) Maintenance Projects: Upon completion of installation and maintenance projects on shorelines, they shall be restored to pre-project configuration, replanted with native species, and provided maintenance care until the newly planted vegetation is established. A landscape restoration plan will be required.
- (17) Storm Drainage/Sewer Outfalls: Storm drainage and sewer outfalls shall be located beyond the extreme low tide line.
- (18) Applications: All applications for installation of utility facilities shall include the following:
  - (i) Reason why facility must be located in a shoreline area;
  - (ii) Alternative locations considered and reasons for their rejection;
  - (iii) Location of other facilities near the proposed project and if the location is to include other types of facilities;
  - (iv) Proposed method of construction and plans to control erosion and turbidity during construction;
  - (v) Plans for reclamation of areas disturbed during construction;
  - (vi) Possibility for location of proposed facility within existing utility right-of-way; and
  - (vii) Any other information deemed necessary.

## **20.16.800 SHORELINE MODIFICATIONS**

- 20.16.801 – Intent
- 20.16.810 – Clearing and Grading
- 20.16.820 – Docks, Piers, and in-water structures
- 20.16.830 – Dredging
- 20.16.840 – Flood Hazard Reduction
- 20.16.850 – Landfills
- 20.16.860 – Restoration
- 20.16.870 – Shoreline Stabilization
- 20.16.880 – Stormwater Control Facilities

### **20.16.801 INTENT:**

These policies and regulations relate to land use proposals that are typically accessory and in support of primary land uses. Shoreline modifications should ensure no net loss of ecological functions and should be as natural as feasible.

### **20.16.810 CLEARING AND GRADING:**

Clearing and grading are permitted as an element of development or re-development for an authorized activity or as otherwise allowed in this Title.

#### **(a) Policies**

- (1) Disturbance to and removal of native soils should be minimized within shorelines.
- (2) Uses and site design should incorporate protection or reestablishment of the maximum amount of native vegetation on a particular site.
- (3) Vegetation that is removed as part of a permitted use should be reestablished within a required buffer.

#### **(b) Regulations**

- (1) Clearing, grading, and shoreline native vegetation protection and removal shall comply with the standards in the general policies section (BMC 20.16.600).
- (2) Disturbance to soils shall adhere to the following standards:
  - (i) Land clearing, filling, and grading activities that are associated with a permitted use that occurs within a required buffer shall only be allowed between May 1 and October 1 unless the City extends or shortens the time window on a case-by-case basis based on actual weather conditions as applied in BMC 20.14.600, which requires erosion control and a qualified professionals report.
  - (ii) Filling or grading including excavation within or modification to a critical area is only permitted as part of an approved activity subject to the applicable requirements within this Title.

- (iii) The soil duff layer (the matted, partly decomposed organic surface layer of forest soils) shall remain undisturbed to the maximum extent possible. Where feasible any soil disturbed shall be redistributed to other areas of the project site.
- (iv) The moisture holding capacity of the topsoil layer shall be maintained by minimizing soil compaction or reestablishing natural soil structure and infiltration capacity on all areas of the project area not covered by impervious surfaces.
- (v) Erosion control shall comply with the requirements in BMC 15.04.

**20.16.820 DOCKS, PIERS, AND OTHER IN-WATER STRUCTURES:**

In-water (marine and freshwater) structures include but are not limited to jetties, pilings, fish ladders, mooring buoys, docks, piers, breakwaters, groins, weirs, baffles, and bridge abutments.

(a) Policies:

- (1) In-water structures should be designed to minimize impacts to ecological functions of the water body including but not limited to water quality, anadromous and forage fish habitat, spawning and rearing areas, migration, and passage.
- (2) In-water structures should not adversely affect hydrologic function including light penetration within the photic zone, sediment transport and current and water circulation patterns.
- (3) The location and planning of in-water structures should give due consideration to the full range of public interests and environmental concerns.
- (4) Analysis of cumulative impacts of in-water structures should be conducted such that the connectivity between habitats for migrating salmonids is maintained and restored where feasible.

(b) Regulations:

- (1) New in-water structures shall be designed and constructed such that the result is no net loss of shoreline ecological function. New in-water structures shall not adversely affect hydrologic function, ability for light to penetrate within the photic zone, sediment transport and water-circulation patterns.
- (2) New in water structures shall be allowed only for water-dependent uses, and public access. Water-related and water-enjoyment uses may be allowed as part of mixed-use development on over-water structures where they are clearly auxiliary to and in support of water-dependent uses, provided the minimum size requirement needed to meet the water-dependent use is not violated.
- (3) Creosote, arsenic and pentachlorophenol treated in-water structures shall be prohibited.
- (4) In-water structures shall not impair or obstruct existing navigation channels or the public's use of surface water or shoreline areas as required by the Coast Guard.

- (5) Joint-use facilities are preferred over new single use piers, docks and floats. In order to develop new moorage, an applicant must demonstrate that existing facilities (public and private marinas) are not reasonably available to meet demand. In cases where new moorage is approved, multiple use and/or expansion of existing piers, wharfs and docks may be required (in lieu of the addition and/or proliferation of new facilities) in order to minimize the consumption of limited shoreline resources.
- (6) Piers and docks, including those accessory to single-family residences, shall be designed and constructed to avoid or, if that is not possible, to minimize and mitigate the impacts to ecological functions, critical areas resources such as eelgrass beds and fish habitats and processes such as currents and littoral drift. See WAC 173-26-221 (2)(c)(iii) and (iv).
- (7) New subdivisions with shoreline frontage shall provide community or shared docks if any docks are proposed. New subdivisions shall contain a restriction on the face of the plat prohibiting individual docks. A site for community or shared moorage shall be designated on the plat and owned in undivided interest by property owners within the subdivision. Shared moorage facilities shall be available to property owners in the subdivision for community access and may be required to provide public access depending on the scale of the facility. Approval shall be subject to the following criteria:
- (i) The applicant shall demonstrate that there is no reasonably available public or private moorage that can serve the moorage needs of the residences or the subdivision.
  - (ii) Shared moorage to serve new development shall be limited to the amount of moorage needed to serve lots with water frontage. One moorage space per lot may not be presumed.
  - (iii) Development of more than one dock shall include documentation that a single dock would not accommodate the need or that adverse impacts on ecological functions would result from the size of dock required.
  - (iv) The size of a dock must consider the use of mooring buoys for some or all moorage needs and the use of all or part of the dock to allow tender access to mooring buoys.
  - (v) Public access shall be provided in association with all shared docks utilizing public aquatic lands that accommodate five (5) or more vessels.
- (8) If a community or shared dock is not developed at the time of subdivision, a community association shall be established with the authority to levy assessments within the subdivision to construct and maintain a community dock in the future. The failure of a subdivision to develop a community or shared dock shall not affect the prohibition on individual docks.
- (9) Multi-family residences, hotels, motels, and other commercial developments proposing to provide moorage facilities shall meet the criteria for a marina. Use of the moorage must be open to the general public on the same basis as

residents or occupants and shall provide public access. If approved, no more than one, joint-use moorage facility may be provided.

- (10) Permits for docks or piers serving single commercial or industrial enterprises shall not be granted unless it is demonstrated that the facility serves a water-dependent use and adjacent commercial and/or industrial enterprises are not willing to cooperatively develop a joint-use facilities.
- (11) Piers, docks and moorage shall be prohibited where navigation may be impaired significantly at entrances to bays, channels, or coves. Piers and docks are prohibited in the channel between Ostrich Bay and Oyster Bay, as depicted in Figure xx In addition, to protect sensitive aquatic environment docks and piers are prohibited within the Aquatic Conservancy Designation.
- (12) No more than one (1) private, noncommercial single-use dock is permitted per platted shoreline lot or un-platted shoreline tract on a residentially designated area (This does not apply to subdivisions approved on or after the adoption date of this code, for such subdivisions see 8 above). The dock must be designed and intended as a facility for access to watercraft. An applicant shall demonstrate that:
- (i) A mooring buoy is not feasible to provide moorage. A mooring buoy may be approved in conjunction with an individual or shared lighter dock to provide small boat access to the buoy.
  - (ii) There is no shared moorage available, and there is no homeowners association or other corporate entity capable of developing shared moorage.
- (13) Location: Piers and docks shall project the minimum distance necessary to service the appurtenant vessels and shall not create a hazard to navigation. When State harbor lines have been designated, piers and docks shall be located shoreward of the outer harbor line
- (14) Light penetration: All piers and docks must achieve light penetration by grating or other means as follows:
- (iii) Grating must be provided over at least 30 percent of the pier or float area and must be provided over at least 60 percent of structures within 30 feet of the OHWM. Areas blocked by objects underneath, such as floatation devices shall not be counted.
  - (iv) Grating must have at least 60 percent open area. The grating must be oriented to maximize the amount of light passage. This can be accomplished by orienting the lengthwise direction of the grate openings in the east-west direction.
  - (v) To ensure that light transmission is not impeded, grating must not be covered or blocked (on the surface or underneath) with any objects, such as, but not limited to, buildings, planters, storage sheds or boxes, nets, carpets, boards, tables, lawn furniture, traction devices or other items that will block sunlight.
- (15) Residential piers and/or docks are limited to the following sizes:

- (i) Length: Maximum length of a residential pier or dock shall be the minimum necessary to accomplish moorage for the intended boating uses, and shall be only so long as to obtain a depth of five (5) feet of water as measured at Mean Lower Low Water Line (MLLW) in marine shorelines or as measured at Ordinary High Water (OHWM) in fresh water shorelines. Any dock proposed at 60 feet in length or greater must demonstrate that a mooring buoy in conjunction with a shorter lighter dock to provide small boat access to the buoy is not feasible.
  - (ii) Height: Dock shall not exceed three (3) feet in height above OHWM on the landward side, and shall extend above the water surface no more than two (2) feet at all other locations excluding handrails.
  - (iii) Private, Single Use Docks maximum area:
    - (a) Landing area deck maximum length parallel to shore of "T" end: ten (10) feet ;
    - (b) Landing area deck maximum width: eight (8) feet.
    - (c) Walkway maximum width: Four (4) feet;
  - (iv) Community Piers and Docks:
    - (a) Maximum Width and Length: To be determined by the City on a case-by-case basis based on the minimum dimensions feasible.
    - (b) Density: No more than one (1) forty foot (40') moorage space per dwelling unit or lot with direct shoreline frontage.
  - (v) Non-Residential Piers and Docks shall be the minimum size feasible to serve the proposed water-dependent use.
- (16) Side Yard Setbacks: Docks shall be set back a minimum of ten (10) feet from side property lines. Exception: Community piers and docks may be located adjacent to or upon a side property line when mutually agreed to by contract/covenant with the owners of the adjacent property, a copy of which must be recorded with the County Auditor and filed with the application for permit.
- (17) Recreation floats and mooring buoys shall be located no further seaward than existing floats and mooring buoys and shall be readily discernible under normal conditions to the unaided eye at a minimum distance of 100 yards. The size and design must comply with the following:
- i. Floats must be built so that the deck surface is no more than two (2) foot above the water's surface and must have reflectors for nighttime visibility.
  - ii. Single Property Owner Recreational Floats shall be no larger than Sixty-four (64) square feet.
  - iii. Joint-use Floats shall be no larger than ninety-six (96) square feet.

- (18) Boat launching ramps and marine railways shall be designed as to not obstruct longshore drift. Residential launch ramps or marine railways are prohibited.

### **20.16.830 DREDGING:**

Dredging is the removal of material from a water body. The purposes for dredging might include navigation, remediation of contaminated materials, or material mining. Materials generated from navigational and remedial dredging may be suitable for beneficial reuse (e.g., construction of habitat features or construction of uplands) or may require disposal at appropriate disposal facilities.

#### (a) Policies

- (1) Dredging that involves remediation of contaminated materials should be consistent with the applicable policies within RCW 70.105D and the standards within WAC 173-204 – Sediment Management Standards.
- (2) Dredging within aquatic areas for the primary purpose of acquisition of fill material should not be allowed.
- (3) Where dredging occurs within marine waters the result should be suitable for establishment of a variety of aquatic organisms including salmonids and forage fish.

#### (b) Regulations:

- (1) Dredging and dredge material disposal shall be done in a manner which avoids or minimizes significant ecological impacts. When impacts cannot be avoided they should be mitigated in a manner that assures no net loss of shoreline ecological functions.
- (2) New development shall be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.
- (3) Dredging for the purpose of establishing, expanding, relocating or reconfiguring navigation channels and basins shall be allowed where necessary for assuring safe and efficient accommodation of existing navigational uses and then only when significant ecological impacts are minimized and when mitigation is provided. Maintenance dredging of established navigation channels and basins shall be permitted only to the limits originally allowed.
- (4) Dredging waterward of the ordinary high-water mark for the primary purpose of obtaining fill material shall be prohibited, except when the material is necessary for the restoration of ecological functions. In this case the project must be either associated with a Model Toxics Control Act affiliated a Comprehensive Environmental Response Compensation Liability Act habitat restoration project or, if approved through a Shoreline Conditional Use Permit, any other significant habitat enhancement project.
- (5) Dredging spoils shall be deposited upland, and measures taken to prevent erosion of the deposited material. If the deposit area is on the shoreline, a

- vegetation inventory shall be required, consistent with the vegetation conservation and critical areas regulations of the Master Program.
- (6) Spoil deposit sites in water areas shall be identified with the cooperation of the State Departments of Natural Resources, and the Department of Fish and Wildlife. Depositing of dredge materials in water areas shall be allowed only for habitat improvement, to correct problems of material distribution adversely affecting fish and shellfish resources, or where the alternatives of depositing materials on land is more detrimental to shoreline resources than depositing it in water areas.
  - (7) Disposal of dredge material on shorelands or wetlands within a river's channel migration zone shall be discouraged. In the limited instances where it is allowed, such disposal shall require a Shoreline Conditional Use Permit.
  - (8) All applications for dredging shall provide, the following and any other information deemed necessary:
    - (i) An analysis of material to be dredged;
    - (ii) Time of dredging;
    - (iii) Method of dredging and disposal;
    - (iv) Location and stability of bedlands adjacent to proposed dredging area.
    - (v) Location, size, capacity, and physical characteristics of spoils disposal area.

#### **20.16.840 FLOOD HAZARD REDUCTION:**

##### (a) Policies:

- (1) Flood hazard reduction measures should not result in a net loss of ecological functions associated with the rivers and streams.
- (2) Flood hazard reduction measures should be consistent with comprehensive strategies that recognize the natural hydro-geological and biological processes of water-bodies and should seek to restore ecological functions within frequently flooded areas.
- (3) Development in frequently flooded areas should be prevented or removed to manage stormwater within the floodplain and to maintain or restore a stream system's natural hydrological and geo-morphological processes.
- (4) Bioengineered flood hazard reduction techniques are preferred and should be examined before structural measures are implemented.
- (5) The City should recognize that seasonal flooding is an essential natural process.

##### (b) Requirements:

- (1) Flood control works shall only be permitted when it is demonstrated by qualified engineering or scientific professional evaluations that:
  - (i) They are necessary to protect health/safety and/or existing development;

- (ii) Non-structural flood hazard reduction measures are infeasible; and
  - (iii) Measures are consistent with an adopted comprehensive flood hazard management plan that evaluates cumulative impacts to the watershed system.
- (2) New or expanding development or uses in the shoreline, including subdivision of land, that would likely require new structural flood control works within a stream, channel migration zone, or floodway should not be allowed.
  - (3) New or expanded flood control works and in-stream structures should be planned and designed to be compatible with appropriate multiple uses of stream resources over the long term, especially in shorelines of statewide significance.
  - (4) Flood control works should incorporate native vegetation to the extent feasible to enhance ecological functions, create a more natural appearance, improve ecological functions, and provide more flexibility for long term shoreline management.
  - (5) To minimize flood damages and to maintain natural resources associated with streams, overflow corridors and other alternatives to traditional bank levees, revetments and/or dams should be considered. Setback levees and similar measures should be employed where they will result in lower flood peaks and velocities, and more effective conservation of resources than with high bank levees.
  - (6) Non-structural and non-regulatory methods to protect, enhance, and restore shoreline ecological functions and other shoreline resources should be encouraged as an alternative to structural flood control works. Non-regulatory and non-structural methods may include public facility and resource planning, land or easement acquisition, education, voluntary protection and enhancement projects, or incentive programs.
  - (7) Flood management diking shall be landward of the floodway base (100-year frequency) flood and any marshes, bogs or swamps associated or directly interrelated and interdependent with the creek or stream.
  - (8) Linear public access shall be provided whenever possible as outlined in the public access requirements section of this code BMC 20.16.640, unless it is demonstrated that public access would cause unavoidable public health and safety hazards, security problems, unmitigatable ecological impacts, unavoidable conflicts with proposed uses, or unreasonable cost. Improved trail systems are preferred. At a minimum, flood control works should not decrease public access or use potential of shorelines.

**20.16.850 LANDFILL:**

Landfill is the creation of dry upland area by the placement or deposition of sand, soil, gravel or contaminated sediments into a water body.

## (a) Policies:

- (1) Landfills should be limited in the shoreline.

## (b) Regulations:

- (1) Landfills within shorelines shall only be permitted through a Conditional Use Permit and shall only be allowed when necessary to support:
  - (i) Water-dependent use,
  - (ii) Public access,
  - (iii) Cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan,
  - (iv) Disposal of dredged material considered suitable under, and conducted in accordance with the dredged material management program of the Department of Natural Resources,
  - (v) Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline and then only upon a demonstration that alternatives to fill are not feasible,
  - (vi) Mitigation action, environmental restoration, beach nourishment or enhancement project.
- (2) Shoreline fills or cuts shall be designed and located so that there will be no significant change to natural shoreline topography or damage to existing ecological systems or natural resources, and no alteration of local currents which would result in a hazard to adjacent life, property, and natural resources systems.
- (3) Landfills shall include restoration and/or enhancement of ecological functions within the shoreline consistent with the restoration objectives within the Restoration Plan (Appendix X) and shall provide public access where feasible.
- (4) Applications which include landfills shall include the following information:
  - (i) Physical, chemical and biological character of landfill material;
  - (ii) Source of landfill material;
  - (iii) Method of placement and compaction;
  - (iv) Type of proposed surfacing;
  - (v) Method of perimeter erosion control; and
  - (vi) Proposed use of fill area; and
  - (vii) Any other information deemed necessary.

**20.16.860 RESTORATION AND CONSERVATION:**

Restoration is the improvement or reestablishment of impaired ecological shoreline processes or functions. This may be accomplished through measures including but not limited to: amending soils, planting native vegetation, removing derelict shoreline structures, removing or treating toxic materials, and re-sloping banks within near-shore or riparian areas. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European

settlement conditions (WAC 173-26). The citywide objective of restoration is to achieve a net gain in ecological function within the watershed.

(a) Policies

- (1) The primary objectives of restoration projects should be to protect and restore natural processes controlling environmental factors.
- (2) The Suquamish Tribe, Corps of Engineers, Washington Department of Ecology, and the Washington Department of Fish and Wildlife and other appropriate resource agencies should be included at the beginning of the design and development stages of a restoration project or plan.
- (3) The goals of the Restoration Plan in APPENDIX X should be considered for all restoration and conservation projects.
- (4) Restoration and conservation may take place as a stand-alone project or as a required element of a larger development proposal. In either case the following should be achieved as is feasible:
  - (i) Non-native vegetative species should be eliminated and soil amendments should be made including mulching to help establish new native vegetation;
  - (ii) Installation of native vegetation should be an appropriate mix of deciduous, conifer, under-story and groundcover species that are capable of achieving substantial water body shading, provide food sources for a variety of species, enhance and connect to habitat corridors and slow movement of groundwater and sheet-flow towards the water body;
  - (iii) Introduction of large woody debris to the water body should not adversely impact fish passage or hydrologic function; and
  - (iv) Design and implementation of restoration projects that alter the location of the OHWM should not negatively impact abutting or proximate (third party) property owners, compromise the integrity or threaten the loss of existing structures, transportation routes, public access areas or cause significant additional erosion.

(b) Regulations

- (1) Restoration projects that are within critical areas, shorelines or their required buffers are permitted subject to the applicable requirements within this Title.
- (2) Restoration projects that achieve the objectives within the Restoration Plan (APPENDIX X) shall have priority over other restoration projects.
- (3) Restoration projects that include structural modification or stabilization shall first consider preferred techniques as specified in BMC 20.16.6XX Bulkheads. Restoration projects shall be designed such that there are no adverse impacts on ecological resources or functions.
- (4) Restoration projects shall include a maintenance and monitoring plan and financial surety as outlined in BMC 20.16.6XX (vegetation plan) that includes

a guarantee and/or contingency plan when said project does not achieve its intended objective.

- (5) Restoration projects shall take into consideration existing and lawfully erected structures and developments such that their safety is not compromised.
- (6) Restoration projects shall not conflict with existing utilities, roadways and public access points unless those functions can be relocated such that the public benefit remains the same or is improved.

#### **20.16.870 SHORELINE STABILIZATION:**

Shoreline stabilizations are generally related to construction of a physical element such as a bulkhead, fill or vegetation removal in conjunction with development of a permitted use. Shoreline stabilization measures are those mechanisms used to prevent erosion and deterioration of shoreline areas as a result of wave, wind, tidal or flooding actions. Shoreline stabilization measures can include a wide range of works varying from hard armoring to vegetation conservation and anchoring of trees.

##### **(a) Policies**

- (1) New development should be managed and designed to eliminate the need for shoreline modification or stabilization.
- (2) Replacement of structurally engineered stabilization measures with the same new measures should not occur unless it is associated with a water-dependent use or there is a demonstrated need based on potential loss of a legally permitted primary structure or there is a threat to the viability of an existing water-dependent use.
- (3) Whenever feasible, bioengineered and soft-shore shoreline modifications and stabilization should be explored and implemented before reverting to structurally engineered techniques.

##### **(b) Regulations:**

- (1) Alternatives for shoreline stabilization shall be based on the following hierarchy of preference:
  - (i) No action (allow the shoreline to retreat naturally), increase building setbacks, and relocate structures.
  - (ii) Flexible stabilization constructed of natural materials incorporating measures such as soft shore protection and bioengineering, including beach nourishment, protective berms, or vegetative stabilization.
  - (iii) Flexible stabilization, as described above, with rigid works, as described below, constructed as a protective measure.

- (iv) Rigid works constructed of artificial materials such as riprap or concrete.
- (2) New structural stabilization measures shall not be allowed for existing developments except when necessity is demonstrated in the following manner:
- (i) To protect existing primary structures:
    - (a) New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, shall not be allowed unless there is conclusive evidence, documented by a qualified professional, that the structure is in danger from shoreline erosion caused by currents, or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The analysis must evaluate on-site drainage issues and address drainage problems before considering structural shoreline stabilization.
    - (b) Supplementary beach nourishment must be shown to be impractical or non-effective, as demonstrated through a geotechnical report.
    - (c) The report(s) must determine that the stabilization structure will not result in a net loss of shoreline ecological functions.
    - (d) A structural engineering report identifying the lack of the structures integrity due to current wave action.
  - (ii) To protect a new water-dependent development, or new single-family residences, when all of the conditions below apply and are documented by a qualified professional:
    - (a) The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.
    - (b) Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
    - (c) The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as currents, and waves.
    - (e) Supplementary beach nourishment must be shown to be impractical or non-effective, as demonstrated through a geotechnical report.
  - (iii) To protect an existing non-water-dependent development the report(s) must determine that the stabilization structure will not result in a net loss of shoreline ecological functions and must provide the following:
    - (a) The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.

- (b) Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
  - (c) The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report.
  - (d) Supplementary beach nourishment is shown to be impractical and ineffective, as demonstrated through a geotechnical report.
  - (e) The affected structure cannot be feasibly located or relocated outside of the area affected by natural shoreline erosion processes.
  - (f) The stabilization structure will not result in a net loss of shoreline ecological functions.
- (iv) To protect projects for the restoration of ecological functions or hazardous substance remediation projects pursuant to chapter 70.105D RCW. All of the conditions below apply and are documented by a qualified professional:
- (a) Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
  - (b) The erosion control structure will not result in a net loss of shoreline ecological functions.
- (3) Creeks and streams shall be maintained in their natural state, free of shoreline modification, where they are not now influenced by urban growth and channelization. Where shoreline stabilization on creeks and streams meets the criteria above, avoid substantial channel direction modifications, realignment and straightening as a consequence of shore stabilization and flood management.
- (4) On all shorelines, bulkheads/seawalls shall be located landward of the OHWM, landward of protective berms (artificial or natural), and generally parallel to the natural shoreline.
- (5) Marine Accretion Beaches: Bulkheads/seawalls shall be set back a minimum of twenty-five (25) feet landward of the OHWM, and shall parallel the natural shoreline; except on sloping or bluff/cliff shores where bulkheads shall be placed as far landward of the OHWM as is feasible. In no case shall the bulkhead be waterward of the OHWM.
- (6) On driftways and lake shores that are subject to erosion bulkheads/seawalls shall be located within one (1) foot of the bank toe and shall generally parallel the natural shoreline.
- (7) On bluff or bank shorelines with no adjacent bulkheads/seawalls, the bulkheads/seawalls shall be as close to the bank as possible and in no case shall it be more than three (3) feet from the toe of the natural bank.
- (8) A bulkhead/seawall for a permitted landfill shall be located at the toe of the fill.
- (9) Bulkheads/seawalls may tie in flush with existing bulkheads/seawalls on adjoining properties, except when:

- i. An adjoining bulkhead/seawall extends waterward of the OHWM or the toe of the bank or permitted landfill; in which the location requirements of Regulation of 4, 5, and 6 above shall apply.
  - ii. If there is an existing bulkhead/seawall on only one of the adjacent properties, the proposed bulkhead/seawall may tie in flush with the adjacent bulkhead/seawall at or landward of the OHWM and minimize the land area waterward of the required setback. However, the required setback shall be met on the side not abutting an existing bulkhead/seawall.
- (10) Replacement bulkheads/seawalls shall be located no further waterward of the existing bulkhead than is necessary for construction of new footings.
- (11) Design and construction :
  - i. Bulkheads/seawalls shall be sited and designed consistent with appropriate engineering principles. Professional geologic site studies or design may be required for any proposed bulkhead if the City determines sufficient uncertainties exist. Grounds for such determination shall be inadequate information or expertise on local physical features and/or potential damage to other shoreline properties and features.
  - ii. Bulkheads/seawalls shall be designed for the minimum dimensions necessary to adequately protect the development.
  - iii. Stairs or other permitted structures may be built into a bulkhead but shall not extend waterward of it.
  - iv. Bulkheads/seawalls shall be designed to permit the passage of surface or ground water without causing ponding or saturation of retained soil/materials.
  - v. Adequate toe protection (i.e. proper footings, a fine retention mesh, etc.) shall be provided to ensure bulkhead stability without relying on additional riprap.
  - vi. Sheet piling and precast concrete slabs with vertical waterward faces shall include adequate tiebacks and toe protection.
  - vii. Bulkheads/seawalls shall utilize stable, non-erodible, homogeneous materials (e.g. concrete, wood, rock riprap or other suitable materials) which will accomplish the desired end with the maximum preservation of natural shoreline characteristics.
  - viii. Beach materials shall not be used for fill behind bulkheads/seawalls except clean dredge spoil from a permitted off site dredge and fill operation.
- (12) Beach enhancement/restoration should be employed on upland, tidal and/or submerged shorelines to restore, enhance or create recreational beaches, aquatic habitat, and/or to control erosion where geotechnical

analysis confirms that it is practical and effective and specifically in cases where:

- (i) Beach restoration/enhancement is appropriate and it will accomplish the following objectives:
    - (a) Recreate or enhance natural shore conditions;
    - (b) Create or enhance natural habitat;
    - (c) Reverse otherwise erosional conditions; and
    - (d) Enhance access to the shore, especially to public shores.
  - (ii) Beach enhancement is prohibited where:
    - (a) Littoral drift of the enhancement materials will adversely effect adjacent spawning grounds or other areas of biological significance; or
    - (b) It will interfere with the normal public use of the navigable waters of the state.
  - (iii) Beach enhancement projects shall be designed so that the project avoids:
    - (a) Detrimental interruption of littoral drift, or redirection of waves, current or sediments to other shorelines that may adversely affect adjacent properties or habitat;
    - (b) Any exposed groin-like structures; EXCEPT: Small "drift sill" groins may be used as a means of stabilizing restored sediment where part of a well planned beach enhancement program;
    - (c) Extending waterward more than the minimum amount necessary to achieve the desired stabilization;
    - (d) Contours sufficiently steep to impede easy pedestrian passage, or trap drifting sediments (a 5:1 slope is generally recommended; a 4:1 slope is a minimum);
    - (e) Creation of "additional dry land mass"; and
    - (f) Disturbance to significant amounts of valuable shallow water fish/wildlife habitat, unless such habitat is immediately replaced by new habitat that is comparable or better.
  - (iv) The size and/or mix of new materials to be added to a beach shall be adjusted to the local wave climate for maximum percolation and stability (generally similar to that of the natural beach sediment, but large enough to resist normal current, wake or wave action at the site).
  - (v) The restored beach shall approximate, and may slightly exceed, the natural beach width, height, bulk or profile (but not so much as to obviously create additional dry land mass).
- (13) Breakwaters shall only be permitted by Conditional Use Permit for navigational purposes, industrial activities and marinas as integral components of a harbor, marina or port, where water-dependent uses are located seaward of the existing shoreline or shore protection from strong wave action is essential. The location of a breakwater shall not render the

remaining open water surface unusable by the public. Open-pile or floating breakwaters shall be the only type allowed unless it can be shown that solid breakwaters will have no adverse effect on the aquatic biology and shore processes.

- (14) Jetties, Rock Weirs and Groins are allowed subject to approval of a Conditional Use Permit ONLY for navigational purposes, industrial activity, marinas, erosion control, fisheries or habitat enhancement, and public beach management as integral components of an overall resource management plan.
- (15) The effect of proposed breakwaters, jetties, rock weirs, and groins on sand movement shall be evaluated during permit review. The beneficiaries and/or owners of large scale shore modification works which substantially alter, reduce or block littoral drift and cause new erosion of downdrift shores shall be required to establish and maintain an adequate long term beach feeding program as follows:
  - (i) Breakwaters, Rock Weirs and Groins: By artificial beach feeding.
  - (ii) Jetties: By artificially transporting sand to the downdrift side of the inlet.
- (16) Vegetation Management:
  - (i) All disturbed shore areas shall be restored or enhanced to provide the maximum benefits of non-structural measures, even if structural measures are approved and shall use native plant materials with a similar diversity and structure as the native climax community.
  - (ii) Vegetation shall be planted and maintained on shore modification structures in a manner that will lessen the visual impact of such structures.
- (17) Maintenance: Maintenance of shore modification activities shall be the sole responsibility of the property owner.
- (18) Liability: Any impact to neighboring properties caused by shore modification activities is the sole responsibility of the property owner providing such shore modification.
- (19) Related Permits: Construction and operation of shore modification works shall demonstrate approval of and compliance with all applicable federal and state permits
- (20) Application Requirements: Proposals for shore modification shall include the following information, or as otherwise determined by the Director:
  - (i) Purpose of Project;
  - (ii) Description of Proposal:
    - (a) Location of project;
    - (b) Construction materials (e.g. materials used, dimensions of, design);

- (c) Method of construction (e.g. source of backfill, erosion controls);
- (iii) Characteristics of Site:
  - (a) Toe and crest of uplands;
  - (b) Existing buildings;
  - (c) Existing shore stabilization and flood protection devices;
  - (d) Ordinary, low, and high water elevations;
  - (e) Net direction of littoral drift changes and tidal currents (if any);
  - (f) General direction and speed of prevailing winds;
  - (g) Beach type, slope and material;
  - (h) Uplands type, slope and material;
  - (i) Soil types (Soil Conservation Service);
  - (j) Physical or geologic stability of uplands;
  - (k) Profile rendition of beach and uplands;
- (iv) Extent of Impact Area:
  - (a) Marine shores: Within drift sector;
  - (b) Lakes and streams: Three hundred feet (300') on each side of proposed project;
- (v) Existing characteristics:
  - (a) Physical, geological and/or soil characteristics;
  - (b) Existing shore stabilization and flood management devices;
  - (c) Presence of fish/wildlife vital to the aquatic food chain, or their habitat;
- (vi) Analysis:
  - (a) Potential impact upon area shore and hydraulic processes, upland stability, natural habitat, adjacent properties, shore and water uses, and public access; and
  - (b) Alternative measures (including non-structural measures) which will achieve the same purpose. Design alternatives shall include the best available technology, including (but not limited to) beach enhancement where appropriate.
- (21) Project Design: The City shall require professional design of the proposed project if it is determined there are sufficient uncertainties, such as:
  - (i) Inadequate data on local geophysical conditions;
  - (ii) Inadequate data on stream flow, velocity, and/or flood capacity; and/or
  - (iii) Effects on adjacent properties.

#### **20.16.880 STORMWATER MANAGEMENT FACILITIES:**

Stormwater management (detention and treatment) facilities are necessary elements of development. If designed correctly and managed properly they can produce multiple benefits within the shoreline jurisdiction.

(A) Policies:

- (1) Stormwater facilities should not be located in areas where there would be an adverse impact to existing shoreline ecological functions.
- (2) Stormwater management facilities should be designed to incorporate Low Impact Development techniques whenever possible.
- (3) All Shoreline Designations must comply with these requirements including the shoreline isolated locations.

(B) Regulations:

- (1) Stormwater management facilities shall be located outside of critical areas and their required buffers except as specified in BMC 20.16.6XX.
- (2) Stormwater management facilities shall provide a minimum of enhanced treatment as defined by the latest version of the Department of Ecology Stormwater Manual for Western Washington and must comply with BMC 20.15 (stormwater).
- (3) When stormwater management facilities are proposed within the shoreline jurisdiction and adjacent to required buffer areas, they shall be designed to provide additional riparian vegetative cover and increase or improve existing habitat corridors including habitat for anadromous fish.
- (4) New stormwater conveyance facilities (outfalls) shall not be constructed within required shoreline or critical area buffers unless no other feasible alternative exists.