BREMERTON SHORELINE MASTER PROGRAM

Approved ~~Dec. 4, 2013~~XXXX, XXXX by Ordinance Number ~~5229 and limited amendments on Sept. 7, 2017 by Ordinance Number 5327~~

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Chapter 1 - Introduction, Authority and Purpose

The City of Bremerton recognizes the intent of the legislature of the State of Washington in adopting the "Shoreline Management Act (SMA) of 1971" and adopts by reference the findings therein including, but not limited to, the intent to protect shorelines of statewide significance, their associated natural resources, and providing opportunities for the general public to have access to generally enjoy shorelines. The Shoreline Management Act is incorporated into the Washington State Coastal Zone Management Program and, thereby, those direct federal agency activities affecting the use or resources subject to the Act must be consistent to the maximum extent practicable with the enforceable provisions of the Act, regulations adopted pursuant to the Act and this local Master Program.

The State legislature has established that shorelines of the State are among the most valuable and fragile of its natural resources (such as Puget Sound) and there is great concern throughout the State relating to their utilization, protection, restoration, and preservation. In addition, ever increasing pressures of additional uses are being placed on the shorelines necessitating increased coordination in the management and development of the shorelines of the State.

The legislature has determined that much of the shorelines of the state and the uplands adjacent thereto are not necessarily being utilized in a way that is in the best interest of the public. This conclusion was drawn by evaluating the public and private development which has taken place on or adjacent to shorelines of Statewide Significance. Due to this, the legislature has determined that coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest. There is, therefore, a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal state and local governments, to prevent the inherent harm in uncoordinated and piecemeal development along such shorelines.

In drafting this latest version of the Bremerton Shoreline Master Program the City has followed the State mandates and guidelines established in the WAC and RCW. These requirements have had a significant impact on the goals, policies, and regulations within this document. In order to better understand the programs objectives the portions of RCW 90.58.020 are provided as follows:

> It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of

the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto.

The legislature declares that interest of all people shall be paramount in the management of shorelines of statewide significance. The department (of Ecology) in adopting guidelines for shorelines of statewide significance, and local government in developing master programs for shorelines of statewide significance shall give preference to uses in the following order of preference which:

1. Recognize and protect the statewide interest over local interest;
2. Preserve the natural character of the shoreline;
3. Result in long-term over short-term benefit;
4. Protect the resources and ecology of the shoreline;
5. Increase public access to publicly owned areas of the shorelines;
6. Increase recreational opportunities for the public in the shoreline;
7. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

The Shoreline Management Act's paramount objectives are to protect and restore the valuable natural resources that shorelines represent and to plan for and foster all "reasonable and appropriate uses" that are dependent upon a waterfront location or which will offer the opportunities for the public to enjoy the State's shorelines. With this clear mandate, the provisions of the Shoreline Management Act established a planning and regulatory permit program, which is initiated at the City and county level under State guidance through the local Shoreline Master Program.

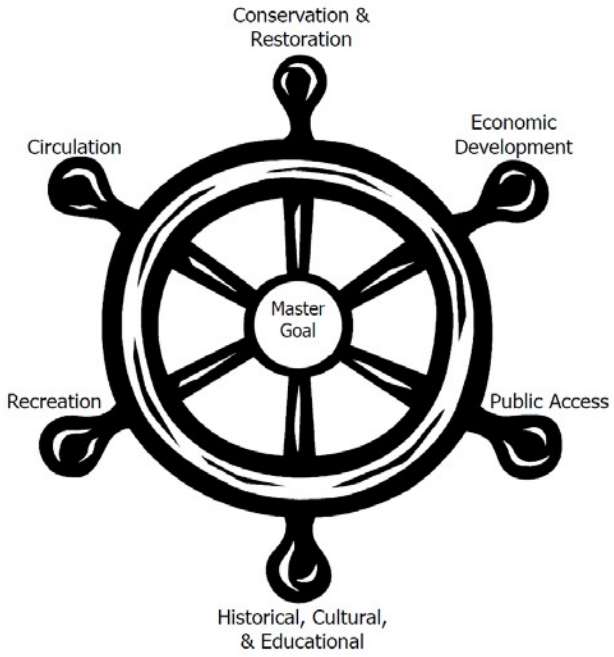
This cooperative effort balances local and State wide interests in the management and development of shoreline areas. Local governments are required to plan for shoreline development by developing local shoreline master programs (SMPs). They are also required to regulate such development through a shoreline permit system for Substantial Development projects.

Local government actions are monitored by the State of Washington Department of Ecology (DOE), which approves new or amended SMPs, reviews Substantial Development permits, and approves conditional use permits and variances. The local Shoreline Master Program is essentially a shoreline Comprehensive Plan with a distinct environmental orientation applicable to shoreline areas customized to local circumstances. Collectively, all the local master programs comprise the State Shoreline Master Program.

Chapter 2 ~~–~~ – Goals and Policies

2.010 Intent:

The goals of the Shoreline Master Program are intended to be comprehensive goal statements. The goals state the broadest principals that establish the intent behind Master Program requirements. These goal statements are intended to ensure consistency as Master Program policies and regulations are applied to various shoreline uses. The following wheel depicts how all the goals are interconnected. Each primary goal group is integrally tied to a master goal. While each goal group is a separate concept, many of the principles within each group are interrelated. It is the intent of the goal wheel to depict this relationship.



2.020 Master Goal:

The overall focus of this plan is to protect and restore shoreline resources and ecological functions, increase public access to the shoreline, promote economic development, ~~and~~ accommodate water dependent uses and address climate change adaptation/resiliency. In order to achieve rational, balanced, and responsible use of our irreplaceable shorelines: uses need to be coordinated to ensure that long term over short term benefits result.

2.030 General Goals:

Each primary goal is listed in alphabetical order followed by the supporting goals for each group.

(a) Circulation Goal:

Enhance the overall mobility of Bremerton residents and visitors to and around shorelines without detracting from habitat function or public access.

(1) Generally avoid locating new roads, railroads, and bridges within shoreline jurisdiction. When such features must be in shoreline jurisdiction locate them where routes will have the least adverse effect on shoreline function. Great effort should be taken to ensure such facilities do not result in a net loss of shoreline ecological functions or adversely impact existing or planned water dependent uses.

(2) Where permitted, roads, railroads, and bridges should cross the shoreline area by the shortest most direct route, unless such a route would cause a net loss in shoreline ecological functions.

(3) Improve facilities such as trails and bicycle lanes for safe pedestrian and non-motorized travel along public roadways in scenic areas.

(4) Make use of rights of way for public access by encouraging rest areas, view turnout points, and picnic areas. Encourage the improvement of appropriate street ends abutting water bodies for public access.

(5) Maximize opportunities to jointly use rights of way for roads, utilities, and non-motorized access to ensure the most beneficial use of public spaces.

(b) Conservation and Restoration Goal:

Emphasize activities that restore and enhance ecological functions and environmental qualities in order to achieve no net loss of ecological function on both a reach and watershed scale.

(1) Conserve existing natural resources through regulatory and non-regulatory means such as development standards, ensuring ecologically sound designs, creating restoration programs, and encouraging education programs.

(2) Critical areas within the shoreline should be managed to achieve protection or restoration of existing and degraded ecological functions and ecosystem wide processes. In protecting and restoring critical areas within the shoreline, the City can integrate the full spectrum of planning and regulatory measures.

(3) Ensure that uses and activities retain native vegetation, or replace existing non-native vegetation with native species in order to achieve no net loss of ecological functions and ecosystem wide processes performed by native vegetation.

(4) Encourage developments to integrate shoreline ecological restoration into projects through non-regulatory means.

(5) Prevent and minimize pollution, sedimentation, and soil erosion through regulatory and non-regulatory means such as surface water management.

(6) Conservation efforts should focus on protecting and sustaining existing ecological functions for long term success; such protection may be ensured through the use of conservation easements.

(7) Recognize and monitor the potential effects of ~~sea level rise~~climate change as additional scientific information becomes available and encourage shoreline development and redevelopment which will deal will sea level rise in the following order: avoid, retreat protect and accommodate.~~. At the next major update of the Shoreline Master Program consider additional specific policies and regulations based on additional scientific projections~~.

(i) Comprise/Gather information and establish a climate change strategic plan on the impacts of sea level rise on the shoreline and other affected

property; the City should develop plans to address the impacts of sea level rise and climate change in collaboration with impacted property owners, the community, and the Department of Ecology.

(ii) Consider changes to the character (type of sediment, erosion etc.) of public and private shorelines during future Master Program updates.

(iii) The City should consider sea level rise impacts as it plans for new development as well as other public and private shoreline projects, consistent with the best available science and the life cycle of the improvements.

~~(i) .~~

(c) Economic Development Goal:

Encourage development, redevelopment, and infill that will improve ecological functions, restore riparian buffers, and benefit the community. Priority should be given to single family residences, however commercial uses should be developed in the following order of preference: water dependent, water related, water enjoyment, and shoreline mixed uses.

(1) Plan for reasonable and appropriate shoreline uses, while ensuring that new, redeveloping, and existing use of facilities do not result in a net loss of shoreline ecological functions.

(2) Classify areas based on use and ecological function. Focus attention on community benefit, ecosystem processes and functions to determine conservation strategies and restoration priorities.

(3) Reserve areas for future water dependent and water related uses that are compatible with ecological protection and restoration objectives.

(4) Non-water oriented activities should be located upland, away from the shoreline except where access to the water is not provided or where the non-water oriented use provides for ecological restoration and public access. Locations where there is a bluff or a topographic break the non-water oriented use should be landward of the top of the bluff.

(5) Elements of a development that do not require location water access such as parking, circulation, or similar elements should be located inland and away from the immediate water's edge and/or from recreational beaches so as not to interfere with access to the shoreline.

(6) Over-water and in-water uses should be prioritized to provide for public access, multiple use, and expansion of existing facilities rather than the addition of new facilities. Preference should be given to the expansion of existing marinas, shared docks, etc. in order to minimize the consumption of limited shoreline resources.

(7) All shoreline policies, regulations and development standards should recognize and protect private rights and, to the extent possible, should be designed to protect the rights of adjacent property owners.

(d) Historical, Cultural, & Educational Goal:

To protect the public's interest in the conservation, preservation, and restoration of buildings, sites, and areas having historical, cultural, scientific, or educational value.

(1) Protect and restore shoreline areas having historical and/or cultural significance especially those shorelines that are historically supported by the Suquamish Tribe.

(2) Encourage cooperation among public and private groups in the research and study of historical or cultural sites within the City.

(3) Acknowledge the value to be gained from research of shorelines having historical and/or cultural significance. Support the continuation and expansion of such uses to improve the overall educational value of our shorelines.

(4) Coordinate with existing organizations and local shoreline programs to ensure availability of ongoing educational programs for residents, landowners, and recreational users.

(e) Public Access Goal:

Improve public access to the shorelines wherever feasible, provided it will not adversely impact ecological functions.

(1) Ensure shoreline access and recreational areas are designed to provide safe and abundant access to marine environments for all citizens and meet current ADA requirements.

(2) Encourage water oriented shoreline uses and activities that provide an opportunity for substantial numbers of the public to enjoy City shorelines.

(3) Incorporate public access into developments (including land division) where possible. Design public access to be as close as possible to the water's edge without impacting safety or habitat function.

(4) Control development, uses and activities on or near the shoreline so as not to impair or detract from the public's access to the water.

(5) Preserve and enhance public views from the shoreline. Enhancement of views will not be construed to mean removal of vegetation.

(6) Ensure publicly owned shorelines include water dependent uses, public recreational uses, or protected open space.

(7) Maintain, enhance, and preserve physical and visual public access afforded by shoreline street ends, public utilities, and rights-of-way.

(8) Link public access points with pathway systems for pedestrians and bicyclists. Provide linkages between pathway systems, public transit routes, and activity centers.

(9) Encourage landowners to maintain existing public access as is protected by RCW 4.24.210-220 which limits liability.

(f) Recreation Goal:

Protect and improve recreational opportunities consistent with community needs through the development of publicly owned shorelines.

(1) Encourage developments to provide recreational uses and other improvements facilitating public access to shorelines. Locate and design recreational developments to preserve, enhance or create scenic views and vistas.

(2) Identify shoreline areas with a potential for recreation or public access. Consider acquiring these areas by lease or purchase for incorporation into the Public Park and open space system.

(3) Ensure recreational development is designed to be consistent with the desired character reflected in the purpose of the designation in which they are located in. Assure maximum recreational opportunities while achieving no net loss of

shoreline ecological functions and maintaining ecosystem wide processes.

(4) Encourage linkage of shoreline parks, recreation areas and public access points with linear systems such as hiking paths, bicycle paths, easements and/or scenic drives.

(5) Encourage public access to boat launches and other facilities that can improve access to the marine environment.

2.040 General Policies:

(a) **Buffer and Setback Policies:**

(1) The 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 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) Vegetation Conservation Policies:

(1) The City should protect, conserve and establish native vegetation near 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.

(2) The City should implement the Environmental Standards within the Gorst Creek Subarea Plan, including the Gorst Creek Overlay, upon future annexation.

(c) Mitigation Sequencing Policy:

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

(d) Public Access 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 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.

(e) Water Quality 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) Protect aquatic resources from non-point pollution, such as water runoff from contaminated surfaces, contaminated groundwater, chemical fertilizers, herbicides, pesticides, and petrochemicals, including, but not limited to discharge from failing onsite septic systems.

(f) Archaeologically Sensitive Areas Policies:

(1) Prevent the destruction of or damage to any cultural resources and any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including The Suquamish Tribe, and the Washington State Department of Archaeology and Historic Preservation.

(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.

(g) Lighting Policies:

(1) 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.

(2) Lighting should be minimized within shorelines, especially within close proximity to the water.

(3) 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.

(h) Parking Policies:

(1) 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.

(2) Parking as a primary use (stand-alone use) within the shoreline jurisdiction should be prohibited.

(3) Parking should not be allowed between development and the adjacent water body.

(4) Where surface parking is developed within the shoreline jurisdiction, Low Impact Development techniques should be implemented.

(5) Lighting for parking areas should be minimized.

2.045 Aquaculture Policies:

Aquaculture is the culture, or farming of fish, shellfish or other aquatic plants and animals.

Activities include, but are not limited to the hatching, cultivating, planting, feeding, raising, harvesting, and processing of aquatic plants and animals and the maintenance and construction of necessary equipment, buildings, and growing areas. Cultivation methods include, but are not limited to fish pens, fish hatcheries, shellfish rafts, racks and long lines, seaweed floats, and nets and the culture of clams and oysters on tidelands and sub-tidal areas. Aquaculture does not include the harvest of wild geoduck associated with a state managed wild stock geoduck fishery. Aquaculture is a preferred water-dependent use. It should be encouraged to locate where it will not significantly conflict with navigation and other water dependent uses, and/or result in a net loss of ecological functions, and/or adversely impact eelgrass and microalgae. Harvest of wild stock free swimming fish, and/or harvest of wild stock geoducks on state owned aquatic lands do not require a shoreline Substantial Development permit.

(a) Aquaculture should not be located in areas where it would result in a net loss of ecological functions.
(b) Aquaculture should not be permitted in areas where it would significantly conflict with navigation and other water-dependent uses.

2.050 Commercial Development Policies:

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

(a) Commercial development should be designed and constructed in such a manner as to result in no net loss of ecological functions. including implementation of Low Impact Development techniques, to the maximum extent feasible.

(b) Public access should be provided in all locations, except where it is demonstrated to conflict with the intended use for reasons of safety, or security; or if it adversely impact the ecological function of the shoreline.

(c) Non-water-oriented commercial uses within the shoreline jurisdiction should be allowed to locate and operate within existing structures.

2.055 Forest Practices Policies:

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) or as timber harvest within the City Watershed and City Utility Lands.

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

2.060 Industrial Development Policies:

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

(a) 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.

(b) 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.

(c) 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.

(d) On upland industrial sites, environmental cleanup and/or remediation should be implemented to serve a variety of future land uses.

(e) Water-dependent and water-related industrial redevelopment is encouraged.

(f) Priorities of uses are to be in the following order: Water-dependent uses, water- related uses, and water-enjoyment uses.

2.065 Marinas and Boating Facilities Policies:

Marinas and boating facilities are water-dependent uses and 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) 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.

(b) New or expanded boating facilities should be designed, constructed and managed such that there is no net loss of shoreline ecological function.

(c) 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.)

(d) New boating facilities should be located in areas where other water-oriented uses presently exist or could be established within close proximity.

(e) New or expanded boating facilities should minimize the amount of associated parking and impervious surface within the shoreline jurisdiction.

(f) New boating facilities should not include covered moorage and boathouses.

(g) 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

(h) 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.

2.070 Recreational Development Policies:

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) 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.

(b) 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.

(c) Water-oriented recreational development should take precedence over non-water- oriented recreational uses.

(d) Wherever possible, shoreline recreational facilities should be linked to other adjacent recreational attractions by pedestrian and/or bicycle trails.

(e) Recreational development, where applicable, should include interpretive displays describing cultural, historical and scientific information.

(f) Non-water-oriented recreational development uses should not be located on shorelines.

2.075 Residential Development Policies:

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) Development of residential units should result in no net loss of ecological function.

(b) 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.

(c) 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, rather than single family docks, should be developed for the use of residents of the subject subdivision.

(d) Design of residential development should include preservation of existing native vegetation to the greatest extent possible.

(e) Residential development should be designed to minimize the amount of impervious area and should utilize Low Impact Development techniques to the greatest extent practicable (e.g., permeable pavers, stormwater infiltration and filtration).

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

2.080 Roads, Railways, and Utilities Policies:

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) All new roadways, arterials, utilities and railways, including expansions of these systems, should be located and designed to avoid shorelands, unless no feasible alternative is feasible, and should minimize impacts to shoreline ecological functions.

(b) Location and design of new roadways including arterials should not compromise existing and planned shoreline public access or existing and planned habitat restoration and enhancement.

(c) New roadways, when necessary within shorelines, should be located and designed in such a manner that the minimum width and length of travel-way for vehicles is provided and appropriate provision made for pedestrian and multi-modal forms of transportation.

(d) New roadways should be designed and constructed to implement a range of available Low Impact Development techniques.

(e) New 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.

(f) Whenever feasible, utilities should be co-located within existing right-of-way corridors.

(g) Installation of utilities, including maintenance and expansion of existing utilities, should improve the project area from its original condition by native vegetation installation and management.

(h) Utilities should provide public access to the shoreline when practical.

2.085 Clearing and Grading Policies:

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) Disturbance to and removal of native soils should be minimized within shorelines.

(b) Uses and site design should incorporate protection or reestablishment of the maximum amount of native vegetation on a particular site.

(c) Vegetation that is removed as part of a permitted use should be reestablished within a required buffer.

2.090 Docks, Piers, and Other In-Water Structures Policies:

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

(a) 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.

(b) In-water structures should not adversely affect hydrologic function including light penetration within the photic zone, sediment transport, and current and water circulation patterns.

(c) The location and planning of in-water structures should give due consideration to the full range of public interests and environmental concerns.

(d) 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.

2.095 Dredging Policies:

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) Dredging should be allowed only to accommodate existing navigational uses, remediation of contaminated materials, or approved water-dependent uses and then only when ecological impacts are minimized and mitigation is provided.

(b) Deposition of dredge spoils waterward of the Ordinary High Water Mark should be allowed only when necessary to support allowed water dependent use, public access, beach restoration or Model Toxics Control act or the Comprehensive Environmental Response Compensation and Liability Act and other water dependent uses that are consistent with this master program or consistent with locations approved by the State Departments of Natural Resources, and the Department of Fish and Wildlife where the alternatives of depositing materials on land is more detrimental to shoreline resources than depositing it in water areas.

(c) Dredging within aquatic areas for the primary purpose of acquisition of fill material should not be allowed.

(d) Where dredging occurs within marine waters the result should be suitable for establishment of a variety of aquatic organisms including, where appropriate, salmonids and forage fish.

2.100 Flood Hazard Reduction Policies:

(a) The City should recognize that seasonal flooding is an essential natural process and minimize alteration of such processes where feasible.

(b) Flood hazard reduction measures should not result in a net loss of ecological functions associated with the rivers and streams.

(c) 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.

(d) Development in frequently flooded areas should be prevented or existing development removed when feasible and to maintain or restore a stream system's natural hydrological and geo-morphological processes.

(e) Bioengineered flood hazard reduction techniques are preferred and should be examined and implemented where feasible rather than structural measures.

2.105 Landfill Policies:

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) Landfills waterward of OHWM should be allowed only when necessary to support, public access, beach restoration, or MTCA / CERCLA restoration projects and other water dependent uses that are consistent with this master program.

(b) Landfills should be limited in the shoreline and should be the minimum necessary.

2.110 Restoration and Conservation Policies:

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 restoring the natural configuration of 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) The primary objectives of restoration projects should be to protect and restore natural processes controlling environmental factors.

(b) The Suquamish Tribe, Corps of Engineers, Washington Department of Ecology, 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.

(c) The goals of the Restoration Plan should be considered for all restoration and conservation projects.

(d) 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 feasible:

(1) Non-native vegetative species should be controlled and native vegetation established (soil amendments, including mulching, may be required to support native vegetation);

(2) 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;

(3) Introduction of large woody debris to the water body should not adversely impact fish passage or hydrologic function; and

(4) 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.

2.115 Shore Stabilization Policies:

Shoreline stabilization measures are those mechanisms used to prevent erosion and deterioration of shoreline areas as a result of waves, wind, tidal action, or flooding. Shoreline stabilization measures can include a wide range of works varying from hard armoring to vegetation conservation and anchoring of trees.

(a) New development should be managed and designed to eliminate the need for shoreline modification or stabilization.

(b) Replacement of rigid 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.

(c) Whenever feasible, bioengineered and soft-shore shoreline modifications and stabilization should be explored and implemented before reverting to structurally engineered techniques.

2.120 Stormwater Management Facilities Policies:

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) Stormwater facilities should not be located in areas where there would be an adverse impact to existing shoreline ecological functions.

(b) Stormwater management facilities should be designed to incorporate Low Impact Development techniques.

(c) All Shoreline Designations must comply with these requirements including the shoreline isolated locations.

Chapter 3 - Definitions

The following shall be deemed definitions for the Shoreline Master Program. Where these definitions conflict with other definitions in the Bremerton Municipal Code, these definitions shall prevail for projects within the shoreline jurisdiction. Where they conflict with definitions in the Revised Code of Washington (RCW) or the Washington Administrative Code (WAC) the RCW or WAC provisions shall prevail. This list of definitions is not exhaustive; all definitions in RCW 90.58.030, WAC 173-26-020, BMC 20.42 and BMC 20.14.200 shall be deemed definitions for this title. Words not defined within any of these codes shall be as defined in Webster's Third New International Dictionary, latest edition.

Accessory Use: A use that is demonstrably subordinate and incidental to the principal use and which functionally supports its activity.

Act: The Shoreline Management Act of 1971, Chapter 90.58 RCW. [WAC 173-27-030(1)]

Adjacent Lands: Property which is immediately bordering or abutting lands under shoreline permit jurisdiction. (RCW90.58.340)

Agriculture: Agricultural uses and practices include, but are not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant; conducting agricultural operations; and maintaining agricultural lands under production or cultivation as defined in WAC 173-27-020. This excludes activities typically associated with single family residences, such as gardening and does not include fish hatcheries which are listed under aquaculture.

Alteration: Any human activity which results or is likely to result in a significant impact upon the existing condition of a site. Alterations include, but are not limited to grading, filling, dredging, draining, channelizing, applying any hazardous substance, discharging pollutants except stormwater, paving, constructing, applying gravel, modifying surface water management purposes, cutting, pruning, topping, trimming, relocating or removing vegetation or any other human activity which results or is likely to result in a significant impact to existing vegetation, hydrology, wildlife, or wildlife habitat. Alterations do not include walking, fishing, or any other passive recreation or other similar activities.

Applicant: A person who files an application for permit under this Title and who is either the owner of the land on which the proposed activity would be located, a contract purchaser, or the authorized agent of such person.

Appurtenance: Development necessarily connected to the use and enjoyment of a single family residence and located landward of the perimeter of an associated wetland and landward of the Ordinary High Water Mark. Normal appurtenances include a garage, deck, driveway, utilities solely servicing a subject single family residence, and grading which does not exceed 250 cubic yards.

Aquaculture: The culture, or farming of fish, shellfish, or other aquatic plants and animals. Activities include, but are not limited to the hatching, cultivating, planting, feeding, raising, harvesting, and processing of aquatic plants and animals and the maintenance and construction of necessary equipment, buildings and growing areas. Cultivation methods include, but are not limited to fish pens, fish hatcheries, shellfish rafts, racks and long lines, seaweed floats and nets and the culture of clams and oysters on tidelands and sub-tidal areas. Aquaculture does not include the harvest of wild geoduck associated with a state managed wild stock geoduck fishery.

Associated Wetlands: Those wetlands which are in proximity to and either influence or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act.

Average Grade Level: The average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure: In the case of structures to be built over water, average grade level shall be the elevation of the Ordinary High Water Mark. Calculation of the average grade level shall be made by averaging the elevations at the center of all exterior walls of the proposed building or structure. [WAC 173-27-030(3)]

Beach: The zone of unconsolidated material that is moved by waves, wind, and tidal currents, extending landward to the coastline.

Bluff: A steep headland, promontory, broad faced bank, or cliff running adjacent to and rising up from the shoreline. For the purpose of measuring buffers and setbacks from the top of a bluff the following shall apply: A bluff rises up from the OHWM to the first significant break in slope. The first significant break in slope is a bench at least thirty (30) feet wide. The top of a bluff is the point where the first significant break in slope occurs.

Boat Ramp: Graded slopes, slabs, pads, planks, or rails used for launching boats by means of a trailer, hand, or mechanical device.

Buffer: An area that is contiguous to and protects a critical area which is required for the continued maintenance, functioning, and or structural stability of a critical area.

Bulkhead: A solid or open pile wall erected generally parallel to and near the ordinary high water mark for the purposes of protecting adjacent uplands from waves or current action.

City: The City of Bremerton.

Clearing: The removal of vegetation.

Conditional Use: A use or development which is classified as a conditional use or is not classified within the Master Program, or materially interferes with the normal public use of the water or shorelines of the state.

Conservation Easement: A legal agreement that the property owner enters into a restricted use of the land. Such restrictions can include, but are not limited to passive recreation uses such as trails or scientific uses and fences or other barriers to protect habitat. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property, therefore providing permanent or long-term protection.

Covered Moorage: Boat moorage, with or without walls, that has a solid roof to protect the vessel and is attached to the dock itself or the substrate of the water body. Overwater boat houses are a type of covered moorage.

Critical Areas: Any of the following areas or ecosystems: aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, and wetlands as defined in RCW 36.70A and BMC 20.14.

Critical saltwater habitat: Means all kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sandlance; subsistence, commercial, and recreational shellfish beds; mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association.

Development: A use, consisting of the construction or exterior alteration of structures; dredging; drilling, dumping; filling; removal of any sand, gravel or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this program at any state of water level. This does not include dismantling or removing structures if there is no other associated development or re-development. ~~[RCW 90.58.030(3d)]~~

Docks: A fixed structure in the water or a structure floating upon the water that provides moorage for vessels, or for transfer of materials between a vessel and the shore, or for other services to a vessel such as fueling, maintenance and repair.

Dredging: The removal of earth, sand, sludge or other materials from the bottom of a stream, river, lake, bay or other water body.

Drift Cell, drift sector, or littoral cell: A particular reach of marine shore in which littoral drift may occur without significant interruption and which contains any natural sources of such drift and also accretion shore forms created by such drift.

Ecology: The State of Washington Department of Ecology.

Ecological Function or Shoreline Functions: The work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. (WAC 173-26-020(13)).

Ecological Restoration: An intentional activity that initiates or accelerates the recovery of an ecosystem with respect to its health, integrity and sustainability. Restoration attempts to return an ecosystem to its historic trajectory. Frequently, the ecosystem that requires restoration has been degraded, damaged, transformed or entirely destroyed as the direct or indirect result of human activities. In some cases, these impacts to ecosystems have been caused or aggravated by natural agencies, such as wildfire, floods, storms, or volcanic eruption, to the point at which the ecosystem cannot recover its pre-disturbance state or its historic developmental trajectory. In cases where a historic trajectory cannot be determined one should use a combination of knowledge of the damaged ecosystem's pre-existing structure, composition and functions rather than the historic trajectory.

Emergency: An unanticipated and/or imminent threat to public health, safety, or the

environment that requires immediate action within a time too short to allow full compliance with the Master Program. Emergency construction is defined as that necessary to protect property and facilities from the elements. All emergency construction shall be consistent with the SMA and the Master Program (see RCW 90.58.030(3eiii)).

Enhancement: The manipulation of the physical, chemical, or biological characteristics of a feature to heighten, intensify, or improve specific ecological function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a positive change in ecological function but does not result in an increase in the area of the feature. Examples are planting vegetation, controlling non-native or invasive species, and modifying site el~~l~~evations to alter hydro-periods.

Erosion: The process whereby wind, rain, water, and other natural agents mobilize and transport particles.

Estuary: The zone or area of water in which freshwater and saltwater mingle and water is usually brackish due to daily mixing and layering of fresh and saltwater.

Exempt development: Development listed in WAC 173-27-040 as exempt from the definition of "Substantial Development," and, therefore, exempt from the Substantial Development permit process of the SMA. An activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the SMA and the Master Program. Conditional use and/or variance permits may still be required even though the activity does not need a Substantial Development permit (RCW 90.58.030(3e)).

Extreme Low Tide: The lowest line on the land reached by a receding tide. [RCW 90.58.030(2a)]

Fair Market Value: The expected price at which the development can be sold to a willing buyer. For developments which involve nonstructural operations, such as dredging, drilling, dumping, or filling, the fair market value is the expected cost of hiring a contractor to perform the operation, or where no such value can be calculated, the total of labor, equipment use, transportation, and other costs incurred for the duration of the permitted project. [WAC 173-27-030(8)]

Feasible: Actions that meet all of the following conditions:

(a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;

(b) The action provides a reasonable likelihood of achieving its intended purpose; and

(c) The action does not physically preclude achieving the project's primary intended legal use.

In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the City may weigh the action's relative public costs and public benefits, considered in

short- and long-term time frames.

Fill: The addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area that increases the natural surface elevation. For wetlands this includes areas waterward of the OHWM, or on shorelands in a manner that raises the elevation or creates dry land.

Floating Home: ~~A structure designed and operated substantially as a permanently based structure and not as a vessel and is typically characterized by permanent utilities, a semi-permanent anchorage/moorage design, and by the lack of adequate self-propulsion to operate as a vessel.~~ A single-family dwelling unit constructed on a float, that is moored anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed.

Floating On-Water Residence. Any floating structure other than a floating home, as defined in this chapter that (a) is designed or used primarily as a residence on water and has detachable utilities; and (b) whose owner or primary occupant has held an ownership interest in space in a marina, or has held a lease or sublease to use space in a marina, since a date prior to July 1, 2014.

Floats (Rafts): Floating structures that are moored, anchored, or otherwise secured in the water that are not directly connected to the shoreline.

Floodway: For purposes of determining the jurisdiction of the Shoreline Master Program in conjunction with the definition of "shoreland," "floodway" means the area, as identified in a Master Program, that either: (i) Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or (ii) consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually. Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state. (RCW 90.58.030 and WAC 173-26-020(18))

Forage fish: Small, schooling fish which serve as an important source of food for other fish species, birds, and marine mammals. Examples of forage fish species are herring, smelt, anchovies, and sardines.

Geotechnical Report: A scientific study or evaluation conducted by a qualified professional that includes a description of ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by a qualified professional engineer or geologist who has professional expertise about the

regional and local shoreline geology and processes.

Grading: The movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.

Grubbing: The removal of vegetative matter from underground, such as sod, stumps, roots, buried logs or other debris, and shall include the incidental removal of topsoil and earth.

Houseboat: A vessel used for living quarters but licensed and designed substantially as a mobile structure by means of detachable utilities or facilities, anchoring, and the presence of adequate self-propulsion to operate as a vessel.

Height: The distance measured from the average grade level to the highest point of a structure: Television antennas, chimneys, and similar appurtenances shall not be used in calculating height.

Hydraulic Project Approval (HPA): A permit issued by the Washington Department of Fish and Wildlife for modifications to waters of the State in accordance with RCW 77.55.011.

Invasive: A vegetative or animal species not native to a region and marked by a tendency to spread, especially with proclivity to replace healthy native species.

In-Water Structure: A structure located waterward of the ordinary high water mark.

Littoral drift: The mud, sand, or gravel materials moved parallel to the shoreline in the nearshore zone by waves and currents.

Marina: A water dependent facility that provides wet and/or dry moorage for over ten (10) boats, and related accessory boat launching facilities and supplies and services for small commercial and/or pleasure craft. Marinas may be designated for temporary day-use only or for permanent (long-term) moorage.

May: The action is acceptable provided it conforms to the provisions of the Program. Denotes the use of discretion by the Director in making a decision, provided the action conforms to the provisions of the Program and the WAC. (WAC 173-26-03(21))

Mean Higher High Water (MHHW): The tidal elevation obtained by averaging each day's highest tide at a particular location over a period of nineteen years. It is measured from the mean lower low water = 0.0 tidal elevation.

Mooring Buoy: A floating object anchored to the bottom of a water body that provides tie up capabilities for vessels, often containing loops or chains attached to the top and float on the water. Mooring buoys are regulated separately from docks and piers.

Mixed-Use Commercial: Mixed-use commercial developments are shoreline developments which combine more than one separate but related activity into a coordinated package. Activities usually include one or more water-dependent uses with non-water dependent uses, and feature high amenity public access or recreational uses. The public benefit will be evaluated and weighed against the impact of the project in review of a mixed-use commercial development proposal.

Modification: An action that modifies the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a

breakwater, dock, boat launch ramp, or other shoreline structures. A shoreline modification also can consist of other activities such as dredging and filling.

Must: A mandate; the action is required.

~~**Nonconforming Development:** A shoreline use, site, or structure which was lawfully constructed or established prior to the effective date of the Shoreline Management Act or the Bremerton Shoreline Master Program or amendments thereto, but which does not conform to present regulations or standards of the Master Program or policies of the Act. [WAC 173-14-040(1b)]~~

Nonconforming Lot: A lot that does not meet the lot area, width or street frontage requirements of the Shoreline Master Program or Zoning Code, but was lawfully created prior to the effective date of the adoption of the Shoreline Master Program and/or Zoning Code or subsequent amendments thereto.

Nonconforming Structure: A building or structure that does not comply with the required setbacks, height, lot coverage and other development requirements of the Shoreline Master Program or Zoning Code, but was lawfully constructed prior to the effective date of the Zoning Code and/or Shoreline Master Program or subsequent amendments thereto, and was continually maintained as defined in this chapter.

Nonconforming Use: Any activity, development or condition that is not permitted outright or as an accessory use, or is not permitted by a Conditional Use Permit or other special permitting process by the provisions of the Shoreline Master Program or Zoning Code; but was lawfully created prior to the effective date of the Shoreline Master Program or Zoning Code, or subsequent amendments thereto, and was continually maintained as defined in this chapter. A nonconforming use may or may not involve buildings or structures and may involve part of or all of a building or property.

No Net Loss: No Net Loss of ecological functions is the maintenance of existing shoreline ecological processes and functions at the level that existed at the time of approval of the major update to the shoreline master program in 2012 and reflected in the shoreline inventory and characterization dated December of, 2010, or for a development project, the conditions that existed prior to initiation of use or alterations of the shoreline that result in adverse impacts on ecological processes and functions.

On a Citywide basis No Net Loss means that the ecological processes and functions are maintained within a watershed or other functional catchment area. Regulations may result in localized cumulative impacts or loss of some localized ecological processes and functions, as long as the ecological processes and functions of the system are maintained. Maintenance of system ecological processes and functions may require compensating measures that offset localized degradation.

On a project basis, no net loss means that a permitted use or alteration of a shoreline will not result in deterioration of the existing condition of shoreline ecological functions. No net loss is achieved both through avoidance and minimization of adverse impacts as well as compensation for impacts that cannot be avoided. Compensation may include on-site or off-site restoration of ecological functions to compensate for localized degradation.

Non-Water Oriented Use: A use which does not require or depend on a location on or near the waterfront, and which is neither a water-dependent, water-related, or water-enjoyment use as defined herein.

Ordinary High Water Mark (OHWM): The mark on all lakes, streams, and tidal waters which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation, as that condition exists on June 1 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department (WAC 173-22-030).Provided that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water. (RCW 90.58.030)

Photic Zone: The upper layer of a body of water delineated by the depth to which enough sunlight can penetrate to permit photosynthesis.

Pier: A fixed, pile-supported structures extending over the water.

Primary Structure: Any permanent building, road, bridge or utility requiring a permit or approval which is necessary to support the primary use of a site.

Public Access, Limited (physical or visual): Access with restrictions that are deemed necessary to protect the health, safety or welfare of the public OR to protect and maintain a particular site. Restrictions may limit times of use, or allow access only to certain users. [A limitation to restrict access may not be based on race, sex, color, creed, age or physical disability.] For example, such restrictions may limit public use to daylight hours, limit use to residents of a private community, or restrict use of tidelands used for shellfish production.

Public Access, Physical: Unobstructed access with public use improvements which are available to the general public extending from the public right-of-way to the OHWM or to the wetland directly abutting the OHWM. This includes access to the navigable waters of any water body and to tidelands in marine waters.

Public Access, Visual: Access with public use improvements available to the general public which provide a view of the shoreline or water but do not allow physical public access to the shoreline.

~~**Qualified Professional:** A person with experience and training in the pertinent scientific discipline whose expertise is appropriate for the relevant critical area and meets the following criteria:~~

~~A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or related field, and five (5) years of related work experience applicable to the scope of the project. AND~~

~~A qualified professional proposing a structural solution, such as a bulkhead or retaining wall, must be a civil engineer, geotechnical engineer, or geologist with experience in the field and must be licensed in the State of Washington.~~

A person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4). A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or related field, and five (5) years of related work experience.

(a) A qualified professional for habitats or wetlands must have a degree in biology and professional experience related to the subject species, and meet the requirements set forth in BMC 20.14.360.

(b) A qualified professional for a geological hazard must be a professional civil or geotechnical engineer with experience in the field, or geologist, licensed in the State of Washington.

(c) A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments, and meets the requirements set forth in BMC 20.14.450.

RCW: Revised Code of Washington.

Reach: A longshore segment of a shoreline where influences and impacts, such as wind direction, wave energy, littoral transport, etc. mutually interact.

Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goals of repairing natural or historic functions and processes of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or returning tidal influences to a wetland.

Restore, Restoration, or ecological restoration: The reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to re-vegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

Sea Level Rise: An increase in the elevation of marine waters associated with changes in the state of the climate which can be identified by changes in the mean and/or variability of its properties and that persists for decades or longer.

Setback: For the purposes of this chapter, the setback is the horizontal distance required between the finished exterior wall of a structure and the buffer line. Setbacks are further ~~also~~ defined in BMC 20.42

Shall: A mandate; ~~an~~ the action ~~that must be done~~is required.

Should: A particular action that is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this program against taking the action.

Shorelands or Shoreland Areas: Those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the Ordinary High Water Mark; floodways and contiguous floodplain areas landward two hundred feed from such

floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the Department of Ecology.

~~**Shoreline jurisdiction**: All shorelines of the state and shorelands as defined in RCW 90.58.030; in Bremerton this includes shorelands and water bodies waterward of OHWM out to the middle of Sinclair Inlet and Port Orchard Bay, all of Port Washington Narrows, Ostrich Bay, Oyster Bay, Phinney Bay and Mud Bay, the portion of Kitsap Lake within the Bremerton City limits, Union Reservoir, Twin Lakes, one mile of Gorst Creek and one mile of Union River.~~

Shoreline Environment Designations: The categories of shorelines established by the City's Master Program in order to provide a uniform basis for applying policies and use regulations within physically distinct shoreline areas. The City's Shoreline Master Program classifies shorelines into the following environment designations: Aquatic, aquatic conservancy, commercial, downtown waterfront, industrial, isolated, multi-family residential, recreation, single family residential and urban conservancy.

Shoreline Jurisdiction: Those lands extending landward for 200' in all directions as measured on a horizontal plane from the OHWM; floodways and 100 year floodplains; and all wetlands and river deltas associated with the streams, lakes, tidal waters and all other areas as defined by RCW 90.58.030. ~~In Bremerton these include shorelands and water bodies waterward of the OHWM out to the middle of Sinclair inlet and Port Orchard Bay, all of Port Washington Narrows, Ostrich Bay, Oyster Bay, Phinney Bay and Mud Bay, the portion of Kitsap Lake within the City limits, Union Reservoir, Twin Lakes, one mile of Gorst Creek and one mile of Union River.~~

Shoreline Master Program: The general term for shoreline comprehensive plans and regulations prepared under the jurisdiction of the Shoreline Management Act.

Shoreline Permit: A Substantial Development, conditional use, revision, or variance permit or any combination thereof. [WAC 173-27-13)

Shorelines: All of the water areas of the State, including reservoirs and their associated wetlands, together with the lands underlying them, except:

(a) Shorelines of state-wide significance (sub-tidal Puget Sound);

(b)Shorelines on segments of streams upstream of a point where the mean annual flow is twenty (20) cubic feet per second or less, and the wetlands associated with such upstream segments; and

(c) Shorelines on lakes less than twenty (20) acres in size, and wetlands associated with such small lakes.

Shorelines of Statewide Significance: Shorelines designated by the State of Washington that are major resources from which all people in the state derive benefit. Shoreline areas in the City that are designated as shorelines of statewide significance are portions of the Puget Sound adjacent to the city limits.

Shoreline Substantial Development: Any development of which the total cost, or fair market value, whichever is higher, exceeds ~~$5,000~~ $7,047 or as adjusted for inflation every five (5) years by the Office of Financial Management (WAC 173-27-040), or any development which materially interferes with the normal public use of the water or shorelines of the state.

State Master Program: The cumulative total of all Shoreline Master Programs approved or adopted by the Department of Ecology.
Structure: A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels. (WAC 173-27-030).

Tender Dock: A dock structure whose purpose is to provide temporary moorage to a small watercraft used to access an offshore location, such as a mooring buoy.

Tidelands: Land on the shore of marine water bodies between the line of ordinary high tide and the line of extreme low tide.

Topography, Natural or Existing: The surface including the relief and position of natural or manmade features of the lot, parcel, or tract of real property immediately prior to any site preparation or grading, including excavation or filling.

Upland: Generally the area above and landward of the Ordinary High Water Mark.

Variance: A permit for the limited purposes of granting relief to specific bulk, dimensional, or performance standards set forth in the City's Shoreline Master Program.

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

WAC: Washington Administrative Code.

Water Dependent Use: A use or portion of a use which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses may include cargo terminal loading areas, ferry and passenger terminals, marinas, and sewer outfalls.

Water-Related Use: A use or portion of a use which is not intrinsically dependent on a waterfront location but whose operation cannot occur economically without a shoreline location. Examples of water-related uses may include warehousing of goods transported by water, seafood processing plants, or log storage. (Also see Non-water-oriented Use.)

Water-Enjoyment Use: A recreational use such as a park, pier, or other use facilitating public access as a primary character of the use; or, a use that provides for passive and active interaction of a large number of people with the shoreline for leisure and enjoyment as a general character of the use and which, through location, design and operation, assure the public's ability to interact with the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the public and most if not all of the shoreline oriented space in the facility must be devoted to the specific aspects of the use that foster shoreline interaction. Water-enjoyment uses include, but are not limited to restaurants, museums, and mixed-use commercial, provided that such use conforms to the above requirements and the provisions of the Master Program.

Water Oriented Use: Any combination of water dependent, water related, and/or water enjoyment uses. Non-water oriented serves to describe those uses which have little or no relationship to the shoreline. Examples of non-water oriented uses include professional office, automobile sales or repair shops, mini storage facilities, multifamily residential development, department stores, and gas stations.

~~**Wetlands:** Areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do~~

~~support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands include artificial wetlands created from non-wetland areas to mitigate the conversion of wetlands. Identification of wetlands and delineation of their boundaries pursuant to this chapter shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas within the City meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this program.~~

Will: Used to express a command and or an inevitability.

Chapter 4 – Shoreline Maps and Designations

4.010 Intent:

City shorelines are classified into specific environment designations. These designations are based on existing physical, biological and development characteristics of the shorelines. These are separate from the Comprehensive Plan and the Zoning code in Title 20. Properties within any shoreline designation are required to comply with all applicable standards including provisions from both the more general zoning regulations and the shoreline specific requirements of the Shoreline Master Program. The local Shoreline Master Program is a function of the Shoreline Management Act, which represents statewide concerns and protects the rights of the people of the State of Washington. Therefore, in the case of a discrepancy between the local Comprehensive Plan, Zoning code or other development standard and the Shoreline Master Program, the Shoreline Master Program shall take precedence.

4.020 Maps:

The following maps are the official maps of the Shoreline Master Program depicting shorelines of the state. The following includes shorelands and water bodies waterward of OHWM out to the middle of Sinclair Inlet and Port Orchard Bay, all of Port Washington Narrows, Ostrich Bay, Oyster Bay, Phinney Bay and Mud Bay, the portion of Kitsap Lake within the Bremerton City limits, Union Reservoir, Twin Lakes, one mile of Gorst Creek and one mile of Union River.

4.030 Designations:

Shoreline designations are listed in alphabetical order.

(a) Aquatic

Purpose: The Aquatic designation is intended to protect, restore, and manage the unique characteristics and resources of the areas waterward of the Ordinary High Water Mark. This designation applies to those area waterward of the Ordinary High Water Mark of all shorelines of the state, (which may include; streams, marine water bodies, and lakes) together with their underlying lands and their water column, other than those lands designated Aquatic Conservancy. This environment does not include associated wetlands and other shorelands shoreward of the Ordinary High Water Mark.

Policies: The following management policies should apply to all shorelines in the Aquatic environment:

(1) Allowed uses are those within the adjacent upland shoreline designation limited to water dependent use or public access.
(2) New uses and over water structures should be allowed only for water dependent uses, public access, or ecological restoration and only when no net loss of ecological functions will result.
(3) The size of new over water structures should be limited to the minimum necessary to support the structures intended use. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over water facilities is encouraged.
(4) All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.
(5) Shoreline uses and modifications should be designed and managed to prevent degradation of water quality, minimize alteration of natural conditions and processes, and result in no net loss of ecological functions.
(6) Uses and modification of public aquatic land should incorporate public access and ecological enhancement, except where inconsistent with the operation of water dependent uses.
(7) Fish and wildlife resource enhancement, including aquaculture related to fish propagation should be allowed and encouraged.

(b) Aquatic Conservancy

Purpose: The Aquatic Conservancy designation is intended to preserve marine tidelands and waters whose existing natural state is relatively free of human influence, or whose resources, biological diversity, or other features are particularly sensitive to human activity. The Aquatic Conservancy designation should be applied to those areas of marine water bodies, waterward of the Ordinary High Water Mark such as tidal lagoons, salt marshes and mudflats, as well as marine vegetation areas that support a significant community of kelp, eelgrass and/or other vegetation that provides special marine habitat value.

Policies: The following management policies should apply to all shorelines in the Aquatic Conservancy designation:

(1) Uses and activities which would potentially degrade or significantly alter the natural character of the shoreline should be severely restricted or prohibited.
(2) Access should be limited to scientific, historical, educational, and low intensity recreational purposes, provided that no significant, adverse impact on the areas will result.
(3) Physical alterations should be considered only when they serve to protect significant, unique, or highly valued features which might otherwise be degraded or destroyed.
(4) Uses and activities adjacent to shorelines designated Aquatic Conservancy should be compatible with and not compromise the integrity of the Aquatic Conservancy environment.
(5) Native vegetation zones should be preserved, enhanced or established to protect the functions and characteristics of the areas.

(c) Commercial

Purpose: This Commercial designation is intended to accommodate high intensity business districts, light industry, and various commercial operations located in the shoreline jurisdiction. The designation is suitable for existing and future high intensity water oriented uses and water oriented commercial uses. The designation encourages commercial development that could enhance visual and physical public access to the shoreline. A primary goal is to provide a setting for commercial operations that will be of economic benefit while protecting and/or restoring ecological functions in areas that have been previously degraded.

Policies: The following management policies should apply to all shorelines in the Commercial environment:

(1) Priority should be given to water dependent uses. Second priority should be given to water related and water enjoyment uses. Non-water oriented uses should not be allowed except in limited situations where they do not conflict with or limit opportunities for water oriented uses or on sites where there is no direct access to the shoreline and where public access and ecological restoration are provided.
(2) Policies and regulations should assure no net loss of shoreline ecological functions as a result of new development. Where applicable, new development shall include environmental cleanup and restoration of the shoreline in accordance with any relevant State and Federal laws.
(3) Visual and/or physical public access should be required as a condition of development.
(4) Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.

(d) Downtown Waterfront

Purpose: The Downtown Waterfront designation is a commercial designation for the downtown shoreline area that is subject to the Downtown Sub Area Plan. The intent of this designation is to encourage development of the downtown waterfront into a vital, attractive water oriented area that maximizes opportunities for large numbers of people to

interact passively and actively with the shoreline for leisure and enjoyment uses. The designation provides for an array of uses related to the water, multimodal transportation facilities, residential, mixed uses, increased building height, and pedestrian orientation, while maintaining view corridors and encouraging public access to the water.

Policies: The following management policies should apply to all shorelines in the Downtown Waterfront environment:

(1) First priority should be given to water dependent uses. Second priority should be given to water related and water enjoyment uses. Non-water oriented uses should be permitted only when they do not conflict with or limit opportunities for water oriented uses or on sites where there is no direct access to the shoreline and where public access and ecological restoration are provided.
(2) Policies and regulations should assure no net loss of shoreline ecological functions as a result of new development. Where applicable, new development should include environmental cleanup and restoration of the shoreline in accordance with any relevant State and Federal laws.
(3) Visual and/or physical public access should be required as a condition of development.
(4) Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.

(e) Industrial

Purpose: This Industrial designation is intended to provide for efficient utilization of suitable shoreline areas for water dependent commerce and industry consistent with the Shoreline Management Act. The Industrial designation is appropriate for high intensity uses related to manufacturing, transportation, or navigation, or suitable and planned for high intensity water oriented uses.

Policies: The following management policies should apply to all shorelines in the Industrial environment:

(1) Priority should be given to water dependent industrial uses. Second priority should be given to water related and water enjoyment uses. Non-water oriented uses should not be allowed except in limited situations where they do not conflict with or limit opportunities for water oriented uses or on sites where there is no direct access to the shoreline and where public access and ecological restoration are provided.
(2) Policies and regulations should assure no net loss of shoreline ecological functions as a result of new development. Where applicable, new development should include environmental cleanup and restoration of the shoreline in accordance with any relevant State and Federal laws.
(3) Visual and/or physical public access should be required as a condition of development.
(4) Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development locations, screening and architectural standards, and maintenance of natural vegetative buffers.

(f) Isolated

Purpose: The objective of the ~~Shoreline~~ Isolated designation is to recognize that there are areas that are within 200' of the shoreline, but are isolated from the shoreline by intervening elements such as roads. In these areas the development standards outlined in the SMP, such as buffers, are not appropriate. This designation is appropriate for lands that are inherently isolated from the shoreline, however should the obstruction be removed so that the area is no longer isolated, the designation of ~~isolated~~ Isolated should also be removed.

Policies: In these specific areas, the development standards of the SMP shall not be applied; however mandatory permit requirements of the Shoreline Management Act do apply. It is the intent that this area will be governed by underlying provisions of the zoning code, Critical Area Ordinance, Subdivision standards and stormwater requirements. Local, State and Federal regulations are applicable.

(g) Multi-Family Residential

Purpose: This Multi-Family Residential designation is intended for areas which are currently primarily multi-family residential or intended for multi-family residential use. These areas are to maintain existing character in terms of open space, bulk, scale, and intensity of use within the guidelines of the zoning code. An additional purpose is to provide appropriate public access and recreational uses for public enjoyment.

Policies: The following management policies should apply to all shorelines in the Multi-Family Residential environment:

(1) Standards for density, minimum width, setbacks, building bulk, lot coverage, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality should be set to maintain no net loss of shoreline ecological functions.
(2) New multi-family residential developments should provide public access and joint use community recreational facilities where appropriate.
(3) Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.

(h) Recreation

Purpose: The Recreation designation is intended to provide recreational and public access opportunities along Bremerton's shorelines. It is an appropriate designation for areas occupied by recreational purposes such as parks and marinas. An additional purpose is to maintain and restore ecological functions to the area and preserve open space within the City.

Policies: The following management policies should apply to all shorelines in the Recreation designation:

(1) Both to the goal of recreational use and the goal of ecological stewardship ensuring no net loss of ecological function should be implemented in all development.
(2) Development should be related primarily to expanding recreational opportunities in the area. These activities include but are not limited to boating, swimming, walking, hiking, and recreational sports. Priority should be given to those developments related to a water dependent activity such as swimming or boating.

(3) Recreational opportunities should be accessible to all demographic populations in the City.
(4) Park management should encourage ecological stewardship as outlined in the Restoration Plan. This includes, but is not limited to such measures as setting picnic areas away from the water's edge, planting and maintaining native vegetation buffers along the water, and making floodplain connections where feasible.

(i) Single Family Residential

Purpose: The Single Family Residential designation is intended for areas which are currently primarily single family residential, are planned, or are platted for single family residential use. These areas are to maintain existing character and be consistent with that character in terms of open space, bulk, scale, and intensity of use within the guidelines of the zoning code. An additional purpose is to provide appropriate public access and recreational uses for public enjoyment.

Policies: The following management policies should apply to all shorelines in the Single Family Residential environment:

(1) Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality should be set to maintain no net loss of shoreline ecological functions.
(2) New single family residential developments should provide public access and joint use community recreational facilities where appropriate.
(3) Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.

(j) Urban Conservancy

Purpose: The Urban Conservancy designation is intended to protect and restore ecological functions of lands within the shoreline jurisdiction. These areas are identified as having biological or physical limitations or other unique or hazardous characteristics that are incompatible with intense development. Activities permitted in these areas are intended to have minimal adverse impacts upon the shoreline. These areas are not generally suitable for intensive water dependent uses.

Policies: The following management polices apply to all shorelines in the Urban Conservancy environment:

(1) Primary allowed uses and their associated development standards should preserve the natural character of the area or promote preservation of open space, floodplain or sensitive lands where they exist in urban and developed settings, either directly or over the long term. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.
(2) Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the urban conservancy designation. These standards should ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.

(3) Public access and public recreation objectives should be implemented whenever feasible and where significant ecological impacts can be mitigated.

4.040 Shorelines of Statewide Significance:

Purpose: The Shoreline Management Act of 1971 designated certain shoreline areas as "Shorelines of Statewide Significance". These shorelines are important to the entire state because they are a major resource from which all people in the state derive benefit. This Master Program gives preference to uses which favor public and long-range goals.
In the City of Bremerton, the portions of Puget Sound, lying seaward from the line of extreme low tide, are Shorelines of Statewide Significance. Accordingly, this Master Program shall give preference to uses which meet the principles outlined below in order of preference for these locations:

(a) Recognize and protect the Statewide interest over local interest through the use of the following measures:
  (1) Solicit comments and opinions from groups and individuals representing statewide interests by circulating the Master Program, Master Program amendments and requests for Substantial Development permits on Shorelines of Statewide significance to state agencies, adjacent jurisdictions, and applicable interest groups.
  (2) Recognize and take into account state agencies' policies, programs, and recommendations in developing and administering use regulations.

(b) Preserve the natural character of the shoreline through the following measures:
  (1) Designate and administer shoreline environments and use regulations to minimize manmade intrusions on shorelines;
  (2) Upgrade and redevelop those areas where intensive development already exists in order to reduce their adverse impact on the environment and to accommodate future growth, rather than allowing high intensity uses to extend into low intensity use or underdeveloped areas.

(c) Ensure long-term over short-term benefits through the following measures:
  (1) Preserve the shorelines for future generations. For example, actions that would convert resources into irreversible uses or detrimentally alter natural conditions characteristic of shorelines of statewide significance should be severely limited;
  (2) Evaluate the short-term economic gain or convenience of developments in relationship to long-term and potentially costly impairments to the natural environment;
  (3) Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities or for the general enhancement of shoreline areas.

(d) Protect the resources and ecology of the shorelines through the following measures:
  (1) Leave undeveloped those areas which contain a unique or fragile resource;
  (2) Prevent erosion and sedimentation that would alter the natural function of the water system. In areas where erosion and sediment control practices will not be effective, severely limit excavations or other activities which increase erosion;
  (3) Restrict public access onto areas which cannot be maintained in a natural condition under human uses.

(e) Increase public access to publicly owned areas of the shorelines through the following measures:
   (1) Preserve the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state consistent with the overall best interest of the people of the state;
   (2) Plan for a system of public access facilities that recognize exiting facilities, constraints, and opportunities. Identify appropriate public access provisions for specific shoreline reaches;
   (3) Improve pedestrian access to the shoreline through paths and trails to shoreline areas, linear access along the shorelines, and by developing connections to other trails and facilities;
   (4) Develop upland parking to serve public access areas where appropriate;
   (5) Design development to provide opportunities for public access compatible with other uses;

(f) Increase recreational opportunities for the public on the shorelines through the following measures:
   (1) Plan for and encourage development of public facilities for recreational use of the shorelines;
   (2) Integrate water-dependent recreation uses wherever possible as part of multiple use of private shoreline development.

Chapter 5 - Permit Administration

5.010 Applicability:

(a) **Liberal Construction:** All regulations applied within the shoreline shall be liberally construed to give full effect to the objectives and purposes for which they have been enacted. Shoreline Master Program policies establish intent for the shoreline regulations in addition to RCW 90.58 and Chapter 173 of the Washington Administrative Code 173-26 and 173-27.

(b) **Burden of Proof:** The applicants for any permit shall have the burden of proving that the proposed development is consistent with the criteria as set out in the Shoreline Management Act.

(c) **Development Permit Compliance:**

(1) For all development within shoreline jurisdiction, the responsible official shall not issue a development or construction permit or an exemption for such development until compliance with the Shoreline Master Program has been documented. If a Shoreline Substantial Development Permit is required, no permit shall be issued until all comment and appeal periods have expired. Any development permit for work within the shoreline jurisdiction (200' from the OHWM) shall be subject to the same terms and conditions that apply to the shoreline permit.

(2) Critical Areas in the shoreline jurisdiction are regulated by the Critical Areas Regulations, (Ord. 5327 (exh B) (part), 2017: Ord. 4965 Section 7 (part) 2006)), codified under BMC 20.14 which is herein incorporated into this SMP however, the following sections of the Critical Area Ordinance do not apply:

(i) BMC 20.14.145(d) Exemptions for Forest Practices;
(ii) BMC 20.14.145(f) Exemptions for activities within improved Right-of-Way;
(iii) BMC 20.14.155 Reasonable Use Exception;
(iv) BMC 20.14.330(f) & (g) ~~& (h)(3)~~ Standard Wetland Buffers Widths;
(v) BMC 20.14.730(d)(5) Buffer Reduction;
(ix) BMC 20.14.730 (d)(8) Habitat Conservation Area Buffers;

(d) **Constitutional limitations**: Regulation of private property to implement any Program goals, such as public access and protection of ecological functions, must be

consistent with all relevant constitutional and other legal limitations. These include, but are not limited to, property rights guaranteed by the United States Constitution and the Washington State Constitution, applicable federal and state case law, and state statutes, such as RCW 34.05.328 and 43.21C.060.

(e) **Agency coordination:** The city will coordinate on issues relating to ecological conditions, functions and processes and on wetland and ordinary high water delineations with the Department of Ecology, the Department of Natural Resources, the Department of Fish and Wildlife, Suquamish Tribe, as well as other agencies with permit authority over a project to the extent that agencies are timely in their response and coordination does not interfere with meeting timelines for permit review.

(f) **Compliance with other regulatory requirements**: Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, , Hydraulic Permit Act (HPA) permits, U.S. Army Corps of Engineers Section 404 permits, Washington State Department of Ecology Water Quality Certification (Section 401) National Pollution Discharge Elimination System permits). The applicant is responsible for complying with these requirements, apart from the process established in this chapter. (Ord. 1164 § 4, 2004).

~~(f)~~(g) **Local review exceptions:** Requirements to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

(1) Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW. Periodic Review Checklist Guidance 6 September 2019

(2) Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.

(3) WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other local review.

(4) Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.

(5) Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

(h) **Federal Jurisdiction:** Areas and uses in those areas under exclusive federal jurisdiction and are established through federal or state statues are not subject to RCW 90.58. The Shoreline Management Act and Shoreline Master Program do not apply to Bremerton's federal lands including, but not limited to the Naval Base Kitsap- Bremerton, Naval Hospital and Puget Sound Naval Shipyard and Intermediate Maintenance Facility.

~~(g)~~(i) **Permit Revisions**: An application for a permit revision is required whenever the applicant proposes substantive changes to the design, terms, or conditions of a project that has an approved permit. The City may approve a revision, rather than requiring a separate shoreline permit provided the revision is within the scope and intent of the original permit, and is consistent with all applicable standards within the SMP and SMA. Should the revision be found to be within the scope and intent of the original permit the City may approve the revision and submit it to the Department of Ecology. Pursuant to WAC 173-27-100 “Within the scope and intent of the original permit” means all of the following:

(1) No additional overwater construction is involved except that pier, dock or float construction may be increased by five hundred square feet or ten percent (10%) from the provisions of the original permit, whichever is less:

(2) Ground area coverage and height may be increased a maximum of ten percent (10%) from the provisions of the original permit;

(3) The revised permit does not authorize development toe exceed height, lot coverage, setback, or any other requirements of the SMP except as authorized under a variance granted as the original permit or a part thereof;

(4) Additional or revised landscaping is consistent with any conditions attached to the original permit and with the SMP;

(5) The use authorized pursuant to the original permit is not changed; and

(6) No adverse environmental impacts will be caused by the project revision.

~~(h)~~(j) **Exemptions**:

A Shoreline Substantial Development Permit shall be required for all proposed use and development within the shoreline jurisdiction unless the proposal is specifically exempt from permit requirements pursuant to WAC 173-27-040, as amended~~.~~ The City issues exemptions for all work that does not meet the threshold for a shoreline permit to be required. The following list of exemptions is an exact copy from the WAC, and is located here as a courtesy to the reader. Any exemptions adopted subsequently by the legislature shall apply without amendment to this program. An exemption from a shoreline permit is not an exemption from compliance with the Act or the Shoreline Master Program, or from any other regulatory requirements. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the Shoreline Substantial Development Permit process.
Exemptions are as follows:

(1) Any development of which the total cost or fair market value, whichever is higher, does not exceed~~-~~ seven-thousand and forty-seven dollars ~~five thousand dollars~~, if such development does not materially interfere with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle,

Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the *Washington State Register* at least one month before the new dollar threshold is to take effect. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials;

(2) Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development, including but not limited to its size, shape, configuration, location and external appearance, and the replacement does not cause substantial adverse effects to shoreline resources or environment;

(3) Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings.

When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the Department of Fish and Wildlife.

(4) Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction

does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or the local master program, obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and the local master program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;

(5) Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels: Provided, That a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;

(6) Construction or modification of navigational aids such as channel markers and anchor buoys;

(7) Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other

than requirements imposed pursuant to chapter 90.58 RCW. "Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Local circumstances may dictate additional interpretations of normal appurtenances which shall be set forth and regulated within the applicable master program. Construction authorized under this exemption shall be located landward of the ordinary high water mark;

(8) Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract

purchaser of single-family and multiple-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if either:

(i) In salt waters, the fair market value of the dock does not exceed two thousand five hundred dollars; or

(ii) In fresh waters the fair market value of the dock does not exceed:

(A) Twenty-two thousand five hundred dollars ($22,500) for docks that are constructed to replace existing docks, are of equal or lesser square footage than the existing dock being replaced; or

(B) Eleven thousand two hundred ($11,200) dollars for all other docks constructed in fresh waters.

(C) However, if subsequent construction occurs within five years of completion of the prior construction, and the combined fair market value of the subsequent and prior construction exceeds the amount specified above, the subsequent construction shall be considered a substantial development for the purpose of this chapter.

~~ten thousand dollars, but if subsequent construction having a fair market value exceeding two thousand five hundred dollars occurs within five years of completion of the prior construction, the subsequent construction shall be considered a Substantial Development for the purpose of this chapter.~~

~~(ii)~~(iii) For purposes of this section salt water shall include the tidally influenced marine and estuarine water areas of the state including the Pacific Ocean, Strait of Juan de Fuca, Strait of Georgia and Puget Sound and all bays and inlets associated with any of the above;

(9) Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored groundwater from the irrigation of lands;

(10) The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;

(11) Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking system;

~~(12)~~ Any project with a certification from the governor pursuant to chapter 80.50 RCW Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:

~~(13)~~(12)

(i) The activity does not interfere with the normal public use of the surface;

(ii) The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

(iii) The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;

(iv) A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and(v) The activity is not subject to the permit requirements of RCW 90.58.550;

~~(14)~~(13) The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the department of agriculture or Ecology jointly with other state agencies under chapter 43.21C RCW;

~~(15)~~(14) Watershed restoration projects as defined herein. Local government shall review the projects for consistency with the shoreline master program in an expeditious manner and shall issue its decision along with any conditions within forty-five days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration projects as used in this section.

(i) "Watershed restoration project" means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:

(A) A project that involves less than ten miles of stream reach, in which less than twenty-five cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;

(B) A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

(C) A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or in-stream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the ordinary high water mark of the stream.

(ii) "Watershed restoration plan" means a plan, developed or sponsored by the Department of Fish and Wildlife, Ecology, the department of natural resources, the department of transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a county, or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act;

~~(16)~~(15) Consistent with WAC 173-27-040, ~~A~~ public or private project that is designed to improve fish or wildlife habitat or fish passage (including restoration of native kelp and eelgrass beds and restoring native oysters), that conforms to the provision of RCW 77.55.181. ~~when all of the following apply:~~

~~(i) The project has been approved in writing by the Department of Fish and Wildlife;~~

~~(ii) The project has received hydraulic project approval by the Department of Fish and Wildlife pursuant to chapter 77.55 RCW; and~~

~~(iii) The local government has determined that the project is substantially consistent with the local shoreline master program. The local government shall make such determination in a timely manner and provide it by letter to the project proponent.~~

~~(iv) Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with local shoreline master programs, as follows:~~

~~(A) In order to receive the permit review and approval process created in this section, a fish habitat enhancement project must meet the following and~~ ~~(II) of this subsection:~~

~~(I) A fish habitat enhancement project must be a project to accomplish one or more of the following tasks: Elimination of human-made fish passage barriers, including culvert repair and replacement; or restoration of an eroded or unstable stream bank employing the principle of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or Placement of woody debris or other in-stream~~

structures that benefit naturally reproducing fish stocks.

The Department of Fish and Wildlife shall develop size or scale threshold tests to determine if projects accomplishing any of these tasks should be evaluated under the process created in this section or under other project review and approval processes. A project proposal shall not be reviewed under the process created in this section if the department determines that the scale of the project raises concerns regarding public health and safety; and

(II) A fish habitat enhancement project must be approved in one of the following ways: By the Department of Fish and Wildlife pursuant to chapter
77.95 or 77.100 RCW; or By the sponsor of a watershed restoration plan as provided in chapter 89.08 RCW; or

- By the department as a Department of Fish and Wildlife-sponsored fish habitat enhancement or restoration project;
- Through the review and approval process for the jobs for the environment program;
- Through the review and approval process for conservation district-sponsored projects, where the project complies with design standards established by the conservation commission through interagency agreement with the United States Fish and Wildlife Service and the natural resource conservation service;
- Through a formal grant program established by the legislature or the Department of Fish and Wildlife for fish habitat enhancement or restoration; and
- Through other formal review and approval processes established by the legislature.

(B) Fish habitat enhancement projects meeting the criteria of (p)(iii)(A) of this subsection are expected to result in beneficial impacts to the environment. Decisions pertaining to fish habitat enhancement projects meeting the criteria of (p)(iii)(A) of this subsection and being reviewed and approved according to the provisions of this section are not subject to the requirements of RCW 43.21C.030 (2)(c).

(C)(I) A hydraulic project approval permit is required for projects that meet the criteria of (p)(iii)(A) of this subsection and are being reviewed and approved under this section. An applicant shall use a joint aquatic resource permit application form developed by the Office of Regulatory Assistance to apply for approval. On the same day, the applicant shall provide copies of the completed application form to the Department of Fish and Wildlife and to each appropriate local government. Local governments shall accept the application as notice of the proposed project. The Department of Fish and Wildlife shall provide a fifteen-day comment period during which it will receive comments regarding environmental impacts. Within forty-five days, the department shall either, issue a permit, with or without conditions, deny approval, or make a determination that the review and approval process created by this section is not appropriate for the proposed project. The department shall base this determination on identification during the comment period of adverse impacts that cannot be mitigated by the conditioning of a permit. If the department

~~determines that the review and approval process created by this section is not appropriate for the proposed project, the department shall notify the applicant and the appropriate local governments of its determination. The applicant may reapply for approval of the project under other review and approval processes.~~

~~(C)(II) Any person aggrieved by the approval, denial, conditioning, or modification of a permit under this section may formally appeal the decision to the hydraulic appeals board pursuant to the provisions of this chapter.~~

~~(D) No local government may require permits or charge fees for fish habitat enhancement projects that meet the criteria of (p)(iii)(A) of this subsection and that are reviewed and approved according to the provisions of this section.~~

~~(17)~~(16) The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the American with Disabilities Act of 1990 (42 U.S.C. 12101 et. seq.) or to otherwise ~~porovide~~ provide physica~~cia~~l access to the structure by individuals with disabilities.

5.020 Permit Application Types:

(a) A permit for any action in shoreline jurisdiction not requiring a Shoreline Substantial Development Permit, Conditional Use Permit or Variance will be processed as a Type I permit pursuant to BMC 20.02, Chapter 90.58 RCW and Chapter 173-27 WAC. A Shoreline Exemption issued by the City is required for all such exempt activities. All uses and developments within the shoreline jurisdiction shall be carried out in a manner that is consistent with this Program and the policy of the Act as required by RCW 90.58.140(1), regardless of whether a permit, exemption, variance, or conditional use permit is required. The policies and provisions of chapter 90.58 RCW, including the permit system, shall apply statewide to all nonfederal developments and uses undertaken on federal lands and on lands subject to nonfederal ownership, lease, or easement, even though such lands may fall within the external boundaries of a federal ownership.

(b) All permits shall be submitted to the Department of Community Development and shall comply with the submittal requirements of BMC 20.02.

(c) A Shoreline Substantial Development Permit application shall be processed as a Type II permit pursuant BMC 20.02 and as otherwise required by Chapter 90.58 RCW and Chapter 173-27. Permits may be approved, approved with conditions or denied by the Director.

(d) A Shoreline Conditional Use Permit shall be processed as either a Type II or Type III permit depending on project scope. Permits shall be processed pursuant to BMC 20.02 or as otherwise required by Chapter 90.58 RCW and Chapter 173-27 WAC. Permits may be approved, approved with conditions, or denied by the Director or Administrative Hearing Examiner respectively.

(e) A Variance permit shall be processed as a Type III permit pursuant to BMC 20.02 and as otherwise required by Chapter 90.58 RCW and Chapter 173-27 WAC. Permits may be approved, approved with conditions, or denied by the Administrative Hearing Examiner.

5.030 Noticing Requirements:

When a notice of application is required, the following shall apply:

(a) Timeline: The notice shall be provided within fourteen (14) days after the determination of completeness is issued.

(b) Content: The notice of application shall include the following**:**

(1) The file number assigned;

(2) The date of application, date of the notice of completeness, and the date of the notice of application;

(3) A description of the proposed project action and a list of permits included with the application and, if applicable, a list of requested studies;

(4) Identification of known permits not included with the application;

(5) Identification of existing environmental documents that evaluate the proposal;

(6) The location where the application and any studies can be reviewed;

(7) A statement of the public comment period and which shall not be less than thirty (30) days;

(8) A statement of the rights of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision and any appeal rights;

(9) Any other information determined appropriate by the City.

(c) Legal Notice: Notice shall be provided in the following manner as applicable:

(1) Mail. The notice shall be sent by email, first class or higher mail to the following:

(i) The applicant;

(ii) Affected City Departments;

(iii) State, federal, tribal, and local agencies with jurisdiction;

(iv) For Type III Permits mailed notice shall also be sent to all property owners of real property (as shown by the records of the Kitsap County Assessor's Office) within three hundred (300) feet of the subject property. Where any portion of a property abutting the subject property is owned, controlled, or under the option of purchase by the applicant, all property owners within a three hundred (300) foot radius of the total ownership interest shall be notified; and

(v) Any person who requests such notice in writing to the Department.

(2) **Posting of the Property:** Notice shall be posted according to the following:

(i) At least one (1) location on or adjacent to the subject property and that shall be clearly visible and legible from an adjacent street or public area;

(ii) The Director shall determine the specifications to the construction and installation of the notice boards.

(3) **Publishing Notice**: A published notice in the City's official newspaper of general circulation within the City boundaries is required. The content shall include the following:

(i) Project location;

(ii) Project description;

(iii)Type of permit(s) required;

(iv)Comment period and dates;

(v) Location where the complete application may be viewed.

(d) Integration of Notices: The City will integrate the notice of application with SEPA review whenever possible. Notification for a notice of application should be combined with the notification for threshold determination and the scoping for a determination of significance whenever possible.

(e) Issuance of Decisions: Except for a threshold determination, the City may not issue a decision or a recommendation on a permit until the expiration of the public comment period.

(f) Public Comments: Comments shall be as specific as possible. Comments shall be received by the last day of the comment period specified in the notice. If no comments are received by the date specified it is presumed that those notified have no comments.

5.040 Criteria of Approval:

(a) **Shoreline Substantial Development Permits**:

(1) A Shoreline Substantial Development Permit shall be granted only when the development proposed is consistent with:

(i) The policies and procedures of the Shoreline Management Act RCW 90.58; and the provisions of the Shoreline Guidelines WAC 173-26 and WAC 173-27, and

(ii) This Shoreline Master Program, as well as the Comprehensive Plan and Zoning Regulations, to the extent that they are consistent with the Shoreline Master Program.

(2) The City may attach conditions to the approval of permits as necessary to assure consistency of the project with the act and this Shoreline Master Program.

(3) Any ruling on an application for a Shoreline Substantial Development Permit under authority of this Master Program, whether it is an approval or denial, shall, with the transmittal of the ruling to the applicant, be filed concurrently with Ecology and the Attorney General by the Director. Filing shall occur in accordance with RCW 90.58.140(6) and WAC 173-27-130 for shoreline substantial development permits, shoreline exemptions are not required to be filed with Ecology unless Environmental review is required.

(b) **Conditional Use Permits**:

(1) Conditional Use Permits are issued for proposed Substantial Development activities when the activity is classified as a Conditional Use or is an unlisted use in the Shoreline Use/ Activity Matrix (Table 20.16.690). The purpose of the Conditional Use Permit is to allow greater flexibility in the application of the Shoreline Master Program. Conditional Use Permits are processed as an Administrative Type II Director's decision, but can at any point in the permit process be elevated to a ~~Nonadministrative~~ Type III Hearing~~s~~ Examiner decision

when the Director determines:

(i) The use or project has a significant impact beyond the immediate site;

(ii) The use or project is of a neighborhood or community wide interest; or

(iii) The use or project is of a controversial nature.

(2) Development activity considered a Conditional Use may be authorized if all ~~of the criteria in~~ WAC 173-27-160 criteria are met as follows: ~~. The criteria include:~~

(i) The proposed use is consistent with RCW 90.58.020 and the policies of Bremerton's Shoreline Master Program;

(ii) The proposed use will not interfere with the normal public use of public shorelines;

(iii) The proposed use of the site and design are compatible with other permitted uses in the area;

(iv) The proposed use will cause no net loss of ecological function to the shoreline environment; and

(v) The public interest will not suffer a detrimental effect.

(vi) When considering the application, consideration must be given to the cumulative impact of additional requests for similar actions in the area. After the City makes a final decision on a Conditional Use Permit, the permit and application must be reviewed and approved by Ecology and the Attorney General.

(c) **Variance:** Relief from specific bulk, dimensional or performance standards in the Shoreline Master Program can be granted only when there are extraordinary or unique circumstances relating to the property such that strict implementation of the Shoreline Master Program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

(1) Development activities considered a Variance may be authorized if all of the criteria in WAC 173-27-170 are met. The criteria include:

(i) The strict application of the bulk, dimensional, or performance standards would preclude or significantly interfere with the reasonable use of the property not otherwise prohibited by the Shoreline Master Program;

(ii) The hardship is specifically related to the property, and is the result of unique conditions such as lot shape, size or natural features, and the application of the Shoreline Master Program;

(iii) The project design is compatible with other permitted uses in the area, and will not cause adverse effects to adjacent properties or the shoreline environment;

(iv) The Variance will not constitute a grant of special privilege, and is the minimum necessary to afford relief;

(v) The public interest will suffer no substantial detrimental effect; and

(vi) If the development is waterward of the ordinary high-water mark, the public rights of navigation and use of the shorelines will not be adversely affected.

(2) After the City makes a final decision on a variance permit, the permit and

application must be reviewed and approved by Ecology.

5.050 Appeals:

(a) **Applicability:** Any person aggrieved by the granting, denying, or rescinding of a permit on shorelines of the state pursuant to RCW 90.58.140 may, except as otherwise provided in chapter 43.21B RCW, seek review from the Shorelines Hearings Board by filing a petition for review within twenty-one days of the decision as provided for in RCW 90.58.140(6).

(b) **Type II Decisions**: Type II decisions on Shoreline Substantial Development Permits, Conditional Use Permits, and revisions to shoreline permits may be appealed to the Administrative Hearing Examiner pursuant to Chapter 20.02 BMC within fourteen (14) calendar days of the date of the decision, provided that the applicant agrees to this local appeal. In the case of a Conditional Use Permit the Director may request that Ecology delay action in the approval until the local appeal process has been completed. In lieu of an appeal to the Administrative Hearing Examiner, or in the case where the applicant does not agree to a local appeal, an appeal of the local shoreline permit decision shall be heard by the Shorelines Hearings Board (SHB). Any person may file a Petition for Review to the SHB within twenty-one (21) calendar days of the date of filing of the decision with Ecology and the Attorney General pursuant to RCW 90.58.180(1).

(c) **Type III Decisions and Decisions on Appeals**: Type III decisions, and decisions on appeal of Type II decisions may be appealed to the Shorelines Hearings Board by filing a Petition for Review within twenty-one (21) calendar days of the date of filing of the decision with Ecology and the Attorney General pursuant to RCW 90.58.180(1).

(d) **Ecology Approval:** An appeal of a Conditional Use Permit or Variance by Ecology shall be filed with the Shoreline Hearings Board within twenty one (21) calendar days of notice of the Ecology Decision, pursuant to RCW 90.58.180(1).

(e) **Shoreline Master Program Adoption and Amendments**. The decision of Ecology pertaining to the adoption of, or amendment to, the Shoreline Master Program may be appealed to the Central Puget Sound Growth Management Hearing Board per Chapter 36.70A RCW.

5.060 Time Periods:

(a) **Type II Permits**: No construction pursuant to such permit shall begin or be authorized and no building, grading or other construction permits or use permits shall be issued by the City until 21 days from the date a Shoreline Substantial Development Permit was filed with Ecology and the Attorney General, or until all review proceedings are completed as were initiated within the twenty one (21) days of the date of filing. Filing shall occur in accordance with RCW 90.58.140(6) and WAC 173-27-130.

(b) **Type III Permits or Type II Conditional Use Permits**: No permits and construction shall begin or be authorized until 21 days from the date of notification of approval by Ecology, or until all review proceedings are completed as were initiated within the twenty one (21) days of the date of filing. Filing shall occur in accordance with RCW

90.58.140(6) and WAC 173-27-130.

(c) **Expiration:** Unless a different time period is specified in the shoreline permit as authorized by RCW 90.58.143, construction activities, or a use or activity for which a permit has been granted pursuant to this Master Program, must be commenced within ~~two (2) years~~ five (5) years of the effective date of a shoreline permit, or the shoreline permit shall terminate and a new permit shall be necessary, except for projects also requesting a shoreline ~~. However, the~~variance. The Director may authorize a single extension ~~for a period~~ not to exceed one year ~~-~~based on reasonable factors if an extension request is ~~a request for extension has been~~ filed with the City within thirty days of the permit expiry ~~before the expiration date and~~ . A notice of the proposed extension shall be forwarded to parties of record and Ecology. ~~is given to parties of record and Ecology. Construction activities or commencement of construction means that construction applications must be submitted, permits must be issued, and foundation inspections must be approved and completed.~~

(d) **Extensions:** A permit authorizing construction shall extend for a term of no more than five (5) years from commencement of construction activities to project completion after the effective date of a shoreline permit, unless a longer period has been specified pursuant to RCW 90.58.143, or as authorized above. If an applicant files a request for an extension prior to expiration of the shoreline permit, the Director shall review the permit and upon a showing of good cause may authorize a single extension of the shoreline permit for a period of up to one year. Otherwise said permit shall terminate. Notice of the proposed permit extension shall be given to parties of record and Ecology. To maintain the validity of a shoreline permit, it is the applicant's responsibility to maintain valid construction permits in accordance with adopted Building Codes.

(e) **Reductions:** If it is determined that standard time requirements of subsections c and d should not be applied, the Hearing Examiner, upon a finding of good cause, may establish shorter time limits, provided that as a part of action on a conditional use or variance permit the approval of Ecology shall be required. "Good cause" means that the time limits established are reasonably related to the time actually necessary to perform the development on the ground and complete the project that is being permitted.

(f) **Timing:** For purposes of determining the life of a shoreline permit, the effective date of a Shoreline Substantial Development Permit, shoreline conditional use permit, or shoreline variance permit shall be the date of filing as provided in RCW 90.58.140(6). The permit time periods do not include the time during which a use or activity was not actually pursued due to the pendency of appeals or legal actions, or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed.

(g) **Responsibility:** It is the responsibility of the applicant to inform the director of other permit applications filed with agencies other than the City and of any related administrative or legal actions on any permit or approval.

(h) If an appeal is filed, construction may not commence until disposition of the appeal unless otherwise established by the Shoreline Hearings Board pursuant to RCW 90.58.140(5)(b).

5.070 Violations and Penalties:

(a) Any person who fails to conform to the terms of a Shoreline Substantial Development Permit, conditional use permit, variance or other permit issued under the Shoreline Master Program, or who undertakes a development or use on shorelines of the state without first obtaining a permit, or violates any other provision of the Shoreline Master Program, or who fails to comply with a cease and desist order or notice of violation issued under Chapter 1.04 BMC may be subject to enforcement and penalties as follows:

(b) Any violation, as noted above, constitutes a civil violation under Chapter 1.04 BMC, as currently enacted or hereinafter amended, for which a monetary penalty may be assessed and enforcement may be required, as provided therein.

(c) In addition to or as an alternative to any other penalty provided herein or by law, any person who commits a violation, as noted above, shall be guilty of a gross misdemeanor pursuant to RCW 90.58.220.

(d) In lieu of or in addition to the above, the City may utilize the enforcement procedures and remedies, including requiring appropriate correction action, contained in WAC 173-27-240 through 173-27-300.

(e) Any person subject to the regulatory program of this Master Program who violates any provision of this Master Program or the provisions of a permit issued pursuant thereto shall be liable for all damages to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to such violation. If a suit is pursued the City Attorney shall bring suit for damages under this subsection on behalf of the City. Private persons shall have the right to bring suit for damages under this subsection on their own behalf and on behalf of all persons similarly situated. If liability has been established for the cost of restoring an area affected by violation the Court shall make provision to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including monetary damages, the Court in its discretion may award attorney's fees and costs of the suit to the prevailing party.

5.080 Shoreline Moratorium:

The City Council may adopt moratoria or other interim official controls as necessary and appropriate to implement the provisions of the Shoreline Management Act as outlined in RCW 90.58.590.

5.090 Restoration Project Relocation of Ordinary High Water Mark:

The City may grant relief from Shoreline Master Program development standards and use regulations when the following apply:

(a) A shoreline restoration project causes, or would cause, a landward shift in the ordinary high water mark, resulting in the following:

(1) Land that had not been regulated under this chapter prior to construction of the restoration project is brought under shoreline jurisdiction; or

(2) Additional regulatory requirements apply due to a landward shift in required shoreline buffers or other regulations of the applicable Shoreline Master

Program; and

(3) Application of Shoreline Master Program regulations would preclude or interfere with use of the property permitted by local development regulations, thus presenting a hardship to the project proponent.

(b) The proposed relief meets all of the following criteria:

(1) The proposed relief is the minimum necessary to relieve the hardship; ~~and~~

(2) After granting the proposed relief, there is net environmental benefit from the restoration project; ~~and~~

(3) Granting the proposed relief is consistent with the objectives of the shoreline restoration project and consistent with the Shoreline Master Program; and

(4) Where a shoreline restoration project is created as mitigation to obtain a development permit, the project proponent required to perform the mitigation is not eligible for relief under this section.

(c) If approved by the city, the application for relief must be submitted to Ecology for written approval or disapproval.

(1) This review must occur during Ecology's normal review of a shoreline Substantial Development Permit, conditional use permit, or variance. If no such permit is required, then the department shall conduct its review when the local government provides a copy of a complete application and all supporting information necessary to conduct the review consistent with submittal and decision procedures of WAC 173-27-215.

(2) Except as otherwise provided in subsection d of this section, Ecology shall provide at least 20-day notice to parties that have indicated interest to the department in reviewing applications for relief under this section, and post the notice on to their website.

(3) The Department shall act within 30 calendar days of close of the Public Notice period, or within 30 days of receipt of the proposal from the local government if additional public notice is not required.

(d) The public notice requirements of subsection c of this section do not apply if the relevant shoreline restoration project was included in a Shoreline Master Program or shoreline restoration plan as defined in WAC 173-26-201, as follows:

The restoration plan has been approved by the department under applicable Shoreline Master Program guidelines; and the shoreline restoration project is specifically identified in the Shoreline Master Program or restoration plan or is located along a shoreline reach identified in the Shoreline Master Program or restoration plan as appropriate for granting relief from shoreline regulations; and the Shoreline Master Program or restoration plan includes policies addressing the nature of the relief and why, when, and how it would be applied.

5.100 Special Procedures for WSDOT projects

(a) Permit review time for projects on a state highway. Pursuant to RCW 47.01.485, the Legislature established a target of 90 days review time for local governments.

(b) Optional process allowing construction to commence twenty-one days after date of filing. Pursuant to RCW 90.58.140, Washington State Department of Transportation projects that address significant public safety risks may begin twenty-one days after the date of filing if all components of the project will achieve no net loss of shoreline ecological functions.

Chapter 6 - Nonconforming Provisions

6.010 Intent:

(a) To avoid undue hardship to property owners whose existing lots, structures, or uses were lawful at the time of their establishment, but are prohibited, regulated, or restricted under the Shoreline Master Program and Zoning Code.

(b) To set forth conditions under which these nonconformities may continue to exist until such a time they are discontinued as prescribed by law. Nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building or site legally established.

6.020 Establishment of a Legal Nonconformity and Applicability:

(a) A party asserting the existence of a lawfully established nonconforming lot, use or structure has the burden of proof that the lot, use or structure was not substandard in meeting the requirements of the Shoreline Master Program or Zoning Code that were in effect at its creation.

(b) The rules of this chapter are applied by first reviewing which provisions are applicable to the nonconformity. When a combination of nonconforming lot, structure or use exists, each segment of the nonconformity is reviewed independently of the others.

(c) Subject to the provisions of this Chapter, a use, lot, or structure lawfully existing prior to the effective date of this Shoreline Master Program or any amendment thereto, which is rendered nonconforming by this Shoreline Master Program may continue and may also be repaired, remodeled, and/or restored in the manner and to the extent that it existed upon the effective date of this Shoreline Master Program.

~~(b)~~

6.030 Annexation:

(a) Lots, structures, uses of land, and structures that were legally in existence prior to annexation to the City, but that do not conform to the requirements of the Shoreline Master Program or Zoning Code following the date of annexation, shall become a legal nonconformity subject to the requirements of this chapter.

6.040 ~~Definitions~~Substantial Destruction:

~~(a) Nonconforming Lots: A lot that does not meet the lot area, width or street~~

~~frontage requirements of the Shoreline Master Program or Zoning Code, but was lawfully created prior to the effective date of the adoption of the Shoreline Master Program and/or Zoning Code or subsequent amendments thereto.~~

~~(b) Nonconforming Use: Any activity, development or condition that is not permitted outright or as an accessory use, or is not permitted by a Conditional Use Permit or other special permitting process by the provisions of the Shoreline Master Program or Zoning Code; but was lawfully created prior to the effective date of the Shoreline~~

~~Master Program or Zoning Code, or subsequent amendments thereto, and was continually maintained as defined in this chapter. A nonconforming use may or may not involve buildings or structures and may involve part of or all of a building or property.~~

~~(c) Nonconforming Structure: A building or structure that does not comply with the required setbacks, height, lot coverage and other development requirements of the Shoreline Master Program or Zoning Code, but was lawfully constructed prior to the effective date of the Zoning Code and/or Shoreline Master Program or subsequent amendments thereto, and was continually maintained as defined in this chapter.~~

~~(d)~~(a) ~~Substantial Destruction:~~ For the purpose of this chapter, "substantial destruction" means the repair or replacement of a building or structure which exceeds one of the following:

(1) Seventy five percent (75%) of the assessed value of the structure as determined by the Kitsap County Assessor. An appraised value may be substituted for the assessed value at the request of the applicant and at the ~~as deemed appropriate by the~~ Director's discretion.

(2) For accessory structures which are typically not assessed (such as decks, sheds, garages, bulkheads, docks, and retaining walls) and the value cannot be determined, substantial destruction will occur at the point that seventy five percent (75%) or more of the structure is replaced. This does not include in-water structures as they are addressed in SMP section 6.070(d) of the SMP.

(3) For both 1 and 2 above, all repair and maintenance work conducted within a five (5) year period on the structure shall be included in the calculation.

6.050 Nonconforming Lots:

(a) **Continuation and Development**: A nonconforming lot may be developed for any use allowed by the Shoreline Master Program and Zoning Code provided the development meets, through design or by an approved variance the applicable development standards within.

(b) **Illegal Lot Modifications or Split**: The following is applicable to all lots:

(1) No lot may be modified, divided or adjusted in a manner that would violate the dimensional or area requirements of the Shoreline Master Program or Zoning Code.

(2) A government agency may lawfully modify a lot in a manner that would result in nonconformity, if portions of a lot are acquired for a public use or

purpose, or is allowed otherwise by law.

6.060 Nonconforming ~~uses~~Uses:

(a) **Continuation:** Any legally established nonconforming use may be continued until such time that it is discontinued as prescribed in subsection (d) or (e) of this section.

(b) **Change of Use**: A structure or property containing a nonconforming use may be changed to the following:

(1) A use that conforms to the requirements of the Shoreline Master Program and Zoning Code; or

(2) Another nonconforming use; provided, that all of the following criteria are met:

(i) A Shoreline Conditional Use Permit is approved pursuant to Chapter 5, and

(ii) The existing nonconforming use was not discontinued as prescribed in subsection (d) or (e) of this section (see below under discontinuation / damage and destruction); and

(iii) The new use is clearly a reduction in the nonconformity and intensity of the existing nonconforming use; and

(iv) There is no net loss of ecological processes and functions resulting from the change in use.

(c) **Use Expansion**: A nonconforming use may be expanded or enlarged only in the following circumstances:

(1) If the existing nonconformity is not utilizing the entire structure, it may be expanded to other portions of the structure provided the enlargement is within the existing physical space of the building or use and all of the following criteria are met:

(i) There is no increase outside the building walls of noise, light and glare and other proximity impacts that may adversely affect adjacent uses or elements of the natural environment; and

(ii) There is no net loss of ecological processes and functions resulting from the alteration; and

(iii) The expansion or enlargement does not restore the structure from substantial destruction.

(2) Residential dwellings may have the building area expanded if all of the following criteria are met:

(i) The number of dwelling units is not increased; and

(ii) There is no decrease in the number of off-street parking spaces below the minimum requirements of the current code and the addition complies with all applicable development standards; and

(iii) There is no expansion into an area designated as a critical area or shoreline buffer or building setback; and

(iv) There is no net loss of ecological processes and functions resulting from the expansion.

(3) Acquisition of additional accessory off-street parking may be allowed

provided the additional parking is not located in the shoreline buffer.

(d) **Discontinuation**: A nonconforming use that is discontinued pursuant to the items below shall have its legal nonconforming status terminated and any subsequent use of the property or building shall be that of a use that conforms to all applicable development standards. ~~A nonconforming use is determined to be discontinued if any of the following circumstances apply:~~

(1) The nonconforming use is changed to a conforming use; or

(2) Another nonconforming use is approved pursuant to subsection (b)(2) of this section; or

(3) The nonconforming use has ceased for a period of more than twelve (12) consecutive months or for twelve (12) months during a two-year period~~one (1) year~~.

(4) Aquaculture occurring on nonconforming aquaculture sites is not considered discontinued until the use has ceased for a period of more than 5 years.

(e) **Damage or Destruction**: If a structure containing a nonconforming use experiences substantial destruction, it shall constitute a discontinuation of the nonconforming use, except the nonconforming use may be allowed to continue under either of the following circumstances:

(1) The structure has suffered substantial destruction as a result of fire or other casualty not intentionally caused by the owner and a complete building permit application is filed within one (1) year of such fire or other casualty; or

(2) The nonconforming use is a detached or attached single-family dwelling located in a zone in which they are prohibited. The use may be re-established provided a complete building permit application is filed within one (1) year of substantial destruction.

(f) **Repair and Maintenance**: A building or structure containing a nonconforming use may be repaired and maintained, if the work does not restore it from substantial destruction.

6.070 Nonconforming Structures:

(a) Continuation: Any legally established nonconforming structure may be continued until such time that it experiences substantial destruction. If a structure experiences substantial destruction it shall constitute a discontinuation of the nonconforming structure and have its nonconforming status terminated. Any repair or reconstruction of the structure shall comply with the requirements of the Shoreline Master Program and the Zoning Code, except as follows:

~~—~~The nonconforming structure may be allowed to be rebuilt within the same footprint and size if the structure has suffered substantial destruction as a result of fire or other casualty not intentionally caused by the owner/parties of interest.~~,~~ ~~and a~~ A complete building permit application shall be ~~is~~ filed within one (1) year. ~~of such fire or other casualty.~~

(1)

(b) **Expansion:** A nonconforming structure may be enlarged or extended, provided the enlargement complies with the applicable setback, height, lot coverage, and other site development requirements of the Shoreline Master Program and the Zoning Code, and provided that such work does not restore the structure from substantial destruction. Such expansions shall comply with the following:

~~(1) Expansions located outside of the setback and or buffer, but within the shoreline jurisdiction, may have a footprint expansion of up to five hundred (500) square feet without being required to provide vegetation enhancement~~a Vegetation Management Plan per SMP section 7.020. ~~However, S~~Such an addition must ~~comply with all~~ other applicable ~~development standards, including mitigation sequencing and tree retention requirements.~~

~~(2) Expansions located outside of the setback and or buffer but within the shoreline jurisdiction with a footprint larger than five hundred (500) square feet may be permitted provided the existing buffer is densely vegetated with a native plant community. Should the vegetation within the buffer not be a dense community of native vegetation, enhancement shall be provided as follows~~per the Vegetation Management Plan required in SMP section 7.020. ~~(*These provisions are not applicable to that portion of a water dependent use which requires direct access to the shoreline.*)~~

~~(i) A native community of vegetation shall be provided on the waterward twenty five percent (25%) of the required buffers width, with a minimum required width of ten feet (10').~~

~~(ii) The area to be planted shall comply with the vegetation management plan requirements of the SMP section 7.20.~~

~~(3) There is no net loss of ecological processes and functions resulting from the alteration.~~

~~(4)~~(1) Expansions, including expansion of ~~and~~ structures meeting substantial destruction status, located within the setback/buffer may be permitted provided:

(i) Such expansion is located no further waterward than the existing foundation. In the case that no foundation exists, the expansion shall not exceed the existing building line.

(ii) The expansion shall be limited to a footprint of two hundred and fifty (250) square feet.

(iii) At least fifty percent (50%) of the required buffer shall be restored with natural vegetation per the requirements of ~~Chapter 7 section 020~~SMP section 7.020; if the buffer is not currently characterized by a dense community of native vegetation. The Director may approve the natural vegetation as required in SMP section 7.020 of 50% of the distance between the structure and the shoreline. All proposed vegetation shall be located as close to the shoreline as possible.

(iv) Natural vegetation to be planted must comply with the requirements for vegetation management plans as established in SMP section 7.020 for the portion of the buffer to be planted.

(v) There is no net loss of ecological processes and functions resulting from the alteration.

~~(v)~~(vi) These expansion provisions do not apply to overwater homes, including but not limited to floating homes and floating on-water residences.

(c) **Repair and Maintenance**: Normal repair and maintenance of a nonconforming structure and vacant nonconforming structures which are not vacant for twelve (12) consecutive months or a total of twelve (12) months during a two-year period, may be performed that maintains continued safe and sanitary conditions, provided such work does not restore the structure from substantial destruction as defined above in SMP section 6.040.

(d) **Repair and Maintenance of in-water structures**:

(1) When repairing and maintaining in-water structures, each component type (decking, pilings, or structural members) shall be reviewed independently for compliance with the "substantial destruction" criteria, as the replacement of each component must comply with current regulations when replacing more than 75% of that component. For example, the replacement of more than 75% of the decking on a dock requires that the new decking material provide light penetration as outlined in SMP section 8.060.

(2) The use of creosote, arsenic and pentachlorophenol treated materials commonly used for in-water structures shall be prohibited. All new or replaced boards, piers, structural members etc. must comply with this prohibition regardless of the total percent of the structure being replaced, due to the long term impacts to water quality.

~~6.080 Unsuitable Structures for Uses:~~

~~(a) An existing structure constructed for a use no longer allowed by the Shoreline Master Program or Zoning Code, which has lost its legal nonconforming status, and is not suited for other uses permitted by the Shoreline Master Program or Zoning Code, may have its use re-established if a shoreline Conditional Use Permit is approved pursuant to Chapter 5; provided the applicant demonstrates that:~~

~~(1) The remaining life of the structure is adequate to warrant the proposed use of the structure; and~~

~~(2) An use that is allowed in the zone and shoreline designation cannot be established; and~~

~~(3) There is a demand for the use in the community or region that provides a public benefit; and~~

~~(4) The use and renovation to the structure is not inconsistent with the goals and policies of the Shoreline Master Program and Comprehensive Plan; and~~

~~(5) The Critical Area/Shoreline buffers are restored with native vegetation to the extent feasible, as established by a qualified professional, as provided in vegetation management plan requirements (see section 7.20); and~~

~~(6) There is no net loss of ecological processes and functions resulting from the use.~~

6.0890 Unlawful Uses and Structures:

(a) Nothing in this chapter shall be interpreted to be authorization for, or approval of, the continuation of the use of a structure that is in violation of any ordinance in effect at the time of the passage of the ordinance codified in this chapter. The intermittent, temporary, or illegal use of land or structures shall not be sufficient to establish the existence of a nonconforming use and/or structure.

(b) Any use, structure or lot which did not comply with the all applicable development standards at the time it was established or constructed and does not comply with the current development standards is illegal and shall be brought into compliance with all applicable development standards.

Chapter 7 – General Standards and Regulations

7.010 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 currently regulates such areas through the Critical Areas Ordinance (Ordinance 4965 codified in BMC 20.14), however in areas regulated by this document within the shoreline jurisdiction, the following ~~policies and~~ regulations will supersede those within the Critical Area Regulations:

~~**Policies:**~~

~~(a) The 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.~~

~~(b) The City should protect critical areas and their existing shoreline ecological functions so they continue to contribute to existing ecosystem wide processes.~~

~~(c) 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.~~

~~**Regulations:**~~

(a) **Critical Area Ordinance Applicability:** Critical Areas that are within the shoreline jurisdiction are regulated by the Critical Areas Regulations, (Ord. XXXX Section X (Exh X) (part), 2020~~; Ord. 5327 Section 3 (Exh B) (part), 2016; Ord. 4965 Section 7 (part). 2006~~), codified under BMC 20.14 which is herein incorporated into this SMP however, the following sections of the Critical Area Ordinance do not apply:

- BMC 20.14.145(d) Exemptions for Forest Practices;
- BMC 20.14.145(f) Exemptions for activities within improved Right-of-Way;
- BMC 20.14.155 Reasonable Use Exception;
- BMC 20.14.330(f) Category III and IV Wetlands
- BMC 20.14.330(g) Category IV Wetlands; and
- ~~BMC 20.14.330(h)(3) Reducing Wetland Buffer Widths; and~~
- BMC 20.14.730(d)(5) Buffer Reductions

(b) Shoreline Buffers and Setbacks:

(1) The following table (Figure 7.010 (a)) defines required shoreline buffers and setbacks for Type S waters. Buffers and setbacks for all other non-shoreline waters (Type F, Type Np, and Type Ns) are defined in BMC 20.14.730(d), Table 1.

Figure 7.010 (a): Shoreline Buffers and Setbacks

DESIGNATION	Standard Shoreline Buffer Width	Minimum Building Setback
URBAN CONSERVANCY	175 feet	15 feet beyond buffer
SINGLE-FAMILY & MULTI-FAMILY RESIDENTIAL		
Lot depth less than 125’	20% of lot depth (Minimum of 10 feet)	5 feet beyond buffer
Lot depth 125’ to 199’	20% of lot depth	10 feet beyond buffer
Lot depth greater than 200’	30% of lot depth (Maximum of 100’)	15 feet beyond buffer
RECREATIONAL	100 feet	15 feet beyond buffer
COMMERCIAL/ INDUSTRIAL/ DOWNTOWN WATERFRONT	50 feet	15 feet beyond buffer
ISOLATED	None	None

~~1. Please note: For all designations, setbacks and buffers listed above the following shall apply~~The following additional notes apply to all designations unless specifically listed:

1. Where parallel designations exist, the buffer for the waterward designation shall not apply to the landward designation. The buffer for the landward designation would be measured from the OHWM.
2. Where lot depth is less than 150 feet on lots within the Commercial or Recreational designations ~~lots~~, the buffers listed above may be reduced to 20% of the lot depth, but in no case less than 10’, with an approved Habitat Management Plan per subsection (5) below.
3. In no case shall a buffer be less than 10’ or greater than 100’ in the Shoreline Residential Designation under shoreline buffer reduction options per subsection (6) below and listed in Figure 7.010(b)
4. Buffers are measured from the Ordinary High Water Mark (OHWM).
5. The standard buffers may be reduced by averaging the existing development setbacks on neighboring properties per subsection (6) below.
~~4.~~6. Water-dependent uses do not require shoreline buffers. Apply mitigation sequencing to avoid and minimize adverse impacts during development siting.

(2) **Buffers and Associated Building Setback Areas**: ~~The distance of the buffer shall be measured from the Ordinary High Water Mark (OHWM).~~ Buffers shall remain undisturbed natural beach or vegetation areas except where the buffer can be enhanced to improve its functional attributes, as approved by the Department. Buffers shall be maintained along the perimeter of ~~Fish and Wildlife Habitat Conservation Areas~~the shoreline, as outlined in the table above. Refuse, garbage, or debris shall not be placed in the buffers or on the beach.

(3) **Interrupted buffer:** When a buffer contains an existing legally established public or private road, the Director may allow development on the landward side of the road provided that the development will not have a detrimental impact to the shoreline. The applicant may be required to provide a report to describe the potential impacts. In determining whether a report is necessary, the City shall consider the extent and permanence of the buffer interruption and potential impact on shoreline ecological functions.

~~(3)~~(4) **Determining Lot Depth**: Areas inundated with water are not included in the calculation for lot depth, therefore the measurement may be taken from the OHWM. For lots with varying lot depth, the average depth may be used.

~~(4)~~(5) **Habitat Management Plans:** Within shoreline jurisdiction, the requirements for a Habitat Management Plan as provided in BMC 20.14.730(e) and depicted within Table 2: Wildlife Habitat Conservation Areas shall be ~~determined on a case-by-case basis only as needed to incorporate Fish & Wildlife Conservation Areas not addressed by the requirements of 7.030 Mitigation Sequencing for No Net Loss of Ecological Functions. The provisions of the Critical Area Ordinance (BMC 20.14.740) relating to Habitat Management Plans may also be used~~ required to justify a reduction in the width of a standard shoreline buffer ~~to no less than ten (10) feet~~ provided enhancement features are installed that will provide a greater habitat function than the prescribed buffer would.

~~(5)~~(6) **Setback and Buffer ~~Averaging~~Reduction:** The Director may grant modifications to the ~~Fish and Wildlife Habitat Conservation Area~~standard shoreline buffer and setbacks required provided:

(i) ~~Sixty (60%) percent or more of like structures along the shoreline within the same numbered block as the subject property~~The nearest adjacent like structure on either side of the subject property that are in the same shoreline designation are setback less than the ~~required~~ standard buffer/setback required by the SMP. The average total setback of the like structures may be used as a ~~modified~~ reduced buffer for the proposal; ~~and~~

(ii) In addition to the reduced buffer, a minimum of a 5' building setback shall be required for the proposed structure; ~~and~~

(iii) No new structure may have a reduced buffer of less than ten (10') feet;~~.~~

~~(iii)~~(iv) A Vegetation Management Plan is prepared per SMP section 7.020 and includes a native community of vegetation on the waterward twenty five percent (25%) of the reduced buffer width, with a minimum required width of ten feet (10');

(v) One or more shoreline buffer reduction mitigation options included in Figure 7.010 (b) must be implemented, unless demonstrated infeasible or not applicable;

~~(iv)~~

Figure 7.010 (b): Shoreline Buffer Reduction Mitigation Options

Shoreline Buffer Reduction Mitigation Options
(i) Removal of at least 50 percent of an existing hard structural shoreline stabilization measure and subsequent shoreline restoration to a natural or semi-natural state.

(ii)	Setting back at least 50 percent of an existing bulkhead a minimum of 10 horizontal feet based on feasibility of existing conditions and sloped a maximum three (3) vertical: one (1) horizontal to provide a dissipation of wave energy.
(iii)	Removal of creosote piling
(iv)	Installation of biofiltration/infiltration mechanisms in lieu of piped discharge, such as mechanisms that infiltrate or disperse surface water on the surface of the subject property. These mechanisms shall be sized to store a minimum of 70 percent of the annual volume of runoff water from the subject property, for sites with poor soils, or 99 percent of the annual volume of runoff water from the subject property, for sites with well-draining soils. The mechanisms shall be designed to meet the requirements in the City's current surface water design manual.
(v)	Any alternative jointly agreed upon by the Director and the Washington Department of Fish & Wildlife

~~(1)~~

(7) **Fences:** Fences are allowed within shoreline buffers and setbacks according to the following conditions:

(i) Fences to be erected in the side yard ~~abutting the fish and wildlife conservation area buffer, but are prohibited~~may be permitted within the buffer, subject to subsection (iv).

(ii) Fences may also be erected upland of the buffer including within the shoreline setback area.

(iii) General development standards for fences are located in BMC 20.46~~4~~.020. ~~Guardrails~~ Safety or hand rails may be erected in association with pedestrian access areas provided they do not function as a fence and comply with the International Building Code.

~~(v)~~(iv) A fence may be constructed within the outer half of the shoreline buffer when the fence has wildlife passable gaps or reductions to 42" in height every 100' linear feet within the buffer.

~~(6)~~

~~(b)~~(a) **Exemptions:** The following development activities are not subject to ~~fish and wildlife habitat area~~ shoreline buffers and setbacks, provided they are constructed and maintained in a manner that minimizes adverse impacts on shoreline ecological functions, and further provided that they comply with all the applicable regulations in BMC Title 20 and this Program:

(2) Those portions of an approved water-oriented development that require a location waterward of the ordinary high water mark, and/or within their associated buffers and setbacks;

(3) Development activities on lots that are physically and functionally separated from shoreline by an improved paved public or private road or railroad or similar facility and/or by one or more existing developed lots under separate ownership such that the ecological functions provided by buffers do not occur. This provision shall not apply to such a facility within a development proposal or contiguous ownership that can be feasibly relocated to accommodate buffers.

(4) Underground utilities;

(5) 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:

(i) The facility cannot meet the dimensional standard and accomplish the purpose for which it is intended; and

(ii) The facility is located, designed, and constructed to meet specified dimensional standards to the maximum extent feasible; and

(iii) The modification is in conformance with the provisions for non-conforming development and uses.

(6) Roads, railways, and other essential public facilities that must cross shorelines and are necessary to access approved water-dependent development uses are subject to development standards in ~~Chapter 8,~~SMP section 8.090.

(7) Stairs, ADA ramps, and walkways no~~t~~ greater than 5 feet in width or 18 inches in height above grade, not including railings.

(8) 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.

(9) Water enjoyment elements associated with an approved upland use that result in less than fifty (50) square feet of development footprint within the buffer.

7.020 Vegetation Conservation:

~~**Policies:**~~

~~(3) The City should protect, conserve and establish native vegetation near 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.~~

~~**Regulations:**~~

(a) **Vegetation Management Plan**: A plan shall be submitted for all new development and redevelopment within the shoreline jurisdiction. Development proposed exclusively outside the buffer must provide a site plan, to scale, documenting existing native vegetation within the buffer and Notice to Title provisions per SMP 7.020(a)(8) below to protect this existing native vegetation. Development that is proposed within a shoreline buffer shall submit a Vegetation Management Plan that provides for ~~substantial~~ enhancement of shoreline ecological functions and no net loss ~~and provides the maximum ecological functions feasible~~, in accordance with the following:

(1) The plan shall preserve, enhance or establish native vegetation within the entire specified

~~critical area~~ buffer. ~~Vegetation management~~ Unless otherwise specified, 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 naturally occurring ~~a dense~~ native vegetation community on the shoreline. ~~to the maximum extent feasible.~~ The Director may waive the requirement for a qualified professional for minor single-family development.

(2) The p~~P~~lan shall depict ~~provide for~~ planting of native trees, shrubs, and ground cover to a sufficient density to provide effective canopy cover and erosion control ~~purposes throughout the~~ in the buffer. The Director may allow for the trees and shrubs to be ~~placed~~ positioned and spaced ~~in natural groups~~ to allow for view preservation and a shoreline access trail.

(3) The ~~Plan~~ plan shall include a sheet depicting existing vegetation conditions, including ~~specify the predevelopment~~ quantities~~y~~, species type, distribution, approximate height of native vegetation, tree diameter/driplines ~~at four (4) feet in height~~, general 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.

(4) Identify existing~~ication 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. See tree replacement standards per subsection (b)(3) below.

(5) ~~At least 25% of new~~New evergreen trees shall be a minimum height of four (4) feet and new deciduous trees shall have a two (2) inch minimum caliper. Shrubs shall be of at least four different varieties.

(6) Methodology shall be identified for removal of noxious vegetation. ~~and for long term maintenance.~~The Director, as a condition of approval, may require the removal of all noxious species.

(7) A financial surety (an assignment of funds or surety bond with no expiration date) shall be provided that accounts for 150% of the cost for improvements such as installation of plantings or other features identified in the plan. The Director may waive this requirement for single-family residential development where the cost of such improvements is less than five thousand ($5,000) dollars. The financial surety is intended to ensure implementation of a five year maintenance, performance and monitoring plan that ensures a survival rate of 100% for trees and 85% for all other vegetation. 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 site inspection documentation ~~surveys~~ and photographs taken by the applicant yearly indicating ~~to indicate the continued survival of the~~ plant survival~~s~~. The~~Said~~ documents ~~surveys and photos~~ shall be submitted at the end of the 5 years to the City ~~Department of Community Development~~ for release of the financial surety.

(i) Civil violations are not exempt from bonding requirements.

(ii) Single-family proposals that do not request a buffer reduction or vegetation alteration in the buffer are not required to provide the financial surety.

(iii) Failure to comply with a required plan shall result in a code violation. The City

willmay not issue active permits or land use requests on the subject property.

(8) Required vegetation shall be maintained over the life of the use and/or development. In order to ensure such maintenance, prior to permit issuance 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 and remain in perpetuity. so that a record of the plan is available to all future property owners. The Notice to Title shall be recorded with the Kitsap County Auditor's Office. prior to issuance of the permit.

(9) Repair, maintenance, and minor expansions of existing development may not be required to provide a vegetation management plan dependent upon the scope of the project. Please review section 6.70 to evaluate the requirements for expanding a nonconforming structure.

(9) 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.

(i)(10) 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.

(b) **Existing Landscaping:**

(1) 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.

(2) 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.

(3) Tree removal and replacement. Removal of trees greater than 6 inches in diameter at four (4) feet in height shall be replaced according to the following:

(i) at a ratio of 3:1 with native species For trees removed within a shoreline buffer, replacement and shall be re-establishedoccur within any requiredthe buffer on the project site at a ratio of 3:1 with native species..

(ii) For new development located outside of the shoreline buffer, tree replacement shall occur onsite within shoreline jurisdiction at a 2:1 ratio with native species for all trees removed outside the proposed building footprint.

(iii) For trees removed outside of the shoreline buffer which are not associated with a new development proposal, replacement shall occur onsite within shoreline jurisdiction at a 2:1 ratio with native species

(b)(iv) All replacement trees shall be a minimum of five-gallon or two-inch caliper in size at the time of planting.

7.030 Mitigation Sequencing for No Net Loss of Ecological Functions:

Policy: For all developments, applicants must demonstrate that all alternatives have been examined with the intent to avoid and minimize impacts to shoreline ecological

~~functions.~~

~~Regulations:~~

(a) 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.

(b) Mitigation Requirement. If a proposed shoreline use or development is entirely addressed by specific, objective standards (such as, but not limited to, setback distances, structural dimensions, or materials requirements) contained in this Master Program, then the mitigation sequencing analysis described in subsection (c) is not required. In the following circumstances, the applicant must provide a mitigation sequencing analysis as described in subsection (c):

(1) If a proposed shoreline use or development is addressed in any part by discretionary standards (such as standards requiring a particular action "if feasible", requires the minimization of development size, or includes the reduction of a standard buffer) contained in this Master Program, then the mitigation sequencing analysis is required for the discretionary standard(s); or

(2) When an action requires a Shoreline Conditional Use Permit or Shoreline Variance Permit; or

(3) When specifically required by regulations contained in this Master Program;

~~(b)~~(c) When required, ~~A~~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:

(1) Avoiding the adverse impact altogether by not taking a certain action or parts of an action, or moving the action outside the shoreline area;

(2) 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;

(3) Rectifying the adverse impact by repairing, rehabilitating, or restoring the affected environment;

(4) Reducing or eliminating the adverse impact over time by preservation and maintenance operations during the life of the action;

(5) Compensating for the adverse impact by following the mitigation sequence outlined herein;

(6) Monitoring the adverse impact and taking appropriate corrective measures.

~~(c)~~(d) 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 that all reasonable efforts have been taken to provide sufficient mitigation such that the activity does not result in net loss of ecological functions.

7.040 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.

~~**Policies:**~~

~~(a) 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.~~

~~(b) Public access should be provided to the shoreline as a primary use or as development occurs, while protecting private property rights and public safety.~~

~~(c) Public access should not compromise the rights of navigation and space necessary for water-dependent and water-related uses.~~

~~(d) To the greatest extent feasible 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.~~

~~(e) 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~~

~~**Regulations:**~~

(a) **Applicability:** Public Access shall be incorporated into a development in all of the following circumstances:

(1) New development that will generate a demand for one or more forms of public access,

(2) Water-dependent uses and developments that:

(i) Increase public use of the shorelines and public aquatic lands, or

(ii) Impair existing legal access opportunities, or

(iii) Utilize public harbor or aquatic lands, or

(iv) Are developed with public funding or other public resources.

(3) Non-water-oriented commercial and industrial uses,

(4) 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,

(5) Any development located on public aquatic lands, except as related to single- family residential use of the shoreline,

(6) Publicly financed or subsidized flood control and shoreline stabilization facilities or measures.

(b) **Location and Design Criteria:** Required public access shall incorporate the following location and design criteria:

(1) **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 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.

(2) **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 SMP section 7.030. Walkways shall be buffered from sensitive ecological features and may provide limited and controlled access to sensitive features and the water's edge where appropriate. Fencing 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 for example non-treated elevated wooden walkways and limited to six (6) feet in width. The Director may consider public access alternatives with an approved report demonstrating no net loss and adherence to the Public Access policies in SMP section 2.040. ~~to reduce impacts to ecologically sensitive resources.~~

~~(2)~~(3) **Public access locations outside of buffers shall include:**

(i) 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

(ii) 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.

~~(3)~~(4) **General Design Criteria:** The entire public access area shall be:

(i) Landscaped, preserving and enhancing native vegetation where feasible, and maintained by the property owner;

(ii) Connected to a nearby public street, an adjacent existing public walkway, or a future walkway; and

(iii) Compliant with the requirements of the American's with Disabilities Act and other applicable standards for barrier free for the physically disabled, where feasible.

(iv) The dedicated area shall generally 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 must meet the criteria of SMP ~~Chapter 7 Section~~section 7.040(c).

(v) A submittal shall include specific design features of the walkway, landscaping, signs and other features as applicable.

(5) ~~(7)~~ **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 in accordance with all applicable requirements within this section. For instances triggering public access requirements, refer to applicability section 7.040(a).

(c) ~~(f)~~ **Modification of Public Access:** Public access requirements may be modified only

when one or more of the following criteria are met:

(1) Unavoidable health or safety hazards to the public will occur which cannot be prevented by any practical means;

(2) Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other reasonable solutions;

(3) Unacceptable environmental harm will result from the public access that cannot be mitigated;

(4) Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated;

(5) Significant unavoidable environmental impacts will result from the public access.

(6) Should any one of the abovementioned criteria impede the ability to provide public access the applicant must demonstrate that all reasonable alternatives have been pursued, including but not limited to:

(i) Providing "limited public access" to protect specific identified features or limiting hours of use;

(ii) 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

(iii) Providing for specific facilities for public visual access, including viewing platforms that may be physically separated from the water's edge. Viewing platforms shall be utilized only if access adjacent to the water is not possible.

~~(g)~~ (d) **Public Access Easements:** Access easements are required for all developments requiring a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance and shall meet the following standards:

(1) 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.

(2) Easements: Public access easements should connect to the nearest right-of-way through an easement of no less than ten (10) feet.

(3) 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.

(4) Recording: Public access easements and permit conditions shall be recorded on the deed of title. Recording with the Kitsap County Auditor's Office shall occur prior to permit approval.

(5) 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.

(6) Occupancy: Required public access sites shall be fully developed and available for public use prior to occupancy of the use or activity.

(7) No diminution: Future actions by the applicant or other parties shall not diminish the usefulness or value of the public access provided.

~~(h)~~ (e) **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:

(1) View Corridors are applicable only on sites with over 100 feet in width as measured parallel to the shoreline.

(2) 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.

(3) The View Corridor shall be no less than 30% of the building site width for buildings greater than 40 feet in height.

(4) View Corridors may contain structures no higher than 10 feet and may include parking areas and landscaping, if topography permits.

(5) The Director, at their discretion, may require ~~T~~the view corridor ~~must~~ to remain ~~be~~ in one continuous piece.

7.050 Water Quality, Stormwater, and Non-Point Pollution:

~~**Policies:**~~

~~(a) 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.~~

~~(b) 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.~~

~~(c) Protect aquatic resources from non-point pollution, such as water runoff from contaminated surfaces, contaminated groundwater, chemical fertilizers, herbicides, pesticides, and petrochemicals, including, but not limited to discharge from failing onsite septic systems.~~

~~**Regulations:**~~

(a) 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.

(b) 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.

(c) 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 and Ecology.

7.060 Archaeologically Sensitive Areas:

~~**Policies:**~~

~~(a) Prevent the destruction of or damage to any cultural resources and any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including The Suquamish Tribe, and the Washington State Department of Archaeology and Historic Preservation.~~

~~(b) 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.~~

~~**Regulations:**~~

(a) The City will work with tribal, state, federal, and other local governments as appropriate to identify significant cultural resources and 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.

(b) 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 Archaeology and Historic Preservation program, and historic preservation groups have ample time to assess the site and identify the potential for cultural resources.

(c) 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 Archaeology and Historic Preservation Program.

(d) If historical, cultural, or archaeological materials, 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 the Suquamish Tribe Archaeology and Historic Preservation Program. 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.

7.070 Lighting Requirements:

~~**Policies:**~~

~~(a) 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.~~

~~(b) Lighting should be minimized within shorelines, especially within close proximity to the water.~~

~~(c) 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.~~

~~**Regulations:**~~

(a) Development proposals requiring a permit within shorelines shall include a lighting plan that provides and or meets the following standards:

(1) The location of all outdoor lighting and building security lighting and associated wattages;

(2) Pole heights shall not exceed 20 feet in height;

(3) Fixture designs for all outdoor lighting shall shield the source or bulb of the light; and

(4) A Photometric plan is required and shall not exceed a strength of 1 foot-candle at the property lines or OHWM.

(b) Where lighting is required for new streets, driveways or public access features, the lowest level lighting possible shall be used.

(c) The lighting plan is required with the permit application and shall be reviewed as a component of the shoreline permit.

7.080 Parking Requirements:

~~**Policies:**~~

~~(a) 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.~~

~~(b) Parking as a primary use (stand-alone use) within the shoreline jurisdiction should be prohibited.~~

~~(c) Parking should not be allowed between development and the adjacent water body.~~

~~(d) Where surface parking is developed within the shoreline jurisdiction, Low Impact Development techniques should be implemented.~~

~~(e) Lighting for parking areas should be minimized.~~

~~**Regulations:**~~

(a) Parking as a primary or stand-alone use shall not be permitted within the shorelines jurisdiction of a property.

(b) 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.

(c) Parking facilities shall minimize the amount of impervious surface within the shoreline jurisdiction and should not disrupt planned public access or habitat restoration objectives.

(d) 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.

(e) Parking ratios for all uses within the shoreline shall 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.

(f) When surface parking areas for permitted uses are designed and constructed, they shall achieve the following objectives:

(1) Landscape screening around the perimeter and within the parking area to soften edges and break up large parking areas;

(2) Implementation of Low Impact Development techniques for stormwater management; and

(3) Located as far from a required shoreline or critical area buffer as possible.

7.090 Use and Modifications Matrix and Height Table:

(a) Use and Modifications Matrix: ~~The table~~ Figure 7.090 (a) 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. This chart is not exhaustive of all uses addressed in the zoning code. When referring to unlisted uses, the code is referring neither to uses listed here nor in the zoning code. If a use is prohibited in the underlying zoning district, it is also prohibited within 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” designation shall not be governed by the performance standards within SMP Chapter 7, General Standards and Regulations; Chapter 8, Shoreline Use Regulations, or Chapter 9 Shoreline Modifications, however the Director may determine the proposed development or use is clearly contrary to the intent of this program, and relevant elements of this program may be applied. Development and land use within this designation shall be governed by all other regulations of BMC Title 20 Land Use. The mandatory permit and procedural requirements of this program contained in Chapter 5, Permit Administration, shall apply to said development or uses.

Figure 7.090 (a): Use and Modifications Matrix

KEY: X= Prohibited P= Permitted CU= Conditional Use	Urban Conservancy	Single Family Residential	Multi-Family Residential	Recreation	Commercial	Downtown Waterfront	Industrial
Unlisted Uses:	CU	CU	CU	CU	CU	CU	CU
UPLAND USES							
Boat Sales, Storage and Repair	X	X	X	CU	P	P	P
Commercial uses such as but not limited to: general retail, general office, clinics, restaurants, drinking places, personal services, athletic fields, restaurants, community facilities, and entertainment uses. (See Zoning Code for specific allowed uses by zone)	X	X	X	X	P	P	P
Community, Cultural, Educational Facilities	CU	P	P	P	P	P	X
Golf Courses	X	CU	CU	X	X	X	X
Hotels and Lodging	X	X	X	X	P	P	X
Industrial	X	X	X	X	X	X	P
Worship and Religious Facilities	X	CU	P	CU	P	P	X
PARKING, TRANSPORTATION & UTILITIES							
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
Transportation facilities that serve uses within the shoreline	P	P	P	P	P	P	P
Utilities that serve uses within the shoreline	P	P	P	P	P	P	P
RESIDENTIAL							
Adult Family Homes, Daycare, & Bed and Breakfasts	CU	P	P	X	P	P	X
Commercial/Residential mixed	X	X	X	X	P	P	X
Multi-Family Residential	X	X	P	X	P	P	X
Single Family Residential	P	P	P	P	P	P	X
SHORELINE MODIFICATIONS (All uses must meet applicable code criteria see Ch. 9)							
Boat Launch	CU	CU	CU	CU	CU	CU	CU

KEY: X= Prohibited P= Permitted CU= Conditional Use	Urban Conservancy	Single Family Residential	Multi-Family Residential	Recreation	Commercial	Downtown Waterfront	Industrial
Aquaculture (including commercial, non-commercial, and geoduck)	CU	X	X	CU	CU	CU	CU
Ecological Restoration / Enhancement	P	P	P	P	P	P	P
Docks, Piers and Other In-Water Structures	P	P	P	P	P	P	P
Dredging	P	P	P	P	P	P	P
Flood Hazard Reduction	P	P	P	P	P	P	P
Mooring Buoys	P	P	P	P	P	P	P
Marinas	CU	CU	CU	CU	CU	CU	CU
Stabilization - New and Replacement	P	P	P	P	P	P	P
Stormwater Management Facilities	P	P	P	P	P	P	P
RECREATION AND PUBLIC ACCESS							
Recreation, Non-Water-Oriented	CU	CU	CU	CU	CU	CU	CU
Recreation, Water-Oriented	P	P	P	P	P	P	P
Trails, public pedestrian and bicycle not including overwater trails	P	P	P	P	P	P	P
OUTRIGHTLY PROHIBITED USES							
Adult Entertainment	X	X	X	X	X	X	X
Agriculture	X	X	X	X	X	X	X
Automobile Sales Service & Repair	X	X	X	X	X	X	X

(b) Height restrictions: Figure 7.090 (b) establishes the allowable height in each designation based on the type of use. All the 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 Chapter 3.

~~(b)~~(c) ~~This table establishes the allowable height in each designation based on the type of use. All the 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 Chapter 3.~~

Figure 7.090 (b) Height Restrictions:

ENVIRONMENT DESIGNATION	HEIGHT
Commercial	35 feet
Downtown Waterfront*	175 feet
Industrial	35 feet

ENVIRONMENT DESIGNATION	HEIGHT
Multi-Family Residential	40 feet
Over-Water Structures** (All Designations)	15 feet
Recreation	35 feet
Single Family Residential	30 -35 feet
Urban Conservancy	25 feet
Table Notes: The height limit is restricted to that portion of the building physically located within the shoreline jurisdiction.	

* Heights in the Downtown Waterfront. Within the MFR 1 Waterfront Overlay Zone of the Downtown Subarea plan, maximum height shall be calculated from an average of the existing grade on Washington Avenue from the front property line of each parcel.

** Public Bridges. Height restrictions do not apply to public bridges; compliance with all other code provisions shall apply.

(1) Heights in the ~~commercial~~Commercial, ~~&~~ ~~industrial~~Industrial, and Multi-Family designations~~districts~~ may be increased outright to the ~~to the~~ zoning district height limit ~~through a Conditional Use Permit~~ pursuant to the following ~~provided~~ criteria:

(i) The increase does not substantially block views from a substantial number of upland residential properties, per RCW 90.58.320.

(ii) Greater height is demonstrated to be needed for an essential element of an allowed use.

(iii) The project may be required to include compensating elements that substantially enhance the visual and physical public access to the shoreline.

(iv) It is demonstrated that No Net Loss of habitat function will be achieved.

~~(iv)~~

~~(2)~~ Single-Family Residential heights may be increased to 35’ with the employment of a pitched roof when:

(2)

(i) The pitch of the roof is not less than 6:12

(ii) The pitched roof is oriented perpendicular to the shoreline. Minor gables or other roof features parallel to the shoreline may be permitted on a case by case basis provided such features do not extend past the pitched roof where views are intended to be preserved.

(iii) The pitched roof covers the entire structure.

(3) Exceptions: The following structures listed below may be erected above the height limits established in Figure 7.090 (b):

(i) Cranes, gantries, mobile conveyors and similar equipment necessary for the functions of marinas, marine manufacturing, permitted commercial, industrial or port activities and servicing vehicles.

(ii) Flagpoles or masts, transmission towers, chimneys, smokestacks, aerials or stairwells, when part of a permitted use.

(iii) Belfries, monuments, spires or steeples, transmission towers, provided such structures must be designed to minimize obstruction of views.

Chapter 8 – Shoreline Use Regulations

8.010 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.

8.020 Aquaculture:

~~Aquaculture is the culture, or farming of fish, shellfish or other aquatic plants and animals. Activities include, but are not limited to the hatching, cultivating, planting, feeding, raising, harvesting, and processing of aquatic plants and animals and the maintenance and construction of necessary equipment, buildings, and growing areas. Cultivation methods include, but are not limited to fish pens, fish hatcheries, shellfish rafts, racks and long lines, seaweed floats, and nets and the culture of clams and oysters on tidelands and sub-tidal areas. Aquaculture does not include the harvest of wild geoduck associated with a state managed wild stock geoduck fishery. Aquaculture is a preferred water-dependent use. It should be encouraged to locate where it will not significantly conflict with navigation and other water dependent uses, and/or result in a net loss of ecological functions, and/or adversely impact eelgrass and microalgae. Harvest of wild stock free swimming fish, and/or harvest of wild stock geoducks on state owned aquatic lands do not require a shoreline Substantial Development permit.~~

~~**Policies:**~~

~~(a) Aquaculture should not be located in areas where it would result in a net loss of ecological functions.~~

~~Aquaculture should not be permitted in areas where it would significantly conflict with navigation and other water-dependent uses.~~

~~**Regulations:**~~

(a) Aquaculture shall not be located in areas where it would result in the net loss of ecological functions., especially in near-shore areas where water quality, aquatic vegetation and co-occupying species habitats and migration corridors could be

impacted.

(b) 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.

(c) Aquaculture shall not be detrimental to visual access of the water body. Aquaculture shall not significantly impact the aesthetic qualities of the shoreline.

(d) Aquaculture shall not significantly conflict with navigation.

(e) 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.

(f) Aquaculture sites may be required to 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.

(g) Harvest activities shall be conducted in a manner that minimizes turbidity and the risk of impacts to aquatic vegetation and the intertidal bed by complying with State water quality standards and permit requirements. If a State water quality permit is not required, harvest activities must utilize the following methods:

(1) 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.

(2) Pump intakes shall be screened to minimize the capture of marine organisms.

(3) 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.

(h) 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 ~~Chapter 8, Section 020~~subsection (j).

(i) 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.

(j) 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.

(1) Over-water aquaculture structures shall be constructed of materials that blend in with the shoreline environment.

(2) Storage of necessary tools and apparatus seaward of the OHWM shall be limited

to containers of not more than three feet in height, as measured from the surface of the raft or dock; except as permitted through a variance.

(3) Materials which are not necessary for the immediate and regular operation of the facility shall not be stored seaward of the OHWM.

(4) 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.

(k) 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.

(l) 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.

(m) 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.

(n) All commercial aquaculture requires a Shoreline Conditional Use Permit. All new commercial geoduck aquaculture or conversions from existing non-geoduck aquaculture to geoduck aquaculture requires a Conditional Use Permit and will be administered consistent with WAC 173-26-241(3)(b)(ii), (iii), and (iv). Included with the CUP application, a complete baseline description of existing conditions, including characteristics of the water, substrate, vegetation and aquatic species, shall be provided by the applicant. This analysis shall include a monitoring plan establishing how the proposal will not negatively impact existing ecological functions.

(o) All aquaculture proposals shall comply with the public access requirements found in ~~Chapter 7 Section~~SMP section 7.040.

(p) 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.

8.030 Commercial Development:

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

~~**Policies:**~~

~~(d) Commercial development should be designed and constructed in such a manner as to result in no net loss of ecological functions. including implementation of Low Impact Development techniques, to the maximum extent feasible.~~

~~(e) Public access should be provided in all locations, except where it is demonstrated to conflict with the intended use for reasons of safety, or security; or if it adversely impact the ecological function of the shoreline.~~

~~(f) Non-water-oriented commercial uses within the shoreline jurisdiction should be allowed to locate and operate within existing structures.~~

~~Regulations:~~

(a) Priority of uses shall be in the following order: Water-dependent uses, water-related uses, water-enjoyment uses, and non-water related uses.

(b) 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.

(c) Water-related uses shall not be approved if they displace existing water-dependent uses and must comply with the following:

(1) 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.

~~(2) 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.~~

~~(3)~~(2) 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.

(d) 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 provide for the public's ability to enjoy the physical and aesthetic qualities of the shoreline as a primary characteristic of the proposal and must include the following:

(1) The water-enjoyment use must be open to the general public.

(2) The shoreline-oriented space within the project must be devoted to specifically foster shoreline enjoyment for a substantial number of people.

(3) 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.

(e) Non-water-oriented uses can 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

(4) The use is part of a mixed-use project that includes water-dependent uses; and

(5) In cases (2), (3 or (4) directly above, when the use provides significant public benefit with respect to the objectives of the Act by:

(i) Restoring the ecological functions both in aquatic and upland environments that provide native vegetation buffers as specified in SMP section ~~20.16.610~~7.010 and in accordance with the Restoration Element of this plan.

(ii) The balance of the water frontage not devoted to ecological restoration and associated buffers shall be provided as public access where feasible.

(f) 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.

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

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

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

8.040 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).~~

~~**Policy:** Forested areas within shorelines should be preserved and protected where feasible.~~

~~**Regulations:**~~

(a) A forest practice that only involves timber harvesting is not a development under the Act and does not require a substantial development permit or a shoreline exemption. A forest practice that includes activities other than timber cutting may be a development under the Act and may require a substantial development permit, as required by WAC 222-50-020.

~~(a)~~(b) Conversion of forested areas to urban development shall implement the mitigation sequencing as specified in ~~Chapter 7,~~SMP section 7.030~~040~~.

~~(b)~~(c) Forest practices for the sole purpose of timber harvesting shall not be allowed in the shoreline jurisdiction, except within the City Watershed and City Utility Lands.

~~(c)~~(d) Any forest practice activity on shorelines of statewide significance shall comply with RCW 90.58.150.

8.050 Industrial Development:

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

~~Policies:~~

~~(g) 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.~~

~~(h) 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.~~

~~(i) 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.~~

~~(j) On upland industrial sites, environmental cleanup and/or remediation should be implemented to serve a variety of future land uses.~~

~~(k) Water-dependent and water-related industrial redevelopment is encouraged.~~

~~(l) Priorities of uses are to be in the following order: Water-dependent uses, water-related uses, and water-enjoyment uses.~~

~~Regulations:~~

(a) Water-dependent and water-related industrial development shall not degrade the ecological function of the shorelines or disrupt existing or proposed public access amenities.

(b) 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.

(c) 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.

(d) 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

(4) The use is part of a mixed-use project that includes water-dependent uses; and

(5) In all cases (2), (3) and (4) directly above, when the use provides significant public benefit with respect to the objectives of the Act by:

(i) Restoring the ecological functions both in aquatic and upland environments that provide native vegetation buffers as specified in ~~section 20.16.610~~SMP section 7.010 and in accordance with the Restoration Element of this plan.

(ii) The balance of the water frontage not devoted to ecological restoration and

associated buffers shall be provided as public access where feasible.

(e) Water-dependent and water-related industrial uses shall provide public access to the shoreline per the standards in ~~Chapter 7, Section 060~~ SMP section 7.040 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.

(1) If a property is a designated EPA Superfund site, it may be considered exempt from public access requirements.

~~(e)~~

(f) 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.

(g) 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.

(h) 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.

(i) 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.

(j) 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.

(k) 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.

(l) Offshore log storage shall be allowed only to serve a processing use and shall be located where:
(1) Water depth is sufficient without dredging; and
(2) Water circulation is adequate to disperse polluting wastes; and
(3) Log storage will not provide habitat for salmonid predators.

(m) If a property is designated an EPA Superfund Site, shoreline armoring may be utilized as a means to prevent chemicals from leaching into the waterbody.

~~(3)~~

8.060 Marinas and Boating Facilities:

~~Marinas and boating facilities are water-dependent uses and 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.~~

~~Policies:~~

~~(i) 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.~~

~~(j) New or expanded boating facilities should be designed, constructed and managed such that there is no net loss of shoreline ecological function.~~

~~(k) 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.)~~

~~(l) New boating facilities should be located in areas where other water-oriented uses presently exist or could be established within close proximity.~~

~~(m) New or expanded boating facilities should minimize the amount of associated parking and impervious surface within the shoreline jurisdiction.~~

~~(n) New boating facilities should not include covered moorage and boathouses.~~

~~(o) 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~~

~~(p) 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.~~

~~Regulations:~~

(a) 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.

(b) Boating facilities should be managed consistent with the Department of Ecology document titled "Resource Manual for Pollution Prevention in Marinas," May 1998, Revised August 2009, Publication #9811.

(c) 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:
   (1) No suitable upland locations exist for such facilities, or
   (2) It is demonstrated that wet moorage would result in fewer impacts to ecological functions, or
   (3) It is demonstrated that wet moorage would enhance public use of the shoreline.

(d) 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.

(e) Marinas shall be permitted only on sites where it is demonstrated that:

(1) 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.
(2) Shoreline armoring is not required.
(3) Future dredging is not required to accommodate navigability.
(4) Shallow water embayments with poor flushing action or areas with extensive tidelands should not be considered.

(f) Breakwaters constructed for protection of boating facilities shall be designed to allow public access along the top, where feasible. 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 piles or floating breakwaters.

(g) 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.

(h) New covered moorage is prohibited. Removal of existing covered moorage may be required as a condition of expansion or reconstruction of existing boating facilities.

(i) Extended moorage is restricted on waters of the State except as allowed by applicable State regulations and unless a lease or permission is obtained from the State.

(j) Boating facilities shall be permitted only when it is demonstrated that:

(1) A specific need exists and there is not adequate supply in current facilities, permitted facilities, or facilities planned by public agencies, including Port Districts.

(2) They will not result in a net loss of ecological functions and specifically will not interfere with natural geomorphic processes including processes including erosion, transport, and deposition of materials, water quality and adverse impacts on aquatic species. Areas with extensive tidelands should not be considered

(3) 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.

(4) Over water facilities, such as docks, shall be limited to the size and configuration needed to serve the boat launch function.

(k) **Application Materials:** The following must be adequately addressed with the permit application submittal for a boating facility:

(1) Provide adequate onsite parking as provided in BMC 20.48 and ~~Chapter 6, Section 080.~~SMP section 7.080.

(2) Provide adequate Utilities,

(3) Address existing adjacent water-oriented uses, ensure new structures will not

impact such uses.

(4) Provide documentation showing that the use will not impair block or introduce a hazard to existing or potential public access along beaches.

(5) Ensure the use will not unreasonably impair shoreline views from upland residences and adjacent uses.

(6) 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.

(7) For marinas over forty (40) slips pump-out, holding, and waste treatment facilities and services shall be provided.

(8) Provide public access as outlined in ~~Chapter 6, Section 040~~SMP section 7.040. A public access plan is required and must address both visual and physical access and may be required to provide the following:

(i) 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.

(ii) Public restroom facilities shall be provided on marinas with more than 40 slips.

(9) 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.

8.070 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.~~

~~**Policies:**~~

~~(g) 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.~~

~~(h) 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.~~

~~(i) Water-oriented recreational development should take precedence over non-water-oriented recreational uses.~~

~~(j) Wherever possible, shoreline recreational facilities should be linked to other adjacent recreational attractions by pedestrian and/or bicycle trails.~~

~~(k) Recreational development, where applicable, should include interpretive displays describing cultural, historical and scientific information.~~

~~(l) Non-water-oriented recreational development uses should not be located on shorelines.~~

~~Regulations:~~

(a) Water-oriented recreation facilities shall be located and designed such that there is no net loss of shoreline ecological function.

(b) 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).

(c) Development of water-oriented recreation facilities shall comply with the mitigation sequencing specified in ~~Chapter 7, Section~~SMP section 7.030.

(d) Development of recreation facilities shall implement, where applicable, the elements within the City of Bremerton Park, Recreation and Open Space Plan.

(e) Recreational development shall be oriented towards the shoreline and shall provide the maximum possible amount of public access to the shoreline as follows:

(1) Water-dependent recreation such as fishing, swimming, boating, and wading should be located on the shoreline.

(2) Water-related recreation as picnicking, hiking, and walking should be located near the shoreline.

(3) 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.

(f) New over-water structures for recreation use shall be allowed only when:

(1) They allow opportunities for substantial numbers of people to enjoy the shorelines of the state.

(2) They are not located in or adjacent to areas of exceptional ecological sensitivity, especially aquatic and wildlife habitat areas.

(3) 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.

(4) No net loss of ecological functions will be achieved.

(5) The specific location and design is approved as a Shoreline Conditional Use.

(g) Location and design of recreation facilities shall meet the following criteria:

(1) The development shall provide parking and other necessary facilities to handle the designed public use.

(2) 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.

(3) The development shall be located and designed to minimize detrimental impact on existing and planned use of nearby property.

(4) The proposal will not create a net loss of ecological functions.

(h) 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.

(i) Private recreation uses and facilities that exclude the public from public aquatic lands are permitted only when the following additional criteria are met:

(1) 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 shall be provided to the public in common with any private use.

(2) The development is located and designed to have no substantial detrimental impact on existing and planned use of nearby property.

(j) 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.

(k) 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.

8.080 Residential Development:

~~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.~~

~~**Policies:**~~

~~(g) Development of residential units should result in no net loss of ecological function.~~

~~(h) 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.~~

~~(i) 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, rather than single family docks, should be developed for the use of residents of the subject subdivision.~~

~~(j) Design of residential development should include preservation of existing native vegetation to the greatest extent possible.~~

~~(k) Residential development should be designed to minimize the amount of impervious area and should utilize Low Impact Development techniques to the greatest extent practicable (e.g., permeable pavers, stormwater infiltration and filtration).~~

~~(l) 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.~~

~~**Regulations:**~~

(a) **Single Family Use Priority**: Single family residential development is a priority use on the shoreline when developed in a manner consistent with control of pollution and prevention of damage to the natural environment

(b) **Multi-Family Use Priority**: 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.

(c) **Water-Dependent Use Priority**: 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. Multi-family development uses may be permitted only where it provides significant public benefit with respect to the objectives of the Act by:

(1) Restoration of ecological functions, both in aquatic and upland environments, shall provide native vegetation buffers according to the standards provided for critical areas or in accordance with the Restoration Element of this document.

(2) Provision of public access in accordance with ~~Chapter 7, Section 040~~ SMP section 7.040- Public Access.

(d) **Over-Water Homes**: Over-water residences and floating homes are prohibited. Existing floating on-water residences legally established and moored within a marina within the City of Bremerton prior to July 1, 2014 are considered a conforming use and should be accommodated through reasonable permit conditions, or mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating on-water residences and their moorages by rendering these actions impracticable.

(e) **Shore Stabilization**: 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.

(f) **Fills:** New residential development shall meet all critical area provisions of this program. Filling of, or into, water bodies or their associated wetlands for the purpose of subdivision or multi-family construction shall not be permitted.

(g) **Public Access**: 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 ~~Chapter 7, Section~~SMP section 7.040 - Public Access.

(h) **Private Docks**: All new subdivisions shall record a prohibition on new private individual docks on the face of the plat in accordance with ~~Chapter 9, Section~~SMP section 9.030 - Docks, Piers, and In-Water Structures. An area reserved for shared moorage may be designated if it meets all requirements of this Program.

(i) **Low Impact Development**: Residential development shall be designed to minimize the amount of impervious area and shall utilize Low Impact Development techniques to the greatest extent feasible (e.g., permeable pavers, stormwater infiltration and filtration).

(j) **Residential Subdivision:** All subdivisions that create a new lot on the shoreline shall comply with applicable standard shoreline buffer and setbacks. In all cases, all new lots on the shoreline shall fully populate the standard buffer area with native vegetation, however, planting may be accomplished after final plat at the time the lot is developed; in these instances conditions shall be placed on the face of the recorded final subdivision document specifying conditions of approval.

~~(j)~~(k) **Application Requirements**: Applications for development of subdivisions and multi-family developments shall include the following information (at minimum) in addition to other submittal requirements:

(1) Details (graphic and textual) of any proposed alteration in the natural character of the shoreline;

(2) Provisions for lot owner or occupant access to the water body;

(3) Provisions for public access to the water body.

8.090 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.~~

~~**Policies:**~~

~~(i) All new roadways, arterials, utilities and railways, including expansions of these systems, should be located and designed to avoid shorelands, unless no feasible alternative is feasible, and should minimize impacts to shoreline ecological functions.~~

~~(j) Location and design of new roadways including arterials should not compromise existing and planned shoreline public access or existing and planned habitat~~

~~restoration and enhancement.~~

~~(k) New roadways, when necessary within shorelines, should be located and designed in such a manner that the minimum width and length of travel-way for vehicles is provided and appropriate provision made for pedestrian and multi-modal forms of transportation.~~

~~(l) New roadways should be designed and constructed to implement a range of available Low Impact Development techniques.~~

~~(m) New 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.~~

~~(n) Whenever feasible, utilities should be co-located within existing right-of-way corridors.~~

~~(o) Installation of utilities, including maintenance and expansion of existing utilities, should improve the project area from its original condition by native vegetation installation and management.~~

~~(p) Utilities should provide public access to the shoreline when practical.~~

~~**Regulations:**~~

(a) **Ecological Function**: New roadways, utilities and railways shall mitigate their impacts such that the result is a no net loss of shoreline ecological function.

(b) **Location Priority**: New or substantially expanded roads, railroads and bridges may be located within shoreline jurisdiction only if:

(1) The facility is needed within the shoreline jurisdiction to support permitted shoreline activities.

(2) 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.

(c) **Transportation Facilities**: 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.

(d) **Design Criteria**: Where permitted, transportation facilities shall meet the following design criteria:

(1) Roads, railroads, and bridges shall cross the shoreline area by the shortest most direct route, unless such route would cause substantial environmental damage.

(2) The project shall be located and designed to fit the existing topography as much as possible, thus minimizing alterations to the natural environment.

(3) 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 standards for those areas.

(4) Construction of facilities 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.

(5) All debris, cut and fill material, overburden, and other waste materials from construction shall be disposed of in such a way as to prevent their entry by erosion from drainage into any water body.

(6) Facilities shall 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, culverts or other features shall be utilized that are large enough to provide for these functions.

(7) The project shall provide the minimum width and length of travel-way for vehicles and 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.

(8) New roadways should be designed and constructed to implement Low Impact Development techniques.

(9) Landscape planting is required along all shoreline roads, parking, and turnout facilities to:

(i) Provide buffers between pedestrian and auto users;

(ii) Enhance the shoreline driving experience; and

(iii) Enhance and complement potential views of shoreline areas.

(10) Height restrictions do not apply to public bridges. Compliance with all other code provisions shall apply.

(e) **Unused ROW**: ~~In order to improve public access to the shoreline~~ T~~t~~he City should ~~acquire and/or~~ retain abandoned or unused road or railroad rights-of-way for public access to and/or along the water to improve public shoreline access.

(f) **Road Ends:** Road ends abutting water bodies shall be reviewed for potential use and development for public access to the water, and be incorporated into the City's Comprehensive Public Access Plan as appropriate.

(g) **Vacations:** 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 pursuant to state law criteria, or as amended. ~~only when:~~

~~(1) The vacation will enable acquisition of the property for public purposes;~~

~~(2) The street or alley is not suitable for certain purposes (e.g. port, park, education); or~~

~~(3) The vacation will enable implementation of a public access plan.~~

(h) **Utility Location Criteria**: New or substantially expanded utilities may be located within shoreline jurisdiction only if:

(1) The facility is needed within the shoreline jurisdiction to support permitted shoreline activities;

(2) No feasible upland alternative exists based on analysis of system options that assess the potential for alternative routes outside shoreline jurisdiction or is set back further from the land/water interface; and

(3) Facilities will not degrade or obstruct scenic views.

(i) **Utilities:** 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.

(j) **Utility Design Criteria**: Utilities, where permitted, shall meet the following design criteria:

(1) 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 environmental damage.

(2) Utilities shall be located and designed to fit the existing topography as much as possible, thus minimizing alterations to the natural environment.

(3) Facilities shall be located and designed to minimize obstruction of scenic views.

(4) 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 of the need for maintenance or replacement.

(k) **Architectural Compatibility**: Facilities involving buildings, such as pump stations, electrical substation, or other facilities, shall be architecturally compatible and landscaped to assure compatibility with natural features, public access facilities, and adjacent uses.

(l) **Construction Practices**: 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.

(m) **Easements**: Access easements to utility installations shall be no wider than needed to construct, maintain, or repair the utility.

(n) **Public Access**: Utility development shall provide for compatible, multiple use 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 that public access will not unduly interfere with utility operations, endangers public health and safety, or create a significant and

disproportionate liability for the owner.

(o) **Landscape Restoration** ~~**Maintenance Projects**~~: Upon completion of installation of projects on shorelines, disturbed non-impervious areas 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 is required.

(p) **Storm Drainage/Sewer Outfalls**: Storm drainage and sewer outfalls are encouraged to locate ~~shall be located~~ beyond the extreme low tide line/mean low lower water. However, at the discretion of Director on a case-by-case basis storm facilities may locate above the extreme low tide line in order to mitigate maintenance and sediment infill for the City.

(q) **Applications**: All applications for installation of utility facilities shall include the following information prepared by a qualified professional:

(1) Reason why facility must be located in a shoreline area;
(2) Alternative locations considered, including the feasibility of location within existing utility right-of-way, and reasons for their rejection;
(3) Location of other facilities near the proposed project and if the location is to include other types of facilities;
(4) Proposed method of construction and plans to control erosion and turbidity during construction;
(5) Plans for reclamation of areas disturbed during construction;
(6) Any other information deemed necessary.

Chapter 9 – Shoreline Modifications

9.010 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.

9.020 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.~~

~~**Policies:**~~

~~(d) Disturbance to and removal of native soils should be minimized within shorelines.~~

~~(e) Uses and site design should incorporate protection or reestablishment of the maximum amount of native vegetation on a particular site.~~

~~(f) Vegetation that is removed as part of a permitted use should be reestablished within a required buffer.~~

~~**Regulations**:~~

(a) Clearing, grading, and shoreline native vegetation protection and removal shall comply with the standards in the general ~~policies~~ standards section (Chapter 7).

(b) Disturbance to soils shall adhere to the following standards:

(1) Land clearing, filling, and grading activities that are associated with a permitted use below the OHWM ~~that~~ shall be allowed only between May 1 and October 1 unless the City or Department of Fish and Wildlife extends or shortens the allowable work ~~time~~ window per ~~on a case-by-case basis based on actual weather conditions as applied in~~ BMC 20.14.700, which requires shoreline erosion control measures ~~and a qualified professionals~~ according to an approved report prepared by a qualified professional.

(2) Filling or grading including excavation within or modification to a critical area is permitted only as part of an approved activity subject to the applicable requirements within this Title.

(3) 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.

(4) 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.

(5) Erosion control shall comply with the requirements in BMC 15.04.

9.030 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, marine railways, weirs, baffles, and similar structures .~~

~~**Policies:**~~

~~(e) 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.~~

~~(f) In-water structures should not adversely affect hydrologic function including light penetration within the photic zone, sediment transport, and current and water circulation patterns.~~

~~(g) The location and planning of in-water structures should give due consideration to the full range of public interests and environmental concerns.~~

~~(h) 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.~~

~~**Regulations:**~~

(a) **Ecological Function**:

(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) 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.

(3) Creosote, arsenic and pentachlorophenol treated materials used for in-water structures shall be prohibited.

(b) **Light Penetration**: All piers, ~~and~~ docks and bridges must achieve light penetration by grating or other means unless it would pose a public safety or environmental risk, as follows:

(1) Grating must be provided over at least (40%) forty percent of the pier or float area and must be provided over at least 60 percent of the structure(s) within 30 feet of the OHWM. Areas blocked by objects underneath, such as floatation devices shall not be counted toward the 40% forty percent total.

(2) 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.

(3) 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.

(4) Light penetration standards do not apply to public bridges.

(c) **Navigation**:

(1) 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.

(2) 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 ~~Chapter 4, Section~~SMP section 4.~~420~~ 020 map M. In addition, to protect sensitive aquatic environment, docks and piers are prohibited within the Aquatic Conservancy designation (mooring buoys are not prohibited).

(3) 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.

(d) **Use Priority**: 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.

(e) **Joint Use**: Joint-use facilities are preferred over new single use piers, docks and floats. Easements ensuring adequate access for all users of the joint-use facility shall be required and recorded with the Kitsap County Auditor. In order to develop new moorage, an applicant must demonstrate that existing facilities (public and private marinas or shared moorage) 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 proliferation of new facilities) in order to minimize the consumption of limited shoreline resources and cumulative impacts on ecological resources.

(f) **Subdivisions**: 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:

(1) The applicant shall demonstrate that there is no reasonably available public or

private moorage that can serve the moorage needs of the subdivision.

(2) 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.

(3) 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.

(4) 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.

(5) Public access shall be provided in association with all shared docks utilizing public aquatic lands that accommodate five (5) or more vessels.

(6) 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.

(g) **Commercial & Industrial Docks**: 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 facility.

(1) Non-Residential Piers and Docks shall be the minimum size feasible to serve the proposed water-dependent use.

(h) **Multi-Family & Commercial Moorage**: 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.

(i) **Single Family Docks**: 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 subsection f, above). The dock must be designed and intended as a facility for access to watercraft. An applicant shall demonstrate that:

(1) A mooring buoy is not feasible to provide moorage. A mooring buoy may be approved in conjunction with an individual or shared tender dock to provide small boat access to the buoy.

(2) There is no shared moorage available, and there is no homeowners association or other corporate entity capable of developing shared moorage.

(j) **Single Family Dock Size Limitations**: Residential piers and/or docks shall be limited to the minimum necessary to meet the need for moorage and are limited to the following sizes:

(1) **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 ten (10) 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 to be sixty (60) feet in length or greater must demonstrate that a mooring buoy in conjunction with a shorter tender dock to provide small boat access to the buoy is not feasible.

(2) **Width**:

(i) The Landing area, particularly over shallower areas, should be built in the north-south direction, if at all possible to avoid shading effects that would occur with east-west orientation.

(ii) The float shall have a maximum width of eight (8) feet. Single Use floats shall be no longer than thirty (30) feet. Joint Use floats shall be no longer than sixty (60) feet.

(iii) Pier or walkway maximum width: Four (4) feet;

(k) **Community Piers and Docks Size Limitations:**

(1) **Maximum Width and Length**: To be determined by the City on a case-by-case basis based on the minimum dimensions feasible.

(2) **Density**: No more than one (1) forty foot (40') moorage space per dwelling unit or lot with direct shoreline frontage.

(l) Public Piers and Docks Size Limitations:

(1) **Maximum Width and Length**: To be determined by the City on a case-by-case basis based on the minimum dimensions feasible.

~~(l)~~(m) **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.

~~(m)~~(n) **Floats & Buoys**: Recreation floats and mooring buoys shall be located no further seaward than existing floats and mooring buoys or no further seaward than necessary to achieve minimum feasible depths 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:

(1) Floats must be built so that the deck surface is no more than two (2) feet above the water's surface and must have reflectors for nighttime visibility.

(2) Single property owner recreational floats shall be no larger than sixty-four (64) square feet.

(3) Joint-use floats shall be no larger than ninety-six (96) square feet.

~~(n)~~(o) **Marine Rails**: Boat launching ramps and marine railways shall be designed as to not obstruct longshore drift. Residential launch ramps or marine railways are prohibited.

9.040 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.~~

~~Policies:~~

~~(e) Dredging should be allowed only to accommodate existing navigational uses, remediation of contaminated materials, or approved water-dependent uses and then only when ecological impacts are minimized and mitigation is provided.~~

~~(f) Deposition of dredge spoils waterward of the Ordinary High Water Mark should be allowed only when necessary to support allowed water dependent use, public access, beach restoration or Model Toxics Control act or the Comprehensive Environmental Response Compensation and Liability Act and other water dependent uses that are consistent with this master program or consistent with locations approved by the State Departments of Natural Resources, and the Department of Fish and Wildlife where the alternatives of depositing materials on land is more detrimental to shoreline resources than depositing it in water areas.~~

~~(g) Dredging within aquatic areas for the primary purpose of acquisition of fill material should not be allowed.~~

~~(h) Where dredging occurs within marine waters the result should be suitable for establishment of a variety of aquatic organisms including, where appropriate, salmonids and forage fish.~~

~~Regulations:~~

(a) 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.

(b) New development shall be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.

(c) 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 mitigation is provided. Maintenance dredging of established navigation channels and basins shall be permitted only to the limits originally allowed.

(d) 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 or a Comprehensive Environmental Response Compensation Liability Act remediation project, or a habitat restoration project approved through a Shoreline Conditional Use Permit.

(e) Dredging spoils shall be deposited upland if feasible, and measures taken to prevent erosion of the deposited material. If the deposit area is on the shoreline, a vegetation inventory and restoration shall be required, consistent with the vegetation conservation and critical areas regulations of the Master

Program.

(f) 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 U.S. Army Corp of Engineers, and Suquamish Tribe. Depositing of dredge materials in water areas shall be allowed only for habitat improvement, to correct existing 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.

(g) 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.

(h) All applications for dredging shall provide the following information prepared by a qualified professional and any other information deemed necessary:

(1) An analysis of material to be dredged;

(2) Time of dredging;

(3) Method of dredging and disposal;

(4) Location and stability of bedlands adjacent to proposed dredging area;

(5) Ecological processes and functions affected by the proposed dredging;

(6) Location, size, capacity, physical and ecologic characteristics of spoils disposal area.

9.050 Flood Hazard Reduction:

~~**Policies:**~~

~~(f) The City should recognize that seasonal flooding is an essential natural process and minimize alteration of such processes where feasible.~~

~~(g) Flood hazard reduction measures should not result in a net loss of ecological functions associated with the rivers and streams.~~

~~(h) 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.~~

~~(i) Development in frequently flooded areas should be prevented or existing development removed when feasible and to maintain or restore a stream system's natural hydrological and geo-morphological processes.~~

~~(j) Bioengineered flood hazard reduction techniques are preferred and should be examined and implemented where feasible rather than structural measures.~~

~~**Regulations:**~~

(a) Flood control works shall be permitted only when it is demonstrated by engineering and scientific evaluation by qualified professionals that:

(1) They are necessary to protect health/safety and/or existing development;

(2) Non-structural flood hazard reduction measures are infeasible; and

(3) Measures are consistent with an adopted comprehensive flood hazard

management plan that evaluates cumulative impacts to the watershed or coastal reach.

(b) 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.

(c) 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.

(d) 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.

(e) 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 ecological resources than with bank levees.

(f) 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. Removal of materials from the creek, stream, or river channel for flood management purposes may be allowed only as part of an adopted integrated flood control management program that demonstrates that other flood hazard reduction strategies would not be effective in the absence of gravel removal.

(g) Flood management diking shall be located landward of the floodway base (100-year frequency) flood, and landward any wetlands associated or directly interrelated and interdependent with the water body.

(h) Linear public access shall be provided whenever possible as outlined in the public access requirements in ~~Chapter 7, section~~SMP section 7.040, unless it is demonstrated that public access would cause unavoidable public health and safety hazards, or security problems, or unmitigatable ecological impacts, or unavoidable conflicts with proposed uses, or unreasonable cost. Improved trail systems are preferred. At a minimum, flood control works should not decrease existing or potential public access to shorelines.

9.060 Landfills*:*

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

~~**Policies:**~~

~~(c) Landfills waterward of OHWM should be allowed only when necessary to support, public access, beach restoration, or MTCA / CERCLA restoration projects and other water dependent uses that are consistent with this master program.~~

~~(d) Landfills should be limited in the shoreline and should be the minimum necessary.~~

~~**Regulations:**~~

(a) Landfills within shorelines shall be permitted only through a Conditional Use Permit and shall be allowed only when necessary to support:

(1) Water-dependent use, or;

(2) Public access, or;

(3) Cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan, or;

(4) Disposal of dredged material considered suitable under, and conducted in accordance with the dredged material management program of the Department of Natural Resources, or;

(5) 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, or;

(6) Mitigation action, approved environmental restoration, beach nourishment, or an approved enhancement project.

(b) ~~(a)~~ 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, or natural resources systems.

(c) Landfills shall include restoration and/or enhancement of ecological functions within the shoreline consistent with the restoration objectives within the Restoration Plan and shall provide public access where feasible.

(d) Applications which include landfills shall include the following information prepared by a qualified professional:

(1) Physical, chemical and biological character of landfill material;

(2) Proposed use of fill area;

(3) Source of landfill material;

(4) Method of placement and compaction;

(5) Type of proposed surfacing or vegetation cover;

(6) Method of perimeter erosion control; and

(7) Any other information deemed necessary.

9.070 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 restoring the natural configuration of 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.~~

~~Policies:~~

~~(e) The primary objectives of restoration projects should be to protect and restore natural processes controlling environmental factors.~~

~~(f) The Suquamish Tribe, Corps of Engineers, Washington Department of Ecology, 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.~~

~~(g) The goals of the Restoration Plan should be considered for all restoration and conservation projects.~~

~~(h) 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 feasible:~~

~~(1) Non-native vegetative species should be controlled and native vegetation established (soil amendments, including mulching, may be required to support native vegetation);~~

~~(2) 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;~~

~~(3) Introduction of large woody debris to the water body should not adversely impact fish passage or hydrologic function; and~~

~~(4) 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.~~

~~Regulations:~~

(a) Restoration projects that are within critical areas, or their required buffers are permitted subject to the applicable requirements within this Title.

(b) Restoration projects that achieve the objectives within the Restoration Plan shall have priority over other restoration projects.

(c) Restoration projects that include structural modification or stabilization shall first consider preferred techniques as specified in ~~Chapter 9, Section~~SMP section 9.080 Shoreline Stabilization.

(d) Restoration projects shall be designed and implemented such that there are no adverse impacts on ecological resources or functions.

(e) Restoration projects shall include a maintenance and monitoring plan and financial surety as outlined in ~~Chapter 7, section~~SMP section 7.020~~030~~ (vegetation plan) that includes a guarantee and/or contingency plan when said project does not achieve its intended objective.

(f) Restoration projects shall take into consideration existing and lawfully erected structures and developments such that their safety is not compromised.

(g) 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.

9.080 Shore Stabilization:

~~Shoreline stabilization measures are those mechanisms used to prevent erosion and deterioration of shoreline areas as a result of waves, wind, tidal action, or flooding. Shoreline stabilization measures can include a wide range of works varying from hard armoring to vegetation conservation and anchoring of trees.~~

~~**Policies:**~~

~~(d) New development should be managed and designed to eliminate the need for shoreline modification or stabilization.~~

~~(e) Replacement of rigid 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.~~

~~(f) Whenever feasible, bioengineered and soft-shore shoreline modifications and stabilization should be explored and implemented before reverting to structurally engineered techniques.~~

~~**Regulations:**~~

(a) **Hierarchy of Alternatives**: Alternatives for shoreline stabilization shall be based on the following hierarchy of preference:

(1) No action (allow the shoreline to retreat naturally), increase building setbacks, and relocate structures.

(2) Provide flexible stabilization constructed of natural materials incorporating measures such as soft shore protection and bioengineering, including beach nourishment, protective berms, or vegetative stabilization.

(3) Provide flexible stabilization, as described above, with rigid works, as described below, constructed as a protective measure.

(4) Construct rigid works constructed of artificial materials such as riprap or concrete.

(b) **Stabilization Necessity:** New structural stabilization measures shall not be allowed for existing developments except when necessity is demonstrated in the following

manner:

(1) To protect existing primary structures: 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 and geotechnical analysis, is not demonstration of need. Site analysis, at a minimum, must include the following to demonstrate the need of a structural solution:

(i) On-site drainage issues. The report(s) must clearly evaluate and resolve existing drainage problems before considering structural shore stabilization.

(ii) The report(s) must clearly evaluate supplementary beach nourishment and/or soft-shore measures and such measures must be shown to be impractical or non-effective, as demonstrated through a geotechnical report.

(iii) The report(s) must clearly establish that the stabilization structure will not result in a net loss of shoreline ecological functions.

(iv) The report(s) must clearly establish the lack of structural integrity of the existing structure due to ongoing wave action.

(2) 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:

(i) The erosion is not being caused by upland conditions such as the loss of vegetation and drainage.

(ii) 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.

(iii) 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.

(iv) Supplementary beach nourishment must be shown to be impractical or non-effective, as demonstrated through a geotechnical report.

(v) To protect an existing non-water-dependent development, when all of the conditions below apply and are documented by a qualified professional: The erosion is not being caused by upland conditions such as the loss of vegetation and drainage;

(vi) Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible;

(vii) Stabilization structures are needed to protect primary structures from damage due to erosion;

(viii) Supplementary beach nourishment is shown to be impractical and ineffective;

(ix) The affected structure cannot be feasibly located or relocated outside of the

area affected by natural shoreline erosion processes;

(x) The stabilization structure will not result in a net loss of shoreline ecological functions.

(3) 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:

(i) Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

(ii) The erosion control structure will not result in a net loss of shoreline ecological functions.

(c) **Creeks and Streams:** 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 natural processes and functions have been substantially altered, shoreline stabilization shall avoid substantial channel direction modifications, realignment and straightening as a consequence of shore stabilization and flood management.

(d) **Bulkhead/Seawall Location**:

(1) On all shorelines, bulkheads/seawalls shall be located landward of the OHWM, landward of existing protective berms (artificial or natural), and shall be located generally parallel to the natural shoreline.

(2) On 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 said setback is not feasible, in which case bulkheads shall be placed as far landward of the OHWM as is feasible. In no case shall the bulkhead be waterward of the OHWM.

(3) 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.

(4) 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.

(5) A bulkhead/seawall for a permitted landfill shall be located at the toe of the fill.

(6) Replacement bulkheads/seawalls shall be located no further waterward of the existing bulkhead than is necessary for construction of new footings

(e) **Design**: new and replacement bulkheads/seawalls shall comply with the following design and construction criteria:

(1) 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 the evidence of potential damage to other shoreline properties and features.

(2) Bulkheads/seawalls shall be the minimum dimensions necessary to adequately protect the development.

(3) Stairs or other permitted structures may be built into a bulkhead, but shall not extend waterward of it.

(4) Bulkheads/seawalls shall be designed to permit the passage of surface or ground water without causing ponding or saturation of retained soil/materials.

(5) Adequate toe protection (i.e. proper footings and a fine retention mesh, etc.) shall be provided to ensure bulkhead stability without relying on additional riprap.

(6) Sheet piling and precast concrete slabs with vertical waterward faces shall include adequate tiebacks and toe protection.

(7) 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.

(8) Beach materials shall not be used for fill behind bulkheads/seawalls except clean dredge spoil from a permitted off site dredge and fill operation.

(9) Bulkheads/seawalls may tie in flush with existing bulkheads/seawalls on adjoining properties to ensure there is no gap between the two 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 Subsection D criteria 1,2, and 3 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 in order to minimize the land area waterward of the required setback. The required setback, however, shall be met on the side not abutting an existing bulkhead/seawall.

(f) **Beach Enhancement**: 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:

(1) Beach restoration/enhancement will accomplish the following objectives:

(i) Recreate or enhance natural shore conditions;

(ii) Create or enhance natural habitat;

(iii) Reverse otherwise erosional conditions; and

(iv) Enhance access to the shore, especially to public shores.

(2) Beach enhancement is prohibited where:

(i) Littoral drift of the enhancement materials will adversely affect adjacent spawning grounds or other areas of biological significance; or

(ii) It will interfere with the normal public use of the navigable waters of

the state.

(3) Beach enhancement projects shall be designed so that the project avoids:

(i) Detrimental interruption of littoral drift, or redirection of waves, current or sediments to other shorelines that may adversely affect adjacent properties or habitat;

(ii) Any exposed groin-like structures; EXCEPT: Small drift cell or littoral cell groins may be used as a means of stabilizing restored sediment where part of a federally and/or state approved beach enhancement program;

(iii) Extending waterward more than the minimum amount necessary to achieve the desired stabilization;

(iv) Creating 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);

(v) Creation of "additional dry land mass"; and

(vi) 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.

(4) 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).

(5) The restored beach shall approximate the natural beach width, height, bulk or profile. Exceedance of these features shall be limited, and shall not create substantial additional dry land mass.

(g) **Breakwaters:** Breakwaters shall be permitted only by Conditional Use Permit for navigational purposes, industrial activities and marinas and shall be approved only 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.

(h) **Jetties, Weirs & Groins**: 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 and shall be approved only as integral components of an overall resource management plan.

(1) 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 shall incorporate artificial beach feeding.

(ii) Jetties shall artificially transport sand to the downdrift side of the structure.

(i) **Vegetation Management**:

(1) 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.

(2) Vegetation shall be planted and maintained on shore modification structures in a manner that will reduce the visual impact of such structures.

(j) **Maintenance**: Maintenance of shore modification activities shall be the sole responsibility of the property owner.

(k) **Liability:** liability for any impact to neighboring properties caused by shore modification activities is the sole responsibility of the property owner providing such shore modification.

(l) **State & Federal Code Compliance**: Construction and operation of shore modification works shall demonstrate approval of and compliance with all applicable federal and state permits.

(m) **Application Requirements**: Proposals for shore modification shall include the following information, or as otherwise determined by the Director:

(1) Purpose of Project

(2) Description of Proposal:

- Location of project;
- Construction materials (e.g. materials used, dimensions of, design);
- Method of construction (e.g. source of backfill, erosion controls);

- Characteristics of the Site:
- Toe and crest of uplands;
- Existing buildings;
- Existing shore stabilization and flood protection devices;
- Ordinary, low, and high water elevations;
- Net direction of littoral drift changes and tidal currents (if any);
- General direction and speed of prevailing winds;

- Beach type, slope and material;
- Uplands type, slope and material;
- Soil types (Soil Conservation Service);
- Physical or geologic stability of uplands;
- Profile of beach and uplands;

(3) Extent of Impact Area:

- Marine shores: Within drift sector;
- Lakes and streams: Three hundred feet (300') on each side of proposed project;

(4) Existing characteristics:

- Physical, geological and/or soil characteristics;
- Existing shore stabilization and flood management devices;
- Presence of fish/wildlife vital to the aquatic food chain, or their habitat;

(5) Analysis shall include:

- Potential impact upon area shoreline processes and functions, hydraulic processes, upland stability, natural habitat, adjacent properties, shoreline and water uses, and public access; and
- 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.

(n) **Professional Design**: The City shall require professional design of the proposed project if it is determined there are sufficient uncertainties such as:

(1) Inadequate data on local geophysical conditions;
(2) Inadequate data on stream flow, velocity, and/or flood capacity; and/or
(3) Effects on adjacent properties.

9.090 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.~~

~~**Policies:**~~

~~(d) Stormwater facilities should not be located in areas where there would be an adverse impact to existing shoreline ecological functions.~~

~~(e) Stormwater management facilities should be designed to incorporate Low Impact Development techniques.~~

~~(f) All Shoreline Designations must comply with these requirements including the shoreline isolated locations.~~

~~Regulations:~~

(a) Stormwater management facilities shall be located outside of critical areas and their required buffers, except as specified in ~~Chapter 7,~~SMP section 7010.

(b) 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).

(c) New stormwater conveyance facilities (outfalls) shall not be constructed within required shoreline or critical area buffers, unless no other feasible alternative exists.