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City of Bainbridge Island Shoreline Master Program---PC Recommendation  April 12, 2012
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1.0 Section I Part I— Introduction

1.1 Shoreline Master Program Introduction

This Shoreline Master Program (SMP) establishes policies and regulations for protection and development of the shorelines of Bainbridge Island’s shoreline areas. The regulations in the Shoreline Master Program state specific legal requirements which future development along the Bainbridge Island shoreline must follow. The policies in the Shoreline Master Program state the underlying objectives the regulations are intended to accomplish. The policies are a component of the City’s Comprehensive Plan and should, accordingly, guide the interpretation and enforcement of the Shoreline Master Program’s regulations. The policies are not regulations in themselves and therefore, do not impose requirements beyond those set forth in the regulations.

1.1.1 Purpose and Intent

The Shoreline Master Program is intended to implement the Shoreline Management Act of 1971 (Revised Code of Washington (RCW 90.58)) by:

- Planning for and guiding the orderly development of the shoreline in a positive, effective, and equitable manner, protecting and restoring shoreline resources, and helping to assure public access to the shoreline;
- Promoting the health, safety, and general welfare of the community by providing long range, comprehensive policies and effective, reasonable regulations for use and development of Bainbridge Island shorelines;
- Ensuring, at minimum, no net loss of shoreline ecological functions and processes;
- Planning for the restoration of shorelines that have been impaired or degraded in the past in a manner that helps both property owners and City and State staff in the permitting process. It also educates the community in the use and protection of its shorelines;
- Adhering to and fostering the policies of the Act contained in RCW 90.58.020 for shorelines of the state; and
- Improving the water quality of the Puget Sound.

This introduction describes why and how the Shoreline Master Program was written and provides a user’s guide (Table 1-1) to direct the reader to sections of specific interest.

1.2 Requirements Purpose of the Shoreline Management Act

In 1969 the Washington State Supreme Court decided in the case of Willbour vs. Gallagher (77 Wn 2d 302), commonly known as the Lake Chelan Case, that certain activities along shorelines were contrary to the public interest. The court findings required that the public interest be
represented in the proper forum for determining the use of shoreline properties. The ramifications of these decisions were significant in that developers, environmentalists, and other interested parties began to recognize, through probably for different reasons, the need of a Comprehensive Planning and regulatory program for shorelines.

In June 1971, the Washington State Legislature approved a comprehensive just such a regulatory program for shorelines when it adopted with the adoption of the Shoreline Management Act of 1971 (SMA or Act). The Act carried with it provisions for a vote by the people and in November 1972, the people of the State of Washington enacted the Shoreline Management Act (RCW 90.58), the issue was put to the Washington voters, who ratified the legislator’s Shoreline Management Act by an approximate 2 to 1 margin. The Act’s paramount objectives are to protect and restore the valuable natural resources that shoreline represent, and to plan for and foster all “reasonable and appropriate uses” that are dependent upon a waterfront location, including single family development, or that which offer the opportunities for the public to enjoy the State’s shoreline. With this clear mandate, the Shoreline Management Act establishes a planning and regulatory program, initiated at the local level under State guidelines.

1.2.1 Shoreline Management Act Administration

Administration of the Shoreline Act is a cooperative effort balancing local and statewide interest in the management and development of shoreline areas by requiring local government to plan (via Shoreline Master Programs) and regulate (via permits) shoreline development. Local government actions are monitored by the Washington State Department of Ecology (Ecology), which approves new or amended Shoreline Master Programs, reviews substantial development permits, and approves shoreline Conditional Use permits and Variances. The master program is essentially a shoreline Comprehensive plan with distinct environmental orientation applicable to shoreline areas and customized to local circumstances. Collectively, the local master programs comprise the State Shoreline Master Program. Under the law, each city and county in Washington state By law, the City is responsible for the following:

1. Preparation of a "Shoreline Master Program" in accordance with the policies and requirements of the Act and the State Shoreline Guidelines (WAC 173-26). The purpose of a Shoreline Master Program is to protect shoreline resources, manage the uses and activities on local shorelines, and assure continued public use of waters of the State.

2. The Act specifies that local master programs include goals and policy statements for each of the required elements and take into account economic development, public access, circulation and transportation, and recreation. Local government is further encouraged to identify any other elements that are deemed appropriate and necessary to implement the intent of the Shoreline Management Act, and to develop goals and policies for those additional elements.

3. Master program regulations are developed and adopted by local government to implement the goals and policies for each of the elements. These regulations address various types of shoreline development, including agriculture, aquaculture, forest management, commercial development, marinas, mining, outdoor advertising and signs, residential development, utilities, ports and water related industries, bulkheads, breakwaters, jetties.
and groins, landfills, solid waste disposal, dredging, shoreline protection, road and railroad design, piers, and recreation.

4. Administration of a shoreline permit system for proposed substantial development within two hundred (200) feet of the ordinary high water mark (OHWM) of designated water bodies. (Local government has the option to adopt the administrative process as part of the SMP or as a reference document not considered part of the SMP. This allows local government to make changes without the need of a SMP amendment. See WAC 173-26-191(2)(a)(C).

5. Development of an inventory of natural characteristics and land use patterns along those designated water bodies. Local governments are required to prepare a detailed shoreline inventory that provides a foundation for development of a system that classifies the shoreline into distinct shoreline “environments.” These environments, or designations, provide the framework for implementing shoreline policies and regulatory measures.

3. Preparation of Shoreline Master Program to manage the uses and activities on local shorelines.

6. Local governments have the primary responsibility for initiating the planning program and administering the regulatory requirements. The City of Bainbridge Island Shoreline Master Program must be consistent with the policies and requirements of the Shoreline Management Act and the State Shoreline Master Program Guidelines. The role of the Department of Ecology is to provide support and review of the Shoreline Master Program and subsequent shoreline development permits and approvals and ensure compliance with the policies and provisions of the SMA.

1.2.2 Scope of Shoreline Management Act

The shoreline Management Act covers all shorelines of the state, including shorelines and “shorelines of state-wide significance.” Figure 1-1 illustrates shoreline jurisdiction on coastal shorelines.
Figure 1-1 Shoreline Jurisdiction

Provisions of the Act apply to the following, geographical, shoreline areas:

1. All marine waters of the state, together with the lands underlying them;
2. Streams and rivers with a mean annual flow of 20 cubic feet per second (cfs) or more;
3. Lakes and reservoirs larger than 20 acres in area;
4. Wetlands (a specific Shoreline Management Act term which includes related upland, shoreline, and wetland areas) associated with all of the above; and
5. Shorelines of state-wide significance as defined in RCW 90.58.030 or its successor. This includes those areas of Puget Sound lying seaward from the line of extreme low tide.
1.2.3 Local Development of the City’s Shoreline Master Programs

The Shoreline Management Act sets up a process for managing development of the State’s shoreline through state monitored, locally administered, permitting programs. Local governments are required to prepare a detailed shoreline inventory and a Shoreline Master Program to protect shoreline resources, manage shoreline development, and assure continued public use of waters of the State. Based upon the inventory of local shorelines, a system for categorizing various segments is established through application of shoreline environment designations. The Act specifies that master programs include policy statements (i.e., the required elements) and take into account economic development, public access, circulation and transportation, recreation, shoreline use, conservation, and historical and cultural aspects of the shoreline area [RCW 90.58.100 (2) or its successor]. From these policy statements, regulations are developed which establish appropriate permitted uses within each shoreline environment.

The City of Bainbridge Island adopted a Shoreline Master Program in 1996 after annexation of the entire Island occurred in March 1991. Prior to annexation in March 1991, Bainbridge Island’s shorelines were managed under the Kitsap County Shoreline Master Program and the City of Winslow Shoreline Master Program. Following annexation, the City was responsible for developing a new Master Program to manage the island’s shoreline resources. The goals and policies in the Shoreline Master Program are considered an element of the City’s Comprehensive Plan. All other portions of the SMP, including the use regulations, are considered part of the City’s development regulations.

The precautionary principle was employed as guidance in updating the policies and regulations of this shoreline master program. The “precautionary principle” is cited in the State Shoreline Guidelines under WAC 173-26-201(3)(g) and states, in part that “As a general rule, the less known about existing resources, the more protective shoreline master program provisions should be to avoid unanticipated impacts to shoreline resources.”

The Shoreline Master Program regulations are to be used as an overlay to other City policies and regulations for properties within shoreline jurisdiction. Therefore, when looking for direction for a proposal within shoreline jurisdiction, we would look to all relevant sections of the City’s Comprehensive Plan including the policies in the Shoreline Master Program. Since the policies in the Shoreline Master Program are more specific, especially in how they relate to the shoreline, they would provide more guidance than the general policies. When reviewing a specific development application within shoreline jurisdiction we would first consider the requirements of the underlying zoning district and then the special requirements of the shoreline designation. In all cases, the more restrictive regulations would apply.

1.2.4 Public Involvement Participation

Public participation strategies were used in developing the activities during the development of the Shoreline Master Program adopted in 1996, and updating the Program in 2012. Included bi-monthly Shoreline Work Group meetings (open to the public), public meetings, which were held on September 24, 1991 and April 13, 1993, and four special topic meetings. Meetings were
announced in letters, flyers, and in the newspapers. In addition, two issues of City News with articles about the Shoreline Work Group’s progress and process were sent to all Bainbridge Island residents. More than 200 residents attended the two public comment meetings, and more than 100 letters have been received. About 45 citizen volunteers participated in the shoreline survey conducted by Scott Kathey which took place over the low tide weekend of May 16 and 17, 1992. The volunteers each surveyed about a mile of shoreline, noting bulkheads and other manmade structures, vegetation, geology, and wildlife. The draft Shoreline Master Program was presented to the Planning Commission by the Shoreline Work Group on June 24, 1993. The Planning Commission held a public hearing on the draft Shoreline Master Program on September 9, 1993. A Determination of Nonsignificance on the Shoreline Management Master Program was issued on December 9, 1993. The Planning Commission allowed comments from the public during the meetings in which the draft was reviewed. Comments from State agencies were also considered. The Planning Commission completed its substantive review on September 8, 1994. For the 1996 SMP, the City convened a citizen committee that worked from 1991-1993 to develop the first shoreline master program for the City of Bainbridge Island. In addition, approximately 45 citizen volunteers participated in a shoreline survey. The city used a variety of tools for public outreach, and conducted several public meetings, special topic meetings, and public hearings.

In updating this Program, the City first developed a public participation plan with the community in March, 2010. The public participation plan was accepted by the City Council in May, 2010, and the City used the plan as a guide for public involvement and notification throughout the update process. An SMP Ad Hoc Committee was composed of two members from the City Council and two members from the Planning Commission also helped guide the public participation plan.

The public participation plan developed with the community identified the following key challenges and opportunities:

- Build Common Understanding
- Clearly Address the Use of Science
- Engage the Community
- Allow Respectful Dialog
- Sustain Community Involvement
- Form an Ad Hoc Committee

To meet these challenges, the City developed the following outreach components:

- Setup Shoreline Master Program Update web page
- Identified stakeholders in the SMP Update process
- Created community outreach list
- Developed a Shoreline Education series to inform the community and decision makers about the natural resource processes and legal requirements of updating the SMP
At the Shoreline Education series, experts in the field presented information related to the program update and Bainbridge Island. At the end of each presentation, there was an open discussion with the presenter related to issues of the SMP Update. Each of these educational events was advertised and filmed, and the video was made available on the City’s SMP Update webpage. The education series included the following topics:

- June 3, 2010, Event #1 Ecology’s Role in the SMP Update with Department of Ecology representatives Geoff Tallent, Regional Manager, and Barbara Nightingale, the city’s Ecology contact;
- June 17, 2010 Event #2, Shoreline Processes with Hugh Shipman, coastal geologist with the Dept. of Ecology's Shorelands and Environmental Assistance program, and Jeff Adams, Marine Water Quality Specialist with Washington Sea Grant;
- June 22, 2010 Event #3, Property Rights/Listening Session with Dawn Findlay Reitan, Interim City Attorney from the firm of Inslee Best;
- July 8, 2010 Event #4 Coastal Bluffs and Beaches with Jim Johannesen, principal scientist at Coastal Geological Services; and
- July 27, 2010 Event #5 Nearshore Assessment with Ron Thom, who leads the Coastal Assessment and Restoration group at Battelle’s Marine Sciences Laboratory.

**Citizen Committees**

The City solicited citizen volunteers and formed topic-based workgroups to assist in drafting revisions to SMP policies and regulations that reflected the requirements of the State SMP Guidelines and community values. Four community organizations (Bainbridge Shoreline Property Owners, Bainbridge Concerned Citizens, Association for Bainbridge Communities and Bainbridge Island People for Puget Sound) self-selected members to represent their organization on the SMP Workgroups and the remaining volunteers were selected by the SMP Ad Hoc Committee. The three topic-based workgroups focused on major issues of the program. A fourth committee, the SMP Task Force, was formed from members selected from each of the three topic-based workgroups. The committees drafted the revisions between September 2010 and August 2011, over the course of approximately 45 public meetings. The citizen committee’s recommendations were made available on the City’s website for public review and forwarded to the Planning Commission in July 2011. Public comment was accepted throughout the process, and comments were posted on the City’s website.

From July 2011 through March 2012, the Planning Commission reviewed the recommendation and made amendments. Public comment opportunity was provided at each of the Planning Commission's seventeen study sessions. A public hearing on the draft amendments was held on March 29, 2012. The Commission considered public comment and approved the draft on April 12, 2012, and forwarded their recommendation to the City Council for consideration.

The City Council TBD…….
1.3 Bainbridge Island’s Shoreline Master Program (SMP)

1.3.1 Bainbridge Island’s Shorelines

Bainbridge Island has approximately 53.45 miles of waterfront. (See Figure 1-2 Map of Bainbridge Island.) It has seven harbors or bays, each having a long and interesting history and a wide variety of uses. Eagle Harbor has the most activity, including a ferry landing, shipyard repair, a boatyard, numerous marinas and restaurants, a waterfront park, a Superfund site, condominiums, detached homes, and a live-aboards community. Most of the waterfront on Bainbridge shorelines has been developed as with single family residences, from small summer cabins to large mansions. Their locations range from below ordinary high water to cliffs nearly 200 feet above the water. At the north end of the island is a large sandspit called Point Monroe, while at the south end is Restoration Point, composed of raised bedrock located on the Seattle fault.

Bainbridge Island’s shorelines exhibit many uses and geologic characteristics. The shoreline is home for about a quarter twenty percent of the island residents, as well as numerous species of fish and wildlife. Bald eagles, herons, seals, otters, and numerous waterfowl depend on the shoreline. There are also salmon streams and bays necessary for fish, shellfish, clams, and vegetation to survive. At the south end of the island is an aquaculture farm for salmon. In short, Bainbridge Island shorelines support a wide variety of life.

Located on the eastern border of Kitsap County, Bainbridge Island is connected to the rest of Kitsap County by one bridge, and to Seattle (King County) by a 35-minute ferry ride. Because of its proximity to Seattle, the island has close cultural and economic ties to Seattle. Approximately 23,000 people currently live on Bainbridge Island. The population increased from 15,846 in 1990 to 23,000 in 2011 – approximately a 17% increase. Until 2008 with the national economic decline, the Island grew by 3% each year. This increased growth, reflected in higher waterfront land values and taxes, along with a growing concern for the environment, motivated citizen participation in the development update of the Shoreline Master Program for Bainbridge Island. This process, in turn, has helped citizens to once again realize that an island is a unique habitat in terms of both its environment and the community that lives within it. The constraints of such a situation lead to the delicate balance between imposing regulatory powers for the benefit of all especially neighbors the community at large and the rights of the individual property holder. Fortunately, the Shoreline Management Act and the public trust doctrine provide the guidance to create a program which recognizes both these values.
Figure 1-2 Map of Bainbridge Island

Deleted Table 1-1. User's Guide to Bainbridge Island's SMP

1.3.2 Title
This document shall be known as the Bainbridge Island Shoreline Master Program ("the Master Program" or "the Program", or the “SMP”).

1.3.3 Adoption Authority

This Master Program is adopted under the authority granted by RCW 90.58 and WAC 173-26.

1.3.4 Relationship to Other Plans and Regulation

The Shoreline Master Program regulations are to be used as an overlay to other City policies and regulations for properties within shoreline jurisdiction. The following provisions apply to the program in relationship to other plans and regulations:

1. In addition to compliance with the provisions of the Shoreline Management Act of 1971 and the state Shoreline Master Program Guidelines, this Shoreline Master Program must be consistent with local plans and policy documents, specifically, the City’s Comprehensive Plan and the City’s critical areas regulations. This program must be consistent with the regulations developed by the City to implement its plans, such as the zoning code and subdivision code, as well as regulations relating to building construction and safety.

2. Uses and developments regulated by this Program may also be subject to other provisions of the Bainbridge Island Municipal Code, the City of Bainbridge Island Comprehensive Plan, the Washington State Environmental Policy Act (RCW 43.21C and WAC 197-11), and other local, state and federal laws.

3. Project proponents are responsible for complying with all applicable laws prior to commencing any use, development or activity.

4. Where this Program makes reference to any RCW, WAC, or other state or federal law or regulation the most recent amendment or current edition shall apply.

5. In the event a conflict occurs between the provisions of this program and the laws, regulations, codes or rules of any other authority having jurisdiction within the City, the regulations that provide more protection to the shoreline area shall apply, except when constrained by federal or state law, or where specifically provided otherwise in this program.

6. Other activities that could occur along the shoreline (starting bonfires, disposing or spilling/releasing of regulated or hazardous waste products, use of pesticides, activities within wetlands) may require other permits, review, or approval not identified here.

1.3.5 Applicability of Bainbridge Island Shoreline Master Program

Comment [17]: Moved from last paragraph of “Local Shoreline master Programs” previous
1. **The provisions of the Program apply to new development and activities and are not retroactive.** All existing legally constructed single-family residences and accessory structures, including lawns, landscaping and recreation areas, which do not meet the adopted standards of this Program are allowed to continue, and may be maintained, repaired, and remodeled if destroyed. Residences may be expanded, provided the expansion meets the provisions of this Program, including addressing environmental impacts and meeting the standard for no net loss of ecological functions. All proposed uses and development occurring within shoreline jurisdiction must conform to Chapter 90.58 RCW, the Shoreline Management Act and this Shoreline Master Program. All uses, even those not meeting the definition of development, are subject to the provisions and development regulations of this SMP, even though a permit may not be required.

2. Any person wishing to undertake activities constituting “development” within shoreline jurisdiction shall apply to the Administrator for a Shoreline Permit. Based on the provisions of this Master Program, the Administrator shall determine if a Letter of Exemption, a Substantial Development Permit, a Shoreline Conditional Use Permit, and/or a Shoreline Variance is required. Substantial development shall not be undertaken within the jurisdiction of the Act and this Master Program unless a Substantial Development Permit has been obtained and the appeal period has been completed and any appeals have been resolved and/or the project proponent is allowed to proceed under the provisions of the Shoreline Management Act or by court order. “Substantial development” shall be defined as it is by the Act (§90.58.030 RCW) and supplementing provisions of the Washington Administrative Code (§173-27-040 WAC).

3. Developments that are exempt from a Substantial Development Permit, which are outlined in BIMC Section 2.16.165, shall require a Letter of Exemption. A project that qualifies as “exempt development” may also require a Shoreline Conditional Use Permit, and/or a Shoreline Variance.

1.3.6 **Program provisions.**

1. Exempt developments shall not be undertaken within the jurisdiction of the Act and this Master Program, unless a Letter of Exemption has been obtained documenting that the development is consistent with the policies and procedures of the Act, all applicable state regulations and this Master Program.

2. The request for a Letter of Exemption shall be in writing, on forms required by the Administrator, and include the information required by the Administrator.

3. This Master Program shall apply to every individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or other entity which develops, owns, leases or administers lands, wetlands or waters that fall under the jurisdiction of the Act.
4. The “policies” in this Master Program provide broad guidance and direction and will be used by the City in applying the “regulations.”

5. Applicability of this Master Program to federal lands and agencies shall be consistent with WAC 173-27-060 as currently exists or is hereinafter amended.

1.3.7 **Bainbridge Island Shoreline Master Program Administrative Procedures**

As described in adopted ordinance 2012-04, the general administrative sections of the Shoreline Master Program as listed below are included in Title 2 of the Bainbridge Island Municipal Code. The applicable sections of Title 2 are listed below. The use of separate local administrative and enforcement procedures is consistent with the 2003 Washington State Shoreline Master Program Guidelines, Administrative provisions [WAC 173-26-191(2)(a)(iii)(C)].

“Local governments may include administrative, enforcement, and permit review procedures in the master program or the procedures may be defined by a local government ordinance separate from the master program. In either case, these procedures shall conform to the Shoreline Management Act, specifically RCW 90.58.140, 90.58.143, 90.58.210 and 90.58.220 and to chapter 173-27 WAC.”

This allows the City to revise local administrative procedures (fees, application meetings, authority of Administrator, etc) without another formal SMP amendment process. These chapters must still be consistent and remain consistent with the related provisions in the Shoreline Management Act and state shoreline rules (WACs). In the event of a conflict, the state RCW or WAC, as amended, will prevail over the local ordinance.

The following administrative sections are part of the Bainbridge Island Municipal Code, BIMC 1.26 and BIMC 2.16.165: Shoreline Master Program Administration:

1. Permit or Exemption Required- Before Undertaking Development or Activity
2. Applications
3. Statement of Exemptions from Shoreline Substantial Development Permit
4. Shoreline Substantial Development Permit
5. Shoreline Variance
6. Shoreline Conditional Use Permits
7. Shoreline Application Appeals

1.4 **Restoration Planning**

To achieve island-wide improvements in ecological functions as required by WAC 173-26-201(2)(f) and meet the no net loss standard of WAC 173-26-201(2)(c), the City developed a restoration plan that guides improvements of degraded shoreline areas by restoring shoreline...
ecological functions and processes over time. The Restoration Plan is linked to the goals and policies of Section 4.1.8, and is intended to be accomplished through voluntary and incentive-based public and private programs that restore and enhance shoreline areas identified and prioritized for improvement. The Restoration Plan can be found on the City’s web page: www.ci.bainbridge-isl.wa.us

The Restoration Plan provides the following information for shoreline improvements:

a. Identification of degraded areas and opportunities for restoration
b. Identification of development that is harming shorelines
c. Opportunities for protection and conservation
d. Identification of programmatic restoration strategies
e. A summary of ongoing and proposed restoration projects
f. A summary of completed restoration projects.

Section I: GOALS

1.5 A. Master Goal

The City's shorelines are among the most valuable, scarce, and fragile of our natural resources and their use, protection, restoration, and preservation is of public interest to all residents of the City. The Island shorelines that provide for a significant part of our way of life as a place of residence, recreational enjoyment, and occupation. It is the intent of this program to manage the shorelines of Bainbridge Island consistent with the requirements of the Shoreline Management Act, the Shoreline Master Program Guidelines, and the Growth Management Act, giving preference to water-dependent and water-related uses, and to encourage all reasonable and appropriate development and other activities to occur in a manner which will promote and enhance the public interest and protect environmental resources to exist in harmony with the natural conditions. An over-arching goal of this master program is to ensure that future use and development of the City’s shoreline maintain a balance between competing uses, Uses that results in no net loss of shoreline ecological functions, and achieves a net ecosystem improvement over time long-term over short-term benefits are preferred, as are uses which promote sustainable development.

B. Shoreline Use Element

1. Establish and implement policies and regulations for land use consistent with the Shoreline Management Act of 1971, as amended. These policies and regulations should ensure that the design and land use of shoreline areas are compatible with shoreline environment designations and will be sensitive to and not degrade ecological systems and other shoreline resources.
2. Identify and preserve shoreline and water areas with unique attributes for specific long-term uses, including commercial, industrial, residential, recreational, and open space uses.

3. Designated Shorelines of State - wide Significance are of value to the entire state and should be protected and managed. In order of preference, the priorities are to:
   a. Recognize and protect the state-wide interest over local area or individual interest.
   b. Preserve the natural character of the shoreline.
   c. Produce long-term benefits over short-term benefits.
   d. Protect the resources and ecology of shorelines.
   e. Increase public access to publicly-owned areas of the shorelines.
   f. Increase public recreational opportunities on the shoreline.

4. Ensure that proposed shoreline uses are distributed, located, and developed in a manner that will maintain or improve the health, safety, and welfare of the public.

5. Ensure that proposed activities and facilities located on the shorelines retain or improve the quality of the environment as it is designated for that area.

6. Ensure that proposed shoreline uses give consideration to the rights of private property ownership and the rights of others.

7. Encourage innovative shoreline uses consistent with this program.

8. Encourage joint-use activities in proposed shoreline developments.

9. Encourage restoration of shoreline areas that have been degraded or diminished in ecological value and function.

10. Ensure that planning, zoning and other regulatory and nonregulatory programs governing lands adjacent to the shoreline jurisdiction are consistent with the Shoreline Master Program.

C. Economic Development Element

1. Promote sustainable economic development.

2. Ensure healthy, orderly, economic development by allowing those activities which will be an asset to the economy of Bainbridge Island and which result in the least adverse effect on the quality of the shoreline and surrounding environment, giving consideration to the other goals in the Shoreline Master Program.

3. Protect current economic activity (e.g., shipping, marinas, aquaculture, etc.) that is consistent with the objectives of the Shoreline Master Program, and that provides for environmentally sensitive new development.

4. Develop, as an economic asset, the recreational industry along shorelines in a manner that would enhance the public enjoyment of the shorelines.

5. Encourage new economic development to locate in areas already developed with similar uses which are consistent with the Master Program.

6. Limit new shoreline industrial and commercial development to those that are classified as water-dependent, water-related, or water-enjoyment uses and discourage and/or prohibit nonwater-oriented uses which are not necessary to a preferred use.

7. Propose economic use of the shoreline which is consistent with the Bainbridge Island Comprehensive Plan.
D. Roadways, Trails and Waterways Element

1. Promote transportation modes by giving preference to pedestrian, bicycle and rapid transit modes, and by encouraging multiple use corridors where compatible.

2. Provide safe, reasonable, and adequate routes to shorelines, minimizing the adverse effect on unique or fragile shoreline features and existing ecological systems, while contributing to the functional and visual enhancement of the shoreline.

3. Locate roads serving permitted shoreline uses as far from the water as feasible to reduce interference with either natural shorelines or other appropriate shoreline uses, and to avoid creating barriers between adjacent uplands and the shoreline.

4. Route transportation corridors to harmonize with the topography and other natural characteristics of the shoreline.

5. Acquire and develop physical and visual public access where topography, view and natural features warrant as a result of new transportation development in shoreline areas (e.g., turnouts, rest areas).

6. Avoid widening existing roads along the shoreline.

7. Protect, manage, and enhance those characteristics of shoreline roadway corridors that are unique, and have historic significance and/or great aesthetic quality for the benefit and enjoyment of the public.

8. Protect and enhance marine and marine-oriented transportation and water-dependent transportation facilities.

E. Conservation Element

1. Acknowledge natural shoreline processes and seek alternatives to structures that adversely affect the shoreline.

2. Develop and implement renewable resource management practices that will ensure a sustainable yield while preserving, protecting, and restoring unique and non-renewable shoreline resources or features (including shellfish, eel grass, forested areas, wetlands, and wildlife habitat).

3. Ensure that natural resource utilization minimizes adverse impacts to the shoreline environment.

4. To the greatest extent feasible, reclaim and restore areas which are geologically, biologically and/or aesthetically degraded while maintaining appropriate use of the shoreline.

F. Public Access Element

1. Provide, protect, and enhance a public access system that is both physical and visual and which utilizes public and appropriate private lands and increases the amount and diversity of public access to the State’s shorelines.

2. Integrate shoreline public access into a Bainbridge Island public trail system.

3. Unify individual public access elements into an organized, operational, and informational system.
G. Historic/Cultural/Education Element
1. Identify, protect, preserve, and restore important archaeological, historical, and cultural sites located in the shorelands of the State for educational and scientific purposes, and the enjoyment of the general public.
2. Acquire historic/cultural sites, through purchase or gift, to ensure their protection and preservation.
3. Encourage educational projects and programs that foster a greater appreciation of the importance of shoreline management, maritime activities, environmental conservation, and maritime history. Advocate interpretive features, maritime centers, or educational programs that alert people to the importance of shoreline management.

H. Recreation Element
1. Ensure optimal recreational opportunities that can reasonably tolerate peak use periods as well as active, passive, competitive, or contemplative recreational uses without destroying the integrity and character of the shoreline.
2. Optimize opportunities for both passive and active water-oriented recreation.
3. Integrate shoreline recreational elements into public access and conservation planning.
4. Encourage State and local government to acquire additional shoreline properties for public recreational uses.

I. Harbor Use and Safety Element
1. Ensure the safe and environmentally sound use of Island harbors and bays in a manner that protects and enhances harbor and shoreline use consistent with the goals of other elements.
2. Provide, protect, and control public use of harbor and bay waters in a manner that is in the best interest of the public.

J. Comprehensive Long-Range Planning Element
1. Advocate integration of other city planning and regulatory efforts with shoreline management activities.
2.0 Section II DEFINITIONS—Shoreline Inventory and Characterization

2.1 Summary

To characterize the Island’s 53 miles of shoreline, the City initiated a series of studies to update the Shoreline Master Program with the most current science. A shoreline structure inventory and two shoreline characterization reports were completed. The primary inventory and characterization data is found in the Nearshore Habitat Characterization and Assessment, Management Strategy Prioritization, and Monitoring Recommendations produced by Battelle Laboratories for the City of Bainbridge Island in 2004 (Battelle 2004). The assessment uses a conceptual mode to determine potential level of impact from alterations to the nearshore environment. The conceptual model identifies nine controlling factors which represent physical, biological, and chemical attributes of the nearshore marine habitats. The integrated spreadsheet model and geographical information system developed by Battelle, quantifies existing anthropogenic impacts by converting qualitative factor values to standardized scores. The model’s scoring approach uses a 5-point scale to assign to qualitative categories to potential impacts for the nine controlling factors identified in the nearshore conceptual model.

The model divides the shoreline into 201 reach, which are then grouped into nine (9) management units. The controlling factor score for each reach represents the predicted impacts affecting nearshore processes. To allow Island-wide comparison across different types of shorelines, a normalized index was calculated called the cumulative reach index. Controlling factor scores are best used to prioritize conservation and restoration efforts in the nearshore as indicators for identifying the probability for successful conservation and restoration strategies (Battelle 2004).

The model uses ecological information collected by Washington Department of Natural Resources (WDNR) for a regional shoreline inventory. The data is available through the Department of Ecology, Coastal Atlas. Additional datasets from the City’s shoreline structural inventory and other sources are listed in Table 3 in the Battelle document.

An Island-wide inventory of current geomorphic features and an accompanying analysis of historic conditions was produced for the City in 2010 by Coastal Geological Services. This study maps coastal geomorphic shoretypes (such as “feeder bluffs”) and prioritizes restoration and conservation sites. The study includes current and historic mapping of coastal processes and process-impaired areas. Report conclusions integrate a qualitative, coastal processes-based prioritization with an objective of restoring and preserving coastal processes that sustain and maintain critical habitats.

These documents can be accessed from the City’s website (www.bainbridgewa.gov).
3.0 Section III-Shoreline Designation Policies and Regulations

3.1 A. General

The Master Program establishes seven shoreline environments designations based on a combination of existing shoreline features and conditions and intended types of existing and potential future use. When applied to geographic areas of the island, these environments designations form an overlay for applying shoreline considerations to the City's land use regulations. Uses which are consistent with a particular designation environment are encouraged, while uses which are in conflict are discouraged or prohibited. A conditional use process is available when further review is needed to determine whether the use is compatible with the particular environment designation at the proposed site. Table 4.1 provides a summary of uses in relation to the various shoreline environments designations. Existing uses and activities which are incompatible with their shoreline environment-designations are subject to provisions for nonconforming shoreline uses and structures. (See BIMC Section-2.16.165VII.)

Shoreline Environment-Designation Map

The official Bainbridge Island Shoreline Designation Environment Map (Appendix A) shall be in the custody of the Department of Planning and Community Development and shall be available for public inspection during normal business hours.

The purpose of the map is to depict those areas of Bainbridge Island within the jurisdiction of the Master Program and the various shoreline environment-designations.

Environment Designation Boundaries

Where the shoreline jurisdiction or environment designation is uncertain, the official shoreline environment-designation map shall be used to determine boundary location. If the conflict cannot be resolved using the shoreline environment-designation map, the following rules shall apply:
1. Boundaries indicated as approximately following the center lines of streets, highways, alleys, or other roadways shall be construed to follow such center lines.
2. Boundaries indicated as approximately following lot, fractional section, or other subdivision lines shall be construed as following such subdivision lines.
3. Boundaries indicated as parallel to or extensions of features identified in subsections 1 and 2 above shall be so construed.
4. When not specifically indicated on the shoreline environment-designation map, distances shall be determined by the scale of the map.

Where existing physical or cultural features are at variance with those shown on the shoreline environment-designation map and cannot be determined with certainty by applying subsections 1 through 4 above, the Department shall determine the location or existence of such feature utilizing any appropriate criteria contained in the Master Program.
3.2 Upland Environment Designations

3.2.1 IV. B. Urban Environment

The Urban environment is an area of high intensity land use including residential, commercial, and industrial development.

3.2.1.1 Purpose

The purpose of this environment designation is to ensure optimum utilization of shorelines within urbanized areas. Development in urban areas should be managed to enhance and maintain shorelines for a variety of urban uses, with priority given to water-dependent, water-related, and water-enjoyment uses.

The purpose of Urban designation is to provide for high-intensity water-oriented commercial, transportation, industrial, mixed-use, multi-family residential, public access and recreational uses while protecting existing natural resources, ecological functions and restoring ecological functions in areas that have been previously degraded.

3.2.1.2 Designation Criteria

Areas to be designated Urban should not have biophysical limitations to development such as wetlands and estuaries, floodplains, steep slopes, slide hazard areas, and/or other sensitive areas; and meet one or more of the following criteria:

1. Shorelines used or designated for high intensity commercial, industrial, or recreational use, or for multifamily residential development.
2. Shorelines of lower intensity use, areas where surrounding adjacent land use is urban and urban services are available or designated for higher intensity use under the comprehensive plan.
3. Shorelines used for water-oriented and port activities.

Shorelines to be designated Urban should not have biophysical limitations to development such as floodplains, steep slopes, slide hazard areas, marshes, bogs, swamps, and/or other sensitive areas.

3.2.1.3 Management Policies

1. Priority should be given to water-dependent, water-related, and water-enjoyment uses over other uses. Uses which derive minimal benefit from a water location should be discouraged or prohibited. Nonwater-oriented uses should be allowed only if the use is otherwise compatible with the purpose of the Urban designation and the setting, does not displace water-dependent uses, and results in no net loss of ecological functions.
2. Assure new development will not result in a net loss of shoreline ecological functions.
3. Establish environmental cleanup and restoration priorities for the shoreline that comply with relevant state and federal law.
4. Because urban use tends to preclude other shoreline uses, emphasis should be given to...
directing new development into already developed areas consistent with the Master Program.

52. Full utilization of existing urban areas should be achieved before additional areas are designated Urban.

3. Reasonable, long range projections of regional economic need should guide the amount of shoreline designated Urban.

53. Priority should be given to water dependent, water related, and water enjoyment uses over other uses. Uses which derive no benefit from a water location should be discouraged or prohibited.

54. Visual and physical public access should be required and implemented where feasible. Industrial and commercial facilities should be designed to permit pedestrian waterfront activities. Planning for the acquisition of land for permanent public access to the water in the Urban environment designation should be encouraged and implemented, where feasible.

7. To protect shoreline character and promote compatible development within the Urban environment designation, aesthetic considerations should be actively promoted by means mechanisms such as sign control regulations, appropriate development siting, screening and architectural standards, flexible lot design process planned unit developments, and through the maintenance of natural shoreline vegetation conservation and management zones buffers.

8. In order to make maximum use of the available shoreline resource and to accommodate future water-dependent uses, the redevelopment and renewal restoration for a net ecosystem improvement of substandard or degraded urban shoreline areas should be encouraged.

9. Developments within the Urban environment designation should be compatible with uses and activities in adjacent, including aquatic, environment designations.

3.2.2 IV-C. Semi-rural Shoreline Residential Environment

The Semi-rural environment accommodates low to medium density residential development, low to medium intensity recreational development, passive recreation, and open space consistent with the Bainbridge Island Comprehensive Plan. It includes shoreline areas that presently support medium to low density residential development and is intended to be compatible with agricultural uses on adjacent nonshoreline properties.

3.2.2.1 Purpose

The purpose of the Semi-rural “Shoreline Residential” environment is intended to serve as a transitional area between the more intensive Urban environment and the provide for residential development and appurtenant structures that are consistent with the Shoreline Management Act lower-intensity uses, while protecting existing natural resources, ecological functions and restoring ecological functions in previously degraded areas.
areas of the Rural Conservancy environment. An additional purpose is to provide appropriate public access and recreational uses. This environment is also intended to protect natural resources, such as vegetation on steep banks, indigenous trees and natural beaches, banks, bluffs, and marshes, while still allowing for development.

3.2.2.2 Designation Criteria

Areas to be designated Shoreline Residential Semi-rural should meet one or more of the following criteria:

1. Areas presently zoned, platted or developed or platted for residential uses; and should meet one or more of the following criteria:
   a. Areas presently zoned for residential development.
   b. Areas which could support and serve the needs of planned unit residential developments (PUDs).
   c. Areas which could serve as transition zones between urban and rural shoreline areas.

2. Areas having the physical ability to support low to medium density residential uses and associated recreational and public service facilities; and/or
   a. Areas which can provide, and have the capabilities to support, the necessary public services, utilities, and access to accommodate low to medium density development.
   b. Sewage disposal and water supply facilities may be provided on an individual or community basis.

3.2.2.3 Management Policies

1. For development and new uses assure no net loss of shoreline ecological function by establishing:
   a. Minimum frontage width, setbacks, and buffers;
   b. Lot coverage limitations;
   c. Shoreline stabilization standards; and
   d. Protective measures for vegetation conservation, critical areas and water quality.

2. Low to medium intensity residential and recreational uses should be preferred uses.

3. All uses within the Semi-rural environment should be located, designed, constructed, and maintained to protect and enhance the shoreline environment.

4. New developments should be permitted only in those shoreline areas that are capable of supporting the proposed use in a manner which protects and enhances the shoreline environment designation, and reflects the character of the surrounding area by such as providing open space or maintaining shoreline vegetation buffers.

5. New developments shall be required for multiple family residences, apartments, planned unit developments, and large subdivisions. Common access should be required for small, single-family residential subdivisions should be encouraged and should be required where feasible.
45. Recreational developments should provide shoreline areas for community or public open space and public access.

56. Access, utilities and public services should be available and adequate to serve existing needs and planned future development.

62. Developments within the Shoreline Residential “Semi-rural environment designation” should be compatible with uses and activities in adjacent, including aquatic, environment designations.

7. High intensity development should be prohibited and commercial uses are intended to be accessory uses, consistent with zoning regulations that are limited to water-oriented uses.

8. Encourage restoration of shoreline ecological functions through non regulatory programs.

3.2.3 D. Rural Shoreline Residential Conservancy Environment

The Rural environment is an area in which natural features predominate and where human activity results in only a light modification of the natural environment. It often abuts agricultural uses. Residential development in the Rural environment is low intensity.

3.2.3.1 Purpose

The purpose of Shoreline Residential Conservancy is to accommodate compatible residential uses while protecting, conserving, and restoring shoreline ecological functions of open space, floodplains, and other sensitive lands. It is the further purpose to conserve and manage valuable historic and cultural resources where they exist. Due to the more sensitive characteristics of these areas, a higher level of development standards is warranted.

The Rural environment is intended to serve as the shoreline component in areas where the Comprehensive Plan seeks to protect agricultural uses and low density residential uses from urban expansion. Its purpose is to limit development along undeveloped shorelines, serve as a native vegetation zone between different environments, maintain open space and opportunities for passive recreational use, and provide opportunities for low density rural living.

3.2.3.2 Designation Criteria

Areas to be designated Semi-rural Shoreline Residential Conservancy should meet one or more of the following criteria:

1. Areas that are appropriate and planned for water related or water enjoyment uses that are compatible with maintaining or restoring ecological functions; or

2. Areas that are not generally suitable for commercial/industrial water-dependent uses or more intensive uses due to the potential impacts these uses may have on the existing shoreline characteristics; and one or more of the following criteria:

   a. Areas subject to severe biophysical limitations such as:

      i. Steep slopes and landslide hazard areas.
ii. Sediment sources for littoral cell.

iii. Flood-prone areas.

iv. Areas with soils that have poor drainage limiting design of on-site septic systems.

v. Geo-hydraulic shoreforms (e.g., accretion beaches, point bars, spits).

vi. Wetlands and estuaries.

vii. Areas important to the maintenance of surface and groundwater flow and water quality.

viii. Biodiversity maintenance.

b. Areas that retain important ecological functions, even though partially developed.

c. Areas containing natural resources which lend themselves to management on a sustained-yield basis.

d. Areas with valuable historic or cultural features.

1. Areas presently developed or platted for residential uses.

2. Areas zoned for residential development.

3. Areas which could support and serve the needs of planned unit residential developments (PUDs).

4. Areas which could serve as transition zones between urban and rural shoreline areas.

5. Areas having the physical ability to support low to medium density residential uses and associated recreational and public service facilities.

3.2.3.3 Management Policies (See Table 4-1 for specific uses).

1. New residential and other development that preserves the natural in the Rural environment should reflect the character of the surrounding area by limiting residential density, providing permanent open space, and maintaining shoreline vegetation buffers and/or promotes preservation of open space, floodplains or sensitive lands, either directly or over the long term, should be the primary uses from the Puget Sound. Development that enhances or results in restoration of ecological functions should be encouraged if the use is otherwise compatible with the purpose of the designation, the setting, and with adjacent uses and activities, including aquatic designations.

2. Standards should be established for protecting the sensitive shoreline characteristics in this designation to assure no net loss of shoreline ecological functions and process, including measures that provide the following:

   a. Minimum frontage width, setbacks, and shoreline buffers;

   b. Lot coverage limitations;

   c. Shoreline modification standards; and
3.2.4 Island Conservancy Environment

The Conservancy environment is an area where the existing natural character is maintained and protected from consumptive uses which would cause permanent adverse environmental impacts. It may include areas with severe biophysical limitations to development and/or areas with the potential for meeting current and future community recreational needs.

3.2.4.1 Purpose

The purpose of Island Conservancy designation is to accommodate a variety of private or public recreational uses that might have a higher level of impact than would be allowed in the Natural designation. Uses should incorporate elements compatible with protecting, conserving and restoring ecological functions of open space, floodplains and other sensitive lands and manage valuable historic and cultural resources where they exist.

The intent of the Conservancy environment is to protect, conserve, and manage existing natural resources and valuable historic and cultural resources in order to achieve sustained resource utilization and provide public recreational opportunities. The Conservancy environment is also intended to protect environmentally sensitive areas which are not suitable for intensive use, such as steep slopes, flood-prone areas, eroding bluffs, wetlands, and areas which cannot provide adequate sewage disposal.

3.2.4.2 Designation Criteria

Areas to be designated Island Conservancy should meet one or more of the following criteria:

1. Areas that are in public ownership such as open space or parks or in private ownership which is voluntarily designated and one of the following:
   a. Areas that are appropriate and planned for development that is compatible with maintaining or restoring ecological functions; or
   b. Areas that may have stated or implied designation criteria.


Comment [LH60]: STAFF. WAC 173-26-211(5)(e)(ii)(D) replaces Policies #8.

Comment [R61]: TASK FORCE. Added on 5/26/11.

Comment [LH62]: STAFF. WAC 173-26-211(5)(e) “urban Conservancy” purpose combined with historical/cultural component.

Comment [R63]: TASK FORCE. Changed numbering format. 5/26/11

Comment [R64]: TASK FORCE. Added “s” to park and “in.” 5/26/11

Comment [LH65]: TASK FORCE. Added to reflect comments of Task Force. 12/2/10
b. Areas suitable for water-related or water-enjoyment uses.

c. Areas that are suitable for water oriented uses, but not generally suitable for intensive uses due to the potential impacts these uses may have on the existing shoreline characteristics.

d. Areas of high scenic or recreational value such as shoreline parks including urban parks, active use parks, passive use parks, and those privately held recreation areas that voluntarily agree to the designation.

e. Areas free from extensive development that retain important ecological functions such as:

i. Steep slopes and landslide hazard areas.

ii. Sediment source for littoral cell.

iii. Flood-prone areas.

iv. Areas with soils that have poor drainage.

v. Geo-hydraulic shoreforms (e.g., accretion beaches, point bars, spits).

vi. Wetlands and estuaries.

vii. Areas important to the maintenance of surface and groundwater flow and water quality.

viii. Maintaining biodiversity.

2. Areas containing natural resources which lend themselves to management on a sustained-yield basis, commercial forest land.

3. Areas with extensive or unique historic or cultural resources.

4. Areas where intensive development or use would interfere with natural processes and result in significant damage to other resources.

2. Areas subject to severe biophysical limitations such as:

a. Steep slopes and landslide hazard areas.

b. Areas subject to severe erosion and feeder bluffs.

c. Unstable banks or bluffs.

d. Flood-prone areas.

e. Areas with soils that have poor drainage.

f. Geo-hydraulic shoreforms (e.g., accretion beaches, point bars, spits).

i. Areas rich in quality and quantity of life forms.

j. Areas important to the maintenance of natural water quality and flow.

k. Areas important to maintaining the food chain process (i.e., estuaries, wetlands, riparian corridors).
3. Areas which play an important part in maintaining the regional ecological balance such as:
   a. Areas rich in quality and quantity of life forms.
   b. Areas important to the maintenance of natural water quality and flow.
   c. Areas important to maintaining the food chain process (i.e., estuaries, wetlands, riparian corridors).

4. Areas free from extensive development.

5. Areas where intensive development or use would interfere with natural processes and result in significant damage to other resources.

3.2.4.3 Management Policies (See Table 4.1 for specific uses.)

Island Conservancy – Recreation

1. New recreational uses that preserve the natural character of the area or promote preservation of open space, floodplain or sensitive lands either directly or over the long term should be the primary uses. Uses that enhance or result in restoration of ecological functions should be strongly encouraged if the use is otherwise compatible with the purpose of the designation, the setting, and with adjacent uses and activities, including aquatic designations.

2. When required by this program or other land use covenants by public access and public recreation objectives should be implemented whenever feasible and when significant ecological impacts can be mitigated.

3. Uses in the “Island Conservancy – designation should be limited to those which sustain the shoreline area's physical and biological resources and uses of a nonpermanent nature, except those preferred uses in (4), that do not substantially degrade ecological functions or the rural or natural character of the shoreline area.

4. Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as boating facilities, angling, wildlife viewing trails, and swimming beaches, are preferred uses, provided shoreline resources are conserved over time and significant adverse impacts, including cumulative impacts, to the shoreline are mitigated.

5. Commercial and industrial uses are not permitted except as noted. Low intensity, water-oriented commercial uses may be permitted in limited instances where sites possess shoreline conditions and services to support the development.

6. Construction of new structural shoreline stabilization and flood control works should only be allowed where there is a documented need to protect an existing primary structure or park use (Shoreline Stabilization Section) and ecological functions and mitigation is applied, consistent with WAC 173-26-231. New development should be designed and located to preclude the need for such work.

7. When allowed, new shoreline stabilization, flood control measures, vegetation removal, and other shoreline modifications should be designed and managed consistent with these guidelines to ensure that the natural shoreline functions are protected. Such shoreline modification should not be inconsistent with planning provisions for restoration of shoreline ecological functions.
1. Shoreline uses and activities which would substantially degrade or permanently deplete the physical, cultural or biological resources of the area should be prohibited.

2. New development should be compatible with the natural environment and should not require extensive alteration of the land-water interface.

3. Shoreline uses and activities in the Conservancy environment should be designed to protect the shore process corridor and its operating systems.

4. Shoreline uses and activities which would strip the shoreline of vegetative cover, cause substantial erosion or sedimentation, or adversely affect wildlife or aquatic life should be prohibited.

5. Residential development should be severely restricted.

6. Commercial and industrial uses other than low intensity agricultural practices and limited forestry should be prohibited.

7. The use of structural shoreline stabilization and flood protection measures should be severely limited. New developments should be designed to preclude the need for such measures.

8. Resource preservation should have priority over public access and recreation development objectives whenever a conflict exists.

9. Developments within the Conservancy environment should be compatible with uses and activities in adjacent, including aquatic, environment designations.

3.2.5 F. Natural Environment

The “natural” environment applied to areas possessing unique natural or cultural features which the City would like to preserve for public benefit. All uses within the Natural environment are subordinate to the protection of natural systems.

3.2.5.1 Purpose

The purpose of the Natural designation is to protect those shoreline areas where the majority of natural ecological shoreline functions and/or processes are retained, often evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, they include ecologically intact shorelines that are free of structural shoreline modifications, structures, and intensive human uses.

Purpose

The Natural environment is intended to preserve areas existing in a natural state, relatively free of human influence, and those areas possessing natural resources sensitive to human activity, or unique historical, cultural, or educational features. The Natural environment requires severe restrictions on the intensity and type of permitted uses to maintain the integrity of the shoreline environment.

3.2.5.2 Designation Criteria

Areas to be designated Natural shall meet one or more of the following criteria.
1. Areas that perform important, irreplaceable shoreline ecological functions or ecosystem-wide process that would be damaged by human activity, including areas that contain largely undisturbed shoreline features or unique natural features, such as wetlands, estuaries, unstable bluffs, coastal dunes, spits, and ecologically intact shoreline habitats, and one or more of the following:

a. 4. Wildlife Habitats
   i. a. A shoreline area that provides food, water, or cover and protection for any rare, endangered, or diminishing species, or for significant populations of flora or fauna during critical stages of their life cycle.
   ii. b. A seasonal haven for concentrations of native animals, fish, or fowl such as a migration route, breeding site, larval rearing ground, or spawning site.

b. Areas of Scientific and Educational Value
   i. a. Areas considered to best represent basic ecosystems and geologic types that are of particular scientific and educational interest.
   ii. b. Shoreline areas which best represent undisturbed natural areas.
   iii. c. Shoreline areas with established histories of scientific research.

c. Areas of Scenic and Recreational Value
   i. a. Those shoreline areas having an outstanding or unique scenic feature in their natural state.
   ii. b. Shoreline areas having a high value for wilderness experience.
   iii. c. Areas which in their natural state have a high value for low intensity recreational use.

d. 4. Other Criteria Areas with Restoration Potential
   i. a. Areas where human influence and development are minimal.
   ii. b. Areas which have been degraded, but which are capable of having a high potential of being successfully restored to a natural or near natural condition, or are capable of natural regeneration if left undisturbed.
   iii. c. Other unique natural features relatively intolerant of human use or development such as saltwater marshes, Class I beaches (see RCW 79.90.030 or its successor), Class I tidelands, spits, and virgin timber stands.

3.2.5.3 Management Policies

1. Any use that would substantially degrade the ecological functions or natural character of the shoreline area should not be allowed. The following new uses should not be allowed in the Natural designation:
   a. Residential uses
   b. Agriculture uses
   c. Commercial uses.
d. Industrial uses.

e. Nonwater-oriented recreation.

f. Roads, utility corridors, and parking areas that can be located outside of Natural-designated shorelines.

1. Uses and activities which would potentially degrade or significantly alter the natural character of the shoreline should be severely restricted or prohibited.

2. Limited access should be permitted for scientific, historical, educational, and low-intensity recreational purposes, provided that no significant, adverse impact on the area will result.

3. Uses which are consumptive of physical, visual, and biological resources should be prohibited.

4. Physical alterations, including new development or extensive vegetation removal, should only be considered when they serve to protect a significant, unique, or highly valued feature which might otherwise be degraded or destroyed and when alterations would not result in a net loss of shoreline ecological functions, would not further degrade other shoreline values or the vegetation removal would not reduce the capability of vegetation to perform normal ecological functions.

5. Subdivision of property should be prohibited.

6. Uses and activities adjacent to shorelines designated Natural should be compatible with, and should not compromise the integrity of, the Natural environment designation.

56. Uses and activities within the Natural environment designation should be compatible with uses and activities in adjacent, including aquatic, environment designations.

6. A single active use area should be allowed at the Blakely Park mill log pond to accommodate cultural events and passive recreational uses, if compensatory mitigation is provided.

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Comment [LH93]: TASK FORCE. Added WAC 173-26-211(5)(a)(ii)(G) – 12/2/10

Comment [LH94]: TASK FORCE. Added WAC 173-26-211(5)(a)(ii)(G) – 12/2/10

STAFF. Deleted Subdivision is prohibited in regulations. 5/23/11

Comment [LH95]: TASK FORCE. Added WAC 173-26-211(5)(a)(ii)(G) – 12/2/10

STAFF. Deleted Subdivision is prohibited in regulations. 5/23/11

Comment [LH96]: STAFF. Eliminated due to conflict with each other.

Comment [R98]: Task Force. Recommended to retain provision. 12/2/10

Comment [R98]: Staff Recommendation. Accommodates existing uses within the park. 4-10-12
3.3 Aquatic Environment Designations

3.3.1 Aquatic Environment

The Aquatic Environment consists of marine water areas seaward of the ordinary high water mark (OHWM) which have not been designated Aquatic Conservancy. This includes estuarine channels, sloughs, and associated marshes, bogs, and swamps.

3.3.1.1 Purpose

The purpose of the “Aquatic” environment designation is to protect, restore and manage the sensitive and unique characteristics and resources of the waters of the Puget Sound, tidelands, and submerged intertidal areas located waterward of the ordinary high-water mark by managing uses and activities and by assuring compatibility between upland and aquatic uses. The Aquatic environment designation may allow either multiple water-dependent uses or specific dominant water-dependent uses. It is intended to promote the wise sustainable use of the natural features and resources of Aquatic areas which are substantially different in character from those of the adjoining uplands and backshores.

3.3.1.2 Designation Criteria

Aquatic areas include:

1. All marine areas seaward of the ordinary high water mark (OHWM) which have not been designated Priority Aquatic Conservancy.

2. All swamps, marshes, and bogs—wetlands associated to adjoining the above which are not designated Natural.

3.3.1.3 Management Policies

1. Structures are allowed only which are not water-dependent and uses which will substantially degrade the existing character of the area should be prohibited.

2. Uses that adversely impact the ecological functions of critical saltwater and freshwater habitats should not be allowed except where necessary to achieve the restoration objectives, and then only when their impacts are mitigated to assure no net loss of ecological functions. Compatibility between upland and aquatic uses should be confirmed.

3. New over-water structures are allowed only for water-dependent uses, public access or ecological restoration and such structures must be limited to the minimum size necessary to support the structure’s intended use while protecting and conserving aquatic resources.

4. Diverse public access opportunities should be encouraged and developed and should be compatible with the existing shoreline and aquatic uses.

5. Aquaculture practices should be limited to those activities that can demonstrate that significant impacts to ecological functions, ecosystem-wide processes, and adjacent land uses will not occur. Aquaculture should be encouraged in those tidelands, waters and beds most suitable for such use. Prohibit intensive shellfish aquaculture.

6. Multiple use of over-water facilities or Several industries using the same tidelands is

Comment [RE99]: TASK FORCE. Reworded for clarity. 5/23/11

Comment [LH100]: STAFF. Replaced with modified WAC 173-26-215(5)(C)(ii)(E)

Comment [R101]: TASK FORCE. Added provision.
preferred should be given preference over single-industry use.

5. In appropriate areas, fishing and water recreation should be protected from competing uses.

6. All uses and activities in navigable waters or their beds should be located and designed to minimize interference with surface navigation, and allow for the safe, unhindered passage of fish and animals, particularly those whose life cycles are dependent on such migration.

6. All developments and uses on navigable waters or their beds should be located to avoid and designed to minimize interference with navigation.

7. Development and uses on navigable waters or their beds should be located to avoid and designed to minimize impacts to public views.

8. Development and uses on navigable waters or their beds should be designed and located to allow for the safe, unobstructed passage of fish and wildlife, including species whose life cycles are dependent on migration that would be impacted by in-water development.

9. Deep draft uses and filling operations, if allowed, should not occur in areas requiring extensive initial or maintenance dredging or if significant adverse environmental impacts cannot be mitigated.

8. Filling operations should minimize possible adverse environmental impacts.

9. Motorized vehicle travel should be discouraged on all tidelands, except for boat launching areas and other permitted water-dependent uses.

10. Development of underwater pipelines and cables on tidelands should be discouraged except where adverse environmental impacts can be shown to be less than the impact of upland alternatives. When permitted, such facilities should include adequate provisions to ensure against substantial or irreparable damage to the environment and no net loss of ecological functions.

11. Abandoned and/or neglected structures which cause adverse visual impacts or are a hazard to public health, safety, and welfare should be removed or restored to a usable condition consistent with the provisions of this program.

12. Restoration or enhancement of aquatic resources and adjacent uplands is encouraged.

3.3.2 **Priority Aquatic Conservancy Environment**

The Aquatic Conservancy environment includes marine areas seaward of the ordinary high water mark (OHWM), normally designated Aquatic, that contain unique ecological and cultural features which the City would like to preserve for the public benefit. All uses in the Aquatic Conservancy environment are subordinate to the protection of natural systems.

3.3.2.1 **Purpose**

The purpose of the Priority Aquatic Conservancy environment designation is intended to protect, preserve, restore and manage aquatic areas of sensitive and unique ecological value that include those portions of the marine waters of the City that were existing in a relatively natural state, relatively free of human influence, or which contain...
resources, biological diversity, or other features that are particularly sensitive to human activity, or which contain unique, historical, archeological, cultural, or educational features that merit special protection.

3.3.2.2 Designation Criteria

A number of separate criteria are required to define the diverse character of Priority Aquatic Conservation regime type. Tidal lagoons and sensitive portions of tidal inlets will require protection in terms of water salinity and quality, sediment quality and quantity, vegetative native vegetation zones on adjacent shorelines, and remaining areas of native salt-tolerant vegetation. Other regime types, such as aquatic vegetation, have similar requirements. The Priority Aquatic environment designation requires severe additional restrictions then the Aquatic designation on the intensity and type of permitted uses to maintain the integrity of the shoreline environment. Two subcategories of Priority Aquatic will be established for partially enclosed critical habitats in order to recognize the level of development adjacent to the Priority Aquatic. Those areas previously designated Aquatic Conservancy as of the adoption date [insert date] of this SMP, shall be designated Priority Aquatic Category A. New proposed areas shall be designated as follows:

Strategy 1: Priority Aquatic Category A is more protective and intended to be the default classification.

Strategy 2: Priority Aquatic areas located adjacent to upland areas with a high level of existing development will be classified as Priority Aquatic B.

The City shall map the limits of the designations with assistance from the Washington State Departments of Ecology, Natural Resources, Fish and Wildlife, and other cooperating agencies. Any aquatic area in which actions have been taken under an approved permit that create, restore, or enhance characteristics of the aquatic area that meet any of these Type criteria shall be designated Priority Aquatic through an amendment to this program as specified in BIMC Section 2.16.200. Where there is a conflict between the map and criteria, the criteria will prevail provided a report is prepared by a qualified professional verifying that the map is in error. The report will be the responsibility of the party requesting the map change. If areas are determined to be appropriate for designation, an amendment to this program is required to designate Priority Aquatic and shall be processed as specified in Shoreline Master Program Administration, BIMC Section 2.16.200.

3.3.2.3 Regime Type 1: Tidal lagoons

Bodies of saline water (salinity greater than \(>\) 0.5 parts per thousand) with a constricted or subsurface outlet that is subject to periodic, but not necessarily daily, exchange of water with Puget Sound or a tidal inlet. The connection between the sea and the lagoon may be subsurface through permeable gravel or sand berms. The upland boundary of the lagoon shall be the ordinary high water mark (OHWM). There are four tidal lagoons currently identified on the Island, “Fletcher Bay Lagoon”, “Point Monroe Lagoon”, “Wing Point Lagoon”, “Tolo Lagoon” located in Sections 17 and 18, Township 25 N, Range 2 E, and “Battle Point Lagoon” located in Section 18, Township 25 N, Range 2 E.
3.3.2.4 **Regime Type 2**: Salt marshes and mud flats in tidal inlets

Saltwater bays and related intertidal areas subject to the daily influence of tides where they support salt-tolerant vegetation and/or exposed mudflats. Tidal inlet areas should be designated **Priority Aquatic** if they meet either Criterion I or II below. Only those areas of **Priority Aquatic**-designated shorelines which meet one of those criteria for the environment will be subject to its policies and regulations; the map is a guide but the designation criteria prevail.

The **Priority Aquatic** Conservancy environment designation shall extend from the OHWM to six (6) feet below mean lower low water (MLLW). If the inlet is less than six hundred (600) feet wide, or less than six (6) feet deep at mean lower low water (MLLW), the resource should be considered to be a single system encompassing both sides and the channel. In these cases, boundaries should be drawn from the OHWM to a line perpendicular to the average direction of the tidal flow where the criteria are no longer met. Parts of tidal inlets that do not fit either criterion, and do not fit other regime types of **Priority Aquatic** Conservancy environment designation, shall be designated **Aquatic**.

**Criterion I**: The area between the OHWM and MLLW that provides a habitat for at least one quarter (1/4) acre of salt-tolerant vegetation. Vegetated patches may be smaller than one quarter (1/4) acre, but the total vegetated area must be at least one quarter (1/4) acre.

**Criterion II**: At least one quarter (1/4) acre of exposed flats is exhibited between ordinary high water (OHWM) and mean lower low water (MLLW) whose sediments are at least thirty (30) percent mud. Insert Diagram

3.3.2.5 **Regime Type 3**: Marine vegetation

Areas seaward of the mean lower low water (MLLW) that support a significant community of at least four thousand square feet (4,000 square feet) of kelp, or eelgrass and/or other submerged aquatic vegetation in sufficient quantities to provide special value as habitat for marine life.

Consideration for **Priority Aquatic** designation under Type 3 may be initiated by any interested person, group, or the City. A citizen petition for nomination shall be submitted by an interested person or group. The following information shall be used by the City to determine when an area meets the criteria for **Priority Aquatic**:

1. Delineation of proposed area, including aerial extent and bathymetric contours
2. Inventory of submerged aquatic vegetation. Use percent coverage for macro algae and turion (shoot) density for eelgrass
3. Further information, as determined by the Administrator, may be required in addition to the above including but not limited to:
   a. Relationship of proposed area to nearby ecosystems
   b. List of species utilizing the proposed area
   c. Abundance and diversity of species in the proposed area

Comment [LH116]: 11-3-11 Deleted

Comment [RE117]: Task Force, What is mud, define 4/18/11

Comment [R118]: Task Force, Added 4-18-11

Comment [R119]: Task Force, Added 5-26-11

Comment [RE120]: ETAC, Recommended requiring only as needed for example when nomination is challenged. 5/23/11
The City shall keep a record and review data annually to determine whether sites are appropriate for nomination. If areas are determined to be appropriate for designation, an amendment to this program is required to designate Priority Aquatic and shall be processed as an amendment as specified in the Shoreline Master Program Administration, BIMC Section 2.16.200.

3.3.2.6 **Regime Type 4: Other areas**

Areas, as designated through the Shoreline Master Program amendment process (BIMC Section 2.16.200 VI (M)), whose existing natural state is relatively free of human influence, or whose resources, biological diversity, or other features are particularly sensitive to human activity, or whose unique ecology, historical, archeological, cultural, or educational features merit special protection. Designation under this regime type shall be based on a report documenting the presence, function, and distribution of the resources in the area to be designated.

The City shall map the limits of the designations with assistance from the Washington State Departments of Ecology, Natural Resources, Fish and Wildlife, and other cooperating agencies. Any area in which actions have been taken under an approved permit to create, restore, or enhance characteristics of any of these regimes automatically be designated Aquatic Conservancy. Where there is a conflict between the map and criteria, the criteria will prevail provided a report is prepared by a qualified professional verifying that the map is in error. The report will be the responsibility of the party requesting the map change.

3.3.2.7 **Priority Aquatic Category A Management Policies**

1. The City should develop a program plan for aquatic areas that identifies critical saltwater habitat areas appropriate for greater protection under the provisions of the Priority Aquatic shoreline designation. The plan should include a process to review citizen petitions for Priority Aquatic designation.

2. Uses and activities which would potentially degrade or significantly alter the natural or visual character or ecological functions of the shoreline should be severely restricted or prohibited and only allowed if adverse impacts can be mitigated to ensure no net loss of ecological functions.

3. **Limited Public use and access should be permitted for scientific, historical, educational, and low intensity, passive recreational purposes, where it is compatible with the purposes of this designation and where provided that no significant, adverse impact to the biological and visual resources of the areas will result.**

4. In conjunction with the Island-wide shoreline restoration plan, physical alterations should only be considered when they serve to protect or enhance significant, unique, or highly valued features which might otherwise be degraded or destroyed.

5. Uses and activities adjacent to shorelines designated Priority Aquatic Conservancy should...
be compatible with and not compromise the integrity of the Priority Aquatic Conservancy designation environment.

6.6 Protection of shoreline Native vegetation zones should be established in all adjacent upland designations to protect the ecological functions and characteristics of the Priority Aquatic designation areas. (See Section 4.1.5, Critical Areas III, General Policies and Regulations, subsection D, Environmentally Sensitive Areas.)

7.6 A management study of each area should be conducted with participation by appropriate state agencies and residents of each area to determine possible refinements to the adopted regimens, changes in the boundaries of the areas included in the Priority Aquatic designation Conservancy environment, and inclusion of additional management strategies.

8.7 Restoration or enhancement of aquatic resources and adjacent uplands is encouraged.

3.3.2.8 Priority Aquatic Category B Management Policies

1. Implement policy number 1 in Priority Aquatic A management policies (3.3.2.7)

2. Uses and activities which would potentially degrade or significantly alter the natural or visual character or ecological functions of the shoreline should be limited and only allowed when adverse impacts can be mitigated to ensure no net loss of ecological functions.

3. Public use and access should be permitted for:
   a. Scientific, historical, educational;
   b. Recreational shellfish harvesting of a de minimis nature;
   c. When vessels are operated to limit wake and noise impacts; and
   d. Uses compatible with the purpose of this designation, provided that no significant, adverse impact to the biological and visual resources of the areas will result.

4. In conjunction with the part of an Island-wide shoreline restoration plan physical alterations should only be considered when they serve to protect or enhance significant, unique, or highly valued features which might otherwise be degraded or destroyed.

5. Protection and enhancement of shoreline buffers should be established in all adjacent upland designation to protect the ecological functions and characteristics of the Priority Aquatic designation areas. (See 4.1.5 Critical Areas.)

6. Restoration or enhancement of aquatic resources and adjacent uplands is encouraged.

3.4 Shoreline Residential and Shoreline Residential Conservancy Designation Strategy

In general, shoreline designations for single family residential are based on the existing characteristics of the shoreline environment and modified by the expected land use. Criteria were established for each of the shoreline designation. To ensure consistent application of assigning residential designations a framework for assigning residential designations was developed to meet natural resource management strategies recommended by the Environmental Technical Advisory Committee. The committee recommended
using a broad stroke approach to manage natural resources in an attempt to avoid a piecemeal development pattern. This approach is consistent to WAC 173-26-211. The following rules apply:

1. For properties zoned single family residential, the default shoreline designation is Shoreline Residential.

2. Property depth and existing conditions shall be considered when applying designations to limit nonconformity.

3. If less than 1,000 linear feet exist between Shoreline Residential Conservancy designations, then the properties between the two designations will also be Shoreline Residential Conservancy to avoid fragmented management of ecological functions and ecosystem wide processes.

4. When contiguous mapped estuarine or associated wetlands exist on consecutive properties at the end of a Shoreline Residential Conservancy designation or are located adjacent to Island Conservancy designated property, than the Shoreline Residential Conservancy designation shall be applied to those properties to extend management measures for water quality and riparian vegetation, unless properties are within the Winslow Master Plan.

5. For existing properties located:
   a. Adjacent to a reach with at least 30% overhanging vegetation along the reach; and
   b. At the end of a Shoreline Residential Conservancy designation; or
   c. Adjacent to Island Conservancy designation; then

   The Shoreline Residential Conservancy designation shall be applied to these properties to extend management measures to protect existing riparian conditions.

6. If consecutive properties are:
   a. Adjacent to an Priority Aquatic designation; and
   b. All lots are a adjacent to a reach with at least 30% overhanging vegetation along the reach; and
   c. These properties are located at the end of a Shoreline Residential Conservancy designation; then

   The Shoreline Residential Conservancy shall extend no more than 500 linear feet to include these properties to extend management measures to protect existing riparian conditions.

7. If a property has a conservation easement and is adjacent to either a Shoreline Residential Conservancy or Island Conservancy designation, then the property is designated Shoreline Residential Conservancy.

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Comment [R137]: We had a situation on the Westside of the Island where ten lots were between the two feeder bluff. The lots are a low bank transport zone. Staff discussion led to a conclusion that since the lots were developed they should be mapped Shoreline Residential. This seemed to work well across the island.

ETAC suggested using the 1000 feet as the smallest unit

Comment [R138]: We had a situation on the Westside of the Island where ten lots were between the two feeder bluff. The lots are a low bank transport zone. Staff discussion led to a conclusion that since the lots were developed they should be mapped Shoreline Residential. This seemed to work well across the island.

ETAC suggested using the 1000 feet as the smallest unit

Comment [R139]: 1,000 ft a shorezone unit. This is the finest spatial extent of the state shorezone inventory.

Comment [R140]: A cursory look seemed to conclude that most wetlands and mapped estuarine vegetation fell within three lots.

Comment [R141]: Staff Recommendation. Make a list for clarity of paragraph. 4-3-12

Comment [R142]: Battelle Report used >33% as medium impact.

Comment [R143]: Aquatic Conservancy requires greater protection of natural resources. Removed minimum number of consecutive properties

Comment [RE144]: Task Force, Recommend instead of number of properties
8. **All publicly owned open space or park properties shall be designated Island Conservancy.**

9. **All publicly owned saltwater road ends shall be designated Island Conservancy.**
4.0 Section Part IV General (Island-wide) Policies and Regulations

A. Introduction

The following general policies and regulations apply to all designations. These provisions are to be used in conjunction with the more specific shoreline use (referred to as "uses") and shoreline modification activity (referred to as "activities") policies and regulations found in Sections 4.0 and 5.0 respectively.

1. All new shoreline uses and shoreline modification activities, including those that do not require a Shoreline Substantial Development Permit, must conform to all applicable goals, policies, shoreline designations (including the shoreline designation map) and regulations and use tables provided in this Master Program. General Provisions, Environment Designation Provisions (including the shoreline environment maps), Specific Shoreline Use Provisions and Shoreline Modification Activity Provisions.

2. Shoreline modification activities must be in support of an allowable shoreline use which conforms to the provisions of the Master Program. Except as otherwise noted, all shoreline modification activities not associated with a legally existing or approved shoreline use are prohibited.

3. Shoreline uses, modification activities, and conditions listed as "prohibited" shall not be eligible for consideration as a Shoreline Variance or Shoreline Conditional Use Permit.

4. Uses, modification activities, and conditions not listed as "prohibited" and not listed in Table 4-1 shall be reviewed through the Shoreline Conditional Use process.

5. The policies listed in the Master Program shall provide broad guidance and direction and shall be used by the Director in interpreting the "regulations."

6. Where provisions of this Master Program conflict, the more restrictive provisions shall apply unless specifically stated otherwise.

7. The use table (Table 4-1), shoreline setback table (Table 4-2), and the shoreline buffer table (Table 4-3) provide regulatory use and dimensional provisions for each shoreline designation.

Comment [1145]: PC agreed to include to specify that if a specific use is not listed, may be considered as a CUP. 4-12-12
### Explanation of Table 4-1 Abbreviations

The abbreviations used in the Permitted Use Table have the following meanings.

- **“P”** in a cell indicates that the use is permitted by right in that district. Permitted uses are subject to all other applicable regulations of this Code, including the use-specific standards set forth in this chapter.

- **“C”** in a cell indicates that, in the respective district, the use is a conditional use that is allowed only if reviewed and approved in accordance with the procedures set forth in BIMC Title 2. Unless otherwise stated in this Code or in a conditional use approval, conditional uses are subject to all other applicable regulations of this Code, including the use-specific standards set forth in this Chapter.

- An **“A”** in a cell indicates that the use is permitted as an accessory use to a permitted use or to an approved conditional use in the same district. In the case of approved conditional uses, accessory uses listed in the table are permitted unless the terms of the conditional use permit prohibit that accessory use.

- An **“CA”** in a cell indicates that the use is permitted as an accessory use to a permitted use or to an approved conditional use, but that a conditional use permit is always required.

- An **“X”** indicates that the use is prohibited in the respective zoning district.

The column headed **“Use Specific Standards”** identifies a subsection within BIMC 16.12 that imposes additional standards with which the use must comply except as authorized by the Code. The use specific standard may limit the **“P”** or **“C”** designation to certain areas, or may indicate that a **“C”** use will be treated as a **“P”** use in some areas.
## Master Program Summary Matrices

Table 4-1. Shoreline Use and Modification Activity Matrix

<table>
<thead>
<tr>
<th>SHORELINE USE</th>
<th>UPLAND DESIGNATION</th>
<th>AQUATIC DESIGNATION</th>
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Table 4-1 Shoreline Use and Modification Activity Matrix

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**Educational and Community Facilities**

|                                | Natural            | Island Conservancy  | Shoreline Residential Conservancy | Urban | Aquatic | Priority Aquatic | A | B |
| Educational Facility          | X                  | C                   | C                               | C     | P       | X               | X | X |
| Governmental Facility         | X                  | X                   | C                               | C     | P       | X               | X | X |
| Religious Facility            | X                  | C                   | C                               | C     | P       | X               | X | X |

**Cultural and Entertainment Facilities**

|                                | Natural            | Island Conservancy  | Shoreline Residential Conservancy | Urban | Aquatic | Priority Aquatic | A | B |
| Club                           | X                  | C                   | C                               | C     | P       | X               | X | X |
| Commercial Amusement           | X                  | X                   | C                               | C     | P       | X               | X | X |
| Cultural Facility              | X                  | C                   | C                               | C     | P       | X               | X | X |
| Entertainment Facility         | X                  | C                   | C                               | C     | P       | X               | X | X |

**Industrial**

|                                | Natural            | Island Conservancy  | Shoreline Residential Conservancy | Urban | Aquatic | Priority Aquatic | A | B |
| Mining                         | X                  | X                   | X                               | X     | X       | X               | X | X |
| Nonwater-Oriented              | X                  | X                   | X                               | X     | X       | X               | X | X |
| Solid Waste Disposal           | X                  | X                   | X                               | X     | X       | X               | X | X |

"P" = Permitted Use
"X" = Prohibited Use
"A" = Accessory Use
"CA" – Conditional Accessory Use

"#" = Same as Upland Property

45 Bainbridge Island Shoreline Master Program---PC Recommendation  April 12, 2012
Table 4-1 Shoreline Use and Modification Activity Matrix

“P” = Permitted Use  
“C” = Conditional Use  
“X” = Prohibited Use  
“#” = Same as Upland Property  
“A” = Accessory Use  
“CA” = Conditional Accessory Use

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**Overwater Structures**

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<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Landfill</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Repair of Shoreline Stabilization</td>
<td>X</td>
<td>P</td>
<td>P</td>
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</tbody>
</table>

“P” = Permitted Use  “X” = Prohibited Use  “A” = Accessory Use
“C” = Conditional Use  “#” = Same as Upland Property  “CA” – Conditional Accessory Use
Table 4-1 Shoreline Use and Modification Activity Matrix

<table>
<thead>
<tr>
<th>SHORELINE USE</th>
<th>UPLAND DESIGNATION</th>
<th>SHORELINE DESIGNATION</th>
<th>AQUATIC DESIGNATION</th>
<th>Use Specific Standards 16.12.xxx</th>
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<tbody>
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<td>Shoreline Residential Conservancy</td>
<td>Shoreline Residential</td>
</tr>
<tr>
<td></td>
<td>X</td>
<td>C</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>New or Replacement Shoreline Stabilization, Hard [4]</td>
<td></td>
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<td>Bulkheads</td>
<td>X</td>
<td>C</td>
<td>P</td>
<td>P</td>
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<td>Gabions</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Groins (rock or concrete)</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td>Jetties</td>
<td>X</td>
<td>X</td>
<td>X</td>
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</tr>
<tr>
<td>Levees/Dikes</td>
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<td>X</td>
<td>X</td>
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<tr>
<td>Retaining Walls and Bluff Walls</td>
<td>X</td>
<td>C</td>
<td>C</td>
<td>C</td>
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<tr>
<td>Seawalls</td>
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<td>X</td>
<td>X</td>
<td>X</td>
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<td>Hybrid</td>
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<td>New or Replacement Shoreline Stabilization Non-Structural and Soft</td>
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<td>Non-Structural Stabilization, Soft-treatment</td>
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<td>Transportation</td>
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</tr>
<tr>
<td>Roads</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Existing Road repair</td>
<td>X</td>
<td>P</td>
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</table>
Table 4-1 Shoreline Use and Modification Activity Matrix

<table>
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<tr>
<th>SHORELINE USE</th>
<th>UPLAND DESIGNATION</th>
<th>AQUATIC DESIGNATION</th>
<th>Use Specific Standards 16.12.xxx</th>
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<td>Island Conservancy</td>
<td>Shoreline Residential Conservancy</td>
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<tr>
<td>New Arterials</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td>New Highways</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td>New Secondary Roads</td>
<td>X</td>
<td>X</td>
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<tr>
<td>Float Plane Facilities and Services</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Heliports</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td>Additional Bridge to Bainbridge Island</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Parking (primary)</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Public Access Facilities</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public Ferry Terminal Facilities and Services</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Railroads</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Trails</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Utilities &amp; Telecommunication</td>
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<td></td>
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</table>
Table 4-1 Shoreline Use and Modification Activity Matrix

<table>
<thead>
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<th>SHORELINE USE</th>
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<th>Use Specific Standards 16.12.xxx</th>
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<td>Island Conservancy</td>
<td>Shoreline Residential Conservancy</td>
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<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Accessory Structures</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>All Uses</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Potable Water Wells</td>
<td>X</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Tram</td>
<td>X</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Underground Utilities</td>
<td>X</td>
<td>X</td>
<td>CA</td>
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<tr>
<td>Residential</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Primary Appurtenant Structures and Non-habitable Structures (boat house, deck, patio, stairway)</td>
<td>X</td>
<td>CA</td>
<td>A</td>
</tr>
<tr>
<td>Commercial/Industrial</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Primary appurtenant structures that either support public access or are necessary to support a water-dependent use [13]</td>
<td>X</td>
<td>X</td>
<td>CA</td>
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<tr>
<td>Public Park</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Public pathways to the shoreline</td>
<td>AX</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Public Stairway</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
</tbody>
</table>
Table 4-1 Shoreline Use and Modification Activity Matrix

- “P” = Permitted Use
- “C” = Conditional Use
- “X” = Prohibited Use
- “#” = Same as Upland Property
- “A” = Accessory Use
- “CA” – Conditional Accessory Use

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<thead>
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<th>Use Specific Standards 16.12.xxx</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Natural</td>
<td>Island Conservancy</td>
<td>Shoreline Residential Conservancy</td>
</tr>
<tr>
<td>Access Roads</td>
<td>X</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Primary appurtenant structures that either support public access or are necessary to support a water-dependent recreational</td>
<td>A[15]</td>
<td>A</td>
<td>A</td>
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</table>

Bainbridge Island Shoreline Master Program---PC Recommendation  April 12, 2012
Table 4-1 Shoreline Use and Modification Activity Matrix

<table>
<thead>
<tr>
<th>SHORELINE USE</th>
<th>UPLAND DESIGNATION</th>
<th>SHORELINE DESIGNATION</th>
<th>AQUATIC DESIGNATION</th>
<th>Use Specific Standards 16.12.xxx</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Natural</td>
<td>Island Conservancy</td>
<td>Shoreline Residential Conservancy</td>
<td>Shoreline Residential</td>
</tr>
</tbody>
</table>

1. "P" = Permitted Use
2. "C" = Conditional Use
3. "X" = Prohibited Use
4. "#" = Same as Upland Property
5. "A" = Accessory Use
6. "CA" = Conditional Accessory Use

[1] Allowed for non-commercial activities for recovery of native populations, restoration, and personal use as defined in Aquaculture 16.12 5.3
[2] Revetments are prohibited unless they are constructed as part of a public facilities project.
[3] Construction of a bulkhead, revetment, or other structure for the purpose of retaining a landfill or creating dry land is prohibited, unless it is proposed in conjunction with a water-dependent or public use.
[4] Stabilization that would cause significant impacts to adjacent or down current properties is prohibited.
[5] Shoreline modification should not be located on feeder bluffs, except when the area is already developed with a single family primary structure, in which case stabilization may be allowed pursuant to the provisions in Section 6.2, Shoreline Stabilization.
[6] Beach enhancement is prohibited if it interferes with the normal public use of the navigable waters of the state.
[7] Shoreline stabilization and flood protection works are prohibited in wetlands (located in both the upland and the shoreline jurisdiction). They are also prohibited in salmon and trout spawning areas, except for fish or wildlife habitat enhancement.
[8] Public parks only. Nonwater-oriented commercial development only for concessions as accessory use.
[9] Community and joint use docks providing moorage for six or more vessels are permitted with an SSDP but must comply with the provisions in BIMC 16.12.5.4, Boating facilities, as well as the provisions in BIMC 16.12.6.3, Overwater Structures.
[10] New overwater facilities are permitted as a conditional use only in the ferry terminal district. Normal repair and maintenance of existing facilities do not require a conditional use permit, but may require an SSDP.
[12] If upland of Priority Aquatic designation, then the use is not allowed.
[13] All structures are prohibited in Zone 1 upland of a Priority Aquatic Category A designation.
[14] Passive recreational uses and activities are allowed. Development and associated structures is allowed through a Shoreline Variance.
[15] As allowed by Island Conservancy designation 3.3.5.2(6)
Table 4-2 16.xx.xxx Dimensional Standards Table

Shoreline Setbacks Standards for each designation are listed in Table 16.12.XX.XX

<table>
<thead>
<tr>
<th>SHORELINE USE</th>
<th>UPLAND DESIGNATION</th>
<th>AQUATIC DESIGNATION</th>
<th>Use Specific Standards 16.12.xxx</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Natural</td>
<td>Island Conservancy</td>
<td>Shoreline Residential Conservancy</td>
</tr>
<tr>
<td>Natural Resource Management</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Aquaculture</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Setbacks</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Water-dependent</td>
<td>N/A</td>
<td>0’</td>
<td>0’</td>
</tr>
<tr>
<td>Water-related</td>
<td>N/A</td>
<td>25’</td>
<td>25’</td>
</tr>
<tr>
<td>Nonwater-oriented</td>
<td>N/A</td>
<td>150’</td>
<td>115’</td>
</tr>
<tr>
<td>Height Limit</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Overwater Structures</td>
<td></td>
<td></td>
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<tr>
<td>Accessory use on overwater structures</td>
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<td></td>
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<tr>
<td>Predator Control</td>
<td>N/A</td>
<td>30’</td>
<td>30’</td>
</tr>
<tr>
<td>Upland</td>
<td>N/A</td>
<td>30’</td>
<td>30’</td>
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</tbody>
</table>

Aquaculture, Noncommercial for Recovery of Native Population

Setbacks
Table 4-2 16.xx.xxx Dimensional Standards Table
Shoreline Setbacks Standards for each designation are listed in Table 16.12.XX.XX

<table>
<thead>
<tr>
<th>SHORELINE USE</th>
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<tbody>
<tr>
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<td>Natural</td>
<td>Island Conservancy</td>
<td>Shoreline Residential Conservancy</td>
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<tr>
<td>Water-dependent</td>
<td>N/A</td>
<td>0’</td>
<td>0’</td>
</tr>
<tr>
<td>Water-related</td>
<td>N/A</td>
<td>25’</td>
<td>25’</td>
</tr>
<tr>
<td>Nonwater-oriented</td>
<td>N/A</td>
<td>150’</td>
<td>115’</td>
</tr>
</tbody>
</table>

Height Limit

Overwater

Upland

Boating Facilities

Setbacks

Accessory Structures | N/A | N/A | N/A | 50’ | 30’ |
Water-dependent      | N/A | N/A | N/A | 0’  | 0’  |
Dry Moorage         | N/A | N/A | 100’| 100’| 100’|

Height Limit

Dry moorage | N/A | N/A | 20’ | 20’ | 30’ |
Table 4-2 16.xx.xxx Dimensional Standards Table
Shoreline Setbacks Standards for each designation are listed in Table 16.12.XX.XX

Additional Use restrictions for BIMC Titles 17 and 18 may apply

<table>
<thead>
<tr>
<th>SHORELINE USE</th>
<th>UPLAND DESIGNATION</th>
<th>AQUATIC DESIGNATION</th>
<th>Use Specific Standards 16.12.xxx</th>
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<td></td>
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<td>Shoreline Residential</td>
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<tr>
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<td>N/A</td>
<td>N/A</td>
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<tr>
<td>Nonwater-Oriented</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
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<td>Setbacks</td>
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<td>N/A</td>
<td>N/A</td>
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<tr>
<td>Height Limit</td>
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<td>N/A</td>
<td>N/A</td>
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<tr>
<td>Water-Dependent</td>
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<td>N/A</td>
<td>N/A</td>
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<td>N/A</td>
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<td>Height Limit</td>
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<td>N/A</td>
<td>N/A</td>
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<tr>
<td>Water-Related and Enjoyment</td>
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<td>N/A</td>
<td>N/A</td>
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<td>SHORELINE USE</td>
<td>UPLAND DESIGNATION</td>
<td>AQUATIC DESIGNATION</td>
<td>Use Specific Standards 16.12.xxx</td>
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<td>Island Conservancy</td>
<td>Shoreline Residential Conservancy</td>
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<tr>
<td>Setback</td>
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<tr>
<td>Height Limit</td>
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**Educational and Community Facilities**

**Educational Facility**

<table>
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<td>Water-related</td>
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<tr>
<td>Nonwater-oriented</td>
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**Governmental Facility**

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<tr>
<td>Water-related</td>
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<td>Nonwater-oriented</td>
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<td>Height Limit</td>
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<td>Religious Facility</td>
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<td>Height Limit</td>
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<td>Upland</td>
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**Table 4-2 16.xx.xxx Dimensional Standards Table**

Shoreline Setbacks Standards for each **designated** use are listed in Table 16.12.XX.XX. Additional Use restrictions for BIMC Titles 17 and 18 may apply.
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<thead>
<tr>
<th>SHORELINE USE</th>
<th>UPLAND DESIGNATION</th>
<th>AQUATIC DESIGNATION</th>
<th>Use Specific Standards 16.12.xxx</th>
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<td>Setbacks</td>
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</tr>
<tr>
<td>Water-dependent</td>
<td>0'</td>
<td>0'</td>
<td>0'</td>
</tr>
<tr>
<td>Water-related</td>
<td>100'</td>
<td>50'[1]</td>
<td>50'[1]</td>
</tr>
<tr>
<td>Nonwater-oriented</td>
<td>100'</td>
<td>150'</td>
<td>115'</td>
</tr>
<tr>
<td>Height Limit</td>
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<td></td>
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<tr>
<td>Upland</td>
<td>30'</td>
<td>30'</td>
<td>30'</td>
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<td>Commercial Amusement</td>
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<tr>
<td>Water-dependent</td>
<td>N/A</td>
<td>N/A</td>
<td>0'</td>
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<tr>
<td>Water-related</td>
<td>N/A</td>
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<tr>
<td>Nonwater-oriented</td>
<td>N/A</td>
<td>N/A</td>
<td>150'</td>
</tr>
<tr>
<td>Height Limit</td>
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<td></td>
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<tr>
<td>Upland</td>
<td>N/A</td>
<td>N/A</td>
<td>30'</td>
</tr>
</tbody>
</table>

Additional Use restrictions for BIMC Titles 17 and 18 may apply.

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Shoreline Setbacks Standards for each designation are listed in Table 16.12.XX.XX

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<td>Cultural Facility</td>
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</tr>
<tr>
<td>Water-dependent</td>
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<td>0’</td>
<td>0’</td>
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<tr>
<td>Nonwater-oriented</td>
<td>100’</td>
<td>150’</td>
<td>115’</td>
</tr>
<tr>
<td>Height Limit</td>
<td>Upland</td>
<td>30’</td>
<td>30’</td>
</tr>
<tr>
<td>Entertainment Facility</td>
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<td>Setbacks</td>
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<tr>
<td>Nonwater-oriented</td>
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<tr>
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</tr>
</tbody>
</table>

Additional Use restrictions for BIMC Titles 17 and 18 may apply.
### Table 4-2 16.xx.xxx Dimensional Standards Table

Shoreline Setbacks Standards for each designation are listed in Table 16.12.XX.XX.

<table>
<thead>
<tr>
<th>SHORELINE USE</th>
<th>UPLAND DESIGNATION</th>
<th>AQUATIC DESIGNATION</th>
<th>Use Specific Standards 16.12.xxx</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Natural</td>
<td>Island Conservancy</td>
<td>Shoreline Residential Conservancy</td>
</tr>
<tr>
<td>Upland</td>
<td>N/A</td>
<td>30’</td>
<td>30’</td>
</tr>
<tr>
<td><strong>Industrial</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Water-Dependent</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Upland</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Height Limit</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Upland</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Water-Related</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Upland</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Height Limit</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Upland</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Overwater Structures</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Marine Railway</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Upland</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Additional Use restrictions for BIMC Titles 17 and 18 may apply.
<table>
<thead>
<tr>
<th>SHORELINE USE</th>
<th>UPLAND DESIGNATION</th>
<th>AQUATIC DESIGNATION</th>
<th>Use Specific Standards 16.12.xxx</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Natural</td>
<td>Island Conservancy</td>
<td>Shoreline Residential Conservancy</td>
</tr>
<tr>
<td></td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Height Limit</td>
<td>Upland</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Marine Railway, Retractable [12]</td>
<td>Setbacks</td>
<td>N/A</td>
<td>BIMC 16.XX</td>
</tr>
<tr>
<td>Height Limit</td>
<td>Upland</td>
<td>N/A</td>
<td>BIMC 16.XX</td>
</tr>
<tr>
<td>Mooring Buoys</td>
<td>Setbacks</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>From Overwater Structures</td>
<td></td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Additional Use restrictions for BIMC Titles 17 and 18 may apply.
Table 4-2 16.xx.xxx Dimensional Standards Table
Shoreline Setbacks Standards for each designation are listed in Table 16.12.XX.XX

<table>
<thead>
<tr>
<th>SHORELINE USE</th>
<th>UPLAND DESIGNATION</th>
<th>AQUATIC DESIGNATION</th>
<th>Use Specific Standards 16.12.xxx</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Natural</td>
<td>Island Conservancy</td>
<td>Shoreline Residential Conservancy</td>
</tr>
<tr>
<td>Piers and Docks</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Recreational Floats</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Recreational Development</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Height Limit</td>
<td>N/A</td>
<td>20’</td>
<td>20’</td>
</tr>
<tr>
<td>Nonwater-oriented</td>
<td>200’</td>
<td>200’</td>
<td>200’</td>
</tr>
<tr>
<td>Park, Active Recreation</td>
<td>200’</td>
<td>200’</td>
<td>200’</td>
</tr>
</tbody>
</table>

Additional Use restrictions for BIMC Titles 17 and 18 may apply.
Table 4-2 16.xx.xxx Dimensional Standards Table

Shoreline Setbacks Standards for each **designation** are listed in Table 16.12.XX.XX. Additional Use restrictions for BIMC Titles 17 and 18 may apply.

<table>
<thead>
<tr>
<th>SHORELINE USE</th>
<th>UPLAND DESIGNATION</th>
<th>AQUATIC DESIGNATION</th>
<th>Use Specific Standards 16.12.xxx</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Natural</td>
<td>Island Conservancy</td>
<td>Shoreline Residential Conservancy</td>
</tr>
<tr>
<td>Car/RV Camp Site</td>
<td>N/A</td>
<td>100’</td>
<td>100’</td>
</tr>
<tr>
<td>Golf Course</td>
<td>N/A</td>
<td>100’</td>
<td>100’</td>
</tr>
<tr>
<td>Play-structure</td>
<td>N/A</td>
<td>100’</td>
<td>100’</td>
</tr>
<tr>
<td>Playfields or other Intensive use areas</td>
<td>N/A</td>
<td>150’</td>
<td>150’</td>
</tr>
</tbody>
</table>

Setbacks

| Picnic Area and Related          | N/A | 75’[1] | 75’[1] | 75’[1] | 30’[1] |        |                |
| Kayak/Hiking and Related Camp Site | N/A | 50’[1] | 50’[1] | 50’[1] | 30’[1] |        |                |
Table 4-2 16.xx.xxx Dimensional Standards Table
Shoreline Setbacks Standards for each designation are listed in Table 16.12.XX.XX

<table>
<thead>
<tr>
<th>SHORELINE USE</th>
<th>UPLAND DESIGNATION</th>
<th>SHORELINE DESIGNATION</th>
<th>AQUATIC DESIGNATION</th>
<th>Use Specific Standards 16.12.xxx</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Natural</td>
<td>Island Conservancy</td>
<td>Shoreline Residential</td>
<td>Residential</td>
</tr>
<tr>
<td>Accessory Use</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Setbacks</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Access Roads</td>
<td>N/A</td>
<td>75'[1][3]</td>
<td>75'[1][3]</td>
<td>75'[1]</td>
</tr>
<tr>
<td>Parking</td>
<td>N/A</td>
<td>100'[1]</td>
<td>100'[1]</td>
<td>100'</td>
</tr>
<tr>
<td>Events, Recreation; Education; Culture</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Setbacks</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Water-Dependent</td>
<td>N/A</td>
<td>0'</td>
<td>0'</td>
<td>0'</td>
</tr>
<tr>
<td>Water-related/Enjoyment</td>
<td>N/A</td>
<td>50'[1]</td>
<td>50'[1]</td>
<td>50'[1]</td>
</tr>
</tbody>
</table>

Residential

Flex lot Subdivision

Setbacks

SUBJECT TO 30% SIDE YARD SETBACK, SHORELINE SETBACK AND ZONING AND SUBDIVISION REQUIREMENTS

Height Limit
### Table 4-2 16.xx.xxx Dimensional Standards Table

Shoreline Setbacks Standards for each designation are listed in Table 16.12.XX.XX

Additional Use restrictions for BIMC Titles 17 and 18 may apply.

<table>
<thead>
<tr>
<th>SHORELINE USE</th>
<th>UPLAND DESIGNATION</th>
<th>AQUATIC DESIGNATION</th>
<th>Use Specific Standards 16.12.xxx</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Natural</td>
<td>Island Conservancy</td>
<td>Shoreline Residential Conservancy</td>
</tr>
<tr>
<td>Upland Multi-family</td>
<td>N/A</td>
<td>30’</td>
<td>30’</td>
</tr>
<tr>
<td>Height Limit</td>
<td>N/A</td>
<td>N/A</td>
<td>30’</td>
</tr>
<tr>
<td>Single-family Setbacks</td>
<td>N/A</td>
<td>30’</td>
<td>30’</td>
</tr>
<tr>
<td>SUBJECT TO 30% SIDE YARD SETBACK, SHORELINE SETBACK AND ZONING REQUIREMENTS</td>
<td>N/A</td>
<td>30’</td>
<td>30’</td>
</tr>
<tr>
<td>Shoreline/Aquatic Modification [5] [7]</td>
<td>N/A</td>
<td>30’</td>
<td>30’</td>
</tr>
<tr>
<td>Utilities &amp; Telecommunication Utilities (primary)</td>
<td>N/A</td>
<td>30’</td>
<td>30’</td>
</tr>
</tbody>
</table>

See T. 18

Utilities (primary)
Table 4-2 16.xx.xxx Dimensional Standards Table

Shoreline Setbacks Standards for each designation are listed in Table 16.12.XX.XX

<table>
<thead>
<tr>
<th>SHORELINE USE</th>
<th>UPLAND DESIGNATION</th>
<th>AQUATIC DESIGNATION</th>
<th>Use Specific Standards 16.12.xxx</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Natural</td>
<td>Island Conservancy</td>
<td>Shoreline Residential Conservancy</td>
</tr>
<tr>
<td>Primary Structure</td>
<td>200'</td>
<td>200'</td>
<td>200'</td>
</tr>
<tr>
<td>Accessory Use</td>
<td>100'</td>
<td>100'</td>
<td>100'</td>
</tr>
<tr>
<td>Telecommunication Accessory Use</td>
<td>100'</td>
<td>100'</td>
<td>100'</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>Distribution Poles</td>
</tr>
<tr>
<td>Buildings, storage Tanks, Accessory Uses</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Accessory Structures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
</tr>
<tr>
<td>Primary Appurtenant Structures and Non-habitable Structures (boat house, deck, patio, stairway)</td>
</tr>
<tr>
<td>Subject to 30% SIDE YARD SETBACK, SHORELINE SETBACK AND ZONING REQUIREMENTS</td>
</tr>
</tbody>
</table>

Additional Use restrictions for BIMC Titles 17 and 18 may apply.
Table 4-2 16.xx.xxx Dimensional Standards Table

Shoreline Setbacks Standards for each designation are listed in Table 16.12.XX.XX

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<tr>
<th>SHORELINE USE</th>
<th>UPLAND DESIGNATION</th>
<th>AQUATIC DESIGNATION</th>
<th>Use Specific Standards 16.12.xxx</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Natural</td>
<td>Island Conservancy</td>
<td>Shoreline Residential</td>
</tr>
<tr>
<td>Boat house, shed, wellhouse, etc.</td>
<td>N/A</td>
<td>12'</td>
<td>12'</td>
</tr>
</tbody>
</table>

**Commercial/Industrial**

Primary appurtenant structures that either support public access or are necessary to support a water-dependent use [13]

Setbacks

SUBJECT TO ZONING, SHORELINE SETBACK REQUIREMENTS

**Public Park**

Primary appurtenant structures that either support public access or are necessary to support a water-dependent recreational

Setbacks

N/A 75' 75' 75' 50'
Table 4-2 16.xx.xxx Dimensional Standards Table

Shoreline Setbacks Standards for each designation are listed in Table 16.12.XX.XX

<table>
<thead>
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<th>AQUATIC DESIGNATION</th>
<th>Use Specific Standards 16.12.xxx</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Natural</td>
<td>Island Conservancy</td>
<td>Shoreline Residential</td>
</tr>
<tr>
<td>Event, Recreation; Culture; Education Setbacks</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Setbacks</td>
<td>N/A</td>
<td>75'[1]</td>
<td>75'[1]</td>
</tr>
<tr>
<td>Parking</td>
<td>N/A</td>
<td>100'[1][3]</td>
<td>100'[1][3]</td>
</tr>
</tbody>
</table>

[1] Must be located outside of site specific Zone 1
[2] Same as Use specific setback
[3] ADA access roads may be allowed a lesser setback than standard 5.6.5(2)
Table 4-3 16.xx.xxx Shoreline Buffer Standards Table

<table>
<thead>
<tr>
<th>SHORELINE USE</th>
<th>UPLAND DESIGNATION</th>
<th>AQUATIC DESIGNATION</th>
<th>Use Specific Standards 16.12.xxx</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Natural</td>
<td>Island Conservancy</td>
<td>Shoreline Residential Conservancy</td>
</tr>
<tr>
<td>Natural</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Island Conservancy</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shoreline Residential</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Conservancy</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Point Monroe District</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shoreline Residential</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residential</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Urban</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aquatic</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aquatic Conservancy</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The shoreline buffer consists of two management areas Zone 1 and Zone 2. Zone 1 is located closest to the water; it is a minimum of 30 feet in all designations, except in Natural and Island Conservancy the minimum is 50’, and expands to include existing native vegetation. Zone 2 is the remaining area of the shoreline buffer. See figure XXX.

Category A: Low bank lots with 65% Canopy Area in Zone 1, OR spit/barrier/backshore, marsh lagoon, or bedrock.

Category B: Low bank lots with less than 65% Canopy Area in Zone 1, or lots with a depth < 200’ or High Bank.

Geomorphic Class (i.e. low bank, High Bluff) shall be determined by Battelle 2004 Nearshore Characterization and Inventory.

Developed lots

<table>
<thead>
<tr>
<th></th>
<th>Category A</th>
<th>200’</th>
<th>150’</th>
<th>115’</th>
<th>N/A</th>
<th>75’</th>
<th>30’</th>
</tr>
</thead>
</table>

Undeveloped lots

|                | N/A | 150’ | 150’ | N/A | 75/150[2] | 30’ |

1. For High bank properties the greater distance of 50’ from the top of the bluff or the standard shoreline buffer.
2. If adjacent to the Priority Aquatic designation then 150’ is required.

Additional Use restrictions for BIMC Titles 17 and 18 may apply.
4.1 General—Environmental Quality and Conservation—Policies and Regulations

4.1.1 H—Shorelines of State-wide Significance

4.1.1.1 Purpose

The Shoreline Management Act of 1971 designated certain shoreline areas as shorelines of state-wide significance (SSWS). Because these shorelines are resources from which all people in the state derive benefit, preference is given to uses which favor public and long-range goals.

4.1.1.2 Applicability

Within the City's jurisdiction all those areas lying seaward from the line of extreme low tide are shorelines of state-wide significance. [RCW 90.58.030 (1)(e)(iii) or its successor].

4.1.1.3 Policies (In order of preference)

1. Recognize and protect the state-wide interest over local interest.
   a. Solicit comments and opinions from groups and individuals representing state-wide interests by circulating the Master Program, and any amendments thereof affecting Shorelines of State-wide Significance, to State agencies, adjacent jurisdictions, citizen's advisory committees and local officials, and state-wide interest groups.
   b. Recognize and take into account State agencies' policies, programs, and recommendations in developing and administering use regulations, and in approving shoreline permits.
   c. Solicit comments, opinions, and advice from individuals with expertise in ecology, geology, limnology, aquaculture, and other scientific fields pertinent to shoreline management.

2. Preserve the natural character of the shoreline.
   a. Designate and administer shoreline environment designation and use regulations to minimize damage to the ecology and environment of the shoreline as a result of man-made intrusions on shorelines.

3. Result in long-term over short-term benefit.
   a. Evaluate the short-term economic gain or convenience of developments relative to the long-term and potentially costly impairments to the natural shoreline.
   b. In general, preserve resources and values of shorelines of state-wide significance for future generations and restrict or prohibit development that would irretrievably damage shoreline resources.
   c. Actively promote aesthetic considerations when contemplating new...
development, redevelopment of existing facilities, or general enhancement of shoreline areas.

4. **Protect the resources and ecology of the shoreline**.
   a. Minimize development activity that will interfere with the natural functioning of the shoreline ecosystem including, but not limited to, stability, drainage, aesthetic values, and water quality.
   b. All shoreline development should be located, designed, constructed, and managed to avoid disturbance of, and to minimize adverse impacts on, fish and wildlife resources including spawning, nesting, rearing, and habitat areas and migratory routes.
   c. Restrict or prohibit public access onto areas which cannot be maintained in a natural condition under human uses.
   d. Shoreline materials including, but not limited to, bank substrate, soils, beach sands, and gravel bars should be left undisturbed by shoreline development.

5. **Increase public access to publicly owned areas of the shorelines**.
   a. Give priority to developing paths and trails to shoreline areas, linear access along the shorelines, and to upland parking.
   b. Locate development landward of the ordinary high water mark.
   c. Limit public access when environmental or habitat values warrant such limitations.

6. **Increase recreational opportunities for the public on the shoreline**.
   a. Plan for and encourage development of facilities for recreational use of the shorelines.
4.1.2 C. Environmental Impacts

4.1.2.1 Applicability

All shoreline uses and activities, including development which does not require Shoreline
permit, must conform to these environmental impact provisions.

All shoreline development and activity shall be located, designed, constructed, and
managed in a manner that avoids, minimizes and/or mitigates adverse impacts to the
environment. The preferred mitigation sequence (avoid, minimize, rectify, reduce, or
compensate for the environmental impact) shall follow that listed in WAC 173-26-2012(e), see also definition of "Mitigation" in Section 7.0, Definitions).

In approving shoreline developments, the City shall ensure that shoreline development,
use, and/or activities will result in no net loss of ecological functions necessary to sustain
shoreline resources, including loss that may result from the cumulative impacts of similar
developments over time to the extent consistent with constitutional and statutory
limitations on the regulation of private property. To this end, the City may require
modifications to the site plan and/or adjust or prescribe project dimensions, intensity of
use, and screening as deemed appropriate. If impacts cannot be avoided through design
modifications, the City shall require mitigation commensurate with the project’s adverse
impacts.

4.1.2.2 Goal

Minimize impacts of shoreline uses and activities have on the environment during all
phases of development (e.g. design, construction, and management).

4.1.2.3 Policies

The adverse environmental impacts of shoreline uses and activities should be minimized
during all phases of development (e.g. design, construction, and management).

1. Ensure all shoreline uses, activities and developments are designed and located in a
   manner that prevents or mitigates adverse impacts to shoreline ecological function and
ecosystem wide processes, including the use of the mitigation sequence (avoid, minimize,
rectify, reduce, compensate; and make available flexible alternatives to accommodate
preferred shoreline uses.

2. Ensure, through appropriate monitoring and enforcement measures, that all required
   conditions are met, and improvements are installed and properly maintained.

3. Promote shoreline uses and activities within critical areas which do not cause significant
   adverse impacts to ecological functions and ecosystem-wide processes, such as public
access on publicly owned lands.

4. In assessing the potential for new uses, activities and developments to cause adverse
   impacts, the City should take into account all of the following:

Comment [js147]: Staff suggests integrating other environment designation al sections into an overall environment designation al protection chapter. Sections that could be integrated into a larger environment designation al chapter would be: mitigation/bond/monitoring, critical areas, water quality, flood hazard.

Comment [RE148]: Staff, Added Anacortes, 4-25-11.

Comment [RE149]: Anacortes Policy 6.3.5 11/15/2010

Comment [LH150]: Workgroup wanted to consider moving this policy into Public Access 2/16/11

Comment [RE151]: Anacortes Policy 6.3.6 11/15/2010

Comment [RE152]: Jefferson County Policy Section 6 1.A.2 11/15/2010
a. Effects on ecological functions and ecosystem processes; and
b. Effects that occur on-site and effects that may occur off-site; and
c. Immediate effects and long-term effects; and
d. Direct effects and indirect effects of the project; and
e. Individual effects of the project and the incremental or cumulative effects resulting from the project added to other past, present, and reasonably foreseeable future actions; and
f. Compensatory mitigation actions that offset adverse impacts of the development action and/or use.

5. To provide for comprehensive management strategies for shoreline areas, integrate planning and regulatory measures, such as those within the comprehensive plan, regional watershed plans, or state and federal regulations.

4.1.2.4 Regulations—Impact Analysis and No Net Loss Standard

1. All shoreline use and development, including preferred uses, and uses that are exempt from permit requirements, shall be located, designed, constructed, and maintained in a manner that protects ecological functions and ecosystem wide processes and avoids, minimizes and/or mitigates adverse impacts to the environment as determined through a site-specific impact analysis:

   a. Utilize effective erosion and scour control methods during project construction and operation; and
   b. Minimize adverse impacts to critical salt water habitat, fish and wildlife conservation areas, and/or other ecological functions, such as those provided by existing shoreline vegetation;
   c. Minimize interference with beneficial natural shoreline processes such as water circulation, sand and gravel transport movement, erosion, and accretion;
   d. Avoid hazards to public health and safety; and
   e. Minimize the need for shoreline stabilization measures and flood protection in the future: a geotechnical analysis may be required to ensure that the proposed activity meets this regulation (See Section 6.2 Shoreline Stabilization); and
   f. Result in no net loss of ecological functions necessary to sustain shoreline resources, including loss that may result from the cumulative impacts of similar developments over time.

2. In reviewing and approving shoreline developments, regardless of whether a permit is required:

   a. The Administrator shall condition the shoreline development, use, and/or activities such that it will:

Comment [LH153]: 2-2-12 Staff revised for clarity.
Comment [RE154]: Staff, added Anacortes DR 6.3.1 modified with existing language. 4-25-11
Comment [LH155]: 2-2-12 Staff included addressing vegetation impacts.
Comment [RE156]: Staff, Added Anacortes DR 6.3.2 4-25-11
Comment [F157]: 5/2 Addition language added; combined with regs - clarify NNL, mitigation sequencing and break up the ideas and cover all the elements
Comment [R158]: Staff, Grammar change. 7-7-11
i. Result in no net loss of ecological functions necessary to sustain shoreline resources, including loss that may result from the cumulative impacts of similar developments over time; and

ii. Employ measures to mitigate adverse impacts on shoreline functions and processes if necessary; and

iii. Modify the site plan and/or adjust the project dimensions, intensity of use, or screening as deemed appropriate to address impacts. If impacts cannot be avoided through design modifications, the Administrator shall require mitigation pursuant to regulations in Sections 4.1.2.5 and 4.1.2.6; and

b. If a proposed shoreline development, use or activity is determined by the Administrator to result in significant short term, long term, or cumulative adverse environmental impacts lacking appropriate mitigation, it shall be a sufficient reason for the Administrator to deny a permit.

3. In order to assure that development activities contribute to meeting the no net loss provisions by avoiding, minimizing, and mitigating for adverse impacts to ecological functions or ecosystem-wide processes pursuant to subsection 1 and 2, above, an applicant is required to submit a site-specific analysis of potential impacts and a mitigation plan, including compensatory mitigation measures determined necessary as a result of the analysis, in accordance with Section 4.1.2.9 which utilizes the mitigation sequence provided in Section 4.1.2.6(1).

4. To mitigate anticipated impacts and meet the no net loss standards in subsection 1 through 2, above, an applicant for a single family residential development may choose to use the Standard Residential Mitigation Manual, Appendix D, in lieu of a site-specific impact analysis and mitigation plan identified in subsection 3, above. Compensatory mitigation requirements of the table shall be included in the project submittal. If an applicant uses the Single Family Residential Mitigation Manual, prescriptive monitoring requirements found in Appendix D will satisfy the requirements for a project monitoring plan.

[0:] Herbicides and pesticides shall not be allowed to directly enter water bodies or wetlands unless approved for such use by the appropriate agencies (Washington State Department of Agriculture or Washington State Department of Ecology, U.S. Department of Agriculture, Environmental Protection Agency)

4.1.2.5 Regulations – Revegetation Standards

Vegetation replanting is required for all development, uses or activities, within the 200-foot shoreline jurisdiction, which alters existing native vegetation, whether a permit is required or not. This includes invasive species removal. Minimum requirements for planting plans can be found in the City’s Administrative Vegetation Management Manual. The following revegetation information shall be submitted for approval prior to vegetation disturbance as part of a project proposal, or clearing permit pursuant to BIMC 15.18

a. When the disturbed area is less than 120 square feet, then the applicant must submit an annotated list of proposed plants and their spacing specifications.
b. When the disturbed area is greater than 120 square feet, then the applicant must submit a planting plan.

c. If the disturbance is greater than 200 square feet, the applicant’s required planting plan shall be completed by a qualified professional.

d. If the disturbance is related to shoreline stabilization, the applicant shall meet regulation (5) below instead of regulation (4).

2. For vegetation disturbance in the Shoreline Buffer or Site-specific Vegetation Management Areas, all new plantings shall meet provisions in Section 4.1.3.6(3), Regulations-General.

3. If the Shoreline Buffer is altered or reduced pursuant to provisions of Section 4.1.3, the following shall occur in Zone 1:
   a. Retain existing native vegetation; and
   b. Plant the entire area excluding except for areas of allowed alteration approved pursuant to Sections 4.1.3.7 and 4.1.3.8 Vegetation Management; and
   c. Obtain a 65% native vegetation canopy coverage within 10 years, with planting material that consists of a mix of native trees and shrubs appropriate to the specific site conditions.

4. When vegetation mitigation is required for new development, uses, or activities within the 200-foot shoreline jurisdiction (as determined through a site-specific impact analysis pursuant to Section 4.1.2.4), the mitigation plan shall include new plantings that are protective of views from the primary structure of the subject property and in proportion to the identified impact. Mitigation plantings shall be located in the following order of preference and in accordance with this Section and Section 4.1.3 Vegetation Management:
   a. Within Zone 1, retain existing native vegetation and plant the entire area excluding allowed alterations in Sections 4.1.3.8 through 4.1.3.11 Vegetation Management, to obtain a minimum 65% native vegetation canopy coverage within 10 years, consisting of a mix of native trees, and shrubs, appropriate to the specific site conditions as specified in this section.
   b. In the portion of Zone 2, amend existing plantings to increase canopy coverage, to meet standards in Section 4.1.3.6(5) in a manner that promotes contiguous vegetation of areas nearest the shoreline;
   c. In the Shoreline Buffer, planted in a manner that promotes a contiguous native vegetated corridor that connects to the shoreline;
   d. Outside of the Shoreline Buffer, planted in a manner that promotes a contiguous vegetated corridor to the shoreline;
   e. Outside of the Shoreline Buffer; or
   f. At an off-site location approved by the Administrator, within Zone 1, planted to meet the standard of either a. or b. above.

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5. Shoreline stabilization projects. When plants are disturbed or mitigation is required pursuant to 4.1.2.6 the planting plan shall also include the following, unless an alternative planting plan is approved by the Administrator:

a. Replant at least 75% of the nearshore riparian area located along the edge of the ordinary high water mark extending a depth of a minimum of ten (10) feet, unless found to be infeasible. If unfeasible, a publicly owned site shall be replanted or the applicant shall submit a monetary amount for mitigation;
   i. The depth may be reduced to five (5) feet to allow for variation in landscape provided that the total square footage of the area planted equals the required 75% of the nearshore riparian area;

b. Planting plans shall meet provisions in Section 4.1.3.5(4), Regulations - General and Section 4.1.3.6(5), Location and Design Shoreline Buffer, with a focus on providing shade bearing plants at known fish spawning sites; and

c. Include one tree per every 20 linear feet of shoreline and one shrub per every five linear feet which may be planted with due consideration of views from the primary structure of the subject property.

4.1.2.6 Regulations—Mitigation

1. Mitigation Sequence: Mitigation shall include the following actions in order of priority(a-e); and (f) is required for all mitigation activities:

a. Avoiding the impact altogether by not taking a certain action or parts of an action which result in a mitigation plan not being required;

b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;

c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

d. Reducing or eliminating the impact over time by preservation and maintenance operations;

e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and

f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

2. When mitigation is necessary to offset impacts, compensatory mitigation measures in the immediate vicinity of the impact shall be the preferred mitigation option. Property owners may be required to perform the balance of compensatory mitigation off-site if the property cannot support required mitigation or when off-site mitigation can be demonstrated to the satisfaction of the Administrator to be more beneficial to shoreline ecological functions. For example, off-site mitigation may be the better choice if large,
cohesive areas are available off-site while only small fragmented areas are available on-site for mitigation.

3. Mitigation actions shall not have a significant adverse impact on other preferred shoreline uses promoted by the policies of the Shoreline Management Act.

4. When compensatory mitigation measures are required, all of the following shall apply:
   a. The quality and quantity of the replaced, enhanced, or substituted resources shall be the same or better than the affected resources; and
   b. The mitigation site and associated vegetative planting shall be nurtured and maintained such that healthy native plant communities can grow and mature over time; and
   c. Unless Single-family Residential Mitigation Manual is being used for single-family residential development pursuant to Section 4.1.2.4 (4), the mitigation shall be informed by pertinent scientific and technical studies, including but not limited to the Shoreline Inventory and Characterization Report, the Shoreline Restoration Plan and other background studies prepared in support of this Program; and to ensure no net loss the mitigation shall replace the functions as quickly as possible following the impacts; and
   d. The mitigation activity shall be monitored and maintained to ensure that it achieves its intended functions and values, pursuant to Surety Regulations Section 4.1.2.7.

5. To encourage shoreline property owners to remove bulkheads and perform other beneficial shoreline restoration actions in advance of shoreline development or redevelopment, the City may give mitigation credit to any beneficial restoration action that occurred within 10 years of the proposed development/redevelopment activity provided that:
   a. The applicant/property owner declares the intent of the restoration or enhancement project as mitigation credit at the time of permit application; and
   b. The City can confirm via site inspection, photographs, affidavits or other evidence that the restoration actions have improved shoreline conditions.

6. Where feasible, replacement compensatory mitigation should be required prior to impact and, if applicable, prior to final inspection and approval of building occupancy.

4.1.2.7 Regulations—Surety Regulations

1. The applicant/property owner shall provide assurances, to the satisfaction of the Administrator, that the restoration area (including off-site mitigation), will be maintained in perpetuity. The assurance can be in the form of a notice on title, conservation easement, or similar mechanism as approved by the City Attorney.
2. Except for projects undertaken by public entities, performance or maintenance bonds or other security shall be required by the City to assure that work is completed, monitored, and maintained. The bond/surety shall be refunded to the applicant/proponent upon completion of the mitigation activity and any required monitoring.

4.1.2.8 Regulations—Monitoring

1. When mitigation is required, the City shall require periodic monitoring for up to five years from the date of completed development to ensure the success of the required mitigation. The monitoring period may be extended if the success criteria set forth in the approved mitigation plan fail to be accomplished, or the approved mitigation plan states has a longer period of monitoring.

2. Monitoring plans may be forwarded, for review and comment to state and/or federal resource agencies and affected Tribes with jurisdiction.

3. Monitoring plans shall meet the requirements established in Monitoring Requirements, Appendix B, 16.20.110(C)(e).

4. All new and replacement structural stabilization projects shall complete and submit a five-year maintenance and monitoring plan that addresses the shoreline stabilization mitigation measures, and which shall include at a minimum:
   a. An annual site visit by a qualified professional for each of the five (5) years to assess the effectiveness of the mitigation, and
   b. A progress report submitted to the Administrator annually, includes any monitoring or maintenance recommendations of the qualified professional.

Regulations

1. The location, design, construction, and management of all shoreline uses and activities shall protect the quality and quantity of surface and ground water adjacent to the site and shall adhere to the guidelines, policies, standards, and regulations of applicable water quality management programs and regulatory agencies.

2. Solid waste, liquid waste, and untreated effluent (i.e., discharge from a source containing pollutants) shall not be allowed to enter any water bodies or to be discharged onto land. If there is evidence of discharge, the activity shall be suspended until the deficiency has been satisfactorily corrected.

3. The release of oil, chemicals, or other hazardous materials into or into the water is prohibited. Equipment for the transportation, storage, handling, or application of such materials shall be maintained in a safe and leak-proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.
4. All shoreline uses and activities shall utilize effective measures to minimize any increase in surface water runoff and to control, treat, and release surface water runoff so that receiving waters quality and shore properties and features are not adversely affected. Such measures may include, but are not limited to, dikes, catch basins, or settling ponds, installation and required maintenance of oil/water separators, grassy swales, interceptor drains, and landscaped buffers.

5. All shoreline uses and activities shall utilize effective erosion control methods during project construction and operation.

6. All shoreline uses and activities shall be located, designed, constructed, and managed to minimize adverse impacts to fish and wildlife resources including spawning, nesting, rearing and habitat areas, and migratory routes.

7. All shoreline uses and activities shall be located, designed, constructed, and managed to minimize interference with beneficial natural shoreline processes such as water circulation, sand and gravel movement, erosion, and accretion.

8. The location, design, construction, and management of shoreline uses and activities shall minimize adverse impacts to surrounding land and water uses.

9. The location, design, construction and management of shoreline uses and activities shall avoid hazards to public health and safety.

10. All shoreline uses and activities shall be located and designed to minimize the need for shoreline stabilization measures and flood protection in the future. (See Section VI, Shoreline Modification Activity Policies and Regulations.)

11. Herbicides and pesticides shall not be allowed to directly enter water bodies or wetlands unless approved for such use by the appropriate agencies (Washington State Department of Agriculture or Washington State Department of Ecology, U.S. Department of Agriculture, Environmental Protection Agency).

12. See Environmentally Sensitive Areas in the next subsection for additional provisions which may apply.

4.1.2.9 Submittal Requirements - Site-Specific Impact Analysis and Mitigation Plan

The Administrator may waive some or all of the following based on specific project requirements:

1. In addition to the general submittal requirements for all applications specified in BIMC Section 2.16.020(H), and the requirements for critical areas reports contained in the shoreline-specific Critical Areas Regulations found in Appendix B, the site-specific impact analysis and mitigation plan shall include the following unless otherwise waived by the Administrator:

   a. An inventory of the existing shoreline environment including the physical, chemical and biological elements and an assessment of their condition:
b. An analysis by a qualified professional of the project's impacts and their effect on the ecological functions necessary to support existing and future shoreline resources.

c. An assessment and description of any federal, state, or local special management recommendations which have been developed for wetlands or nearshore species or habitats located on the site and their applicability to the proposal;

d. A description of measures to preserve existing habitats and opportunities to restore habitats that were degraded prior to the proposed land use activity;

e. Planting and soil specifications;

f. A description and evaluation of anticipated effectiveness of proposed measures which mitigate the impacts of the project to ensure no net loss of shoreline ecological functions, values, and proposed success criteria;

g. A description of proposed management practices which will protect fish and wildlife habitat both during construction, and after the project site has been fully developed, including proposed monitoring and maintenance programs;

h. A contingency plan or adaptive management plan if the mitigation fails to meet established success criteria;

i. Any additional information necessary to determine the impacts of a proposal and mitigation of the impacts.
4.1.3  Vegetation Conservation and Management Zones

4.1.3.1  Applicability

Definition and Purpose

The native vegetation management zone are is a required for vegetation protection and conservation management areas which buffers, encompassing all uplands from the OHWM to the dimension within the Shoreline Jurisdiction. Dimensional and other development standards, including buffers, are established based on site-specific development and conditions or as specified for that particular shoreline designation. The purpose of vegetation management is to protect and enhance the Island’s natural character, water quality, native plant communities, and wildlife habitat along the shoreline. Vegetation management activities of this area may also be reviewed under Section 4.4, Modifications, Section 4.1.5, Critical Areas, Appendix B, and BIMC Chapter 15.18, Land Clearing, when applicable.

Vegetation management includes conservation activities to protect and restore vegetation along or near marine and freshwater shorelines that contribute to the ecological functions of shoreline areas. Vegetation conservation provisions include vegetation restoration, the protection or restriction of plant clearing and earth grading, and the control of invasive weeds and nonnative species.

The native vegetation management zone provisions apply to all shoreline development and regulated uses and activities, including those that do not require a shoreline permit, and existing uses and structures development. Similar to other master program provisions, vegetation management standards do not apply retroactively to existing uses and structures unless changes or alterations are proposed. Standards for the native vegetation Management Areas zones are established using current scientific and technical information pursuant to WAC 173-26-221(5)(b) and 173-26-201(2)(a), and are based on the use category, shoreline characterization and the environment-designation. Standards and are provided in Section 4.4.0, General (Island-wide) Regulations - Environment Designations, Table 4-23. In some cases, the standards are further refined by regulations in Section 5.0, Section V, Specific Use Policies and Regulations. (See specifically Section V, subsection K, Residential Development.)

4.1.3.2  Goal

Protect and restore shoreline vegetation to maintain and enhance ecological functions, shoreline views and vistas, human safety, and personal property protection and shoreline views and vistas.

4.1.3.3  Policies Vegetation Conservation Management

1. Maintain existing shoreline vegetation and marine riparian zones to protect ecological functions and/or processes from adverse impacts of uses, activities and developments within the shoreline jurisdictions. Preservation of native plant species is key to maintaining the ecology of the shoreline as well as preserving the Island’s character.
2. Emphasize the use of native plant species communities within the shoreline jurisdiction should be protected, maintained and enhanced, to maintain the ecological functions and/or processes and mitigate the direct, indirect and/or cumulative impacts of shoreline uses, activities and developments.

3. Provide flexible dimensional standards for Shoreline Buffers and building setbacks that are based on performance standards designed to protect shoreline ecological functions and ecosystem-wide processes, including considering alternatives to planting native species if it can be demonstrated that the same ecological functions can be provided.

4. Use monitoring programs to ensure the protection of shoreline ecological functions within the vegetation management areas particularly when non-native plant species are used as an alternative to native plants.

5. Encourage the restoration or enhancement of shoreline vegetation through incentive programs. Degraded shorelines should be restored to provide native habitats and enhance water quality.

4. Development should preserve existing environmental features to minimize disturbance of natural systems.

6.5 Establish Shoreline Buffers: A native vegetation zone immediately upland of OHWM for each shoreline use and shoreline environment designation, should be established recognizing the pattern of development and ecology of the shoreline ecological functions and ecosystem-wide processes, and using current science and technical information, as described in WAC 173-26-201(2)(a).

7. Site-specific dimensional standards within vegetation management areas should be established for shoreline use, activity or development at the time of a proposal. Standards must protect ecological functions of the shoreline and should consider land use patterns to minimize the number of existing structures that would not conform to dimensional standards of a Shoreline Buffer.

8. The City should implement a public education program emphasizing the importance of shoreline vegetation management.

9. Selective vegetation clearing for views should be allowed for new development and to maintain views from existing residences when slope stability and ecological functions are not compromised. Trimming and pruning are generally preferred over removal of native shoreline vegetation.

10. Develop specific regulations for Point Monroe, based on vegetation and management practices appropriate for sand spits or sub-estuaries (pocket estuary).

4.1.3.4 Regulations—Exceptions

1. Vegetation management standards shall not apply retroactively to existing lawfully established conforming and nonconforming uses and developments, including maintenance of existing residential landscaping, such as lawns and gardens. Property owners are strongly encouraged to voluntarily improve shoreline vegetation conditions over the long term.
2. The City shall recognize and adhere to existing buffers and setbacks that have been established through previously approved subdivisions and are indicated on the face of an approved plat.

4.1.3.5 Regulations—General

1. Development within the shoreline jurisdiction shall be located and designed to protect existing native vegetation from disturbance to the fullest extent possible, to mitigate impacts to existing vegetation, and to meet the standard of no net loss of ecological functions, Section 4.1.2, Environmental Impacts.

2. No vegetation clearing, grading, or construction may be undertaken within the shoreline jurisdiction without review and approval by the Administrator, unless exempt under Section 4.1.3.5(5). Clearing and grading may be subject to Section 4.1.4, Land Modification and/or a clearing permit, pursuant to BIMC 15.18.

3. Two alternative methods may be used to meet the goals and policies of shoreline management, as follows:
   a. Site-Specific Vegetation Management Areas, (Table 4.3).
      i. An applicant may propose specific dimensional standards that meet the Vegetation Management goals and policies as determined through a Habitat Management Plan prescribed in Appendix B, Section B-4, provided that the applicant demonstrates the following:
         A. The proposed development will protect shoreline ecological functions of the property and ecosystem-wide processes and will not result in a loss of ecological functions or ecosystem wide processes pursuant to Section 4.1.2.4, Impact Analysis and No Net Loss; and
         B. The specific proposal meets the goals and policies of the Vegetation Management section, and is as protective as, or more protective than the Shoreline Buffer standards outlined in Section 4.1.3.5(5(b).
      ii. The Habitat Management Plan shall be reviewed by the Administrator, who may approve, approve with conditions, or deny the request. The Administrator may, at his/her discretion, have the request reviewed by an independent third party, the cost of which will be borne by the applicant. In determining the need for a third-party review, the Administrator shall base the decision upon such factors as the presence of critical areas or other environmentally complex characteristics associated with the site.
      iii. If the Site-specific Vegetation Management Area is approved, prior to permit issuance the applicant shall record a Notice on Title, or other similar document subject to the approval of the Administrator, with the County Auditor.
   b. Shoreline Buffer (Table 4.3).
      i. A vegetation buffer, called a native vegetation zone, A Shoreline Buffer, located within the 200-foot shoreline jurisdiction, shall be maintained immediately.
landward of the OHWM and managed according to provisions of this section. The Shoreline Buffer shall be composed of two zones: Zone 1, an inner protective buffer area located immediately abutting the OHWM; and Zone 2, the remaining portion of the Shoreline Buffer located immediately abutting Zone 1. The dimensions of the zone shall be those established for the particular use and environment. The Shoreline Buffer shall meet dimensions listed in Table 4-3, and the location and design standards of Section 4.1.3.6.

4.2. The Shoreline Buffer and Site-specific Vegetation Management Area shall be maintained in a predominantly natural, undisturbed and vegetated condition except as otherwise allowed within this section. Existing native vegetation within these areas shall also be retained unless specifically allowed to be altered or removed under the provisions of this section, Program, or Section V, Specific Shoreline Use.

5. The following shall be exempt from the requirement of subsection 4, above:

a. Maintenance of existing residential landscaping, such as lawns and gardens, as provided in Section 4.1.3(6). Existing landscape areas may be retained within the Shoreline Buffer or Site-specific Vegetation Management Area; however, any changes from the existing landscape to a different landscaping use or activity will require that the modified area comply with the provisions of Section 4.1.3, Vegetation Management, and the intent of maintaining native vegetation that protects ecological functions;

b. Maintenance trimming of vegetation with main stem or supporting structures less than three (3) inches in diameter, except that tree topping or vegetation removal are not exempt. All other trimming and pruning must meet the Vegetation Alteration standards of section 4.1.3.8 through 4.1.3.11;

c. Buffer enhancement by removal of noxious or invasive weeds, based on consultation with the Kitsap County Noxious Weed Board or species on the Washington State Noxious Weed List (WAC 16-750, or its successor) and conducted in a manner consistent with best management practices, and/or planting native vegetation in accordance with Section 4.1.2.5, Revegetation standards;

d. For single-family residential property, construction of one pervious surface trail for non-motorized use, provided the trail is no wider than four (4) feet and the vegetation trimming is limited to two (2) feet on either side of the trail; and further provided that no significant trees are removed;

e. 3. Removal of hazard trees, as defined in Appendix B, where trimming is not sufficient to address the hazard, a report by an arborist or other approved expert demonstrates to the satisfaction of the Administrator that trimming is not sufficient to address the hazard and

i. The Administrator shall require that replacement trees and vegetation be replanted for mitigation as necessary in accordance with Section 4.1.2, Environmental Impacts, and may require that the downed tree be retained on site to provide wildlife habitat and enhance marine habitat.

Comment [R245]: Planning Commission agreed to recommendation. Modified to reduce redundancy for clarity. 4-12-12

Comment [R246]: Planning Commission agreed to recommendation. Clarified native plants must be retained. 4-12-12

Comment [l247]: Thresholds added to clarify what vegetation disturbance is allowed in the SB, as requested by the Workgroup 8/25/11 meeting.

Comment [R248]: Planning Commission agreed to recommendation. Moved the exemptions for maintenance to this new section. 4-12-12

Comment [l249]: Moved from Veg Alteration - General section (Reg 2.a)

Comment [R250]: Planning Commission agreed to recommendation. Modified to limit trimming for SFR paths in the buffer 4-12-2012

Comment [R251]: Planning Commission agreed to recommendation. Modified for clarity and allow Administrator to recommend use of wildlife snags. 4-12-12
63. New plantings in this zone, vegetation planted in the Shoreline Buffer or Site-specific Vegetation Management Area, unless otherwise provided for in zone-specific requirements Section 4.1.3.6(2) shall be native plant species, using a native plant community approach of multi-storied, diverse plant species that are native to the Central Puget Sound marine riparian zone, or other approved plant species that are similar to the associated native species in diversity, type, density, wildlife habitat value, water quality characteristics and slope stabilizing qualities to the original vegetation, excluding noxious/invasive species, may be approved provided that, as submitted by a qualified professional, it is demonstrated to the satisfaction of the Administrator that the selected ornamental plants can serve the same ecological function as native plant species.

64. Critical Areas, Critical Areas

7. Significant trees located outside the Shoreline Buffer or Site-specific Vegetation Management Area, but within the shoreline jurisdiction, shall be retained to conserve vegetation and achieve no net loss of ecological function, Section 4.1.2, Environmental Impacts (See Section IV, Environment Designations, specifically Table 4.2.1.). The Administrator may require alterations of a site plan in order to retain significant trees, outside the Shoreline Buffer or Site-specific Management Area. This may include minor adjustments to the location of building footprints, the location of driveways and access ways, or to the location of walkways, easements or utilities.

4. Removal of noxious plants and plants on the State noxious weed list shall be allowed within the native vegetation zone.

5. Within the native vegetation zone, normal nondestructive pruning and limbing of native vegetation for maintenance and view shall be allowed provided it does not threaten the health of the vegetation. Individual tree cutting to remove a hazard may be allowed by the Director, subject to a report by an arborist or other approved expert.

6. No clearing, grading, or construction may be undertaken within the SB native vegetation zone unless specifically provided for in this section or in Section V, Specific Shoreline Use Policies and Regulations.

7. A path to the shoreline not more than four (4) feet in width, constructed by hand and designed to minimize environmental impacts, shall be allowed. The path may be wider when required for handicapped access.

8. Accessory utility lines determined by the Director to be necessary or required to reduce an impact (for example, a stormwater line to the water to protect a slope or a sewer line to a marine ) may be allowed. (See BIMC, Section 16.20.080 Geologically Hazardous Areas, for additional regulations which may apply.

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To allow flexibility when required because of site limitations, the depth of the native vegetation zone (measured from OHWM) may be altered by averaging the depth, provided that:

a. The total area of the native vegetation zone shall not be less than otherwise required.
b. All portions of the native vegetation zone shall be contiguous.
c. The depth of the zone shall not be reduced more than twenty-five (25%) percent and shall be a minimum of twenty-five (25) feet, (measured from OHWM) at any point.
d. At least seventy-five (75) percent of the resulting zone shall be located within the area that would otherwise be required.
e. Any area altered shall be compensated for by a substitute area. Any area used as a substitute for an altered area must contain vegetation of comparable or better quality than the area being deleted.

4.1.3.6 Regulations - Shoreline Buffer - Location and Design Standard

1. The Shoreline Buffer consists of two zones. See Figure 4-1. The total depth of the Shoreline Buffer is based on the shoreline designation as listed in Table 4-3 and physical and most prominent geomorphologic characteristics of the property.

2. The total area of the Shoreline Buffer shall be the equivalent of the length of the property along the shoreline, multiplied by the required buffer depth as prescribed for the specific shoreline designation in which the property is located. See Figure 4-1.

3. The maximum and minimum depth of the Shoreline Buffer will be determined by the Administrator according to criteria below and as specified in Table 4.3.

   a. Property-specific physical and geomorphologic characteristics of the particular lot will determine the maximum width (Category A) or minimum width (Category B) of the Shoreline Buffer, as follows:
      i. Shoreline Buffer Category A: The property contains or abuts a spit/barrier/backshore, or marsh, or lagoon; or The property contains or abuts a low bank and the existing tree and shrub vegetation covers at least 65% of the Shoreline Buffer Zone 1 area.
      ii. Shoreline Buffer Category B: The lot is shallow (200 feet or less, as measured landward), or located on a high bluff or does not meet any of the characteristics of Category A.

4. The depth of each of the two zones within the Shoreline Buffer is determined as follows:

   a. Zone 1 shall extend from the ordinary high water mark (OHWM) to the limit of existing native vegetation (trees, shrubs and native groundcover, excluding invasive/noxious species), as determined through a site-specific analysis of existing vegetation conditions, and shall be no greater than the established total depth of the Shoreline Buffer.

   b. Zone 2 shall be established immediately landward of the Zone 1 and extend no...
further than the established total depth of the Shoreline Buffer.

4. Unless otherwise allowed in Sections 4.1.3.8 through 4.1.3.11, Vegetation Alterations to Buffers, or elsewhere in the Shoreline Master Program, the following shall apply to the Shoreline Buffer:

   a. All native shrubs and significant trees within the Shoreline Buffer shall be retained.
   b. All activities shall be performed in compliance with the applicable standards contained in this section, unless the applicant demonstrates that alternate measures or procedures are equal or superior to the provisions of this section, including no net loss of ecological function, in accomplishing the purpose and intent of this section.

5. The following zone specific planting regulations apply to the Shoreline Buffer:

   a. New lawns are not permitted in Zone 1.
   b. In Zone 2, one-third (1/3) of the total square footage may be planted in contain grass lawns and/or contain structures as allowed in Sections 4.1.3.8 through 4.1.3.11, unless significant native trees are removed to establish such use or the buffer has been reduced through the Shoreline Structure Setback provisions of Section 4.1.3.7. The remaining two-thirds (2/3) of Zone 2 shall be retained or maintained in a native vegetative state, with preference given to native species for new plantings as provided in Section 4.1.3.5, Regulations - General. Planted areas in which fertilizers might be applied, as allowed in Section 4.1.6, Water Quality and Stormwater Management, shall be located as far landward of Zone 1, as feasible.

6. As determined by the Administrator, buffers are not required to extend beyond an existing public paved street or an area which is determined by the Administrator to be functionally isolated from the shoreline or critical area. In these limited instances the no net loss of shoreline ecological function and processes still apply to properties within the shorelines jurisdiction.

Comment [LH271]: Planning Commission agreed to recommendation to separate regulation 1 into two regulations and move this regulation from former 1.a. and b. 4.12-12

Comment [L272]: Planning Commission agreed to recommendation, Modified for clarity. 4.12-12

Comment [M273]: Staff – added for clarity 3/31/11

Comment [M274]: Staff – added to allow for alternate buffers, partially based on Jefferson County 3/31/11

Comment [M275]: Staff – added to allow for alternate buffers, partially based on Jefferson County 3/31/11

Comment [M276]: Planning Commission agreed to recommendation, Delete redundant to 4.1.3.5(6) and circular. 4.12-12

Comment [M277]: Planning Commission agreed to recommendation, Consistency with prohibition of pesticides. 4-12-12

Comment [M278]: Planning Commission agreed to recommendation. Consistency with prohibition of pesticides. 4.12-12

Comment [M279]: Planning Commission agreed to recommendation, Added language for clarity. 4.12-12

Comment [RE280]: Moved to 10 from 11, 5/10/11

Comment [M281]: Staff – Jefferson County but with a minimum dimension and including the City’s determination 3/31/11
4.1.3.7 Regulations—Shoreline Structure Setback View Requirement

1. For the purpose of protecting existing predominante shoreline views and accommodating shoreline views for a new single-family primary residential structure or addition to a primary structure the Administrator may allow Zone 2 of the Shoreline Buffer to be altered when there is an existing primary residential structure located within 100 feet of the property line of the subject property and topographical or other relevant information indicates that the view of the shoreline from the subject property or the adjacent residence would be impacted by existing or proposed development. The shoreline structure setback line may also require that new structures be set farther away from the shoreline to preserve existing views enjoyed by an adjoining single-family primary structure that was...
established earlier. These provisions apply to single-family residences only.

a. Setbacks for the purposes of this subsection are based on the location of primary residential structure(s) existing at the time a new primary residential building permit is submitted. A primary residential structure constructed in compliance with the required shoreline setback is not made nonconforming by the later construction or replacement of a primary residential structure in a different location on an adjoining adjacent lot. These provisions do not apply to property located outside the 200-foot shoreline jurisdiction.

b. The shoreline structure setback provisions apply only to primary single-family residential structures located within the 200-foot shoreline jurisdiction, where an existing primary single-family residential structure is located within 100 feet of the subject property line. All measurements are to the closest primary residential structure on either side of the subject property as measured parallel to the shoreline.

c. In determining the shoreline structure setback line, the Administrator may also consider topography or other physical property constraints in addition to the provisions of subsection 4 and 5, below; and applicants may submit detailed information regarding how property constraints impact the predominate shoreline views from either the subject property’s proposed primary residential structure(s).

2. If the Shoreline Buffer on the subject property is reduced below the depth requirements identified in Table 4.3, mitigation shall be required pursuant to Section 4.1.2, Environmental Impacts.

3. In no case shall the subject property be permitted to locate a new primary residential structure within the site’s specified Zone 1 of the Shoreline Buffer, unless a shoreline variance is granted.

4. Adjoining Development Located Within Shoreline Buffer. The setback requirement for the subject property shall be based on the location of the adjoining properties’ primary residential structure(s) as described in subsections (a) through (d) below.

a. Primary Residential Structure Located on One Side. When an existing primary residential structure is located on one side of the subject property, the shoreline structure setback line shall be determined as follows:

i. If the adjoining primary residence is partially or wholly located within Zone 2, the shoreline setback line is determined by drawing a line from the most waterward point of the adjacent primary residential structure to the point at which the subject property’s Shoreline Buffer boundary intersects the opposite property line. (See Figure 4.1.a, below)

ii. If the adjacent primary residence is located partially or wholly in Zone 1, the shoreline structure setback line shall be determined by drawing a line from the point of intersection of the subject property and the adjoining...
property’s Zone 1 boundary, to the point at which the subject property’s Shoreline Buffer boundary intersects the subject property’s opposite property line. (See Figure 4.1.b, below)

b. Primary Residential Structure Located on Both Sides. When an existing primary residential structures are located on both sides of the subject property, the shoreline structure setback line shall be determined as follows:
   i. If both the adjoining primary residential structures are located partially or wholly in Zone 2, the shoreline structure setback line shall be determined by drawing a line between the most waterward points of each of the adjacent primary residential structures. (See Figure 4.1.b, below)
   ii. If one of the adjoining primary residences is located partially or wholly in Zone 1, and the other adjoining primary residence is partially or wholly in Zone 2, the shoreline structure setback line shall be determined by drawing a line from the intersection of the subject property and the adjoining property’s Zone 1 boundary (for that adjoining residence located in Zone 1, to the most waterward point of the other adjoining primary residential structure located in Zone 2. (See Figure 4.1.b, below)
   iii. If both of the adjoining primary residences are located partially or wholly within Zone 1, the shoreline structure setback line shall be determined by drawing a line from the point of intersection of the subject property’s Zone 1 boundary and the adjoining property’s Zone 1 to the same intersection point on the subject property’s opposite property line. (See Figure 4.1.c, below).

c. Primary Residential Structure Located on a Shoreline Forming a Cove or Headland. The Administrator shall make the determination whether a shoreline forms a cove or headland. When existing primary residential structures are located on a cove or headland, the shoreline structure setback line shall be determined as follows:
   i. If there is a primary residential structure on only one side of the subject property, then the shoreline structure setback line for the subject property shall be either the distance from the OHWM to the most waterward portion of the primary residential structure of the adjoining property, or the subject property’s Zone 1, whichever is greater.
   ii. If there are adjoining primary residential structures located on both sides of the subject property, the shoreline structure setback line shall be determined by averaging the distance from OHWM to the most waterward portion of the two adjoining property’s primary residential structures. (See Figure 4.1.d, below)

5. Adjoining Development Located Outside the Shoreline Buffer. The setback requirement for the subject property shall be based on the location of the adjoining properties’ primary residential structure(s) as described in subsections (a) and (b) below:
   a. Primary Structure Located on One Adjoining Property, Outside Shoreline Buffer. When an existing primary residential structure is located on one side of the
subject property, the shoreline structure setback line shall be determined by drawing a line from the most waterward point of the primary residential structure of the adjoining property to a point in which the subject property’s Shoreline Buffer boundary intersects the subject property’s opposite property line. (See Figure 4.1.x below)

b. Primary Structure Located on Both Adjoining Properties, Outside the Shoreline Buffer. When existing primary residential structures are located on both sides of the subject property, the shoreline structure setback line shall be determined by drawing a line between the most waterward points of each of the adjoining primary residential structures. (See Figure 4.1.x, below).

c. Primary Structures Located on Both Adjoining Properties, Outside the Shoreline Buffer on a Cove or Headland. When existing primary residential structures are located on both sides of the subject property, the shoreline structure setback line shall be determined by averaging the distance from OHWM to the most waterward portion of the two adjoining property’s primary residential structures. (See Figure 4.1.x, below)
Figure 4.1.a
Figure 4.1.b
Figure 4.1.c
4.1.3.8  Regulations—General Vegetation Alteration Standards

10. Native vegetation zones and related restrictions required by the City for a preliminary plat shall be written on the face of the final plat, and for all other land shall be included in a separate covenant, easement or other similar document. The separate document shall be recorded with the County Auditor within one month of the imposition of the requirement.

4.1.3.8.6 Unless otherwise exempt in Section 4.1.3.5(5), no clearing, grading, or construction may be undertaken within the Shoreline Buffer or Site-specific Vegetation Management Area, native vegetation zone unless specifically provided for in this section or in Section V, Specific Shoreline Use Policies and Regulations except for specific uses and activities as provided in Sections 4.1.3.9 through 4.1.3.8.11, and the following activities as prescribed in this section and pursuant to Section 4.1.4, Land Modification. Such activities also require a clearing permit pursuant to BIMC Chapter 15.18.

1. Minor Vegetation Removal

   If minor vegetation clearing and tree removal is proposed, a request shall be submitted in writing to the City for approval prior to any alteration or removal of vegetation or tree within the Shoreline Buffer or Site-specific Vegetation management Area. The request shall include the location, number, type and size of tree(s) and vegetation being removed and the proposed replacement tree(s) and a riparian vegetation planting plan meeting the standards required in Section 4.1.2.5, Revegetation Standards. The City shall inspect the vegetation and tree replacement once installation is complete.

   i. The Administrator shall require submittal of a Bluff Management Plan pursuant to Section 4.1.5, Critical Areas, for any vegetation alteration in a geologically hazardous area. The cost and preparation of the plan is the responsibility of the applicant.

2. Minor Pruning. Tree pruning, including thinning of lateral branches to enhance views, or trimming, shaping, thinning or pruning of a tree necessary for plant health and growth and which is not intended to harm the plant, is allowed consistent with the following standards:

   i. All pruning shall meet the American National Standards Institute (ANSI) tree pruning standards;

   ii. In no circumstance shall removal of more than one-fourth (1/4) of the original crown be permitted within a three year period;

   iii. Pruning shall not include topping, stripping of branches or creation of an imbalanced canopy;

   iv. Pruning shall retain branches that overhang the water.

3. Vegetation Removal Related to Construction or Maintenance

   Tree or vegetation removal within the Shoreline Buffer or Site-specific Vegetation Management Area.
management Area that is associated with new construction or reconstruction of a primary structure, or maintenance of existing public facilities (including: roads, paths, bicycle ways, trails, bridges, sewer infrastructure facilities, storm drainage facilities, fire hydrants, water meters, pumping stations, street furniture, potable water facilities, and other similar public infrastructure) may be allowed, but must meet the requirements of Section 4.1.2, Environmental Impacts, including replanting native vegetation in disturbed areas. The following activities are exempt from this requirement:

i. Removal of vegetative obstructions required for sight distance and visual clearance at street intersections provided in the Public Works Design and Construction Standards and Specifications.

ii. Removal of trees pursuant to a Forest Practices Permit (Class II, III and IV-S only) issued by the Washington State Department of Natural Resources. Unless otherwise stated, the vegetation management regulations of this Program do not apply to commercial forest practices as defined by this Program when such activities are covered under the Washington State Forest Practices Act (RCW 76.09), except where such activities are associated with a conversion to other uses or other forest practice activities over which local governments have authority. For the purposes of this Program, preparatory work associated with the conversion of land to non-forestry uses and/or developments shall not be considered a forest practice and shall be reviewed in accordance with the provisions for the proposed non-forestry use, the general provisions of this Program, including Appendix B BIMC-16.20, and shall be limited to the minimum necessary to accommodate an approved use.

d. View Maintenance – Single-family Residential only. Shoreline uses or developments shall use all feasible techniques to maximize retention of existing native shoreline vegetation within the Shoreline Buffer and the Site-specific Vegetation management Area.

i. Limited removal of existing trees or vegetation on the same property as a single-family residence may be allowed to maintain a pre-existing view from the primary structure, or establish a view for a new primary structure provided that the following are met:

A. The applicant demonstrates to the satisfaction of the Administrator that the vegetation removal is the minimum necessary to re-establish or establish a view of the water enjoyed by other residences in the area and that pruning methods are not sufficient to provide an adequate view of the water similar to that enjoyed by other residences in the areas; and

B. Existing significant native trees are not removed within the
Shoreline Buffer or Site-specific Vegetation Area; and

C. In no instance shall vegetation removal exceed twenty (20) percent of the required Shoreline Buffer or Site-specific Vegetation Area or fifteen (15) linear feet of the water frontage, whichever is greater, and the alterations shall not reduce the vegetation canopy of the Shoreline Buffer or Site-specific Vegetation Management Area to less than 65%; and

D. The applicant shall obtain an approved Bluff Management Plan pursuant to Section 4.1.5, Critical Areas for any vegetation alteration in a geologically hazardous area. The cost and preparation of the plan is the responsibility of the applicant; and

E. All vegetation removal complies with other applicable requirements of this Program (such as clearing and grading, forest practices, and protection standards for fish and wildlife habitat) and the no net loss and/or revegetation standard in Section 4.1.2, Environmental.

ii. The Administrator may deny a request or condition approval for vegetation alteration proposals for view maintenance if it is determined that the action will result in an adverse effect to any of the following:
   A. Slope stability;
   B. Habitat value;
   C. Health of surrounding vegetation;
   D. Risk of wind damage to surrounding vegetation;
   E. Nearby surface or ground water; or
   F. Water quality of a nearby water body.

e. Underground Utilities. Utilities that run approximately perpendicular to the buffer (for example, a stormwater tightline to the water to protect a slope or a sewer line to a marina), may be allowed within the Shoreline Buffer or Site-specific Vegetation Management Area, provided that disturbance is minimized and the disturbed area is revegetated after construction. (See Section 4.1.2, Environmental Impacts, Section 4.1.5, Critical Areas and Section 4.1.6, Water Quality and Stormwater Management may apply);

f. Other Approved Development in the Shoreline Buffer or Site-specific Vegetation Management Area.
   i. Potable water wells;
   ii. Shoreline stabilization in accordance with Section 6.0; and
   iii. Construction of one (1) approved tram, provided this development is
approved pursuant to Section 6.1, Shoreline Modifications.

2. Shoreline Buffer Reductions
   a. When the prescriptive buffer depth is reduced or dimensions altered through provisions of this Program, the applicant shall record a Notice on Title, or other similar document subject to the approval of the Administrator, with the County Auditor prior to permit issuance.

   b. If the required depth of a Shoreline Buffer for a single-family residential property is reduced in accordance with the Shoreline Setback provisions of Section 4.1.3.7 or other reductions allowed through this Program, Zone 1 must be restored in accordance with provisions of Section 4.1.2.5 Revegetation Standards.

   c. For undeveloped lots in which the Shoreline Buffer is predominately comprised of Zone 1 (making up 75% or more of the Shoreline Buffer), a 25% reduction to the Shoreline Buffer may be allowed by the Administrator for the construction of a new primary single family residence provided the following can be met:
      i. The lot is not considered a legal nonconforming lot under the provisions of Section 4.2.1.7, Regulations - Nonconforming; and
      ii. The provisions of Section 4.1.3.7, Shoreline Structure Setback Line are met; and
      iii. Mitigation is provided pursuant to Section 4.1.2, Environmental Impacts, as determined through a site-specific impact analysis.

4.1.3.9 Vegetation Alteration Standards—Residential Development

Minor clearing, grading, or construction may be allowed within the Shoreline Buffer for a residential development with approval of the Administrator pursuant to Section 4.1.3.8(1)(a), above, and only for the following activities as prescribed below and pursuant to Section 4.1.4, Land Modification:

1. One (1) hand installed pervious path to the shoreline, not more than four (4) feet in width, which may include hand installed steps, and designed to minimize environmental impacts. The path may be wider when required for handicapped or public access.

2. Non-habitable structures appurtenant structures to a single family use, such as a boat house, deck/patio and/or stairway may be allowed consistent with the following standards, except that all structures are prohibited in Zone 1 when upland of a Priority Aquatic designation:
   a. The total square footage of all buildings or structures must not exceed 400 square feet or 10% of the Shoreline Buffer area, whichever is less.
   b. Only 10% of the total allowed square footage or 300 square feet, whichever is less, can be located in Zone 1.
   c. All structures must be designed to not significantly impact views from adjoining property primary buildings.
   d. All structures must meet the following standards:
Only water-related structures are allowed in Zone 1, including a boathouse, permeable deck, boat storage, or staircase;

Buildings shall not exceed 12 feet in height above existing grade;

Stairways shall not exceed 250 square feet. Stairways shall conform to the standards of the International Residential Building Code as adopted in BIMC Chapter 15.04.

A. If a larger staircase is required to obtain access to the beach, a tram may be required to reduce environmental impacts, unless an applicant can demonstrate to the satisfaction of the Administrator that an alternative staircase design will provide greater protection of slope stability and ecological function than a tram would.

Decks and/or patios shall be permeable and shall not exceed 30 inches in height above existing grade.

4.1.3.10 Vegetation Alteration Standards – Commercial and Industrial Development

Minor clearing, grading, or construction may be approved within the Shoreline Buffer for a commercial or industrial development with approval of the Administrator pursuant to Section 4.1.3.8(2)(a) and only for the following activities as prescribed below and pursuant to Section 4.1.4, Land Modification:

1. Primary appurtenant structures to a commercial use that either support public access or are necessary to support a water-dependent use shall be allowed within the buffer when the applicant has demonstrated a need for the shoreline location, except that all structures are prohibited in Zone 1 when upland of a Priority Aquatic Designation.

2. When appurtenant structures are allowed they must be the minimum necessary to meet the needs of the water-dependent use or public access requirements of Section 4.2.4, Public Access.

4.1.3.11 Vegetation Alteration Standards – Public Park Development

Minor clearing, grading, or construction may be approved within the Shoreline Buffer for a public park development in accordance with an approved park-specific Standard Operation Procedure (SOP) manual that meets the standards of this Program; or for the following with approval of the Administrator pursuant to Section 4.1.3.8:

1. The size and extent of proposed disturbed areas within the Shoreline Buffer have been determined as part of a park development plan or master park plan, with due consideration of the intended park use; and all proposed disturbance areas meet the no net loss standards pursuant to in accordance with Section 4.1.2, Environmental Impacts; and appropriate permits are obtained, including those pursuant to Section 4.1.4, Land Modification.

2. Activities as prescribed below and pursuant to Section 4.1.4, Land Modification, may be allowed without an approved park development plan or master park plan.

Comment [R313]: Planning Commission accepted recommendation, Clarify sentence structure. 4.12-12

Comment [L314]: Staff, Added section specific to Commercial structures and buffer regs. 7/6/11

Comment [L315]: Staff, Added section specific to Public Parks structures and buffer regs. 7/6/11

Comment [R316]: Planning Commission accepted recommendation, Modified to include an option for use of BIMPD SOPs to meet permit requirements (setup programmatic). 4.12-12

Comment [LH317]: 8/25/11 Workgroup: Agreed to provide that the Park District can establish SB site disturbance specific to a particular park through a master park plan process; however the park development must also meets standards of the SMP as required by law, including no net loss and limited disturbance of required SB.
a. Public pathways to the shoreline shall be allowed provided it is demonstrated that the size and extent of public pathways have been determined with due consideration of the intended park use.

   i. Primary appurtenant structures to a public park and recreational use that either support public access or are necessary to support a water-dependent recreational use shall be allowed within the buffer when a need for the shoreline location is demonstrated, except that all structures are prohibited in Zone 1 when upland of an Priority Aquatic designation. When appurtenant structures are allowed, they must be the minimum necessary to meet the needs of the water-dependent use or public access requirements of Section 4.2.4, Public Access.

   ii. Maintenance of existing public trails is allowed, provided maintenance is limited to the existing size of the trail, any vegetation trimming is limited to four (4) feet on either side of the trail, and no significant trees are removed.

b. The total square footage of all buildings or structures must not exceed 6000 square feet or 10% of the Shoreline Buffer area, whichever is less.

c. Only 10% of the total allowed square footage or 1000 square feet, whichever is less, can be located in Zone 1.

d. All structures must be designed to not significantly impact views from adjoining property primary buildings. All structures must meet the following standards:

   i. Only water-related recreational furniture, amenities and structures are allowed in Zone 1, including but not limited to, picnic tables, benches, interpretive kiosks, viewing platforms, boardwalks, pervious trails or staircases;

   ii. Accessory recreation buildings, including restrooms, picnic pavilions and service roads that serve such structures may be allowed in Zone 2 and buildings shall not exceed 12 feet in height above existing grade;

   iii. Stairways may exceed 250 square feet, provided that it is demonstrated that a greater area is necessary to meet public access and public use demands. Stairways shall conform to the standards of the Building Code as adopted in BIMC Chapter 15.04.

   iv. Boat ramps and other boating facilities may be allowed pursuant to Boating Facilities Section 5.4.
4.1.4 Land Modification Clearing and Grading

4.1.4.1 Applicability

All shoreline uses and activities must conform to the clearing and grading provisions herein, including development which does not require a shoreline permit. (See also Section 4.1.6, Water Quality and Stormwater Management Section 4.1.6 for related provisions.)

4.1.4.2 Policies Land Surface Modification

1. Allow alteration of the natural landscape only in association with existing legal uses or new permitted or allowed shoreline use/development. Prohibit speculative clearing, grading, or vegetation removal. Clearing and grading activities should be designed and conducted to minimize impacts to water quality and wildlife habitat. Sedimentation of creeks, streams, ponds, lakes, and wetlands and resulting degradation of water quality should be avoided.

2. Avoid and minimize potential adverse impacts from land surface modification activities through proper site planning, construction timing practices, and use of erosion and drainage control methods. Generally, these activities should limit alteration of the natural landscape to the extent necessary to accommodate the proposed use, or to remove invasive vegetation, and should be designed and located to protect shoreline ecological functions and ecosystem-wide processes. Clearing and grading should be limited to the minimum necessary to accommodate permitted shoreline development.

3. Assure clearing and grading activities are consistent with the Stormwater Manual to prevent adverse impact to wildlife habitat, streams, lakes, and wetlands from erosion. Negative environmental impacts associated with clearing and grading should be avoided wherever possible through proper site planning, construction timing and practices, bank stabilization, bioengineering and/or use of erosion and drainage control methods as well as long-term maintenance.

4. For clearing and grading proposals, provide a clearing and grading plan addressing native species removal, erosion and sedimentation control, and protection of critical areas and shoreline vegetation conservation and management zones. Use low impact development techniques to minimize adverse impacts to natural hydrologic conditions, such as soil compaction and transpiration. Following project completion, remaining disturbed areas should be promptly replanted.

5. Promptly replant disturbed areas following project completion. Replanting with native shoreline vegetation should be a priority, however, flexible planting plans that incorporate non-native plant species which provide similar functions can be considered. Clearing and grading activities should be designed with the objective of maintaining native vegetation areas.

5.1 For extensive clearing and grading proposals, a clearing and grading plan addressing native species removal, erosion and sedimentation control, and protection of sensitive areas and sensitive area native vegetation zones should be required.
4.1.4.3 Regulations – Prohibited

1. All clearing and/or grading not associated with an approved development, uses, or activities, unless specifically provided for in this section, is prohibited.

2. Clearing and/or grading within shoreline jurisdiction, shall only be permitted upon approval of a detailed landscape plan for vegetation, in accordance with mitigation and revegetation requirements in Section 4.1.2, Environmental Impacts and Section 4.1.3, Vegetation Management, BIMC Chapter 18.15.

4.1.4.4 Regulations – General

1. Clearing and grading shall be permitted landward of the native vegetation zone when associated with a permitted shoreline use, provided that upon completion of construction, remaining cleared areas shall be replanted within the first applicable planting season. Replanted areas shall be fully reestablished within three (3) years of completion of construction and shall be properly maintained, established in accordance with Section 4.1.2.5, Revegetation Standards and Section 4.1.3 (Vegetation Management).

2. Except as provided for in this program, existing native vegetation between the OHWM and the top of any bank ten (10) feet or higher that is waterward of the development shall be retained.

3. All vegetation that is intended to be retained but may within the native vegetation zone or other buffer and which is likely to be disturbed by the clearing and grading activity shall be protected by a temporary fence or other marking determined by the City to adequately protect the vegetation in accordance with the standards of BIMC Chapter 15.18. This also includes root zones of trees which must remain. The temporary fencing/marking shall be installed and approved by the City before any clearing and grading begins, and maintained until construction is completed.

4. Land alteration (clearing, grading, filling) shall be limited to the minimum necessary for development. All land alteration must meet the standards of BIMC Chapter 15.20 Surface drainage systems or substantial earth modifications involving greater than five hundred (500) cubic yards of material shall be designed by a licensed engineer to prevent maintenance problems or adverse impacts to shoreline features.
4.1.5 **D. Critical Areas Environmentally Sensitive Areas**

4.1.5.1 **Applicability**

Environmentally sensitive areas are primarily regulated through the Bainbridge Island Municipal Code, Chapter 16.20, Environmentally Sensitive Areas. The provisions in the Master Program supplement those regulations and apply to all uses and activities, including those which do not require a shoreline substantial development permit.

This section provides policies and regulations that apply to critical areas including critical saltwater and freshwater habitats as defined by WAC 173-26-221(2)(c)(iii) and (iv), including those portions of streams and wetlands, and flood plans. These policies and regulations apply in addition to the critical areas protection standards for fish and wildlife habitat conservation areas found in Appendix B. All shoreline uses and activities, including development which does not require Shoreline permit, must conform to these environmental impact provisions.

4.1.5.2 **Goal**

Comprehensively manage shoreline uses and activities to protect, enhance and restore existing ecological functions and ecosystem-wide processes of critical areas by utilizing the most current, accurate, and complete scientific and technical information.

4.1.5.3 **Policies**

The adverse environmental impacts of shoreline uses and activities should be minimized during all phases of development (e.g., design, construction, and management).

1. Protect shoreline resource areas. Unique, rare, and fragile shoreline resources including, but not limited to, critical areas; aquifer recharge areas; including fish and wildlife habitat conservation areas and critical saltwater habitats; marshes, bogs, swamps, streams, and tidal lagoons.

2. Encourage development proposals to include elements of preservation, conservation, restoration, or enhancement of critical areas, including saltwater habitat and fish and wildlife conservation areas through incentives and ecosystem-wide restoration planning.

3. All shoreline uses and activities should be located, designed, constructed, and managed in ways which protect and/or do not adversely affect those natural features which are valuable, fragile, or unique assures no net loss of shoreline ecological function and ecosystem-wide processes and protects critical saltwater habitat, including fish and wildlife habitat conservation areas.

4. Locate and design shoreline uses, activities, and/or developments to avoid risks to people and property. Development should be located away from shorelines that have been identified as unstable and/or sensitive to erosion to prevent hazardous conditions and property damage as well as to protect valuable environmental features. See also Section IV 3.0 Shoreline Designation, Subsection E Conservancy Environment for additional provisions. Some areas, because of unique and/or fragile geological or biological characteristics, should be protected from public access (e.g., wetlands...
shoregrass, kelp beds, etc.).

5. Ensure that proposed shoreline uses, activities and/or developments, which are located in areas adjacent to critical area features or their buffers, will not adversely impact critical areas; including fish and wildlife habitat conservation areas and critical saltwater habitats, or ecological function and/or processes. In areas adjacent to environmentally sensitive features and their native vegetation zones, use intensities should be regulated to protect environmentally sensitive features.

6. Promote and manage shoreline uses and activities, such as public access and recreation that are compatible with critical areas, provided they do not adversely impact ecological function.

7. Monitor critical areas, including saltwater habitats, and fish and wildlife habitat conservation areas, to assure that these areas are not being adversely impacted by approved development or restoration projects.

4.1.5.4 Regulations - General

1. Development and uses proposed within shorelines of the state shall meet the requirements of the City’s shoreline-specific Critical Areas Regulations as contained in Appendix B, in addition to the requirements found elsewhere in the Master Program.

2. Special Reports. For marine bluffs, steep slopes, erosion hazard areas, and landslide hazard areas, a geotechnical report shall be required to review potential hazards and propose measures to mitigate such hazards consistent with the requirements of this Master Program and attached appendices.

4.1.5.5 Regulations - Fish and Wildlife Habitat Conservation Areas and Critical Saltwater Habitat

1. Water-dependent development and uses, including marinas, docks, piers, mooring areas, underwater parks, utility crossings, and shoreline modifications, shall not intrude into or be built over critical saltwater habitat unless the applicant can show that all of the following criteria can be met:
   a. The use preferences of Section 4.1.1 shall be utilized for uses in Shoreline of Statewide Significance;
   b. A public need for such a structure is clearly demonstrated and an alternative alignment or location on the property that would avoid impacts to critical saltwater habitats is not feasible or would result in unreasonable and disproportionate cost to accomplish the same general purpose. An alternatives analysis will be required for any non-exempt project proposed within Fish and Wildlife Habitat Conservation Areas. The analysis should include in part, shoreline bathymetry, shoreline features at the site, and substrate composition;
   c. It can be demonstrated that the project is consistent with the State’s interest in resource protection and species recovery; and

Comment [R327]: Staff. Deleted all old regulations as they do not apply to how we are referencing the CAO in Appendix B. Language is Anacortes modified 4-20-11

Comment [k328]: Moved from 4.5.10 to general regulations as it applies to more than bluff areas.

Comment [F329]: Add Wac language

Comment [F330]: Clarify this regulation to state what is intended – statewide significance or use preference or either.
d. Impacts to critical saltwater habitat functions are mitigated to result in equal or better ecological function; except

e. Private, non-commercial docks for individual residential or community use may be authorized provided that:
   i. Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible;
   ii. The project including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat

2. Except as a habitat improvement or restoration measure, aquatic herbicide treatments, mechanical removal of vegetation and aquatic pesticide treatments shall not be used on critical salt-water habitats.

3. Sand, gravel or other materials shall neither be added nor removed from critical salt-water habitats, except when part of an approved restoration effort or beach nourishment program or as allowed in 1, above.

4. New outfalls (including stormwater and sewer outfalls) and discharge pipes shall not be located in critical salt water habitats or areas where outfall or discharge will adversely affect critical salt water habitats unless the applicant can show that all of the following can be met:
   a. There is no alternative location for the outfall or pipe.
   b. The outfall or pipe is placed below the surface of the beach or bed of the water body.
   c. The discharge point(s) on the outfall or discharge pipe is located so the discharges, including nutrients in the discharge and flow currents, do not adversely affect critical salt-water habitats.
   d. For public sewage outfalls:
      i. The outfall discharges waterward of the intertidal zone
      ii. The disturbed area will be revegetated with native plants.

5. The use of existing outfalls shall be maximized to limit the need for additional outfalls provided the existing outfall meets the standards of this section or unless an alternatives analysis demonstrates that dispersal is less impacting to the shoreline environment.

6. The maximum prescribed buffer areas for activities adjacent to fish and wildlife habitat conservation areas shall apply. These buffer can be modified on a case-by-case basis through a habitat management plan to protect such habitat conservation areas, pursuant to Section B-4 contained in Appendix B. In order to determine the need or extent of a buffer, a critical area report shall be required for all development in or adjacent to a habitat conservation area.
   a. In addition to the requirements for Habitat Management Plans in Appendix B, the plan shall describe actions that will be implemented to ensure that buffer areas provide ecological functions equivalent to a dense native vegetation.
community to the extent possible given the area that is feasibly available and
demonstrating no net loss through all relevant functions and critical saltwater
habitats addressed in WAC 173-26-201(3)(d) and WAC 173-26-221(2)(c)(iii).

7. Until an inventory of critical saltwater habitat is completed, all over water and near-shore
developments shall conduct an inventory of site and adjacent beach sections to assess the
presence of critical saltwater habitats and functions, prior to construction. The methods
and extent of inventory shall be consistent with accepted research methodology. New
studies shall be required only when existing information is inadequate or outdated.

4.1.5.6 Regulations - Frequently Flooded Areas
1. All new development and new uses within the jurisdiction of this Master Program shall
comply with the provisions of Section B-1, Frequently Flooded Areas located in
Appendix B of this Master Program.

4.1.5.7 Regulations - Geologically Hazardous Areas
1. All new development and new uses within the jurisdiction of this Master Program shall
comply with regulations for Geologically Hazardous Areas are set forth in the shoreline-
specific Critical Areas Regulations contained in Section B-3 of Appendix B of this
Master Program. Note that in addition to the buffers applied therein, vegetation
preservation may be required by Section 6.0, Specific Shoreline Modification Policies
and Development Regulations.

2. Additional standards for marine bluffs (i.e., slopes greater than 40 percent that exceed a
vertical height of 10 feet within the marine shorelines jurisdiction) are provided in section
4.1.5.8 and 4.1.5.9, below.

4.1.5.8 Special Reports and Determination of Buffers
1. Applicants proposing development adjacent to a marine bluff shall submit a geotechnical
engineering report, prepared in accordance with the requirements of this Master Program
and the shoreline-specific Critical Areas Regulations contained in Appendix B, when
development is proposed either within 50 feet from the crest of a marine bluff, or within a
distance equal to the height of the slope from the crest (measured from the top),
whichever is greater.

2. The geotechnical engineering report shall be prepared by a Washington State licensed
professional civil engineer with a specialty in geotechnical engineering or an engineering
geologist with a Washington specialty license in engineering geology as specified in
RCW 18.220. The report shall be based upon the most appropriate and current science,
existing and proposed uses, risks of slope failure, and coastal erosion rates over at least
100 years, if applicable.

3. All proposed development on the face of a marine bluff or in the required buffer area
shall be prohibited, except:
a. As may be allowed in the shoreline-specific Critical Areas Regulations under Subsection B-3.5 of Appendix B of this Master Program;

b. Minor development for public access (e.g., public trails, stairs or view points), provided that environmental impacts are mitigated and the development can be shown to be safe;

c. Minor development permitted in the Shoreline Buffer and Site-specific Vegetation Management Areas, pursuant to Sections 4.1.3.8 through 4.1.3.11 such as boathouses, decks, stairs, trams, piers and docks, except at the toe of unmanaged feeder bluffs.

4. All alterations to the vegetation within a geological hazardous area shall develop a Bluff Management Plan developed by qualified professional(s) to address vegetation management for slope stability and ecological functions and processes for a ten year period. The plan at a minimum shall include

a. A geotechnical analysis of slope stability as defined in Geological Hazardous section of Appendix B.

b. A site plan showing existing vegetation location and species

c. An analysis of identified vegetation appropriate for removal or alteration

d. An analysis of vegetation management strategies for slope stability

e. A mitigation plan developed according to Section 4.1.2, Environmental Impacts and Section 4.1.3 Vegetation Management

f. The Administrator may include additional conditions for site-specific analysis and require a third party review by a qualified professional at the cost of the applicant.

4.1.5.9 Regulations - Bluff drainage

1. Surface drainage shall be directed away from marine bluffs. When no other solution is feasible, surface drainage piping may be located on the face of a steep slope when contained in a tight line (closed, non-leaking pipe) and in such a way that erosion will not be exacerbated at the base of the bluff and that physical access along the shoreline is not degraded. Furthermore, conditions may be applied to mitigate for aesthetic impacts of drainage systems as viewed from public areas.

4.1.5.10 Regulations - Wetlands

1. All development, development proposals and alterations that are located within or adjacent to shoreline jurisdictional wetlands or their buffers, or that are likely to significantly impact shoreline jurisdictional wetlands shall prepare a wetland analysis pursuant to Subsection B-4.7 in Appendix B, shoreline-specific Critical Areas Regulations, of this Master Program. The wetland analysis shall include the wetland rating (using the Washington State Wetland Rating System for Western Washington (2006) or as revised by Ecology), a functional assessment of potential buffers (based on Ecology’s best available science for wetlands), notes of any water features and other critical areas and their related buffers in the proximity of the wetland.
2. Wetlands will be delineated using the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region or the current Washington State Department of Ecology methodology. The wetland buffer for shoreline wetlands shall be established pursuant to the provisions of Subsection B-10 in Appendix B of this Master Program.

3. Alteration of wetlands and their buffers is prohibited unless:
   a. Doing so will constitute a violation of constitutional or statutory limitations on regulations of private property or
   b. The proponent can conclusively demonstrate to the satisfaction of the Administrator that impacts are unavoidable.

4. In either case, the proponent shall provide mitigation to achieve no net loss of wetland function or value, according to an approved mitigation plan prepared consistent with this Master Program, including Section B-4 of Appendix B, shoreline-specific Critical Areas Regulations.

1. When a development site includes some or all of one or more environmentally sensitive areas, or part of a native vegetation zone(s) for such area(s), the sensitive features and their native vegetation zones shall be left undisturbed and maintained as open space, except as permitted by other provisions of the Shoreline Master Program. All development shall be set back far enough to avoid damage to such features and their native vegetation zones.

2. Native vegetation zones shall be equal to those buffers established in Bainbridge Island Municipal Code, Chapter 16.20, Environmentally Sensitive Areas, as amended, except that native vegetation zones from Puget Sound shall be those established in the Master Program. (See subsection E Native Vegetation Zone in this section and Section IV, Table 4-2.)

3. Regulation 2 above, notwithstanding, native vegetation zones from those portions of Puget Sound which exhibit unique, rare and/or fragile resources (including but not limited to, tidal lagoons, mud flats, and salt marshes) may be increased under the Bainbridge Island Municipal Code, Chapter 16.20.

4. When sensitive areas and/or sensitive area native vegetation zones are disturbed, revegetation with native or other approved vegetation shall be required. (See subsection B, Clearing and Grading in this section for regulations protecting sensitive areas during construction.)

5. Fish and wildlife habitat enhancement or restoration shall be allowed when approved by appropriate resource agencies.

6. If development results in impacts to a sensitive area, in-kind and on-site replacement of resource functions shall be provided unless it is found that in-kind and on-site replacement is not feasible or practical due to the physical characteristics of the site.
and/or that a greater benefit can be demonstrated by an alternative location. In such cases, substitute resources of equal or greater ecological value shall be provided.

7. The functions of replacement areas shall be equal to or greater than those being altered. The replacement ratio will be determined on a case-by-case basis and shall be proposed in a mitigation plan developed by appropriate experts, approved by the Director and paid for by the applicant. All mitigation plans shall also be approved by resource agencies.

8. Where sensitive area replacement activities are proposed, an applicant shall permanently protect the replacement area through legal instruments such as sensitive area tracts.

Comment [R347]: Regulated through Environment designation al Impact Section

Comment [R348]: Regulated through Vegetation and conservation

Comment [R349]: Moved to Environment designation al Impacts
4.1.6 **Water Quality and Stormwater Management**

**4.1.6.1 Principles**

**Purpose**

Maintaining high water quality standards and restoring degraded systems is mandated in the Shoreline Management Act (RCW 90.58.020 or its successor). Water quality is affected in numerous ways by human activity. The increase in non-porous impervious surfaces that accompanies development increases surface water runoff, which causes scouring and erosion of streambanks. Erosion increases suspended solid levels and greater amount of stormwater carries heavy metals, household wastes, and excess nutrients into the water. Increased nutrient enrichment depresses dissolved oxygen levels. Degradation of water quality adversely impacts wildlife habitat and public health. The purpose of these provisions is to minimize water quality impacts of shoreline uses and activities. Shoreline master programs shall, as stated in RCW 90.58.020, protect against adverse impacts to the public health, to the land and its vegetation and wildlife, and to the waters of the state and their aquatic life, through implementation of the following principles:

(i) Prevent impacts to water quality and storm water quantity that would result in a net loss of shoreline ecological functions, or a significant impact to aesthetic qualities, or recreational opportunities.

(ii) Ensure mutual consistency between shoreline management provisions and other regulations that address water quality and storm water quantity, including public health, storm water, and water discharge standards. The regulations that are most protective of ecological functions shall apply.

**4.1.6.2 Applicability**

These provisions apply to all shoreline development, including that which does not require a Shoreline Substantial Development Permit. The use of pesticides, herbicides or fertilizers within the shoreline jurisdiction, including applications of herbicides to control noxious aquatic vegetation, shall comply with regulations of Section 4.1.5, Critical Areas and responsible federal and state agencies.

**4.1.6.3 Goal**

Maintaining high water quality standards and restoring degraded systems is mandated in the Shoreline Management Act (RCW 90.58.020 or its successor). The purpose of these provisions is to maintain existing water quality, restore impaired water bodies and minimize water quality impacts of shoreline uses and activities.

**4.1.6.4 Policies**

1. **Require** all shoreline uses and activities, and developments, including sewers and/or septic systems, should be located, designed, constructed, and maintained to avoid or minimize adverse impacts to water quality, and fish and wildlife resources including spawning, nesting, rearing, feeding areas, and migratory routes, quantity, or hydrology.
2. Ensure that shoreline uses, activities, and developments are consistent with the City’s Stormwater Management Plan and Stormwater Ordinances. Protect ecological functions and/or processes by avoiding and minimizing adverse impacts to water quality through Setbacks, shoreline native vegetation conservation management zones, and stormwater management zones, and stormwater management should be required to minimize negative impacts to water quality.

3. Use effective public education programs, site planning and best management practices to avoid or minimize the need for chemical fertilizers, pesticides, herbicides, fungicides that could contaminate surface or ground water or cause adverse effects on shoreline ecological functions. Surface water runoff should be treated on site, unless precluded by slope or other sensitive area conditions.

4. Encourage the use of Low Impact development techniques as water quality treatment of surface water runoff, unless precluded by soil conditions, slope or other sensitive area conditions. Dredging and filling should be conducted to minimize impacts to water quality and should be consistent with applicable agency policy (e.g. Washington State Department of Fish and Wildlife, U.S. Army Corps of Engineers).

4.1.6.5 Regulations - General
1. All shoreline development shall minimize any increase in surface runoff through control, treatment, and release of surface water runoff so that the receiving water quality, and shore properties and features are not adversely affected. Through compliance with the standards established in the City’s adopted Stormwater Management Manual in BIMC 15.20, control measures include, but are not limited to, dikes, catch basins or settling ponds, oil interceptor drains, grassy swales, planted buffers, and fugitive dust controls.

2. Shoreline use and development shall incorporate measures to protect and maintain surface and ground water quantity and quality in accordance with all applicable laws.

3. Low Impact Development techniques shall be considered and implemented consistent with the City’s adopted Low Impact Development Manual BIMC 15.20, unless the site is demonstrated to the satisfaction of the Administrator to be unsuitable for low impact development techniques.
   a. When a direct discharge pipe is demonstrated to be necessary, the conveyance shall consist of the following:
      i. A continuous heat welded High Density Polyethylene (HDPE) pipe; and
      ii. Anchors to keep the pipe stationary and set off of bank; and
      iii. A energy dissipation pad or water dissipater installed at the end of the pipe. The dissipation pad shall extend the minimum distance necessary to protect the beach substrate.

4. All proposals for bulk storage of oil, fuel, chemicals, or hazardous materials, on either a temporary or a permanent basis, when appropriate shall require adequate secondary containment and an emergency spill response plan in place. It shall be the responsibility of property owners to fund and implement the approved spill containment and cleanup plans.
and to complete the work by the deadline established in the plans according to BIMC 15.26.

5. **Allowances to alter** stormwater management standards of BIMC 15.20 may be approved by the City, provided it can be demonstrated that off-site facilities would provide better treatment, or where common retention, detention and/or water quality facilities meeting such standards have been approved as part of a comprehensive regional stormwater management plan.

6. Best management practices (BMPs) for control of erosion and sedimentation shall be implemented for all development in shorelines through an approved Stormwater Pollution Prevention Plan (SWPPP) as required by BIMC 15.20 or administrative conditions.

7. Where feasible, septic fields To avoid water quality degradation by malfunctioning or failing septic systems located within shoreline jurisdiction, on-site sewage systems shall be located on the landward side of any new residence or business if determined to be infeasible or in a location approved by the Administrator and designed to meet all applicable water quality, utility, and health standards. The owner must be in compliance with the Kitsap Health District, and any state and federal laws.

8. New residences or businesses on the shoreline within two hundred (200) feet of an existing sewer line and/or within an established sewer service area shall be connected to the sewer system.

9. All shoreline development shall comply with the applicable requirements of the Stormwater Management Manual for Western Washington (Washington Department of Ecology publications #05-10-029 through 05-10-033) the Puget Sound Basin (Washington State Department of Ecology publication #91-75) as amended by the City’s Engineering Design and Development Standards BIMC 15.20 Stormwater Management Manual.

10. All materials that may come in contact with water shall be constructed of materials, such as untreated wood, concrete, approved plastic composites or steel, that will not adversely affect water quality or aquatic plants or animals. Materials used for decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote, copper chromium arsenic (CCA) or pentachlorophenol (PCP) is prohibited in or above shoreline water bodies, except where allowed in section (Section 6.3, Overwater Structures).

11. As a condition of approval of a permit issued in accordance with this Master Program, the Administrator may apply the following conditions to protect water quality: Shoreline uses and activities shall apply Best Management Practices (BMPs) to minimize any increase in surface runoff and to control, treat and release surface water runoff so that receiving properties, receiving waters, wetlands or streams, and are not adversely affected, consistent with the City’s adopted Stormwater Management Manual. All types of BMPs shall be regularly maintained to continue to function as intended, according to the BIMC 15.21. Such measures may include, but are not limited to:
a. Vegetated shoreline buffers and setbacks; and
b. Low Impact Development techniques for infiltration (rain gardens, pervious surfaces); or
c. Methods described in the City adopted Stormwater Manual;
d. The release of oil, chemicals (including pesticides and herbicides), fertilizer or hazardous materials, and others listed in BIMC 15.26, onto land or into the water is prohibited within the shoreline jurisdiction.
e. Equipment for the transportation, storage, handling, or application of such materials shall be maintained in a safe and leak-proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.

12. Use of pesticides is prohibited within the shoreline buffer and site-specific vegetation management areas, except as follows: All shoreline developments and activities shall comply with the following standards in the application of pesticides, herbicides, or fertilizers:
   a. As part of an integrated pest management plan which is administered by a qualified professional to control rodents.
   b. When it is the accepted practice to successfully eradicate aquatic or upland invasive/noxious vegetation species and Department of Ecology has approved a method of application.

13. The use of fertilizer is allowed within the shoreline buffer and site-specific vegetation management area when measures are taken to protect waters of the state:
   a. Minimize or prevent the runoff of chemical laden waters into adjacent water bodies.
   b. The direct runoff of chemical laden waters into adjacent water bodies is prohibited.

1. The location, design, construction, and management of all shoreline uses and activities shall protect the quality and quantity of surface and ground water adjacent to the site and shall adhere to the guidelines, policies, standards, and regulations of applicable water quality management programs and regulatory agencies.
2. Solid waste, liquid waste, and untreated effluent (i.e., discharge from a source containing pollutants) shall not be allowed to enter any water bodies or to be discharged onto land. If there is evidence of discharge, the activity shall be suspended until the deficiency has been satisfactorily corrected.
3. The release of oil, chemicals, or other hazardous materials onto or into the water is prohibited. Equipment for the transportation, storage, handling, or application of such materials shall be maintained in a safe and leak-proof condition. If there is evidence of...
4. All shoreline uses and activities shall utilize effective measures to minimize any increase in surface water runoff and to control, treat, and release surface water runoff so that receiving waters quality and shore properties and features are not adversely affected. Such measures may include, but are not limited to, dikes, catch basins, or settling ponds, installation and required maintenance of oil/water separators, grassy swales, interceptor drains, and landscaped buffers.
4.1.7 F. Flood Hazard and Stormwater Management

4.1.7.1 Applicability

These provisions apply to primary flood hazard and stormwater management projects or programs. They also apply to construction, maintenance, repair, modification and/or expansion of flood hazard management systems. Provisions applicable to individual properties are in Section 6.0, Shoreline Modification Policies and Regulations. Some provisions in Section 4.0, General Policies and Regulations, may also apply.

4.1.7.2 Policies

1. Base flood hazard management planning on applicable watershed management plans, critical area ordinances, and other comprehensive planning efforts should be undertaken in a coordinated manner. Coordinate flood hazard management among affected property owners and public agencies and consider the system-wide impacts of individual projects and cumulative impacts of many individual projects, and ensure that flood hazard protection measures do not result in a net loss of ecological function.

2. Removal of gravel for flood control should be allowed only if a biological and geomorphological study demonstrates a long-term benefit to flood hazard reduction and no net loss of ecological function. Removal must be part of a comprehensive flood management solution.

3. Flood hazard management works should be located, designed, constructed, and maintained to provide:
   a. Protection of the physical integrity of the shore process corridor and other properties which may be damaged by interruptions of the geo-hydraulic system;
   b. Protection of water quality and natural ground water movement;
   c. Protection of fish, vegetation and other life forms and their habitat vital to the aquatic food chain; and
   d. Protection of recreation resources and aesthetic values such as point and channel bars, islands, and other shore features and scenery.

4. Preference is given to non-structural methods over structural flood control methods and should be used wherever possible feasible, including prohibiting or limiting development in historically flood prone areas, regulating structural design, and limiting increases in peak-flow runoff from new upland development. Structural solutions to reduce shoreline damage should be allowed only after it is demonstrated that nonstructural solutions would not sufficiently reduce the damage.

4. In design of publicly financed or subsidized works, consideration should be given to providing public pedestrian access to the shoreline for low intensity outdoor recreation.
4.1.7.3 Regulations - General

1. Flood hazard management shall be a conditional use in the Shoreline Residential Conservancy, Island Conservancy, Rural, Semi-rural Shoreline Residential, Urban and Aquatic environment designations and prohibited in the Natural and Priority Aquatic Conservancy designations environment designation.

2. The City shall require the applicant to provide the following information during its review of shoreline flood management projects and programs.
   a. Channel hydraulics and floodway characteristics up and downstream from the project area;
   b. Existing shoreline stabilization and flood protection works within the area;
   c. Physical, geological and soil characteristics of the area;
   d. A biological resource inventory and analysis prepared by a qualified professional biologist that describes the anticipated effects of the project on fish and wildlife resources.
   e. A hydraulic analysis prepared by a licensed professional engineer that describes anticipated effects of the project on hydraulics including:
      i. Potential increases in base flood elevation; and
      ii. Geo-hydraulic processes leading to erosion or adverse effects to shoreline resources and uses; and
      iii. Potential for redirection of the normal flow of the affected stream.
      iv. Predicted impact upon area shore and hydraulic processes, adjacent properties, and shoreline and water uses; and
      v. Analysis of alternative flood protection measures, both structural and nonstructural; and
      vi. An analysis of the flood frequency, duration and severity and expected health and safety risks as a rationale and justification for the proposed structure; and
      vii. Proposed provisions for accommodating public access to and along the affected shoreline, as well as any proposed on-site recreational features; and
      viii. A description of any proposed plans to remove vegetation and re-vegetate the site following construction.

3. Conditions of the Hydraulic Project Approval issued by Washington State Department of Fish and Wildlife may be incorporated into permits issued for flood protection.

4. The City shall require engineered design of flood protection works where such projects may cause interference with normal geo-hydraulic processes leading to erosion or adverse effects to shoreline resources and uses.
3. The City shall require flood control structures to be professionally engineered and designed prior to final approval. The design shall be consistent with the Department of Fish and Wildlife Aquatic Habitat Guidelines and other applicable guidance and regulatory requirements.

4. Flood control structures shall be permitted only when there is credible engineering and scientific evidence that:
   a. They are necessary to protect existing, lawfully established development; and
   b. They are consistent with BIMC 15.16, Flood Ordinance and the City Comprehensive Plan; and
   c. Non-structural flood hazard reduction measures are infeasible; and
   d. Proposed measures are consistent with an adopted comprehensive flood hazard management plan if available.

5. When permitted, flood control structures shall be:
   a. Constructed and maintained in a manner that does not degrade the quality of affected waters or the habitat value associated with the in stream and riparian area; and
   b. Placed landward of the OHWM except for weirs, current deflectors and similar structures whose primary purpose is to protect public bridges and roads; and
   c. Placed landward of associated wetlands and designated habitat conservation areas, except for structures whose primary purpose is to improve ecological functions; and
   d. Designed based on engineering and scientific analyses that provide the highest degree of protection to shoreline ecological functions or processes; and
   e. Designed to allow for normal ground water movement and surface runoff. Natural in-stream features such as snags, uprooted trees, or stumps should be left in place unless they are actually causing bank erosion or higher flood stages; and
   f. Designed to allow streams to maintain point bars and associated aquatic habitat through normal accretion so that the stream can maintain normal meander progression and maintain most of its natural storage capacity.

6. No flood control structure shall be installed or constructed without first having obtained all applicable federal, state, and local permits and approvals, including but not limited to a Hydraulic Project Approval (HPA) from the Department of Fish and Wildlife. Conditions of the Hydraulic Project Approval (HPA) issued by Washington State Department of Fish and Wildlife shall be incorporated into permits issued for flood protection.

7. Flood control works are prohibited on estuary or embayment shores, on point and channel
bars, and in salmonid spawning areas, except for the purpose of fish or wildlife habitat enhancement or restoration.

8. Flood control structures and stream channelization projects that damage fish and wildlife resources, recreation or aesthetic resources, or create high flood stages and velocities shall be prohibited.

9. Removal of beaver dams to control or limit flooding shall be allowed provided that the project proponent coordinates with the Department of Fish and Wildlife and obtains all necessary permits and approvals from the state.

10. Flood protection measures that alter, reroute, or change the shoreline may be approved as a conditional use only if it is demonstrated that other flood protection and planning measures would be insufficient. Alternative measures shall be considered including bioengineering techniques, development restrictions, shoreline setbacks, and Comprehensive Planning in the following sequence:
   a. No action
   b. Non-structural measures such as vegetation enhancement or comprehensive planning
   c. Increase building setbacks and/or relocate structures to a feasible location and/or elevate the structures
   d. Implement flexible/natural materials and methods, beach nourishment, protective berms, bioengineering solutions or other soft-treatment measures
   e. Apply development restrictions

Comment [R385]: Staff – Added language to reflect policy # 3/7/11; Jefferson County SMP
Comment [R386]: Staff – Language added to reflect policy #3. 3/7/11; Jefferson County SMP
Comment [R387]: Staff – Added local knowledge 3/7/11; Jefferson County SMP
Comment [R388]: Staff – Deleted, moved into the above list. 3/7/11
Comment [R389]: Staff – Changed for clarity. 3/7/11
Comment [R390]: Staff Recommendation, Flood projects which modify the shoreline should follow similar sequence non-structural to structural
4.1.8 Shoreline Restoration and Enhancement

4.1.8.1 Applicability

This section provides for restoration and enhancement of ecologically impaired areas with the goal of achieving a net gain in shoreline ecological functions and ecosystem-wide processes above the baseline conditions as of the adoption of this shoreline master program. Restoration and enhancement provisions apply to activities and projects proposed and conducted specifically for the purpose of establishing, restoring, or enhancing ecological functions within shoreline upland, beach and/or aquatic areas measured below the ordinary high water mark (OHWM).

4.1.8.2 Goal

Over time, create net ecosystem-wide improvement in the shoreline environment by improving impaired shoreline ecological functions and processes, which have been degraded or diminished. This will be accomplished through voluntary and incentive-based public and private programs and actions that restore and enhance shoreline areas prioritized through a restoration plan.

4.1.8.3 Policies

1. **Restoration** and enhancement actions will improve shoreline ecological functions and processes and should be designed using principles of landscape and conservation ecology. The primary goal being to restore and/or enhance physical and biological ecosystem-wide processes that create and sustain shoreline habitat structures and functions.

2. **Encourage** and facilitate cooperative shoreline restoration and enhancement programs between local, state, and federal agencies, tribes, non-profit organizations, and landowners to address shorelines with impaired ecological functions and/or processes.

3. **Target** restoration and enhancement actions to improve habitat requirements of priority species, such as Chinook and other species; and/or locally important plant, fish and wildlife species; and/or other populations or habitats for which a prioritized restoration or recovery plan is available.

4. **Integrate** restoration and enhancement with other natural resource management efforts such as Puget Sound Salmon recovery planning, West Sound Watershed planning and WRIA 15 Watershed Management planning.

5. **As feasible** include provisions for shoreline vegetation restoration, fish and wildlife habitat enhancement, and low impact development techniques in projects located within the shoreline through project mitigation and incentive-based restoration.

6. **Seek funding** from state, federal, private and other sources to implement restoration and enhancement, and provide support to restoration work, by identifying shoreline restoration priorities and organizing information on available funding sources for restoration implementation.

7. **Encourage** restoration and enhancement projects by developing project permitting and...
processing guidelines that will streamline the review of restoration-only projects.

8. **Identify and encourage the use of tax incentive programs, mitigation banking, grants, land swaps, or other programs, as they are developed, to encourage restoration and enhancement of shoreline ecological functions and to protect habitat for fish, wildlife and plants.**

9. **All shoreline restoration and enhancement projects should avoid adverse impacts to existing saltwater critical areas, fish and wildlife habitat conservation areas, water quality, and flood holding capacities.**

10. **Shoreline restoration and enhancement projects are intended to restore or enhance a shoreline in conjunction with shoreline stabilization, recreational enhancement, and aquatic habitat creation or restoration, and shall** should not be utilized to create new land area along the shoreline below the OHWM or to raise the elevation to create dry upland areas.

11. **Supplementary beach nourishment should be encouraged where existing shoreline stabilization is likely to increase impoverishment of existing beach materials at or downdrift from the project site and should be coordinated with an Island-wide shoreline restoration plan.**

12. **Shoreline stabilization should incorporate beach restoration or enhancement in accordance with the restoration provisions of this master program.**

### 4.1.8.4 Objectives

1. Encourage and facilitate cooperative restoration and enhancement programs between local, state, and federal public agencies, tribes, non-profit organizations, and landowners to address shorelines with impaired ecological functions and/or processes.

2. Restore and enhance shoreline ecological functions and processes as well as shoreline features through voluntary and incentive-based public and private programs.

3. Target restoration and enhancement towards improving habitat requirements of priority and/or locally important wildlife species.

4. Ensure restoration and enhancement is consistent with and, where practicable, prioritized based on the biological recovery goals for Chinook, bull trout populations and other species and/or populations for which a recovery plan is available.

5. Seek funding for various restoration actions and programs from local sources and by working with the Bainbridge Island Metropolitan Park and Recreation District and other jurisdictions in the Water Resource Inventory Area (WRIA) 15 and stakeholders to seek federal, state, grant and other funding opportunities.

6. Continue to develop and implement the City’s Shoreline Stewardship Program as a public education program to inform private property owners in the shoreline jurisdiction and in the remainder of the City about the effects of land management practices and other unregulated activities (such as vegetation removal, pesticide/herbicide use, car washing)
or fish and wildlife habitats.

4.1.8.5 **Regulations- Restoration**

1. Restoration activities are permitted in all designations and shall be carried out in accordance with the objectives of an approved shoreline restoration plan and in accordance with the policies and regulations of this Program.

4.1.8.6 **Beach Nourishment and Enhancement**

4.1.8.6.1 **Policies**

1. All beach enhancement projects should ensure that aquatic habitats, existing water quality levels and flood-holding capacities are maintained.
2. Beach restoration/enhancement utilizing naturally regenerating systems should be required where:
   a. The length and configuration of the beach will accommodate such systems;
   b. Such protection is a reasonable solution to the needs of the specific site;
   c. Beach restoration/enhancement will accomplish one or more of the following objectives:
      i. Recreate or enhance natural conditions.
      ii. Create or enhance natural habitat.
      iii. Mitigate erosion.
      iv. Enhance public access to the shoreline.
3. Supplementary beach nourishment should be encouraged where existing shoreline stabilization is likely to increase impoverishment of existing beach materials at or downdrift from the project site.

4.1.8.6.2 **Regulations - Prohibited**

1. Dikes, levees, jetties, groins (except drift sills for beach enhancement), gabions and breakwaters, are prohibited. Except Drift sills may be allowed for enhancement or restoration projects may be allowed.
2. Beach nourishment enhancement is prohibited, unless part of an approved mitigation plan or restoration project within spawning, nesting, or breeding habitat and/or also where littoral drift of the enhancement materials enhances shoreline functions and does not adversely affects shoreline ecological functions and shoreline ecosystem wide process or adjacent properties, adjacent spawning grounds or other areas of biological significance.

4.1.8.6.3 **Natural Beach Regulations - General**

1. **Design Alternatives.** Design alternatives shall include the best available technology such as, but not limited to:
   a. Gravel berms, drift sills, beach nourishment, and beach enhancement when appropriate.
   b. Planting with short-term mechanical assistance, when appropriate. All plantings provided shall be selected, monitored and maintained, in accordance with Section 4.1.3, Vegetation Management Conservation Section.
2. Design Criteria. Natural beach restoration or mitigation/enhancement/restoration shall not:

   a. (1) Detrimentally interrupt littoral drift, or redirect waves, current or sediments to other shorelines;

   b. (2) Result in any exposed groin-like structures, provided that small "drift-sill" groins may be used as a means of stabilizing restored sediment as part of a well-planned permitted beach restoration program;

   c. (3) Extend waterward more than the minimum amount necessary to achieve the desired stabilization;

   d. (4) Result in contours sufficiently steep to impede easy pedestrian passage, or trap drifting sediments;

   e. (5) Create additional dry land mass; and

   f. (6) Disturb significant amounts of valuable shallow water fish/wildlife habitat as determined by the Department of Fish and Wildlife, unless such habitat is immediately replaced by new habitat that is comparable or better.

3. Natural Beach Restoration Construction Standards:

   a. (1) The size and/or mix of new materials to be added to a beach shall be as similar as possible to the undisturbed beach bluff sediment, Washington Department of Fish and Wildlife approved material (i.e. “Fish mix), or smaller grain size. Material cannot be similar in grain size to clay or silt, but large enough to resist normal current, wave, or wave action at the site.

   b. (2) The restored beach shall approximate, and may slightly exceed, the natural beach width, height, bulk, or profile (but not so as to obviously create additional dry land mass).

4.1.8.6.4 Specific Regulations – Beach Enhancement

1. Beach enhancement shall be a conditional use in all environment designations and shall be undertaken only for restoration, enhancement, and maintenance of natural resources, or to enhance public access to the shoreline.

2. Beach enhancement may be permitted as a conditional use when the applicant has demonstrated that no significant change in littoral drift will result which will adversely affect adjacent properties or habitat.
4.2 General Use

4.2.1 Section III. General Use

4.2.1.1 Applicability

This section applies to shoreline uses and/or structures that were lawfully established or constructed or established prior to the effective date of the initial adoption of the Master Program (November 26, 1996) or its amendments, but which do not conform to present regulations or standards of the Master Program or the policies of the Shoreline Management Act.

4.2.1.2 Goal:

It is the purpose of this program to recognize legally established primary residential structures, and to allow them to be maintained, repaired, remodeled, replaced and in some cases expanded in conformance with these rules. Residential structures that do not conform to this program should, over time, as the owner proposes changes to the structure, conform as completely as possible to this program, with due regard to unique site conditions and property rights.

It is further the purpose of this program to ultimately, over time, have uses and commercial structures conform to the provisions of this program. Over time, uses and commercial structures that do not conform to the standards of this program should be phased out as uses cease or redevelopment of structures occurs.

Note: Existing residential structures and uses that do not conform to this program are not required to meet its requirements, unless the owner proposes changes to a structure or use that would require review under this Program.

4.2.1.3 Policies

1. Lawfully constructed commercial and industrial structures shall be allowed to be repaired, maintained, and remodeled provided that the alteration does not increase the nonconformity.

2. Lawfully constructed structures, established uses, public facilities, transportation structures, and/or lots of record located within the shoreline jurisdiction prior to the effective date of the Master Program but which do not conform to the present policies, regulations or standards, shall be allowed to continue to be repaired and maintained, and to be repaired, maintained, or remodeled, provided that the structure remains otherwise lawful.

3. Lawfully constructed residential structures may be repaired, maintained and remodeled provided the alteration meets the goals and provisions of this program.

4. Lawfully constructed residential structures may be expanded in some circumstances, provided the expansion will not result in adverse impacts to shoreline ecological functions and mitigation is provided.

5. Once discontinued, restrict the re-establishment of nonconforming uses located in the shoreline jurisdiction shall be restricted.
6. Legally established nonconforming, lawfully constructed, commercial structures that are located in the shoreline jurisdiction are to be phased out over time. Depending on the extent and intensity of the nonconformity, a primary residential structure and primary appurtenance, may be allowed certain, alteration or expansion, provided that adverse impacts to shoreline ecological functions and shoreline processes are mitigated or restored.

7. Legally established nonconforming, lawfully constructed, structures that are destroyed by fire, explosion, flood, or other casualty may be restored or replaced without increasing or expanding the nonconforming. Legally established overwater structures that are destroyed may be reconstructed to the same size, but the configuration may be altered to reduce the impact to the shoreline environment provided the size of the nonconformity is not increased. Such redevelopments may be permitted provided that impacts to shoreline functions and processes are mitigated or restored, and the reconstruction application is submitted commenced within two years of the date of the destruction.

8. Provisions for reconstruction of a damaged legally established nonconforming, lawfully constructed, residential house shall allow certain expansions of the nonconforming structure when it can be demonstrated that the expansion will not result in adverse impacts to shoreline ecological functions and shoreline processes are mitigated or restored.

9. Legally created nonconforming lots of record may be developed provided that adverse impacts to shoreline ecological functions and shoreline processes are mitigated or restored.

10. Redevelopment of nonconforming public rights-of-way and associated transportation structures may be permitted for purposes of facilitating essential public access, development of public trails and/or public shoreline access.

4.2.1.4 Regulations – General

1. Nonconforming uses, buildings, structures, and/or developments that were lawfully constructed or existed prior to the effective date of initial adoption of this Program (November 26, 1996), or its amendments, but which do not meet the specific standards of this Program, may be continued subject to the provisions of this section; provided that, shoreline modifications shall conform to Shoreline Modification Section 6.1 and Shoreline Stabilization Section 6.2, provided that they shall meet the following provisions:

2. A complete application for any reconstruction under this section must be submitted commenced within two (2) years of the date of damage or removal, and upon approval of the application, redevelopment must be completed within one (1) year of the commencement of reconstruction, provided that a written request, submitted no later than twenty-one (21) days prior to either deadline for an extension of A one (1) year extension six months, may be granted, provided that a written request is submitted no...
later than twenty-one (21) days prior to either deadline and provided that the owner is not responsible for the delay.

3. An existing use designated as a conditional use that lawfully existed prior to the adoption of the Program or the adoption of an applicable amendment hereto and which has not obtained a conditional use permit, shall be considered a legal nonconforming use and may be continued subject to the provisions of this section without obtaining a conditional use permit.

4. A structure for which a variance has been issued but which does not comply with applicable requirements of this Program as amended shall be considered a legal nonconforming structure and the requirements of this section shall apply.

5. Any permitted remodel or expansion shall not cause adverse impacts to shoreline ecological functions and/or processes.

4.2.1.5 Regulations – Nonconforming Uses

1. Nonconforming uses shall not be altered or expanded in any way that increases the nonconformity.

2. If a nonconforming use is discontinued for twelve (12) consecutive months, any subsequent use shall be conforming except that if a nonconforming use is operated within a nonconforming structure that is accidently damaged or destroyed and reconstruction is proposed under Section 4.2.1.6.1(3), then the use may be re-established within the same time period as the reconstruction for the nonconforming structure pursuant to Section 4.2.1.4(2).

3. A nonconforming use cannot be changed to another nonconforming use.

4. Change of ownership, tenancy, or management of a nonconforming use shall not affect its nonconforming status, provided that all provisions above are met.

4.2.1.6 Regulations – Nonconforming Structures

4.2.1.6.1 General Provisions - Nonconforming Structures

1. Nonconforming structures shall not be altered or expanded except as provided in this section, or through a variance, or if being brought into conformance with this Program and the Shoreline Management Act.

2. Nonconforming structures may be maintained, repaired, renovated, or remodeled to the extent that nonconformance with the standards and regulations of this Program is not increased, except as otherwise provided in this section or the structure is brought into conformance with this Program; except that as a conditional use, a nonconforming dock may be modified, reoriented or altered within the same general location to be more consistent with the provisions of this Program.

3. If an existing primary nonconforming structure is damaged or destroyed by fire, explosion, earthquake, flooding or other casualty, it may be reconstructed to the configuration of the footprint existing immediately prior to the catastrophic event, including building height and footprint of the structure, provided the use is conforming or
meets the provisions of Section 4.2.1.4 and 4.2.1.5, above,

a. This provision shall not apply to structures that are destroyed due to a criminal act initiated by the property owner, and
b. The replacement structure shall not warrant new shoreline armoring for the life of the new structure; and

c. The remodel or expansion shall not cause additional adverse impacts to shoreline ecological functions and/or processes.

4.2.1.6.2 Nonconforming Structures – Commercial and Industrial (Primary and Accessory)

1. Nonconforming commercial structures shall not be altered or expanded in any way that increases the nonconformity without first obtaining a variance.

2. Nonconforming commercial structures and buildings destroyed by fire, explosion, earthquake, flooding, or other casualty, may be reconstructed to the configuration existing prior to the catastrophic event, including building height and footprint of the structure.

i. This provision shall not apply to structures that are destroyed due to a criminal act initiated by the property owner.

3. The replacement structure shall not warrant new shoreline armoring for the life of the new structure.

2.4. Reconstruction of commercial structures and buildings intentionally demolished or destroyed in any other manner than described in Section 4.2.6.1 subsection b, shall be in conformance with all standards of the Program.

4.2.1.6.3 Nonconforming Structures - Residential Single Family: Primary Structure.

1. If a nonconforming primary residential structure is damaged or destroyed as described in Section 4.2.1.6.3, the nonconforming primary residential structure configuration may be altered or expanded pursuant to subsections 4.2.1.6.3(2-5), by fire, explosion, earthquake, flooding, or other casualty, it may be reconstructed to the configuration existing immediately prior to the catastrophic event, including building height and footprint of the structure.

a. This provision shall not apply to structures that are destroyed due to a criminal act initiated by the property owner; and

b. The replacement structure shall not warrant new shoreline armoring for the life of the new structure; and


c. The remodel or expansion shall not cause additional adverse impacts to shoreline ecological functions and/or processes.

d. The nonconforming primary residential structure building configuration may be altered or expanded, pursuant to Sections 4.2.1.6.3(2-5), below.

2. If a portion or all of a nonconforming primary residential structure is intentionally demolished, it may be reconstructed under the following conditions.
a. A nonconforming primary residential structure may be reconstructed to the same configuration of the footprint existing immediately prior to the demolition, including building height and footprint of the structure, provided that any new impacts are mitigation pursuant to Section 4.1.2, Environmental Impacts are met, including the mitigation of the shoreline buffer as detailed in Section 4.1.2.5(2).

b. A nonconforming primary residential structure may be reconstructed and the building configuration may be altered or expanded, including the footprint and/or the height increased, to the extent allowed by this Program, provided:

i. The enlargement or expansion of the building configuration, including any new impervious surfaces located within the Shoreline Buffer, shall in no case exceed 25% of the original building footprint; the expansion shall be located landward of the existing or original building footprint; and any vertical expansion must meet height requirements of this Program and be located within the existing building footprint; and

ii. Any vertical expansion must meet height requirements of this Program and be located within the existing building footprint; and

iii. Existing demolished foundation and/or impervious surfaces located within the Shoreline Buffer shall be removed; and

iv. Mitigation of the shoreline buffer is provided in accordance with Section 4.1.2, Environmental Impacts; and

v. The remodel or expansion shall not cause adverse impacts to shoreline ecological functions and/or processes; and

vi. All other applicable standards and provisions are met, including regulations of this Program, the Bainbridge Island Municipal Code, the septic system requirements of the Kitsap Health District, and any state and federal laws.

3. iii. Permitted expansion of a nonconforming structure shall not substantially impact the existing views of the water from primary waterfront residences or public rights-of-way to any greater degree than a fully conforming structure.

4. iv. Increases in structure footprint outside of the Shoreline Buffer shall be allowed, even if all or a portion of the previously approved nonconforming footprint is within the Shoreline Buffer. In such case, the addition or enlargement shall be treated as a separate building or structure in determining conformity to all of the requirements of this Program.

5. v. To the extent feasible based on available land area, the vegetation requirements of Sections 4.1.3.5 and 4.1.3.6 and Sections 4.1.2, Environmental Impacts must conform as much as is feasible, based on available land area, shall apply for the following situations:

a. (1) The proposal includes an increase of at least 10 percent in gross floor area of any nonconforming structure located in the shoreline jurisdiction, excluding detached dwelling unit and public park uses; or

b. (2) The proposal includes an alteration to any nonconforming structure(s) in shorelines jurisdiction, the cost of which exceeds 50 percent of the replacement cost of all structures on the subject property.
4.2.1.6.4 **Nonconforming Structures – Multifamily Residential: Primary Structure**

1. If a nonconforming primary multifamily residential structure is damaged or destroyed by fire, explosion, earthquake, flooding or other casualty, it may be reconstructed to the configuration existing immediately prior to the catastrophic event, including building height and footprint of the structure:
   a. This provision shall not apply to structures that are destroyed due to a criminal act involving the property owner; and
   b. The replacement structure shall not warrant new shoreline armoring for the life of the new structure; and
   c. The reconstruction shall not cause adverse impacts to shoreline ecological functions and processes;
   d. The building configuration may be altered or expanded, including the footprint and/or the height increased, to the extent allowed by this Program, pursuant to Sections 4.2.1.6.3(2)

2. If a portion or all of a nonconforming primary multifamily residential structure is intentionally demolished, it may be reconstructed altered, or expanded, including the footprint and/or the height increased, to the extent allowed by this Program, and under the following conditions: 
   a. A nonconforming primary residential structure may be reconstructed to the same configuration as existed prior to the demolition or altered and expanded to the extent allowed by this Program, including building height and footprint of the structure, if public access and mitigation of the shoreline buffer is provided to meet no net loss, as detailed in Section 4.1.2. Environmental Impacts, including revegetation standards of Section 4.1.2.5(3).

4.2.1.6.5 **Nonconforming Structures - Residential: Accessory Structures**

1. If a nonconforming residential accessory structure is damaged, destroyed or intentionally demolished, the reconstruction shall be in conformance with all standards of the Program except as provided in subsection 3, below.

2. Expansion of nonconforming residential accessory structures is prohibited unless a variance is obtained and such structures shall not be altered or expanded in any way that increases the nonconformity, without first obtaining a variance, except as provided in subsection 23, below.

3. Essential Single Family Residential Accessory Structures. If a nonconforming accessory structure that is essential to a single family residential development is damaged or destroyed by natural causes or casualty, or purposely destroyed or demolished, it may be reconstructed to the same size, location or configuration if mitigation of the shoreline buffer is provided as detailed in Section 4.1.2.5. Revegetation Standards it must be reconstructed must be in conformance with this on Program, unless a variance is obtained.
4. If accessory structures are located within the shoreline buffer, these existing nonconforming structures must be brought into conformance if the applicant is making an alteration, such as reconstruction or expansion, to the primary structure, which exceeds 50% of the footprint of the primary structure.

4.2.1.7 Regulations – Nonconforming Lots

1. New single family development on any legal nonconforming lot located in shoreline jurisdiction, which is not subject to landslide hazard areas, may be allowed to develop without a shoreline variance when all of the following criteria are met:
   a. Nonconforming lots with a building area of 2,500 square feet or more available for a single family residence and normal appurtenances and unrestricted by buffers from shorelines or critical areas shall comply with the provisions of this Program. The building area means the entire area that will be disturbed to construct the home, normal appurtenances (except drainfields), and landscaping; and
   b. Nonconforming lots that do not meet the requirement of subsection 1.a above shall provide the maximum buffer dimension feasible while providing for a building area of not more than 2,500 square feet on the portion of the lot farthest from the required Shoreline Buffer; provided that consideration shall be given to view impacts. All single family residences approved under this section shall not extend waterward of the shoreline structure view setback as measured in accordance with Section 4.1.3.6.7; and
   c. The area between the structure and the shoreline and/or critical area shall comply with the revegetation standards of 4.1.2.5(3), the vegetation conservation standards of Section 4.1.3, Vegetation Management, and provisions of Section 4.1.5, Critical Areas, and Appendix B; and
   d. Development may not take place waterward of the ordinary high water mark; and
   e. Facilities such as a conventional drainfield system may be allowed outside of the building area specified above, and allowed within buffer areas, except wetlands buffers, and not Such facilities shall not be located closer than 75ft to OHWM; provided that the drainfields and shall be subject to regulations of Section 4.1.5, Critical Areas.

4.2.1.8 Regulations – Nonconforming Public Facilities & Transportation

1. Nonconforming public facilities shall be allowed to continue and to be repaired, maintained, or remodeled.

2. Redevelopment of nonconforming public rights-of-way and associated transportation structures are allowed for purposes of facilitating essential public access, development of public trails, and/or public shoreline access, provided that such redevelopment shall be otherwise consistent with the provisions of this Program, including but not limited to the provisions for public access and no net loss of shoreline ecological functions and
4.2.1.9 Nonconforming Aquatic Structures – Residential and Commercial: Accessory Aquatic Structures

1. Nonconforming docks and floats may be repaired and replaced and shall comply with this Program’s requirements for materials and standards, to the extent practicable.

2. Except for docks and floats, all replacement of more than 50% of the footprint of any nonconforming aquatic structures, including shoreline modifications, or buildings or portions thereof within the Aquatic or Priority Aquatic designations shall only be done once within any five year period. Such replacements shall comply with this Program’s requirements for materials and standards except setbacks as much as reasonably to the extent practicable possible. If the structure is composed of several components, then the 50% shall be calculated independently for each component. The 50% provision shall only be used once within any five (5) year period.

3. If the normal repair of a structure would be replacement, such as a float or pile, then it shall comply with this Program’s requirements for materials and to the extent practicable.

4.2.2 A. Archaeological and Historic Resources

4.2.2.1 Applicability

The following provisions apply to archaeological and historic resources that are either recorded at the State Historic Preservation Office, affected Indian Tribes and/or by local jurisdictions or have been inadvertently uncovered. Archaeological sites located both in and outside shoreline jurisdiction are subject to chapter 27.44 RCW (Indian graves and records) and chapter 27.53 RCW (Archaeological sites and records) and development or uses that may impact such sites shall comply with chapter 25-48 WAC as well as the provisions of this chapter.

Where archaeological prehistoric or historical resources are either recorded at the State Historic Preservation Office and/or with the City of Bainbridge Island, or where they have been uncovered, the following policies and regulations apply.

4.2.2.2 Policies

1. Consider adverse impacts to a Archaeological prehistoric and historic resources, because of their limited and irreplaceable nature as are valuable links to our past and should be considered whenever a development is proposed along the State’s shorelines.

2. Due to the limited and irreplaceable nature of the resource(s), prevent the destruction of or
damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Indian tribes, and the Office of Archaeology and Historic Preservation.

2. Ensure public or private uses and activities are compatible with any site having historic, prehistoric, cultural, scientific or educational purposes or value as identified by the appropriate authorities.

3. Develop guidelines to direct private and public development with regard to historic structures and areas. Require on-site interpretive signs, plaques, or other interpretive and educational measures when a project impacts or retains cultural resources, unless prohibited by law.

4. Coordinate with the Metropolitan Park District to ensure Comprehensive Plan’s consistency with cultural resource management policies.

4.2.2.3 Regulations – General

1. New or expanded shoreline use and development, including preferred uses shoreline restoration and uses exempt from permit requirements, shall:
   a. Preserve and protect historic, archaeological and cultural resources that are recorded by the Washington State Department of Archaeology and Historic Preservation, local registry and resources that are inadvertently discovered during use or development activities; and
   b. Consult the City, the Washington State Department of Archaeology and Historic Preservation, and affected tribes prior to beginning development so there is ample time to assess the site and make arrangements to preserve historical, cultural and archaeological resources; and
   c. Comply with all state and federal regulations pertaining to archaeological sites.

2. Significant archaeological and historic resources shall be permanently preserved for scientific study, education, and public observation. Employ all feasible means to ensure that data, structures, and sites having historical, archaeological, cultural, scientific, or educational significance are preserved, extracted, or used in a manner commensurate with their importance. The City may postpone development a maximum of 90 days to allow:
   a. Development of a Cultural Resource Management Plan and/or retrieval and preservation of significant artifacts and/or development of a cultural resource management plan.
   b. Investigation of public acquisition potential, including:
      i. Consult with Historical Preservation Commission on grant opportunities; and
      ii. Inform City Council of opportunities

3. When determining potential impacts to cultural resources the project area shall be limited to proposed development use pattern including associated areas such as paths, equipment
storage, and appurtenances.

4. **Archaeological excavations may be permitted subject to the provisions of this program.**

#### 4.2.2.4 Regulations - Procedure

1. **When** reviewing a permit the City will use the following methods to determine probability of cultural resources occurrence:
   a. Predictive models
   b. Local and State Inventory
   c. Registries:
      i. National Register of Historic Places
      ii. Washington Heritage Register
      iii. Heritage Barn Register

2. **Permits** or statements of exemptions issued in areas known to or have a significant probability to contain archaeological, historical or cultural artifacts and data the City shall:
   a. Notify Washington State Department of Archaeology and Historic Preservation, and affected tribes of the proposed activity including timing, location, scope, and resources affected; and
   b. **Requirement** that the developer provide for a Cultural Resource Site Assessment and inspection and evaluation by an archaeologist;
   c. Prior to site development activities require applicants to identify areas and fence off identified areas of known or suspected archaeological middens and areas of cultural or historical significance shall not be disturbed and shall be fenced and identified during construction projects on the site according to the Cultural Resource Management Plan.

3. If a Cultural Resource Assessment identifies significant archaeological or historical resources the applicant shall be required to submit a Cultural Resource Management Plan (CRMP) the plan shall include:
   a. An analysis of actions to be taken by the property owner, developer, archaeologist, or historic preservation professional, in the event that an inadvertent discovery of historic, archaeological, or cultural sites or artifacts occurs during site development; and
   b. An explanation of why the proposed activity requires a location on, or access across and/or through, a significant historic or archaeological resource; and
   c. A description of the historic/archaeological resources affected by the proposal; and
d. An assessment of the historic/archaeological resource and an analysis of the potential adverse impacts as a result of the activity; and

e. Recommended measures to prevent adverse impacts; and comments from the City, Washington State Department of Archaeology and Historic Preservation, and affected tribes;

f. Recommended measures for mitigation;

g. Address the need for interpretive signs, plaques, or other interpretable educational measures of historical and archaeological features shall be provided, except when location of cultural resources are protected by state or federal laws (see Applicability for laws governing Archaeological sites) appropriate.

4. If any archaeological resource is inadvertently uncovered during any new shoreline use or development, all shoreline permits shall contain provisions which require developers, the proponent/applicant(s) is required to immediately stop work and comply with the following:

a. Notify the City, affected Indian tribes and the State Office of Archaeology and Historic Preservation; if any phenomena of possible archaeological resource interest is uncovered during excavation.

b. In such cases, the developer shall be required to provide for a cultural resource site assessment; site inspection and evaluation by a professional archaeologist.

c. Prepare a CRMP if site is determined to be significant by the City to ensure that all possible valuable archaeological data is properly salvaged. Costs for Cultural Resource Site Assessment and Cultural Resource Management Plan are the responsibility of the applicant.

d. The developer proponent/applicant(s) shall receive permission from the State Office of Archaeology and Historic Preservation and the City prior to further disturbance of the site (RCW 27.53.060 or its successor).

5. Identified historical or archaeological resources shall be considered for during project site planning in for all park, open space, public access, and site planning projects with access to such areas, Projects shall be designed and managed to give maximum protection to the retained cultural resources and surrounding environment.

6. In the event that unforeseen factors constituting an emergency, as defined in RCW 90.58.030 or its successor, necessitate rapid action to retrieve or preserve artifacts or data identified above, the project may be exempted from any shoreline permit requirements. The City shall notify the Washington State Department of Ecology, the State Attorney General's Office, and the State Historic Preservation Office of such a waiver in a timely manner.
4.2.2.5 Submittal Requirements

1. When required pursuant to this section, the following shall be submitted prior to issuance of building or other development permits, or statements of exemptions:
   a. Cultural resource site assessment identifying the presence of significant historic or archaeological resources; and

2. Site assessments and CRMPs required by this section shall be prepared by a qualified professional archaeologist or historic preservation professional, as applicable. The landowner or project applicant shall be responsible for any professional service fees.

3. The Administrator may reject or request revision of the conclusions reached in a CRMP when she/he can demonstrate that the assessment is inaccurate or which does not address the management concerns involved.

Regulations

1. Permits issued in areas known to contain archaeological artifacts and data shall include a requirement that the developer provide for a site inspection and evaluation by an archaeologist. The permit shall require approval by the City before work can begin on a project following inspection. Significant archaeological data or artifacts shall be recovered before work begins.

2. Significant archaeological and historic resources shall be permanently preserved for scientific study, education, and public observation. When the City determines that a site has significant archaeological, natural scientific or historical value, a substantial development permit which would pose a threat to the resources of the site shall not be issued. The City may require that development be postponed in such areas to allow investigation of public acquisition potential, retrieval and preservation of significant artifacts, and/or development of a mitigation plan.

5. Archaeological sites, including middens, located both in and outside the shoreline jurisdiction are subject to RCW 27.44 (Indian Graves and Records) or its successor and RCW 27.53 (Archaeological Sites and Records) or its successor and shall comply with WAC 25-48 or its successor as well as the provisions of the Program.

9. Areas of known or suspected archaeological middens shall not be disturbed and shall be fenced and identified during construction projects on the site.
4.2.3 **Parking**

**4.2.3.1 Applicability**

The following provisions apply only to parking that is accessory to a permitted shoreline use. Parking as a primary use is prohibited within the shoreline jurisdiction. Additional parking regulations in the BIMC Chapter 18, Zoning, may apply.

**4.2.3.2 Policies**

1. Parking should directly serve a shoreline use and be sensitive to adjacent shorelines and properties. Encourage accessible parking for road ends. Limit accessory motorized parking within the shoreline jurisdiction, except for ADA parking services. Encourage parking facilities for non-motorized transportation.

2. Parking facilities should be located, designed, constructed, and operated to minimize adverse impacts to water quality, aesthetics, public access, vegetation and habitat, stormwater runoff, noise, and glare. Low impact development techniques, such as permeable surfaces and/or rain gardens (bio-retention cells), should be required of all parking, including single family residences where suitable site conditions exist.

3. Design and locate parking to serve more than one use (e.g., recreational use on weekends, commercial uses on weekdays). Parking should be planned to achieve optimum use. Where possible, parking should serve more than one use (e.g., recreational use on weekends, commercial uses on weekdays).

**4.2.3.3 Regulations - Prohibited Uses**

1. Parking shall be prohibited over water except at the publicly-owned ferry terminal in the Urban environment designation.

2. Parking as a principal use (i.e., not accessory to an authorized use) is prohibited, except when provided as part of a public road end or scenic vista.

**4.2.3.4 Regulations - General**

1. Parking in the shoreline jurisdiction shall directly serve a shoreline use except and is a conditional use in the Natural designation.

2. Parking in the shoreline jurisdiction shall directly serve a shoreline use.

3. Parking for specific land use activities within the shoreline jurisdiction is subject to the requirements and standards set forth in the BIMC, 18.15.020, in addition to the specific use regulations of this section.

4. Parking shall be prohibited over water except at the publicly-owned ferry terminal in the Urban environment designation.

5. Parking in the shoreline jurisdiction shall directly serve a shoreline use and is a conditional use in the Natural designation.

6. Parking areas shall serve multiple facilities unless shown to the satisfaction of the Bainbridge Island Shoreline Master Program—PC Recommendation April 12, 2012
Administrator not to be feasible.

4.2.3.5 Regulations - Location and Design

Parking shall comply with the following design standards as applicable (e.g., item 1 would not apply to over-water ferry terminal parking):

1. Parking facilities shall be located upland of the water oriented portions of the development, where feasible, landward of the principal buildings unless contained within a permitted structure, and set back from the OHWM as established in Section 4.0, Table 4-2, Shoreline Setback.

2. The design and construction for single family residential parking and parking facilities shall assure that surface water runoff will not pollute adjacent waters or cause soil or beach erosion, and shall meet the standards of Section 4.1.6, Water Quality and Stormwater Management. Oil separators and detention facilities shall be required for new parking facilities. Alternatives to conventional storm water treatment, such as use of pervious materials, shall be considered where appropriate in order to minimize impacts due to runoff and/or the need for storm water treatment.

3. Security lighting associated with parking facilities shall be beamed, hooded, or directed so as to not cause nuisance glare.

4. Parking facilities shall be separated from residential, recreation, and natural areas (e.g., the shoreline) by landscaping and/or screening in accordance with the landscaping requirements of the BIMC, Title 18).

5. Parking facilities shall be designed and landscaped to minimize adverse impacts to adjacent shorelines and properties. Landscaping shall consist of native vegetation or species contained in an approved plant list or landscape plan and shall be designed and installed pursuant to BIMC 18.15.010 (F). Parking Lot Landscaping to and shall provide effective and appropriate screening within three (3) years of planting. Plantings shall be maintained for the life of the parking facility. The requirement for screening may be waived or modified by the Shoreline Administrator, where screening would impact shoreline views from public property or public roadway or to address public safety concerns. Landscape areas shall not be used for the storage of materials or parking of automobiles, or recreational or other vehicles.

6. Parking facilities serving individual buildings on the shoreline shall be located landward from the principal building being served, except when the parking facility is within or beneath the structure and screened, or in cases when an alternate orientation would have less adverse impact on the shoreline.

7. Parking facilities shall provide safe and convenient pedestrian circulation within the parking area, and to the shoreline and building entrances. Pedestrian connections must be at least five (5) feet wide and shall either be a raised sidewalk or composed of a different material than the parking lot material. Parking facilities shall meet ADA standards.
7. Surface parking areas shall be developed using low impact development techniques whenever possible including but not limited to the use of permeable surfacing materials.

8. Parking facilities contained in buildings that face a public pedestrian walkway, public use area, or public park must incorporate vegetation and/or building surface treatment to mitigate the visual impacts of the structured parking.

Parking areas shall include facilities to control quantity and quality of surface water runoff to natural water bodies, using best management practices to retain natural flow rates. A maintenance program to assure proper functioning of such facilities over time shall be required.

4.2.3.6 Regulations – Use Specific Parking and Circulation

1. See Table 4-1, Shoreline Use and Table 4-2, Shoreline Setback Section V. Shoreline Use Policies and Regulations for restrictions related to specific uses and the following regulations:

4.2.3.7 Specific Regulations - Boating Facilities Parking

1. Short-term loading areas may be located at ramps or near berthing areas. Long-term parking that is greater than 24 hours, and long-term paved storage areas shall be separated from the OHWM by a vegetated native vegetation zone of at least one-hundred (100) fifty (50) feet, unless demonstrated to the satisfaction of the Administrator to not be feasible.

2. To the maximum extent possible, marinas and accessory uses shall share parking facilities, with marina usage given preference.

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

<table>
<thead>
<tr>
<th>Slips</th>
<th>Vehicle Space</th>
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<tbody>
<tr>
<td>First 50</td>
<td>1 per 2 slips</td>
</tr>
<tr>
<td>Slips 51 to 100</td>
<td>1 per 3 slips</td>
</tr>
<tr>
<td>Slips over 100</td>
<td>1 per 4 slips</td>
</tr>
</tbody>
</table>

4. An additional parking space shall be provided as follows:

a. An additional space for every four hundred (400) square feet of interior floor space devoted to accessory retail sales or services.

b. Where live-aboards are permitted, additional parking shall be provided at a rate of 1 vehicle per live-aboard vessel or houseboat allowed, except open water moorage and anchorage/moorage area should follow (c) and (d) below.

c. Parking facilities for open water moorage and anchorage areas shall be provided as follows: Live-aboard tenants of open water moorage and anchorage areas shall provide either

i. Evidence of access to one legal vehicle parking space per anchorage/moorage space for the duration of the anchorage/moorage period; or

ii. An affidavit stating that no vehicle is owned or used by the tenant.
d. Two load/unload parking spaces shall be provided for transient users of open water moorage and anchorage areas.

5. Marinas and launch ramps shall be located where access streets are adequate to handle the traffic load generated by the facility and shall be designed to minimize other circulation and access conflicts. Backing of trailers on public roads shall be prohibited and discouraged and identified with appropriate signage shall be provided.

a. Day-use parking shall be provided according to the following schedule:
   
   First 50 moorage slips: 1 vehicle space per 2 slips
   Slips 51 to 100: 1 vehicle space per 3 slips
   Slips over 100: 1 vehicle space per 4 slips

b. In addition, two load/unload parking spaces shall be provided for transient users of open water moorage and anchorage areas.

6. Collector roads between marinas and arterial routes shall have all-weather surfacing and be satisfactory to the City in terms of width, safety, alignment, sign distance, grade, and intersection controls.

7. Marinas and boat launches shall be designed so that existing or potential public access along beaches is not unnecessarily blocked nor made dangerous, and so that public use of the surface waters below the OHWM is not unduly impaired

8. At each public or quasi-public launch ramp, at least ten (10) car and trailer spaces at least ten (10) feet by forty (40) feet shall be provided for each ramp lane.

4.2.3.8 Specific Regulations - Road Ends and Scenic Viewpoints Parking Facilities

1. Vista parking facilities shall include a significant public view and provide recreational opportunities such as picnic tables or viewing benches.

2. Road ends shall contain a minimum number of two parking stalls, if feasible, which shall be designed pursuant to BIMC 18.15.020.

3. Trailheads shall contain a minimum number of two parking stalls, if feasible, which shall be designed pursuant to BIMC 18.15.020.
4.2.4 G—Public Access - Visual and Physical

4.2.4.1 Purpose/Principles

The provisions of this section are intended to:

1. Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while protecting private property rights and public safety.
2. Protect the rights of navigation and space necessary for water-dependent uses.
3. To the greatest extent feasible consistent with the overall best interest of the state and the people generally, protect the public’s opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water.
4. Regulate the design, construction, and operation of permitted uses in the shorelines of the state to minimize, insofar as practical, interference with the public’s use of the water.

1. The provisions in this section recognize that there are two types of “public access” to the shorelines of Bainbridge Island. One type is visual public access—that is, the public’s ability to see the island’s shorelines. The second type is physical public access—that is, the public’s ability to reach and touch the water’s edge. Possible ways to provide for such visual and/or physical public access include picnic areas, pathways and trails, floats and docks, promenades, viewing towers, bridges, boat launches, street ends, ingress points, and parking.
2. With respect to private property, the following provisions are not intended to require property owners to increase the public’s visual or physical access to Bainbridge Island’s shorelines. With respect to future development on private property, the fundamental principle underlying this section’s provisions is that such development should not result in a net loss of the public’s currently existing visual and physical access to the Bainbridge shoreline.
3. With respect to public property, the following provisions are intended to promote an increase in the public’s visual and physical access to the Bainbridge shoreline, in a balanced manner, through mechanisms such as the further improvement of existing public property and potential future acquisition of additional public property.
4. “Scenic vista” protection is still another aspect of public access and an important shoreline management objective. Consideration must be given to protecting the shoreline’s visual quality and to maintaining view corridors to and from waterways and their adjacent shoreline features.

4.2.4.2 Applicability

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. Public access provisions apply to all shoreline as prescribed by this program. Development, uses, and activities shall be consistent with Section 4.1.3, Vegetation Management.
4.2.4.3  **Goal:**

Provide, maintain and enhance a safe, convenient and balanced system of visual and physical public access to the shoreline which includes a diversity of opportunities for the public to enjoy the shorelines of the state, including access for people with disabilities to the extent feasible, while recognizing or acknowledging the fragile natural features of the shoreline and the rights of private property ownership.

4.2.4.4  **Policies**

1. Develop, adopt and implement a comprehensive shoreline public access plan that incorporates public access into new shoreline development, unifies individual public access points into a system plan, and seeks new waterfront access points to increase visual and physical shoreline access through enhancement of publicly held land, incentives, easements, land acquisition, and other appropriate means.

   The City should establish a comprehensive public access plan to provide the public with increased visual and physical access. The plan should consider the following methods:
   a. Acquisition of land and/or easements.
   b. Incentives for providing visual and/or physical access.
   c. Requirements for public access when new development.
   d. Is located in the Urban environment.
   e. Is a nonresidential development.
   f. Includes multi-residential uses of five or more building lots.

2. Locate, design, manage and maintain public access in a manner that protects shoreline ecological functions and processes and the public health and safety.

3. Preserve and enhance physical and visual shoreline access. Shoreline development, uses, and activities should not unreasonably impair or detract from the public's physical and visual access to the water. Development provisions, such as height limits, setbacks and view corridors, should be utilized to minimize impacts to existing views from public property or substantial numbers of residences. Physical public access shall have priority over maintenance of views from adjacent properties, unless there is a compelling reason to the contrary. View enhancement should not adversely impact the ecological functions of shoreline vegetation.

4. Expand the amount and diversity of public shoreline access opportunities and promote in single-family residential areas emphasis should be placed on providing public access to the water via unopened road rights-of-way (“road ends”) and public utility corridors and easements (where possible), with a goal of providing comparable access in all neighborhoods.

3. Acquisition of small, unbuildable lots should be considered as a way to increase opportunities for the public to enjoy the shoreline.

4. Intense public use, as opposed to neighborhood use, of the shoreline should be limited to parks and the Urban environment.

5. New commercial use development or development by public entities must include public
access to the shoreline as part of each development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment. Where feasible, public access should be provided parallel to the beach (such as a walking/bicycling path or promenade) and should be provided waterward of all buildings in all commercial and all Urban environment designation unless it cannot meet minimum requirements for health and safety.

6. The Winslow Waterfront Trail should be completed and protected through acquisition, easement dedication, or other appropriate means.

7. Consider public access, both visual and physical, as a condition of approval should be considered in the review of any new private or public shoreline development which diminishes existing public access or increases demand for public access commensurate with the impacts of such development and the corresponding benefit to the public. In such cases, public access should be required unless health, safety, or environmental protection needs cannot be met.

8. Shoreline development, uses, and activities should not unreasonably impair or detract from the public’s physical and visual access to the water.

9. Public access should be designed to avoid or minimize adverse impacts to provided without adversely affecting the shoreline environment; to minimize impacts to private property and individual privacy; to distinguish between public and private property; and to ensure public safety.

10. City-owned shorelines should be reserved for water-dependent or public recreational uses, or maintained as open space.

11. Public visual and physical access should be maintained or enhanced on shoreline street ends, public utility corridors and easements (where possible), and public right-of-way.

12. Public access should be designed to provide for public safety and to minimize potential impacts to private property and individual privacy.

13. Public and private spaces should be clearly marked and/or separated to avoid unnecessary user conflicts, and such marking/separation should be done in a way that does not unreasonably obscure views.

14. Shoreline and water views from public upland areas should be preserved and enhanced where it would not risk environmental damage. However, such vegetation alteration or removal should to achieve a filtered view and should not be excessive. This policy does not apply to native vegetation zones.

4.2.4.5 Regulations - General

1. When a New development increases demand for public access and/or reduces existing access by blocking or discouraging its use, shall incorporate provisions for visual and/or physical public access that mitigates those impacts shall be incorporated into any shoreline development that meets one or more of the following tests:

a. Is located in the Urban environment designation;

Comment [R549]: Add to Policy #3 11/15/2010

Comment [R550]: Moved to New Policy #4 12/15/2010

Comment [R551]: Moved to New Policy #8 12/15/2010

Comment [R552]: Moved to New Policy #8 12/15/2010

Comment [R553]: Workgroup, added 6-22-11

Comment [R554]: Workgroup, reworded for clarity 5/2011

Comment [LH555]: Implements Policy #5 & WAC 173-26-221 (4)(c)
b. Includes commercial, industrial or any nonresidential uses located in any shoreline environment designations.

c. Includes residential development and/or residential land division that provides five or more dwelling units or building lots located in any shoreline designations; or

d. Includes new development or a use located on public land or managed by a public entity.

2. When public access provisions are required for development, the Administrator shall prepare written findings demonstrating consistency with the principles of nexus and proportionality and the test stated in regulations #1, above. The staff report shall include:

   a. Project specific expected impacts;
   
   b. Specific reasoning for determination of need for public access requirements;
   
   c. How the amount of suitable public access options are related to the specific project.

3. Public access will not apply as prescribed in The requirements in regulations #1 above, will not apply if the Staff Report does not demonstrate need or the applicant demonstrates to the satisfaction of the City one or more of the following:

   a. Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means.
   
   b. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions.
   
   c. The cost of providing the access, easement, or an alternative public access amenity on or off the development site is unreasonably disproportionate to the total long-term cost of the proposed development.
   
   d. Unacceptable environmental harm which cannot be adequately mitigated will result from the public access.
   
   e. Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated.

4. Prior to deciding public access is not required pursuant to regulation 2 or 3 above In order to meet any of the conditions (1) through (4) above, the applicant must first demonstrate, and the City determine in its findings, that all reasonable alternatives have been exhausted, including, but not limited to:

   a. Regulating access by such means as maintaining a gate and/or limiting hours of use.
   
   b. Designing separation of uses and activities (e.g., fences, terracing, use of one-way glazing, hedges, other landscaping).
c. Provision(s) for access on a site geographically separate from the proposal such as a street road end, vista, tideland or trail system.

5. Development, uses, and activities shall be designed and operated to avoid blocking, reducing, or adversely interfering with the public’s existing physical and visual access to the water and shorelines and shall balance the public’s visual access to the shoreline with the retention of existing shoreline vegetation so as not to adversely impact the ecological functions of existing shoreline vegetation.

5.4. Development, uses, and activities shall be designed and operated to avoid blocking, reducing, or adversely interfering with the public’s existing physical and visual access to the water and shorelines and shall balance the public’s visual access to the shoreline with the retention of existing shoreline vegetation so as not to adversely impact the ecological functions of existing shoreline vegetation.

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5.4.6. Development, uses, and activities shall be designed and operated to avoid blocking, reducing, or adversely interfering with the public’s existing physical and visual access to the water and shorelines and shall balance the public’s visual access to the shoreline with the retention of existing shoreline vegetation so as not to adversely impact the ecological functions of existing shoreline vegetation.

5.4.7. Development, uses, and activities shall be designed and operated to avoid blocking, reducing, or adversely interfering with the public’s existing physical and visual access to the water and shorelines and shall balance the public’s visual access to the shoreline with the retention of existing shoreline vegetation so as not to adversely impact the ecological functions of existing shoreline vegetation.

5.4.8. Development, uses, and activities shall be designed and operated to avoid blocking, reducing, or adversely interfering with the public’s existing physical and visual access to the water and shorelines and shall balance the public’s visual access to the shoreline with the retention of existing shoreline vegetation so as not to adversely impact the ecological functions of existing shoreline vegetation.

6. The public’s visual and physical access provided by shoreline street ends, public utilities, and rights-of-way shall not be diminished. [RCW 35.79.035 or its successor and RCW 36.87.130 or its successor]. Submerged public rights-of-way shall be preserved for public access.

6.5. The public’s visual and physical access provided by shoreline street ends, public utilities, and rights-of-way shall not be diminished. [RCW 35.79.035 or its successor and RCW 36.87.130 or its successor]. Submerged public rights-of-way shall be preserved for public access.

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7. City - Publicly owned shoreline properties shall be reserved for public water-dependent uses, public recreational uses, or public open space.

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8. Development on the water shall be constructed of nonreflective materials that are compatible in color and texture with the surrounding area.

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2. The minimum width of public access easements shall be 10 feet, unless the Administrator determines that undue hardship would result. In such cases, easement widths may be reduced only to the extent necessary to relieve the hardship.

3. Public access shall incorporate the following location and design standards:
   a. A public pedestrian access walkway located generally parallel to the ordinary high water mark of the property and waterward of buildings shall be required in the Urban designation, or for new commercial developments or where open space is provided along the shoreline, provided that the public access can be designed in a manner that will not adversely impact shoreline ecological functions and/or processes. The walkway shall be buffered from sensitive ecological features and provide limited and controlled access to sensitive features and the waters edge where appropriate. Fencing may be provided temporarily to control damage to plants and other sensitive ecological features and permanently where appropriate. Trails shall be constructed of materials, such as permeable material, appropriate for conditions to limit impacts to ecologically sensitive areas and should be limited to 4 feet in width to reduce impacts to ecologically sensitive resources.
   b. Public access where applicable should be designed to:
      i. Be located adjacent to other public areas, accesses or connecting trails;
      ii. Connect to the nearest public street and include connections to the Winslow Waterfront Trail and other planned trails as required and specified in the City’s Non-Motorized Transportation Plan or Metropolitan Park District Comprehensive Plan; and
      iii. Include provisions for handicapped and physically impaired persons where feasible and consistent with applicable state and federal law.
   c. Where views of the water or shoreline are available and physical access to the waters edge is not present or appropriate, a public viewing area shall be provided.
   d. Design shall minimize intrusions on privacy by avoiding locations adjacent to windows and/or outdoor private open spaces or by screening or other separation techniques.
   e. Public amenities that are appropriate to the level of expected use shall be provided to serve the users of a public access area, such as benches, picnic tables and sufficient public parking.
   f. Public facilities, public uses and commercial developments that attract a substantial number of people, and developments by government/public entities may be required to provide public restrooms, facilities for disposal of animal waste, and other appropriate public facilities.
4.2.4.7 Regulations - Public Access Permit Requirements

1. Developments approved with public access permit requirement shall meet the following:
   a. The required public access shall be fully developed and available for public use at the time of occupancy of the use or activity in accordance with permit conditions, or in accordance with other provisions for guaranteeing installation within a 5-year period through a monetary performance assurance as approved by the City Attorney.
   b. Public access easements and permit conditions shall be recorded on the deed of title and/or on the face of the plat or short plat as a condition running with the authorized land use. Recording with the County Auditor's office shall occur at the time of permit approval. [RCW 58.17.110 or its successor].
   c. The standard State-approved logo or other approved sign(s) that indicate the public's right of access and hours of access shall be constructed, installed, and maintained by the City in conspicuous locations at public access sites. In accordance with regulation 23(a) above, signs may control or restrict public access as a condition of permit approval.
   d. Public access facilities shall be maintained over the life of the use or development unless the City approves amending access to provide equal or greater public access than currently provided. Future actions by the applicant, successors in interest, or other parties shall not diminish the usefulness or value of the public access provided.

2. When properties are subdivided, owners of newly created lots which do not have frontage on the water shall be provided common access to the water, to the extent feasible and provided that it will not cause unacceptable environmental harm which cannot be adequately mitigated.
4.2.5 Signs

4.2.5.1 Applicability

Signs are regulated through BIMC 15.08, Sign Code. The following policies apply to all signs within the jurisdiction of the Shoreline Master Program, including signs used for the purpose of providing information related specifically to enhancing the public enjoyment of the shorelines through education and/or noting areas of special cultural or historical significance. These policies do not apply to publicly owned signs where the purpose is to provide information regarding safety, direction, directions, and the like.

4.2.5.2 Policies

1. Signs should be designed and placed so they are compatible with the aesthetic quality of the existing shoreline and adjacent land and water uses.
2. Signs should not block or otherwise interfere, during daylight or non-daylight hours, with visual access to the water or shorelands.
3. Signs should be of a permanent nature, should serve an approved use, and should be located on the property approved for such use.

4.2.5.3 Regulations - General

1. Signs for specific land use activities within the shoreline jurisdiction are subject to the requirements and standards set forth in the BIMC, Chapter 15.08, in addition to the regulations of this section.
2. Overwater signs or signs on floats or pilings shall be prohibited, except when related to navigation or a water-dependent use.
3. The following types of signs may be permitted, subject to the provisions contained within this section:
   a. Water navigational signs and highway and road signs necessary for operation, safety and direction;
   b. Public information/interpretive signs directly relating to a shoreline resource, use or activity;
   c. Off-premise, free signs for community identification, information, or directional purposes;
   d. Signs with changing messages, provided that the information displayed on a non-lighted sign is limited to displaying time, temperature or date or public non-commercial messages. Commercial electronic signs with changing messages are prohibited;
   e. National, state or institutional flags or temporary decorations customary for special holidays and similar events of a public nature; and

Comment [LH592]: Jefferson Co 4.
Comment [LH593]: Jefferson Co 7.
Comment [RE594]: Workgroup deleted no railroads 5/2011
Comment [RE595]: Workgroup added 5/2011
4.2.5.4 Regulation - Public Access Signs

1. Signs indicating the public’s right to access shoreline areas shall be installed and maintained in conspicuous locations at recreational facility points of access and entrances.

2. The location of new public access sites shall be clearly identified. Signs with the appropriate agency’s logo shall be constructed, installed and maintained by the project proponent in conspicuous locations at public access sites and/or along RCW Chapter 36.87.130 common routes to public access sites. The signs shall indicate the public’s right of access, the hours of access, and other information.
4.2.6  
**Transportation Facilities**

### 4.2.6.1  
**Applicability**

Transportation facilities are also subject to Section 4.0 Section III, General Policies and Regulations, including Tables 4-1 through 4-3, Setback and Height; Section 3.0 Section IV, Environment Designations; and Section 6.0 Section VI, Shoreline Modification Policies and Regulations. As provided in Section 4.1.5, Critical Areas III, shoreline development is subject to critical areas regulations BIMC 16.20, Environmentally Sensitive Areas.

### 4.2.6.2  
**Policies**

1. Plan, locate and design proposed transportation and parking facilities where routes will have the least possible adverse effect on unique or fragile shoreline features, and will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses.

2. In planning for new transportation systems, priority should be given to transportation modes favoring pedestrian including passenger only ferry service, and bicycle and mass transit systems multimodal systems. New roads and bridges, except access roads, (including driveways) or when a bridge provides the least adverse impact to ecological functions and ecosystem wide process, should not be allowed.

3. Trail and bicycle systems should be encouraged as a preferred access to and along the shoreline. Road reconstruction projects should include non-motorized transportation facilities.

4. When existing transportation corridors are vacated, they should be acquired for water-dependent use or public access.

5. Joint use of transportation and utility rights-of-way within shoreline jurisdiction for roads and utilities should be encouraged.

6. State Highway and public street modifications which promote stream restoration or mitigate existing environmental damage should be encouraged.

7. Encourage the completion of the Eagle Harbor Waterfront Trail. Pedestrian trail systems to and from the ferry should be encouraged.

8. Nonwater-oriented and water-related transportation facilities should be located outside the shoreline jurisdiction.

9. Promote public views from roads and encourage projects to incorporate ADA compliant shoreline access opportunities.

10. Public roads located in the shoreline that are in danger of loss or substantial damage and which serve as the primary means of access to a substantial number of residents, may be reconstructed if no feasible alternative is possible for relocating the road out of danger or where it would cause more ecological damage to do so, and where mitigation of impacts is available.

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Bainbridge Island Shoreline Master Program---PC Recommendation  
April 12, 2012
would not cause a net loss of shoreline ecological functions and ecosystem-wide processes.

4.2.6.3 Regulations - Prohibited

1. The following transportation facilities are prohibited:
   a. New highways, arterials, secondary roads, railroads, railroad facilities, and heliports;
   b. Additional new bridges over Puget Sound waters to and from Bainbridge Island;
   c. In the Priority Aquatic Conservancy designation all transportation facilities, except trails; and
   d. New transportation facilities in front of feeder bluffs, over driftways or on accretion shoreline.
   Transportation Facilities shall be subject to Section 4.1.5, Critical Areas and Appendix B.

2. **Landfills for transportation facility development are prohibited in water bodies, wetlands, marshes, bogs, swamps and on accretion beaches except when there is a demonstrated purpose and public need that supports the uses consistent with this program, and alternatives to accomplish the same purpose have been shown to be infeasible. Such fill may be permitted by a Conditional Use Permit and must comply with the provisions of Section 6.5, Landfill, provided that when all structural and upland alternatives have been proven infeasible and the transportation facilities are necessary to support uses consistent with this program, they may be allowed as a conditional use. Transportation facilities must comply with Section 4.1.5, Critical Areas and Appendix B.**

4.2.6.4 Regulations – General

1. Pervious trails shall be permitted in all upland shoreline designations.

2. Publicly-owned ferry terminals and services, except over-water facilities, are allowed as a permitted use in the Urban environment designation and in the adjacent aquatic environment designation. New over-water facilities in conjunction with a permitted ferry terminal may be allowed as a conditional use in the Urban environment designation and in the adjacent aquatic environment designation and are prohibited in all other environment designations. Normal repair and maintenance of existing facilities do not require a conditional use permit, but may require an SSDP.

3. Float plane facilities and services are a conditional use in the Urban environment designation and in the adjacent aquatic environment and are prohibited in all other environments.

4. New highways, arterials, secondary roads, railroad facilities, and heliports shall be prohibited in all environments.
5. No new bridges to Bainbridge Island shall be allowed.

4. New access roads shall be allowed only where required because of one of the following:
   a. Other means of access are demonstrated to the satisfaction of the Administrator to be infeasible or environmentally unacceptable; or
   b. The road is needed for ferry service.

7. All transportation facilities shall be prohibited in the Aquatic Conservancy environment.

5. Transportation facilities and services shall utilize existing transportation corridors whenever possible, provided that facility additions and modifications will not adversely impact shoreline resources and are otherwise consistent with this program. If expansion of the existing corridor will result in significant adverse impacts, then a less disruptive alternative shall be utilized.

9. Transportation and primary utility facilities shall be required to make joint use of rights-of-way and to consolidate crossings of water bodies where doing so minimizes adverse impacts to the shoreline.

10. New transportation facilities are prohibited in hazardous areas such as steep slopes or unstable soils, or in front of feeder bluffs, over driftways or on accretion shoreforms. Transportation facilities shall be subject to BIMC 16.20, Environmentally Sensitive Areas.

11. Landfills for transportation facility development are prohibited in water bodies, wetlands, marshes, bogs, swamps and on accretion beaches except when there is a demonstrated purpose and public need that supports the use consistent with this program, and alternatives to accomplish the same purpose have been shown to be infeasible. Such fill may be permitted by a Conditional Use Permit and must comply with the provisions of Section XX Fill. However, landfills for transportation facilities may be allowed if provided that when all structural and upland alternatives have been proven infeasible and the transportation facilities are necessary to support uses consistent with this program they may be allowed as conditional uses. Transportation facilities must comply with BIMC, Chapter 16.20, Environmentally Sensitive Areas.

6. Shoreline road ends may not be vacated except in compliance with RCW 35.79.035 or its successor.

12. All transportation facilities, including but not limited to, ferry terminals, float plane terminals, and heliports, shall meet the height and setback standards in Table 4-2 and are subject to applicable landfill and dredging provisions in Sections 6.4 Dredging and Dredge Material Disposal VI-D, and 6.5 Landfills of this Shoreline Master Program.

4.2.6.5 Regulation – Design, Construction and Maintenance

4.2.6.5.1 Construction and Maintenance

1. Overburden, debris, and other waste materials from both construction and maintenance activities, including drainage ditch clearing, shall not be deposited into or cast...
on the side of roads within a shoreline, water body, wetland, estuary, tideland, accretion beach, and other unique natural area. Such materials shall be deposited in stable locations where re-entry and erosion into such areas is prevented.

4.2.6.5.2 **Revegetation**

1. All shoreline areas disturbed by Transportation facility construction and maintenance shall be required to provide a Vegetation Management Plan, [TESC] and/or SWPPP approved by the Administrator for replanting. Revegetation and stabilization shall occur with approved vegetation by seeding, mulching, or other effective means immediately upon completion of the construction or maintenance activity. Such vegetation shall be maintained by the agency or developer constructing or maintaining the road until the vegetation is established.

2. The City shall give preference to mechanical means rather than the use of herbicides for roadside brush control on city roads in shoreline jurisdiction and by means of a city-approved integrated pest management plan (Section 4.1.6, Water Quality and Stormwater Management).

3. No machinery shall be operated within or along a stream bed, marine shoreline, lake, wetland or pond except in compliance with a hydraulics permit issued by the Washington State Department of Fish and Wildlife, if hydraulic permit is not required, operation of machinery may be approved by the Administrator.

4. Existing roads which are parallel to shoreline areas shall be adequately maintained with compatible site-appropriate, self-sustaining native vegetation where feasible to provide slope stability and to enhance shoreline function. Shoreline scenic drives and viewpoints may provide breaks periodically in the vegetative buffer to allow open views of the water.

4.2.6.5.3 **Road Design**

1. Transportation facilities should employ pervious materials and other appropriate low impact development techniques where soils and geologic conditions are suitable and where such measures could measurably reduce stormwater runoff.

2. Transportation and primary utility facilities shall be required to make joint use of rights-of-way and to consolidate crossings of water bodies where doing so minimizes adverse impacts to the shoreline.

3. Roadway design shall include facilities for bicycle and pedestrian routes as prioritized in the Non-Motorized Transportation Plan.

4. Culverts, bridges and similar devices shall be designed to pass water, sediment, and debris loads anticipated under appropriate hydraulic analysis in compliance with the stormwater regulations of BIMC Chapter 15.20, and shall not impede the migration of anadromous fish.
4.2.7 M–Utilities (Primary and Accessory) (Also see Section III, J.)

4.2.7.1 Applicability

These provisions apply to services and facilities that produce, convey, store, or process power, gas, sewage, communications, oil, waste, and the like. On-site utility features serving a primary use, such as a water, sewer or gas line to a residence, are “accessory utilities” and shall be considered a part of the primary use. Section 4.1.3, Environmental Impacts, Section 4.1.5, Critical Areas, Section 3.0, Shoreline Designations, and Section 6.0, Shoreline Modification Policies and Regulations also apply. Utilities are subject to BIMC, Chapter 16.20 Environmentally Sensitive Areas.

4.2.7.2 Policies - Primary Utility

1. All utility facilities are designed and located to assure no net loss shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth.

2. Utilities should utilize existing transportation and utility sites, rights-of-way, and corridors whenever possible, rather than creating new corridors. Joint use of rights-of-way and corridors should be encouraged.

3. Utility production and processing facilities, such as power plants, sewage treatment plants, and solid waste disposal activities and facilities and, or parts of those facilities, that are non-water-oriented shall not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available.

4. New utilities should not be allowed where extensive shoreline stabilization is required.

5. Utilities and utility corridors locations should protect not obstruct or otherwise affect scenic views. Whenever feasible, such facilities should be placed underground or alongside or under bridges.

6. Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located outside of the shoreline area where feasible and when necessarily located within the shoreline area shall assure no net loss of shoreline ecological function; while communication towers shall be prohibited in the shoreline area.

7. Transmission of pipelines and cables on tidelands, particularly those running roughly parallel to the shoreline, and development of facilities that may require periodic...
maintenance which disrupt shoreline ecological functions should be discouraged except where no other feasible alternative exists. When permitted, provisions shall assure that the facilities do not result in a net loss of shoreline ecological functions or significant impacts to other shoreline resources and values.

4.2.7.3 Policies - Accessory Utilities

1. On-site Utilities and rights of way should be:

Utilities are necessary to shoreline and should be properly installed and operated to protect shoreline water from degradation.

   a. Located onsite utility facilities and rights of way outside of the shoreline area to the maximum extent possible. When utility lines require a shoreline location, they should be placed underground.

   b. Designed and located on-site utility facilities in a manner which preserves the shoreline ecology, water quality and the natural landscape to avoid and minimize adverse affects to shoreline ecological functions and minimizes conflicts with existing or planned land uses.

4.2.7.4 Regulations - Prohibited

1. The following uses associated with utilities shall be prohibited within shoreline jurisdiction:

   a. New solid waste disposal sites and facilities;

   b. Radio, cellular phone and microwave towers;

   c. Utilities requiring withdrawal of water from streams, and

   d. Primary power-generating facilities including solar power and wind generation that are not considered accessory structures in BIMC 18.09, except public facilities necessary to serve a public system, such as sewer lift stations or similar facilities which must be located within the shoreline area due to the system design of the existing public facility.

4.2.7.5 Regulations - General

1. Primary use utilities may be allowed as a conditional use in the Rural, Semi-rural, Shoreline Residential Conservancy, Shoreline Residential, Urban, and Aquatic environment designations. They are prohibited in Natural, Island Conservancy and Priority Aquatic Conservancy environment designations.

2. Utility development shall comply with required setbacks (see Environment Section 3.0, Shoreline Designations in Section IV). Primary Utilities shall provide screening of facilities from water bodies and adjacent properties. Type of screening required shall be determined by the City on a case-by-case basis.

3. All utilities shall meet the height and setback standards in Table 4-2.

4. Utilities shall be located and designed so as to avoid the use of any shoreline
stabilization structural or artificial shore defense or flood protection works.

6. Applications for installation of utilities shall include the following:
   a. Description of the proposed facilities;
   b. Reason(s) why the utility requires a shoreline location;
   c. Alternative locations considered and reasons for their elimination. Special attention should be given to evaluating the proposed facility at another existing utility site or within an existing utility right-of-way;
   d. Location of other utilities in the vicinity of the proposed project and discussion of any support for shared use of the proposed site;
   e. Plans for restoration of disturbed areas both during construction and following decommissioning and/or completion of the primary utility's useful life;
   f. Plans for control of erosion and turbidity during construction and operation; and
   g. Plans for traffic and noise control during construction and operation.

5. Where utilities own rights-of-way in fee title, utility development shall, through coordination with local government agencies, provide for compatible, multiple use of sites and rights-of-way, provided such uses will not unduly interfere with utility operations, endanger public health and safety, or create a significant and disproportionate liability for the owner. Such uses include shoreline access points, trail systems, and other forms of recreation and transportation.

6. Utility lines, such as transmission and distribution, shall:
   a. Utilize existing rights-of-way, corridor and/or bridge crossings whenever possible, and shall avoid duplication and construction of new or parallel corridors in all shoreline areas. Proposals for new corridors or water crossings must fully substantiate the infeasibility of existing routes.
   b. Underground (or water) utility lines shall be completely buried under the stream bed in all stream crossings except where such lines may be affixed to a bridge structure and except for appropriate water or sewage treatment plant intake pipes or outfalls.
   c. Transmission and distribution facilities shall cross areas of shoreline jurisdiction by the shortest, most direct route feasible, unless such route would cause significant environmental damage.
   d. Where major facilities must be placed in a shoreline area, the location and design shall be chosen to minimize impacts so as not to destroy or obstruct scenic shoreline views.

7. Landfilling in shoreline jurisdiction for utility or utility line development purposes is prohibited. Permitted crossings shall utilize pier or open pile techniques.

8. Clearing of native vegetation for the installation or maintenance of utilities shall be kept to a minimum. Upon project completion, disturbed native vegetation areas shall replanted according to the provisions of Vegetation and Conservation Management Section 4.1.3. Other disturbed areas shall be replanted with native or other approved species. Replanted areas shall be regularly maintained until established.
2. Utility development shall, through coordination with government agencies, provide for compatible multiple use of sites and rights-of-way. Such uses include shoreline access points, trails, and other forms of recreation and transportation systems, provided such uses will not unduly interfere with utility operations or endanger public health and safety.

4.2.7.6 Regulations - Primary Utility Location and Design

4.2.7.6.1 Water Systems

1. Components of water systems which are not water-dependent shall be located away from shoreline jurisdiction unless alternative locations, including alternative technology, are demonstrated to be infeasible to the Administrator and the facilities do not result in a net loss of shoreline ecological functions and processes or significant adverse impacts to other shoreline resources and values such as parks and recreation facilities, public access or archaeological, historic and cultural resources, or aesthetic resources.

2. Private and public intake facilities, and wells in the shoreline jurisdiction should be located where there will be no net loss in ecological functions or adverse impacts upon shoreline resources, values, natural features, or other users. Construction and maintenance activities shall follow best management practices and meet provisions of 4.1.6, Water Quality and Stormwater Management.

3. Desalinization facilities shall be located consistent with critical area regulations and buffers, except for water-dependent components such as water intakes.

4.2.7.6.2 Sewage Systems

1. Sewage trunk lines, interceptors, pump stations, treatment plants and other components that are not water-dependent shall be located away from shoreline jurisdiction unless alternative locations, including alternative technology, are demonstrated to be infeasible to the Administrator and the facilities do not result in a net loss of shoreline ecological functions and processes or significant impacts to other shoreline resources and values such as parks and recreation facilities, public access or archaeological, historic and cultural resources, or aesthetic resources.

2. Outfall pipelines and diffusers are water-dependent, but should be located only where there will be no net loss in shoreline ecological functions and processes or adverse impacts upon shoreline resources and values.

4.2.7.6.3 Natural Gas Transmission

1. Natural gas pipelines, except local service lines, shall not be located in shoreline jurisdiction unless alternatives are demonstrated to be infeasible to the Administrator and shall include analysis of alternative routes avoiding aquatic lands and including alternative technology.

2. Natural gas local service lines shall not be located in shoreline areas unless serving approved shoreline uses. Crossings of water bodies shall not be approved unless alternatives are demonstrated to be infeasible to the Administrator. Application materials shall include an analysis of alternative routes avoiding aquatic lands, including an analysis of alternative technology.
3. Application for natural gas pipelines shall demonstrate that the facilities do not result in a net loss of shoreline ecological functions and processes or significant impacts to other shoreline resources and values.

4. Developers and operators of pipelines and related appurtenances for natural gas are required to demonstrate adequate provisions for preventing spills or leaks, as well as established procedures for mitigating damages from spills or other malfunctions and shall demonstrate that periodic maintenance will not disrupt shoreline ecological functions.

5. Utilities for new development within the shoreline shall be installed underground.

4.2.7.6.4 Electrical Energy and Communication Systems

1. Energy and communication systems including substations, towers, transmission and distribution lines have critical location requirements, but are not normally water dependent. System components that are not water-dependent shall not be located in shoreline jurisdiction unless alternatives are demonstrated to be infeasible to the Administrator. Application materials for such facilities shall include an analysis of alternative routes avoiding aquatic lands, including an analysis of alternative technology.

2. Underground placement of lines shall be required for new or replacement lines that are parallel to the shoreline, and do not cross water or other critical areas regulated in Section 4.1.5, Critical Areas and defined in Appendix B, provided that maintenance of existing aerial lines may be permitted above ground where alternatives are demonstrated to be impractical and/or infeasible to the Administrator.

3. New or replacement lines that cross water bodies or other critical areas regulated in Section 4.1.5, Critical Areas and defined in Appendix B, may be required to be placed underground depending on impacts on ecological functions and processes and visual impacts; provided that maintenance of existing aerial lines may be permitted above ground where alternatives are demonstrated to be impractical and/or infeasible to the Administrator.

4. Poles or other supports treated with creosote or other wood preservatives that may be mobilized leach contamination in water shall not be used along shorelines or associated wetlands. No new overhead wiring shall be installed between the road and OHWM, where road right-of-ways or easements are within 150 feet and also are parallel to the shoreline for more than 500 feet.

5. Utilities for new development within the shoreline shall be installed underground.

4.2.7.6.5 Tidal Energy

1. System components of tidal energy or tidal power-generating facilities which are not water-dependent shall be located away from shoreline jurisdiction unless alternative locations, including alternative technology, are demonstrated to the Administrator to be infeasible, and that the facilities do not result in a net loss of shoreline ecological functions and processes or significant adverse impacts to other shoreline resources and values such as parks and recreation facilities, public access or archaeological, historic and cultural resources.
cultural resources, or aesthetic resource.

4.2.7.6 Fire Protection Facilities

6. Storage and handling facilities for water borne fire fighting or rescue equipment may be permitted on shoreline jurisdiction at locations which are demonstrated to the Administrator to be suitable considering the purpose of the proposal and the policies of this Program.

4.2.7.7 Other Essential Public Utility Facilities

1. Other utility processing facilities, such as power plants, that are nonwater-oriented shall not be allowed in shoreline jurisdiction unless no other feasible alternative is available.

4.2.7.8 Site Coverage

1. Maximum site coverage for utility development including parking and storage areas shall not exceed standards in the underlying zoning in BIMC Title 18, and shall not exceed fifty percent (50%) on Urban, and thirty-five percent (35%) on Shoreline Residential and Shoreline Residential Conservancy.

2. Whenever possible, new distribution lines, including electricity, communication, and fuel lines, shall be located underground. Existing above ground lines shall be moved underground during normal replacement processes.

3. Transmission and distribution facilities shall cross areas of shoreline jurisdiction by the shortest, most direct route feasible, unless such route would cause significant environmental damage.

4. Utilities shall be located and designed so as to avoid the use of any structural or artificial shore defense or flood protection works.

5. Where major facilities must be placed in a shoreline area, the location and design shall be chosen so as not to destroy or obstruct scenic views.

6. Utility development shall comply with required setbacks (see Environment Designations in Section IV) to provide screening of facilities from water bodies and adjacent properties. Type of screening required shall be determined by the City on a case-by-case basis.

7. Underground (or water) utility lines shall be completely buried under the stream bed in all stream crossings except where such lines may be affixed to a bridge structure and except for appropriate water or sewage treatment plant intake pipes or outfalls.[1]

8. All underwater pipelines transporting liquids intrinsically harmful to aquatic life or potentially injurious to water quality are prohibited, unless no other alternative exists. In those limited instances when permitted by conditional use, automatic shut-off valves shall be provided on both sides of the water body.

9. Construction of utilities under water or in adjacent wetlands shall be timed to avoid fish migratory and spawning periods and shall be consistent with Washington State Department of Fish and Wildlife requirements.

10. Clearing of native vegetation for the installation or maintenance of utilities shall be kept to a minimum. Upon project completion, disturbed native vegetation areas shall be restored as nearly as possible to pre-project conditions. Other disturbed areas shall be replanted with native or other approved species. Replanted areas shall be regularly maintained until established.

Comment [R652]: Staff moved from #3 and #4 Primary Utility Location and Design. 5-12-11

Comment [R653]: Staff Moved above to Regulations – General 5-16-11

Comment [R654]: Staff Moved above to Regulations – General 5-16-11

Comment [R655]: Staff Moved above to Regulations – General 5-16-11

Comment [R656]: Staff Moved above to Regulations – General 5-16-11

Comment [R657]: Staff Moved above to Regulations – General 5-16-11

Comment [R658]: Staff, Deleted covered by Environment Designation Impact Section 5-16-11

Comment [R659]: Staff, Deleted covered by Environment Designation Impact Section 5-16-11

Comment [R660]: Staff, Moved above to Regulations – General 5-16-11

Comment [R661]: Staff, Moved above to Regulations – General 5-16-11
11. All utilities shall meet the height and setback standards in Table 4.

4.2.7.7 Regulations - Accessory Utility Location and Design

Accessory utility must be subordinate to a primary use such utilities serving a residential use and shall meet BIMC 18.09 in addition to the provisions below.

1. Temporary storage of solid waste in suitable receptacles is permitted as an accessory use to a primary permitted use, or for litter control.

2. New residences or businesses on the shoreline within two hundred (200) feet of an existing sewer line and/or within an established sewer service area shall be connected to the sewer system. Existing residences shall be connected at the end of the service life when the on-site sewage system has reached the end of its useful life. Septic tanks and drainfields are prohibited where public sewer is reasonably available.

3. On-site sewage systems Septic fields shall be located on the landward side of any new residence or business development, where possible, or in a location approved by the Administrator and designed to meet all applicable water quality, utility, and health standards.

4.2.7.8 Submittal Requirements - Primary Utility

In addition to the general submittal requirements for all applications specified in BIMC Section 2.16.020(H), all applications for new or expanded utilities shall be accompanied by adequate documentation that the proposal meets the policies and regulations of this Program, including but not limited to:

1. Description of the proposed facilities.
2. Plans for traffic and noise control during construction and operation.
3. Documentation that the facility cannot be feasibly located outside of shoreline jurisdiction due to the uses served or the need to cross shorelands to connect specific end points. New or expanded public or private utilities should be located inland from the land/water interface, preferably out of shoreline jurisdiction.
4. An analysis of alternatives shall be required and include alternative locations considered and reasons for their elimination locating the proposed facility at another existing utility site or within an existing utility right-of-way.
5. Documentation that the proposed facilities comply with critical area regulations in Appendix B.
6. Documentation of how the location, design and use achieves no net loss of shoreline ecological functions and incorporates appropriate mitigation in accordance with Section 4.1.2, Environmental Impacts. In addition a restoration plan for disturbed areas both during construction and following decommissioning and/or completion of the primary utility's useful life shall be required.
7. Documentation that facilities will avoid public recreation areas and significant natural, archaeological, historic or cultural sites, and that all feasible measures to minimize...
adverse impacts to such resources have been incorporated into the proposal. This requirement may not satisfy Cultural Site Assessment requirements or Cultural Resource Management Plan, Section 4.2.2.

8. Applications must demonstrate adequate provisions for preventing spills or leaks, as well as procedures for mitigating damages from spills or other malfunctions and shall demonstrate that periodic maintenance will not disrupt shoreline ecological functions.

9. Individual documentation requirements may be waived by the Administrator based on specific projects.
5.0 Section V SPECIFIC SHORELINE USE AND DEVELOPMENT POLICIES AND REGULATIONS

A. Introduction

This section contains policies and regulations for the following shoreline uses: agriculture, aquaculture, boating facilities, commercial development, flood-hazard and stormwater management, forestry, industry, mining, multifamily subdivisions, overwater structures, recreational development, and residential development, transportation facilities, and utilities (primary). The policies and regulations developed for each shoreline use, or category, are the primary set of criteria for evaluating proposed shoreline development. Some proposals will be subject to provisions of more than one use. Proposed development must also comply with Section 4.0 Section III, General Policies and Regulations and Section 6.0 Section VI, Shoreline Modification Activity provisions.

While not all shoreline uses require a shoreline permit, no development shall be undertaken on the shorelines of Bainbridge Island except those which are consistent with the Shoreline Management Act (Act), applicable State guidelines, and the Master Program.

Shoreline uses which are not specifically identified shall be evaluated on a case-by-case basis for consistency with the Act and the requirements of the Master Program, and shall require a conditional use permit.

5.1 B. Agriculture

5.1.1 Applicability

These provisions apply to activities which are primarily commercial including cultivation of soil, production of crops, or the raising of livestock. Gardening activities primarily for on-site consumption and maintenance of household pets shall be considered accessory to residential uses.

5.1.2 Policies

1. Agriculture shall not be allowed in the shoreline jurisdiction.

5.1.3 Regulation - General

1. Agriculture shall be prohibited in the shoreline jurisdiction.

Comment [R667]: Staff, Added General for consistency 7-25-11

Comment [R668]: Workgroup, Approved 2-10-11
5.2 C. Aquaculture

5.2.1 Applicability

These provisions apply to the commercial cultivation and harvesting of fish, shellfish or other aquatic animals or plants, but also to non-commercial harvesting, and to the incidental preparation of fish and shellfish for human consumption, or cultivation for restoration purposes. Incidental small-scale aquaculture that is strictly for personal consumption may be considered accessory to residential use and must adhere to all applicable regulations. Aquaculture, like all other uses, is subject to the provisions in Section 3.0, Environment Shoreline Designations, including the standards in Tables 4-1 through 4-2. Section 4.0, General Policies and Regulations also apply. Aquaculture activities are not considered dredging nor subject to the regulations found in Section 6.4, Dredging and Dredge Material Disposal.

5.2.2 Policies

1. When properly managed, aquaculture can result in long-term ecological and economic benefits. Identify and encourage aquaculture activities which may provide opportunities for creating ecosystem improvements. Engage in coordinated planning to identify potential aquaculture areas and assess regional long-term needs for aquaculture and coordinated education efforts to provide information on best practices to those operating small-scale aquaculture for personal use and consumption. This includes working with the Department of Fish and Wildlife (DFW), the Department of Natural Resources (DNR), area tribes and shellfish interests to identify areas that are suitable for aquaculture and protect them from uses that would threaten aquaculture’s long-term sustainability. Areas with high aquacultural use potential should be identified.

2. Experimental forms of aquaculture involving the use of new species, new growing methods or new harvesting techniques may be allowed when they are consistent with applicable state and federal regulations and this Program. Experimental aquaculture projects should be limited in scale and should be approved for a limited period of time. When feasible, limit or restrict new development proposals in areas which would affect existing experimental monitoring programs. Aquaculture activities should be given flexibility to experiment with new aquaculture techniques.

3. Limit aquaculture, including intensive shellfish aquaculture to activities that do not create adverse impacts to ecological functions and ecosystem-wide processes. Prohibit aquaculture where it would result in a net loss of shoreline ecological functions; adversely affect the quality or extent of habitat for native species including eelgrass, kelp, and other macroalgae; adversely impact City and State critical habitat areas and other habitat conservation areas; or interfere with navigation or other water-dependent uses. Consideration should be given to both the possible positive and detrimental impacts that aquacultural development might have on the physical environment, or other existing and approved land and water uses, including navigation, tribal usual and accustomed fishing...
4. **Intensive Aquaculture** should be prohibited where such development or activity would result in any significant adverse environmental impacts that cannot be eliminated or adequately mitigated through enforceable conditions of approval; or

   a. Where impacts to other existing and approved land and water uses would substantially and materially conflict, including impacts to navigation, moorage, sport or commercial fishing, underwater utilities, active scientific research, and/or the aesthetic qualities of a project area; and/or

   b. In areas where water quality, temperature, oxygen content, current, and salinity restrictions make the area unsuitable for the type(s) of aquaculture under consideration.

5. Community Shellfish Gardens should be prohibited where such development or activity would result in any significant adverse environmental impacts or aesthetic impacts that cannot be eliminated or adequately mitigated through enforceable conditions of approval; or

   a. Where impacts to other existing and approved land and water uses would substantially and materially conflict, including impacts to navigation, moorage, sport or commercial fishing, underwater utilities, and/or active scientific research.

   b. Areas that have water quality, temperature, oxygen content, current, and salinity restrictions that make the area unsuitable for the type(s) of aquaculture under consideration.

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

6. Shellfish Gardens should consider aesthetic impacts as part of the site design process.

7. Preference should be given to those forms of aquaculture that have less environmental and/or visual impacts. Preference is given to those projects that require fewer submerged
or intertidal structures, fewer land-based facilities, limited substrate modification, and reliance on artificial feeding. In general, preference will be given to:

a. Projects that require the least structures, submerged structures, or intertidal structures over those that involve substantial floating structures.

b. Projects that require few land-based facilities over those that require extensive facilities.

c. Projects that involve little or no substrate modification over those that involve substantial modification.

d. Projects that do not rely on artificial feeding over those that do require artificial feeding.

8. **The density** of aquaculture shall be limited to ensure that net-pens, raft cultures or surface embedded structures do not cause cumulative environmental impacts and aesthetic impacts, or interfere with navigation.

7. Experimental aquaculture projects should be limited in scale and approved for a limited period of time.

8. New shoreline proposals in the vicinity of an experimental aquaculture project should be restricted or denied if they might compromise the monitoring and data collection required under the experimental project permit. All permitted aquacultural projects should be protected from new development that would be likely to damage or destroy them.

5.2.3 **Regulations - Prohibited**

1. Aquaculture shall be prohibited in the Natural and Priority Aquatic designations, except as noted in Section 5.2.4 (1), below.

2. Aquaculture except Shellfish Gardens, shall be prohibited in the following areas:

   a. Areas where intensive aquaculture development would have potential adverse impacts on other existing and approved land and water uses, including navigation; and on the aesthetic qualities of a project area.

   i. **Community Shellfish Garden** may be allowed in areas listed in (a) above when adverse aesthetic impacts are avoided or adequately mitigated through enforceable conditions of approval.

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

   c. Areas devoted to established uses of the aquatic designation with which the proposed aquaculture method(s) would substantially and materially conflict. Such uses would include, but are not limited to, navigation, moorage, sport or commercial fishing, log rafting, underwater utilities and active scientific research.
d. Areas that have water quality, temperature, oxygen content, current, and salinity restrictions that make the areas unsuitable for the type(s) of aquaculture under consideration.

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

3. **Shellfish Garden** shall meet the provisions of 5.2.3(2)(b)(c) and (d) above, and minimize adverse aesthetic impacts.

4. **Aquaculture** that uses or releases herbicides, pesticides, antibiotics, fertilizers, non-indigenous species, parasites, pharmaceuticals, genetically modified organisms, feed or other materials known to be potentially harmful into surrounding waters is prohibited, except that the following may be allowed:

   a. Experimental forms of aquaculture involving new species, new growing methods or new harvesting techniques may be allowed consistent with this program and applicable state and federal regulations.
   
   b. Shellfish reeding/culturing may be permitted when conducted for native population recovery in accordance with a government/Tribal approved plan.

5.2.4 **Regulations - General**

1. Aquaculture may be allowed as a conditional use in the Island Conservancy, Shoreline Residential Conservancy, Shoreline Residential Rural, Semi-rural, Urban and Aquatic designations environments. Aquaculture shall be prohibited in the Natural and Priority Aquatic designations Conservancy environments, except that Shellfish Gardens (Individual and Community) aquaculture may be allowed as part of an approved restoration project in Priority Aquatic A and B and Shellfish Gardens for personal consumption may be allowed in the Priority Aquatic B as provided in Section 5.2.5(8), below.

2. When a shoreline conditional use permit is issued for a new aquaculture use or development, that permit shall apply to the initial siting, construction, and/or planting or stocking of the facility or farm, and shall be valid for the period specified in the permit.

3. **Aquaculture** facilities shall avoid:

   a. Loss of ecological functions,
   
   b. Impacts to eelgrass and macro algae,
   
   c. Significant conflict with navigation and water-dependent uses,
   
   d. The spreading of disease,
   
   e. Introduction of non-native species, or
   
   f. Impacts to shoreline aesthetic qualities.
4. Any unavoidable impacts remaining after application of mitigation sequencing in Section 4.1.3, Environmental Impacts shall provide compensatory mitigation.

5. Legally established aquacultural enterprises, including authorized experimental projects, shall be protected from incompatible uses which may seek to locate nearby. Demonstration of a high probability that such an adjacent use would result in damage to, or destruction of, a legally established aquacultural enterprise shall be grounds for modification or the denial of that use.

3. Applicants shall include in their applications all information needed to conduct thorough evaluations of their aquaculture proposals, including but not limited to the following:
   a. Species to be reared.
   b. Aquaculture method(s).
   c. Anticipated use of any feed, pesticides, herbicides, antibiotics, or other substances and their predicted impacts.
   d. Manpower/employment necessary for the project.
   e. Location and plans for any shoreside activities, including loading, unloading, and product processing.
   f. Methods of traffic control and waste disposal.
   g. Environmental assessment, including best available background information on water quality, turbidity, tidal variations, prevailing storm wind conditions, current flows, flushing rates, aquatic and benthic organisms, and probable impacts on water quality, biota, currents, littoral drift, and any existing shoreline or water use. Further baseline studies may be required, depending upon the adequacy of available information, existing conditions, the nature of the proposal, and probable adverse environmental impacts. Baseline monitoring shall be at the applicant’s expense unless otherwise provided for.
   h. Method of disposal of dead fish to control noxious odors.
   i. Methods of predator control, if any.
   j. Use of lights and noise-generating equipment and their potential impacts on surrounding uses.
   k. Other pertinent information deemed necessary by the City such as noise levels and visual impact.

3. Permit applications shall identify all pesticides, herbicides, antibiotics, vaccines, growth stimulants, anti-fouling agents, or other chemicals that the applicant anticipates using. Such materials shall not be used until approval is obtained from all appropriate State and Federal agencies, including, but not limited to, the U.S. Food and Drug Administration, the Washington State Departments of Ecology, Fish and Wildlife and Agriculture, as required, and proof thereof is submitted to the City. When feasible, the cleaning of nets and other apparatus shall be accomplished by air drying, spray washing, or hand washing, rather than chemical treatment and application.

4. Permit applications shall identify any noise generation associated with the project and also the amount of marine and truck or other vehicle traffic that will occur during the regular operation of the facility.

5.2.5 Regulations - Design Standards

1. The location of floating and submerged aquaculture structures shall minimize interference with navigable waters and the public’s use of the water and shoreline, not unduly restrict navigation to or along the shoreline, or interfere with general navigation lanes and traffic. Floating structures shall remain shoreward of principal navigation.
channels. Other restrictions on the scale of aquaculture activities to protect navigational access may be necessary based on the size and shape of the affected water body, and to

6. No aquatic organism shall be introduced into Bainbridge Island salt or fresh waters without prior written approval of the Washington Department of Fish and Wildlife for the specific organism proposed for introduction. The required approval shall be submitted in writing to the Director prior to the introduction or the granting of the permit, whichever comes first. Unless otherwise provided in the shoreline permit issued by the City, the repeated transfer (or placement) of an approved organism in the same location shall require approval by the City only at the time the permit is issued. For purposes of this section, introduction shall mean the placing of any aquatic organism in any area within the waters of the City, regardless of whether it is a native or resident organism, and regardless of where it is being transferred from.

2. Aquacultural structures and activities that are not water-dependent (e.g., warehouses for storage of products, parking lots) shall be located landward of the OHWM, upland of water-dependent portions of the project, and shall minimize detrimental impacts to the shoreline.

3. Hatchery and other aquaculture operations shall be required to maintain a minimum fifty (50) foot wide vegetated buffer zone along the affected streamway as prescribed BIMC 16.20, provided that clearing of vegetation shall be permitted for essential water access points.

4. Onshore support structures shall meet the height and setback standards established in Table 4-2, Site Development Standards Matrix, except that reduced setbacks may be permitted where necessary for the operation of hatcheries and rearing ponds. Netting and fencing shall the minimum necessary to deter targeted predators and shall not exceed 6 feet in height.

5. Aquacultural proposals that include net-pens or rafts shall not be located closer than one (1) nautical mile to any other aquacultural facility that includes net-pens or rafts, provided that a lesser distance may be authorized by the City if the applicant can demonstrate to the City's satisfaction that the environmental and aesthetic concerns expressed in the Master Program shall be addressed. If a lesser distance is requested, the burden of proof shall be on the applicant to demonstrate that the cumulative impacts of the existing and proposed operations would not be contrary to the policies and regulations of the Master Program.

6. Floating/hanging aquaculture facilities, and associated equipment, except navigation aids, shall use colors and materials that blend into the surrounding environment in order to minimize visual impacts. All materials, including those used for incidental aquaculture for personal consumption, shall be marked with owners contact information to provide identification after storm disturbance.

7. For floating culture facilities, the City shall reserve the right to require a visual impact analysis consisting of information comparable to that found in the Department of Ecology's Aquacultural Siting Study (1986), as updated. Such analysis may be prepared.
by the applicant without professional assistance, provided that it includes an adequate assessment of impacts that it is competently prepared.

8. For aquacultural projects using over-water structures, storage of necessary tools and apparatus seaward of the OHWM shall be limited to containers of not more than three (3) feet in height, as measured from the surface of the raft or dock, provided that, in locations where the visual impact of the proposed aquaculture structures will be minimal, the City, based upon written findings and without requiring a variance, may authorize storage containers of greater height. In such cases, the burden of proof shall be on the applicant. Materials which are not necessary for the immediate and regular operation of the facility shall not be stored seaward of the ordinary high water mark. A temporary sanitation station may be allowed on a fixed overwater pier structures when utilities are not available within a reasonable distance.

9. Shellfish Gardens for personal consumption is allowed as an accessory use to a primary residential use provided the following can be met:
   a. the cultivation and harvesting is limited to native species of shellfish; and
   b. the operation may utilize bottom culture or off-bottom culture bags in accordance with best management practices and shall not significantly alter the tidal bed; and
   c. the area used for cultivation is area no greater than 400 square feet in area.

5.2.6 Regulations - Operational Standards

1. Aquaculture structures and equipment shall be of sound construction and shall be so maintained. Abandoned or unsafe structures and equipment shall be removed or repaired promptly by the owner.

2. Legally established aquacultural enterprises, including authorized experimental projects, shall be protected from incompatible uses which may seek to locate nearby. Demonstration of a high probability that such an adjacent use would result in damage to, or destruction of, such an aquacultural enterprise shall be grounds for the denial of that use.

3. Operational monitoring may be required if and to the extent that it is necessary to determine, ensure, or confirm compliance with predicted or required performance, including periodic benthic analysis or noise pollution in accordance with BIMC 16.16. Such monitoring requirements shall be established as a condition of the permit and shall be conducted at the applicant’s (operator’s) expense.

4. No processing of any aquacultural product, except for the sorting or culling of the cultured organisms and the washing or removal of surface materials or organisms, shall occur in or over the water after harvest, unless specifically approved by permit. All other processing and processing facilities shall be located on land and shall be governed by, in addition to these provisions, the policies and regulations of other applicable sections of
the Master Program, in particular, provisions addressing commercial and industrial uses.

4. Aquacultural wastes shall be disposed of in a manner that will ensure compliance with all applicable governmental waste disposal standards. No garbage, wastes, or debris shall be allowed to accumulate at the site of any aquaculture operation.

13. Required separations between aquacultural uses and facilities and national wildlife refuge lands and/or habitat of special significance for birds or mammals, as identified by the Washington State resource agencies, shall be established based on analysis of the potential impacts on the resources.

14. Hatchery and other aquaculture operations shall be required to maintain a minimum fifty (50) foot wide vegetated buffer zone along the affected streamway as prescribed BIMC 16.20, provided that clearing of vegetation shall be permitted for essential water access points.

15. Offshore support structures shall meet the height and setback standards established in Table 4-2, Site Development Standards Matrix, except that reduced setbacks may be permitted where necessary for the operation of hatcheries and rearing ponds.

5. Predator control shall not involve the killing or abusive harassment of birds or mammals. Approved controls include, but are not limited to, double netting for seals, overhead netting for birds, and three-foot high fencing or netting for otters. The use of other nonlethal, non-abusive predator control measures shall be contingent upon receipt of written approval from the National Marine Fisheries Service and/or the U.S. Fish and Wildlife Service, as required.

6. Mechanical and/or hydraulic clam harvesting or other activities that involve substantial substrate modification through dredging, trenching, or digging shall be prohibited in existing kelp beds or in beds of native eel grass (Zostera marina) containing more than two (2) turions per one-quarter (1/4) square meter in winter or three (3) turions per one-quarter (1/4) square meter in summer.

19. Fish net pens shall meet, as a minimum, State-approved administrative guidelines for the management of net pen cultures, where any conflict in requirements arises the more stringent requirement shall prevail.

20. Aquacultural proposals that include net pens or rafts shall not be located closer than one (1) nautical mile to any other aquacultural facility that includes net pens or rafts, provided that a lesser distance may be authorized by the City if the applicant can demonstrate to the City's satisfaction that the environmental and aesthetic concerns expressed in the Master Program shall be addressed. If a lesser distance is requested, the burden of proof shall be on the applicant to demonstrate that the cumulative impacts of the existing and proposed operations would not be contrary to the policies and regulations of the Master Program.

22. Where necessary to preserve the integrity of any research data collected, aquaculture development which would be likely to jeopardize an experimental aquaculture development shall not be allowed within the same bay, harbor, or cove with any such aquaculture development, or within one mile (1) of such a development if the water body is larger than one (1) square mile in area, until after the experimental project is granted nonexperimental status or terminated.

23. For floating culture facilities, the City shall reserve the right to require a visual impact analysis consisting of information comparable to that found in the Department of Ecology’s Aquacultural Siting Study (1986). Such analysis may be prepared by the applicant without professional assistance, provided that it is competently prepared.
24. Any shoreline designated a "shoreline of state wide significance" with aquacultural activities, proposed in that area shall be subject to: first, the policies and priorities contained in Section III, subsection H, Shorelines of State wide Significance and, second, the policies and regulations contained in this section.

25. Aquaculture activities proposed in an area designated a "shoreline of state wide significance" shall be subject to setback and height standards as shown in Table 4-2.

26. Aquaculture will be conducted so that there will be no significant adverse disruption of the substrate.

27. Mechanical and/or hydraulic clam harvesting operations, which use a hydraulic harvester or similar hoisting equipment shall be required to obtain a Substantial Development Permit and a Conditional Use Permit. Such permits shall only be issued if the applicant can show that the proposed operation will not harm fish or shellfish resources.

28. Aquaculture activities are not subject to the regulations found in Section VI.D, Dredging and Dredge Material Disposal.

5.2.7 Submittal Requirements

1. Applicants shall include in their applications all information needed to conduct thorough evaluations of their aquaculture proposals, including but not limited to the items listed in BIMC Section 2.16.020(H), General Application Submittal, and the following:

   a. Shellfish Gardens must only meet BIMC Section 2.16.020(H), General Application Submittal

   b. The Administrator may waive some of the submittal requirements for Community Shellfish Gardens.

   c. Species to be reared.

   d. Aquaculture method(s).

   e. Anticipated use of any feed, pesticides, herbicides, antibiotics, or other substances and their predicted impacts.

   f. Manpower/employment necessary for the project.

   g. Location and plans for any shoreside activities, including loading, unloading, and product processing.

   h. Methods of traffic control and waste disposal

   i. Environmental assessment, including best available background information on water quality, turbidity, tidal variations, prevailing storm wind conditions, current flows, flushing rates, aquatic and benthic organisms, including existing kelp beds or in beds of native eel grass (Zostera marina), and probable impacts on water quality, biota, currents, littoral drift, and any existing shoreline or water uses. Further baseline studies may be required, depending upon the adequacy of available information, existing conditions, the nature of the proposal, and probable adverse environmental impacts. Baseline monitoring shall be at the applicant's expense unless otherwise provided for.
k. Method of disposal of dead fish processing waste to control noxious odors and prevent releasing material in the environment.

l. Methods of predator control, if any.

m. Use of lights and noise-generating equipment and their potential impacts on surrounding uses.

n. Provide documentation of meeting noise regulations BIMC 16.16, light regulations and/or other pertinent information deemed necessary by the City such as noise levels and visual impact.

o. Permit applications shall identify all pesticides, herbicides, antibiotics, vaccines, growth stimulants, anti-fouling agents, or other chemicals that the applicant anticipates using. Such materials shall not be used until approval is obtained from all appropriate State and Federal agencies, including, but not limited to, the U.S. Food and Drug Administration, the Washington State Departments of Ecology, Fish and Wildlife and Agriculture, as required, and proof thereof is submitted to the City. When feasible, the cleaning of nets and other apparatus shall be accomplished by air drying, spray washing, or hand washing, rather than chemical treatment and application.

p. Permit applications shall identify any noise generation associated with the project and also the amount of marine and truck or other vehicle traffic that will occur during the regular operation of the facility.

Comment [R724]: PC agreed to modify for clarity of sentence. 4-10-12

Comment [R725]: Staff Recommendation, Consistency with BIMC. 4-10-12

Comment [R726]: PC agreed to delete and combine with (k) above. 4-12-12
5.3  D.—Boating Facilities

5.3.1  Applicability

Boating facilities include marinas (both backshore and foreshore, dry storage, and wet moorage and open water types), boat launch ramps, covered moorage, marine railways, and marine travel lifts. (Refer to Section 7.0 for definitions.) Community, yacht club, camp, and resort moorage facilities must comply with boating facility requirements if they provide moorage for six (6) or more vessels. Both marina and non-marina boating facilities, including single-family, must comply with Section 6.3, Overwater Structure Section VI, subsection F, Piers, Docks, Recreational Floats, and Mooring Buoys. Boating facilities are also subject to Section 3.0, Shoreline Designations and Section 4.0, General Policies and Regulations, including the standards in Tables 4-1 through 4-3. Other portions of this Program Section VI may also apply.

Accessory uses found in marinas may include fuel docks and storage, boating equipment sales and rental, repair services, boat launches, bait and tackle shops, potable water, waste disposal, administration, parking, and grocery and dry good shops. Uses which are not clearly accessory are also subject to their respective provisions in this section. (Examples might include commercial, industrial, or transportation facilities.) Boating facilities are also subject to Section III, General Policies and Regulations and to Section IV, Environment Designations, including the standards in Table 4.2.

Regulations governing boating activities in the bays and harbors of Bainbridge Island are contained in Chapter 12.24 and 12.40 of the BIMC, harbors and waters code and may also apply. See Section 6.3.7.9 and 10 34, subsection F, for regulations governing mooring buoys. Boating facility development and/or renovation shall comply with all other applicable State and Federal agency policies and regulations including, but not limited to, the Department of Fish and Wildlife, Federal Marine Sanitation standards (Environmental Protection Agency 1972) requiring water quality certification from the U.S. Army Corps of Engineers (Section 10), U.S. Army Corps of Engineers dredging standards (Section 404), and State and Federal standards for the storage of fuels and toxic materials.

5.3.2  Goal

Boating facilities, including marinas and boat launch ramps, are priority water-dependent uses and should be located, designed, and operated with appropriate mitigation to avoid and minimize adverse effects on shoreline functions and processes; prevent conflicts with navigation and other allowed uses; and provide public access and enjoyment of water of the state, to provide the maximum feasible protection and enhancement of all forms of aquatic, littoral, or terrestrial life including animals, fish, shellfish, birds and plants, their habitats, and their migratory routes. Marinas should be located in areas of low biologic productivity.

5.3.3  Policies
1. Locate new or expanding boating facilities only where suitable environmental conditions are present. Avoid:
   a. Critical saltwater habitat including kelp beds, eelgrass beds, spawning areas for forage fish (such as herring, surf smelt and sandlance);
   b. Subsistence, commercial and recreational shellfish beds; mudflats, intertidal habitats with vascular plants;
   c. Mudflats or intertidal habitats with vascular plants;
   d. Areas with which priority species have a primary association; and
   e. Areas which have been identified as hazardous due to storm tides, high winds, or flooding; and
   f. In embayments with poor flushing action.
2. Design and locate boating facilities to minimize adverse effects upon shoreline processes such as erosion, littoral or riparian transport, and where feasible, enhance degraded, scarce, and valuable shore features including accretion shoreforms. Boating facilities should be located and designed to minimize adverse effects upon, and to enhance if possible, beneficial shoreline features and processes including erosion, littoral or riparian transport and accretion shoreforms, as well as scarce and valuable shore features, including riparian habitat and wetlands.
3. Boating facilities should be located and designed so their structures and operations Design, locate, construct, and maintain boating facilities to avoid adverse proximity impacts such as noise, light and glare; to assure that their structures and operations will be aesthetically compatible with the area visually affected, and will not unreasonably impair shoreline views from adjacent shoreline properties or the public’s visual access to the shore. Vegetation screening should be utilized to reduce visual impacts of associated parking and storage.
4. Joint use of piers and docks (community docks) should be encouraged so long as they serve the adjacent, upland owners. They should include no more than (1) one moorage space per ownership.
5. Areas which have been identified as hazardous due to storm tides, high winds, or flooding should not be considered as potential marina sites.
6. Embayments with poor flushing action should not be considered for marina sites.
7. Consider Regional as well as local needs should be considered when determining the location of marinas and boat launches. Identify Potential sites near high-use or potentially high-use areas should be identified.
8. Consumption of limited shoreline resources should be minimized by considering:
a. The expansion of existing marinas over the addition of new marina sites;
b. The development of marinas and launch ramps over the development of individual docking facilities for private, noncommercial pleasure craft; and
c. The use of launching ramps and recreational boat dry storage or other new technologies over year-round wet-moorage.

6. The location and design of boating facilities should not unduly obstruct navigable waters, and should avoid adverse effects to recreational opportunities, restrict or impair ingress or egress or the use and enjoyment of the water or beach on adjoining properties.

7. Design, locate and construct new marina facilities should be designed to accommodate public access and enjoyment of the shoreline, including provisions for walkways, view points, restroom facilities, and other recreational uses according to the scale of the facility.

8. Encourage innovative construction techniques and open-type construction of foreshore marinas. Wherever possible, should use open-type construction to prevent degradation of fish and/or shellfish resources and habitat.

9. Require the installation and maintenance of sewage disposal (pump-out) facilities or services should be required and. These should be conveniently available to all users of marina facilities.

10. Prohibit floating homes should be prohibited. Allow houseboats and live-aboard vessels should be allowed only in those limited circumstances where their environmental and use impacts can be substantially avoided, minimized, or mitigated. Prohibit floating homes.

11. Transient moorage should be made available, with most of this need being met through use of short-term vacancies.

12. Work with the Harbor Commission to establish regulations governing a uniform speed code, harbor safety and harbor navigation through amendments to BIMC Chapters 12.24 and 12.40.

5.3.4 Regulations - Prohibited

1. Boating facilities shall be prohibited in the Shoreline Residential Conservancy, Island Conservancy, Natural, and Priority Aquatic designations, except that boating facilities may be permitted as a conditional use in public parks designated Island Conservancy.

2. Backshore marinas involving the creation of a basin for wet moorage.

3. Covered moorage and floating homes.

5.3.5 Regulations - General
1. Boating facilities, including marinas, shall be allowed as follows:
   a. Boating facilities shall be permitted in the Urban designation environment and allowed as a conditional use in the Semi-rural and Rural Residential designation environments.
   b. Boating facilities shall be prohibited in the Natural, Island Conservancy, and Aquatic Conservancy designation environments.
   c. Boating facilities shall be permitted in the Aquatic environment designation, are allowed if permitted in the adjacent upland environment designation, allowed as a conditional use if so allowed permitted in the adjacent upland environment designation, and prohibited if prohibited in the adjacent upland environment designation.
   d. Boating facilities shall be permitted in public parks designated Conservancy environment and in the adjacent Aquatic environment.
   e. One (1) public open water moorage and anchorage area shall be a permitted use in the Aquatic environment adjacent to all upland environments east of Stetson Spit and west of the Washington State Ferry Maintenance Facility, located in Eagle Harbor.

2. Boating facility development and/or renovation shall comply with all other applicable State and Federal agency policies and regulations including, but not limited to, the Department of Fish and Wildlife, Federal Marine Sanitation standards (Environmental Protection Agency 1972) requiring water quality certification from the U.S. Army Corps of Engineers (Section 10), U.S. Army Corps of Engineers dredging standards (Section 404), and State and Federal standards for the storage of fuels and toxic materials.

3. The City shall require the following information in its review of marina proposals:
   a. Existing natural shoreline and backshore features and uses and bathymetric contours (1-foot increments);
   b. Geo-hydraulic processes and flushing characteristics, volume, rates, and frequencies;
   c. Biological resources and habitats for the backshore, foreshore, and aquatic environments;
   d. Area of surface waters appropriated, and leased areas;
   e. Site orientation; exposure to wind, waves, flooding or tidal/storm surges; and type and extent of shore defense works or shoreline stabilization and flood protection necessary;
   f. Impact upon existing and created demand for shoreline and water uses including physical access, recreation, and views;
   g. The regional need for additional facilities;
   h. The design of the facilities including sewage disposal, restrooms, solid waste disposal, proposed signage, proposed exterior lighting, a proposed landscaping plan, and proposed use of noise-generating equipment;
   i. Management and operations, including accommodation of live-aboard vessels, including houseboats, provisions for the prevention and control of fuel spillage, and restrictions related to disposal of wastes and toxic materials; and
   j. Other information that may be requested by the Director.

2. Accessory uses at a marina or public launch ramp shall be limited to those which are...
water-dependent, related to boating, necessary for marina 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 the marina and/or launch ramp and surrounding uses.

3. All marina developments shall provide Shoreline permits for marinas shall be conditioned to include boater education addressing boater impacts on water quality and other shoreline resources, boater safety and requirements for boater use of sewage pump-outs to their marina users.

4. New marinas and expansion areas in existing marinas shall not have covered moorage.

5. Floating homes and those that are not determined to be legally non-conforming shall be prohibited in all marinas and elsewhere in the shoreline jurisdiction of Bainbridge Island. Live-aboard vessels, including houseboats, shall be permitted only in marinas. No more than 25% of the surface area of a marina or 25% of its slips, whichever is less, shall be devoted to live-aboard vessels, including houseboats, except that the percentage of live-aboard vessels in marinas may potentially be increased up to 25% through an approved conditional use permit. \[WAC 332-30-171, or its successor\]

5.3.6 Regulations - Location

1. When new sites are considered, sufficient evidence must be presented to show that existing marinas are inadequate and cannot be expanded to meet regional demand.

2. Marinas shall be sited to prevent any restrictions in the use of commercial and recreational shellfish beds or commercial aquaculture operations. The specific distance shall be determined in conjunction with the Washington State Department of Health Services, the Washington State Department of Ecology, and other agencies with expertise. Criteria for determining the specific distance may include:
   a. The size and depth of the water body;
   b. Tidal flushing action in the project area;
   c. Size of the marina and projected intensity of use;
   d. Whether fuel will be handled or stored;
   e. Existence of a sewer hook-up; and
   f. Expected or planned changes in adjacent land uses that could result in additional water quality impacts or sanitary treatment requirements.

3. Marinas and public launch ramps shall be allowed only on stable shorelines where water depths are adequate to eliminate or minimize the need for offshore or foreshore channel construction dredging, maintenance dredging, spoil disposal, filling, beach enhancement, and other harbor and channel maintenance activities.

4. Marinas and launch ramps shall be located only in areas where there is adequate water mixing and flushing and shall be designed so as not to retard or negatively influence...
flushing characteristics.

5. Boating facilities shall not require fixed breakwaters.

6. Marina and boat launch facilities shall be clearly separated from entrances shall not be located closer than one thousand (1,000) feet from beaches commonly used for swimming and shall provide signage and provide protection measures to insure the safety of swimmers or from valuable areas for commercial or recreational fishing or shellfish collection.

7. Marinas and launch ramps shall not be located at or along:
   a. Significant littoral drift sectors, including resource material areas such as feeder bluffs and accretion beaches, points, spits and hooks;
   b. Wetlands, marshes, bogs, swamps and lagoons;
   c. Mud flats and salt marshes; or
   d. Fish and shellfish spawning and rearing areas; or
   e. Poorly flushed lagoons and backwaters.

(See Section III, subsection D, Environmentally Sensitive Areas.)

8. Backshore marinas involving the creation of a basin for wet moorage are prohibited by the Master Program.

8. Marinas shall not extend seaward farther than the following limits:
   a. In Eagle Harbor, the Construction Limit Line or to the Harbor Structure Limit Line except that public open water moorage and anchorage areas shall be allowed seaward of the Construction Limit Line.
   b. Elsewhere, the offshore ends of the adjacent marinas where present, and in no instance further than two hundred (200) feet beyond extreme low tide or the -18 MLLW contour, whichever is closer to shoreless. However, the distance from shore may be less in locations where it is necessary to protect the navigational rights of the public. [WAC 332-30-122(1) (ii) or its successor and WAC 332-30-142 (8)(d) or its successor].

5.3.7 Regulations - Design/Renovation/Expansion

1. Proposals for marinas shall include public launch facilities unless the applicant can demonstrate that providing such facilities is not feasible.

2. Boating facilities shall be designed, constructed and maintained to:
   a. Marina design shall provide thorough flushing of all enclosed water areas and shall not restrict the movement of aquatic life requiring shallow water.
   b. Minimize interference with geo-hydraulic processes and disruption of existing shore forms.

Comment [J750]: Staff, removed arbitrary distance and provided sufficient protection. Fishing area protection covered in #2 above 3-23-11.

Comment [J751]: Staff, covered in #4 above 3-23-11

Comment [J752]: Staff, moved to applicability 3-23-11

Comment [J753]: Planning Commission 9/22/2011

Comment [R754]: PC agreed to move to Prohibited. 4-9-12

Comment [J755]: PC, Amended to address the potential needs of the public open water marina. 3-25-11

Comment [J756]: Clarified – 9/22/2011

Comment [J757]: Staff, consistent with WAC and recognizable datum 3-23-11

Comment [J758]: Staff, formatted for clarity. Added iv and v. to meet Policy #4. 3-23-11

Comment [J759]: Staff, Need to define 3-25-11
c. be aesthetically compatible with existing shoreline features and uses.
d. avoid adverse proximity impacts such as noise, light and glare.
e. include vegetative screening for parking, and upland storage areas and facilities consistent with landscaping standards for parking lots as prescribed in BIMC 18.15.010.
f. include public access, such as walkways, view points, public restrooms accessory parking or other recreational uses according to the scale of the facility.

3. The marina design shall minimize interference with geo-hydraulic processes and disruption of existing shore forms.

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

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

6. Long term dry moorage (for 6 or more vessels) and all other storage areas shall be set back at a preferred distance of one hundred (50100) feet from the OHWM. This shall not apply to hand launch vessels.

7. Short-term loading/unloading areas and hand launch storage areas may be located at ramps or near berthing areas and should be constructed of pervious material.

8. Unless native vegetation on the perimeter of parking, dry moorage, and other storage areas is retained, these perimeter areas shall be landscaped with native plants or other approved materials. The permit application shall identify the size, location, and species of landscaping materials stressing native vegetation.

9. Public access, both visual and physical, shall be an integral part of all marina design and development commensurate with the particular proposal and must meet the standards of Section 4.2.4. Public Access, including the following:
   a. Views from upland lots and public view corridors shall be preserved. Visual access shall not be reduced to less than thirty-five (35) percent of the width of the lot, except that one-half of such requirement may be satisfied by an abutting street or waterway.
   b. Parking, landscaping, and recreational uses shall be permitted in the view corridor provided all other Master Program provisions are met.

10. All boating facilities and accessory uses must conform to the general provisions (Section III) and environment designation provisions (Section IV), including meeting the setback and height restrictions in Table 4.2.

5. Innovative construction techniques and open-type construction of foreshore marinas may be allowed when demonstrated to the satisfaction of the Administrator that the design will prevent degradation of fish migration, critical saltwater habitat and/or shellfish resources.
Regulations - Parking and Circulation

1. To the maximum extent possible, marinas and accessory uses shall share parking facilities, with marina usage given preference.

2. a. Parking facilities shall be provided according to the following schedule:
   
   First 50 moorage slips: 1 vehicle space per 2 slips
   Slips 51 to 100: 1 vehicle space per 3 slips
   Slips over 100: 1 vehicle space per 4 slips
   
   An additional parking space shall be provided for every four hundred (400) square feet of interior floor space devoted to accessory retail sales or services. Where live-aboards are permitted, additional parking shall be provided at a rate of 1 vehicle per live aboard vessel or houseboat allowed.

   b. Parking facilities for open water moorage and anchorage areas shall be provided as follows: Live-aboard tenants of open water moorage and anchorage areas shall provide either a) evidence of access to one legal vehicle parking space per anchorage/moorage space for the duration of the anchorage/moorage period; or b) an affidavit stating that no vehicle is owned or used by the tenant. Day-use parking shall be provided according to the following schedule:
   
   First 50 moorage slips: 1 vehicle space per 2 slips
   Slips 51 to 100: 1 vehicle space per 3 slips
   Slips over 100: 1 vehicle space per 4 slips
   
   In addition, two load/unload parking spaces shall be provided for transient users of open water moorage and anchorage areas.

3. Marinas and launch ramps shall be located where access streets are adequate to handle the traffic load generated by the facility and shall be designed to minimize other circulation and access conflicts. Backing of trailers on public roads shall be prohibited and identified with appropriate signs.

4. Collector roads between marinas and arterial routes shall have all-weather surfacing and be satisfactory to the City in terms of width, safety, alignment, sign distance, grade, and intersection controls.

5. Marinas and boat launches shall be designed so that existing or potential public access along beaches is not unnecessarily blocked nor made dangerous, and so that public use of the surface waters below the OHWM is not unduly impaired.

6. At each public or quasi-public launch ramp, at least ten (10) car and trailer spaces at least ten (10) feet by forty (40) feet shall be provided for each ramp lane.

5.3.8 Regulations - Utilities

1. All marinas shall have accessible boat sewage disposal systems on-site or other pump-out services available. Existing marinas shall comply within one (1) year of the effective date of this regulation.

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

3. All marinas shall provide restrooms for boaters' use, including upland or floating facilities supporting open water moorage and anchorage areas. Upland restrooms shall be located within seventy-five (75) feet of the landward end of the dock or pier, and floating restroom facilities shall be located to conveniently serve the tenants. Restrooms shall be identified by signs and be accessible to tenants twenty-four (24) hours a day.
with fewer than ten (10) slips shall provide one (1) toilet and hand washing facility. Marinas with ten to one hundred slips shall provide one (1) toilet and hand washing facility for each gender. Marinas exceeding one hundred (100) slips shall provide an additional toilet and lavatory for each gender. Existing marinas shall comply within one (1) year of the effective date of this regulation.

a. Marinas with fewer than ten (10) slips shall provide one (1) toilet and hand washing facility.

b. Marinas with ten to one hundred slips shall provide one (1) toilet and hand washing facility for each gender.

c. Marinas exceeding one hundred (100) slips shall provide an additional toilet and lavatory for each gender.

d. Existing marinas shall comply within one (1) year of the effective date of this regulation.

4. Distribution systems for plumbing and wiring at a marina site shall be placed at or below ground and dock levels, in accordance with national marine standards.

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

6. Public boat launch facilities that also include a public dock shall provide and maintain a dump station.

5.3.9 Regulations - Management and Operations

1. The discharge of sewage and/or toxic material from boats and/or shore installations is prohibited. The responsibility for the adequate and approved collection and disposal of marina originated sewage, solid waste, and petroleum waste is that of the marina operator. An emergency spill kit and use instructions shall be provided for tenants in an easy to access area and be accessible 24 hours a day.

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

3. Swimming shall be prohibited within marina facilities unless the swimming area is adequately separated, protected, and posted.

4. If dredging at marina entrances changes the littoral drift processes and adversely affects adjacent shores, the marina operator shall be required to periodically replenish these shores with the appropriate quantity and quality of aggregate as determined by a geo-hydraulic study, paid for by the operator and completed to the satisfaction of the Administrator.

5. Temporary vacant moorage spaces shall be made available for "transient moorage" (less than two-week stay) when at least one of the following applies:

Comment [R778]: PC agreed to include the regulation as a list instead of the paragraph above for clarification. 4-12-12

Comment [J779]: Staff, removed and added to reg #7 below. 3-23-11

Comment [J780]: Staff, moved from reg #5 above and clarified that only necessary when public facility contains a dock. 3-23-11

Comment [J781]: Staff, Do we want to keep and/or modify this to apply to different provisions? 3-25-11

a. The marina is owned, operated, or franchised by a governmental agency for use by the public;
b. The marina provides more than three thousand (3,000) lineal feet of moorage; or
c. The marina is part of a mixed-use development which includes restaurants or other water-enjoyment uses.

6. Additional transient moorage requirements may be established for Eagle Harbor in the Winslow Master Plan.

7. Marina operators shall execute a lease, contract, or deed which establishes permission to use a slip for a stated period of time and which establishes conditions for use of the slip, including the requirement that all boats meet applicable sanitation regulations.

8. Live-aboard vessels, houseboats, and floating homes must comply with all marine regulations, policies and procedures of the Coast Guard, Federal and State governments which pertain to health, safety and/or environmental protection. Proof of seaworthiness of the vessel and the adequacy of the mooring arrangement must be provided and laws governing all the citizens of Bainbridge Island must be obeyed.

9. New marinas shall meet the following before final occupancy and existing marinas shall comply with the following within 1 year from adoption of this program:
   a. Marinas which dispense fuel shall have adequate facilities and establish posted operational procedures for fuel handling and storage in order to prevent/minimize accidental spillage.
   b. Marinas shall have facilities, equipment, such as emergency spill kits, and established posted procedures for containment, recovery, and mitigation of spilled petroleum, sewage, and toxic products.
   c. Marina operators shall post signs where they are readily visible to all marina users describing regulations:
      i. Pertaining to handling and disposal of waste, wastewater, toxic materials, and recycling;
      ii. Prohibiting the use of marine toilets (i.e., no untreated sewage discharge);
      iii. Prohibiting the disposal of fish and shellfish cleaning wastes; and
      iv. Describing best management practices (BMPs) for boat maintenance and repairs on site.
   d. Garbage or litter receptacles shall be provided and maintained by the marina operator at several locations convenient to users in sufficient numbers to properly store all solid waste generated on site.
   e. Marina docks shall be equipped with adequate lifesaving equipment such as life rings, hooks, and ropes and ladders, or equivalent on the end of fingers, and/or

Comment [R783]: Workgroup, Moved from Residential Section 5-17-11
Comment [R784]: Workgroup, add for flexibility 5-2-11
ii. One ladder (per side) either every one hundred (100) linear feet of dock, or every 6 slips, whichever is greater. This regulation does not apply to the side of a float which is less than 100 feet from a shoreline or

iii. At least one ladder to serve a float with six (6) or more slips and is 100 linear feet in length or less.

5.3.10 Regulations - Boat Launches (includes marine railways)

5.3.10.1 Regulations - Prohibited

1. Boat launches are prohibited in:
   a. Significant littoral drift sectors, including resource material areas such as feeder bluffs and accretion beaches, points, spits and hooks; except for a public launch as provided for in this section.
   b. Wetlands, marshes, bogs, swamps and lagoons;
   c. Mud flats and salt marshes; or
   d. Fish and shellfish spawning and rearing areas.

5.3.10.2 Regulations – Design and Location

1. Boat launches may be allowed only on or along low energy drift sectors.

   a. Launch ramps shall be located:
      i. On stable shorelines where water depths are adequate to eliminate or minimize the need for:
         1. Offshore or foreshore channel construction dredging, or
         2. Maintenance dredging, or
         3. Spoil disposal, or
         4. Filling, or
         5. Beach enhancement, or
         6. Harbor and channel maintenance activities.
      ii. Launch ramps shall be located only in areas where there is adequate water mixing and flushing and shall be designed so as not to retard or negatively influence flushing characteristics.

2. For public launch ramps innovative or hinged boat launches may be permitted on marine accretion shoreforms, provided that continual necessary grading is not required harmful. When grading is permitted it must not adversely affect ecological functions and ecosystem wide processes. Resources and any accessory facilities are shall be located out of the critical area.

3. Public boat launches may be allowed on stable banks where no or a minimum number of current deflectors or other stabilization structures will be necessary.

4. Boat launches shall not be permitted where the upland slope within twenty-five (25) feet of the OHWM exceeds twenty-five (25) percent and/or where substantial cutting,
grading, filling, or defense works is necessary.

5. Boat launches, minor accessory buildings, and haul out facilities shall be designed to be in character and scale with the surrounding shoreline.

6. Boat launches shall be built from flexible, hinge-segmented pads which can adapt to changes in beach profiles, unless a solid structure is demonstrated to be more appropriate for the intended level of use.

7. Boat launches shall be placed and kept near flush with the foreshore slope to minimize the interruption of geo-hydraulic processes and critical salt water habitat.

8. Marine railways for boat launching shall be located the minimum distance necessary above existing grade as not to obstruct access or littoral drift to and along the shoreline.

9. Boat launch facilities shall be clearly separated from beaches commonly used for swimming and shall provide signage and provide protection measures to insure the safety of swimmers.

9. Parking and shuttle areas for launch ramps shall not be located on scarce accretion shoreforms which have high value for general shore recreation.

5.3.11 Submittal Requirements

1. In addition to the general submittal requirements specified in BIMC Section 2.16.020(H), the City shall require the following information in its review of Boating Facility proposals:

   a. Existing natural shoreline and backshore features and uses and bathymetric contours (1-foot increments);
   b. Geo-hydraulic processes and flushing characteristics, volume, rates, and frequencies;
   c. Biological resources and habitats for the backshore, foreshore, and aquatic designations;
   d. Area of surface waters appropriated, and leased areas;
   e. Site orientation; exposure to wind, waves, flooding or tidal/storm surges; and type and extent of shore defense works or shoreline stabilization and flood protection necessary;
   f. Impact upon existing and created demand for shoreline and water uses including physical access, recreation, and views;
   g. The regional need for additional facilities;
   h. The design of the facilities including sewage disposal, restrooms, solid waste disposal, proposed signage, proposed exterior lighting, a proposed landscaping plan, and proposed use of noise-generating equipment;
i. **Documentation of meeting noise and light regulations**

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

k. Additional information that may be required or the above requirements may be waived as the Administrator determines necessary for the review of the proposal.

Comment [R795]: PC agree to add for consistency with BIMC 4-12-12

Comment [LH796]: Staff, Revised to allow for more or less information as needed 4-20-11
5.4 Commercial Development

5.4.1 Applicability

Commercial development is subject to the provisions of Section 30 IV, *Environment Shoreline Designations*, including the standards in Tables 4-1 through 4-3-4-2. Uses associated with commercial development which are identified as separate uses in the Master Program are also subject to those regulations. Examples are industry, boating facilities, transportation facilities, and utilities. Shoreline modification activities, such as piers, docks, and bulkheads, are subject to provisions in Section 6.0 Section VI, Section 4.0 Section III, General Policies and Regulations, also applies to all commercial uses.

5.4.2 Policies

1. Design and operate commercial uses, activities and developments to avoid or minimize adverse impacts to ecological functions and ecosystem wide processes. As mitigation for commercial development, restoration of impaired ecological functions and ecosystem wide process should be encouraged.

2. Give priority to those commercial developments that are dependent on shoreline locations or that allow a substantial number of people to actively or passively enjoy the shoreline; preference should first be given to water-dependent uses, then to water-related and water enjoyment uses. New commercial development located in shoreline areas should be limited to water-oriented uses as defined herein. Commercial development in shoreline areas should be considered in descending order of preference as follows:
   a. Water-dependent uses;
   b. Water-related uses; and
   c. Water enjoyment uses.

   Nonwater-oriented uses should be discouraged.

3. Discourage nonwater-oriented commercial uses, unless the use contains a mix of commercial and residential development that also includes either a public use benefit (open space, shoreline access, recreation), or a water enjoyment commercial use.

4. Commercial developments should not be located over water unless the use is water-dependent and requires over-water development.

5. New commercial development on shorelines areas should be located in those areas with existing, compatible commercial uses and in a manner that will promote infill and minimize sprawl and the inefficient use of shoreline areas.

6. Provide Commercial development should provide physical or visual access to the shoreline as part of all new commercial development or other opportunities for the public to enjoy the shorelines of the State. Existing development should be required to provide public access amenities when building improvements are proposed. Incentives for commercial use proposals to include additional public amenities should be provided.
5. Commercial developments should utilize multiple use concepts which include open space and recreation.

7. Commercial development should be aesthetically and acoustically compatible with the surrounding area.

8. View protection both to the water and from the water should be considered in the design and review of commercial development.

5.4.3 Regulations - General

1. Commercial uses should be located on shoreline with existing compatible commercial uses and are regulated in the shoreline designations as follows:

   a. Water-oriented, water related, and water enjoyment commercial use and development shall be permitted in the Urban environment designation and may be allowed under a conditional use permit in the Residential Semi-rural environment designation, and

   b. Water-dependent commercial development that requires an over-water location may be permitted in the Aquatic environment designation when permitted in the upland environment designation.

   c. Nonwater-oriented commercial uses are prohibited in the shoreline except as follows:

      i. As a conditional use in the Urban designation when located on a site physically separated from the shoreline by another property in separate ownership or by a public right-of-way such that water access is precluded, provided that the property conditions were lawfully established prior to the effective date of this Program; and

      ii. As a permitted use if located in a mixed-use development in the Urban designation as a subordinate to a more dominant water-oriented commercial, residential or recreational use contained in the same development which also provides significant public benefit amenities such as public open space or recreation, public access, or shoreline restoration.

   d. Commercial uses shall be prohibited in all other shoreline the Natural, Conservancy, Rural and Aquatic Conservancy environment designations.

2. Commercial development shall be prohibited in the Aquatic environment except water-dependent commercial development requiring an over-water location which shall be permitted in the Aquatic environment when permitted in the upland environment.

3. Nonwater-oriented commercial development may be allowed under a conditional use permit in the Urban environment if it complies with all other applicable regulations and the following circumstances are demonstrated:

   a. A water-oriented use is not reasonably expected to be located on the proposed site due to topography, surrounding land uses, physical features, or the site's separation from the water.

   b. The proposed use will not interfere with adjacent water-oriented uses.
Nonwater-oriented commercial developments shall be prohibited in all other environments.

4. Mixed use developments may include nonwater-oriented commercial uses that are complementary to more dominant water-oriented uses.

5. The City shall require and utilize the following information in its review of commercial development proposals:
   a. Nature of the commercial activity (water-dependent, water-related, water-enjoyment, nonwater-oriented, mixed-use), including a breakdown of specific components;
   b. Need for shoreline location;
   c. Special considerations for enhancing the relationship of the activity to the shoreline;
   d. Provisions for public visual and physical access to the shoreline including alternative enhancements;
   e. Provisions to ensure that the development will not cause adverse impacts to the natural and cultural environment;
   f. For mixed-use proposals, proposed mix of water-oriented and nonwater-oriented uses and activities, including an analysis of public versus private spaces; and
   g. Site design, structure locations, height and bulk considerations.

2. A use or development shall not be considered water-dependent, water-related or water-enjoyment until the Administrator makes the determination that the proposed design, layout and operation of the use or development meets the definition and intent of the water-dependent, water-related or water-enjoyment designation.

3. Where commercial development is allowed, it shall be located, designed and constructed in a manner that minimizes adverse impacts to shoreline resources and shall include mitigation to ensure no net loss of shoreline ecological functions and processes (Section 4.1.2, Environmental Impacts).

4. New commercial development shall provide public access in conformance with the Public Access requirements of Section 4.2.1, General Policies and Regulations.

5. When permitted, proposals that include nonwater-oriented commercial uses shall provide a significant public benefit in addition to any required public access, as follows:
   a. Additional public access in the form of unrestricted open space. The Administrator shall determine the amount of access in accordance with the provisions of Section 4.2.4, Public Access, on a case-by-case basis.
   b. If no water-oriented commercial uses are located on or adjacent to the water as part of a mixed use development, eighty percent (80%) of the shoreline and associated buffers shall be preserved or restored to provide shoreline ecological functions that approximate the functions provided by the site in natural conditions.
   c. The requirement in regulation (a) and (b) may be modified when:

Comment [LH808]: Staff, Move to end and include in submittal requirements.
Reg #5- Amend to acknowledge other information required for NNL (maybe regulation 5.e is good location) & public benefit requirement if nonwater oriented commercial use is proposed (RCF #113) 4-20-11

Comment [LH809]: Staff, Provides for NNL implementing Policy #1. 4-20-11

Comment [R810]: Workgroup, add citation 4-21-11

Comment [R811]: Staff, Implements Policy #6 4-20-11

Comment [R812]: Staff, Included in Public Access section. Modeled after Whatcom Co 23.100.05.B.1(e) 3-26-11
i. The site is designated as a public access area by a shoreline public access plan, in which case public access consistent with that plan element shall be provided; or

ii. Specific findings are made demonstrating that the size of the parcel and the presence of adjacent uses preclude restoration of shoreline ecological functions. Where on-site restoration is infeasible, equivalent off-site restoration shall be provided consistent with the policies and regulations of this Program.

d. Where restoration is proposed, buffers shall be designed as appropriate to protect shoreline resources based on a specific restoration plan and may differ from the standard buffer dimensions provided in Table 4.3, provided that the building envelope for the proposed non-water-oriented use shall be based on current site conditions.

e. The requirements of this section shall not apply to those non-water-oriented commercial uses located on a site physically separated from the shoreline where access to the land/water interface is precluded.

7. Commercial parking as a primary use shall be prohibited within two hundred (200) feet of the shoreline (OHWM).

5.4.4 Regulations - Design and Location

1. The design and location of commercial facilities shall meet the following:

   a. Those portions of the commercial development which are accessory to and not considered water-dependent and/or do not require direct contact with the water shall be set back from the shoreline at a sufficient distance to minimize impacts to water quality, to other shoreline uses and to the shoreline as a scenic view. (See Section 3.0, Environment Shoreline Designations, Section 4.1.6, Water Quality and Stormwater Management, and Shoreline Setback Table 4.2.)

   b. Water-dependent commercial development shall be designed and operated to promote joint use of over-water and accessory facilities such as:

      i. Piers;
      ii. Docks;
      iii. Storage; and
      iv. Restrooms
      v. Parking.

   c. When demonstrated to the satisfaction of the Administrator not to be feasible this regulation may be reduced in scope or waived.

5.4.5 Submittal Requirements

1. In addition to the general submittal requirements for all applications specified in BIMC
Section 2.16.020(H), the following submittal items are required. The Administrator may waive some or all of the following based on specific project requirements.

a. **Nature of the commercial activity** (water-dependent, water-related, water-enjoyment, nonwater-oriented, mixed-use), including a breakdown of specific components;

b. **Need for shoreline location**;

c. **Special considerations for enhancing the relationship of the activity to the shoreline**;

d. **Provisions for public visual and physical access to the shoreline**;

e. When required a mitigation plan as specified in Section 4.1.2, Environmental Impacts, addressing provisions to ensure that the development will minimize adverse impacts to shoreline resources and mitigation measures that ensure no net loss of shoreline ecological functions and processes;

f. **For mixed-use proposals, proposed mix of water-oriented and nonwater-oriented uses and activities**, including an analysis of public versus private spaces; and

g. **Site design, structure locations, height and bulk considerations**.
5.5 Forest Practices

5.5.1 Applicability

Forest Practices are primarily regulated by the Washington Department of Natural Resources under Chapter 222 WAC or its successor pursuant to the Forest Practices Act (RCW 76.09 or its successor). This section supplements those regulations. Activities which are not regulated under the Forest Practices Act are subject to clearing and grading provisions in Section 4.0 (Section III, General Policies and Regulations of the Master Program). Forest Practices are subject to Sections 3.0, 4.0 and 6.0 (Sections III, IV, and VI of the Master Program).

5.5.2 Policies

1. The City should rely on the Forest Practice Act and rules implementing the act and the Forest and Fish Report as adequate management of commercial operations within the shoreline jurisdiction.

2. Timber harvesting practices should be conducted in a manner that does not degrade existing water quality, quantity and quality of fish and adjacent wildlife habitat, cause adverse impacts to shoreline ecological function or ecosystem wide processes and avoids impacts to navigation, recreation and public access.

3. Timber harvest in all shoreline areas should be limited to selective cutting which protects the shoreline as a scenic view. Shorelines having outstanding scenic or habitat qualities should be left in a substantially natural condition.

4. Revegetation in shorelines should be accomplished as quickly as possible in accordance with the provisions of Forest Practice Act. For provisions applying to forest conversion (Class IV Permits regulated under the Forest Practices Act and locally), see Section 4.1.3, Vegetation Management.

5. Logging should be avoided on steep or unstable slopes, in unique or fragile areas and in native vegetation zone.

3. Special attention should be directed in logging and thinning operations to prevent the accumulation of slash and other debris in contiguous waterways.

4. Skid roads and fire trails should be located to minimize the disturbance to shoreline resources and wildlife habitat. They also should be rehabilitated as necessary to prevent erosion and import of sediments into contiguous waterways.

5. Timber harvest in all shoreline areas should be limited to selective cutting which protects the shoreline as a scenic view. Shorelines having outstanding scenic or habitat qualities should be left in a substantially natural condition.

6. Reforestation in shorelines should be accomplished.

5.5.3 Regulations - General

1. All timber harvesting and forest practices except conversions conducted with a Class...
IV. General permit shall comply with the current rules and regulations adopted under the Forest Practices Act and the Timber, Fish and Wildlife agreement or their successors.

2. Timber harvesting and forest practices conducted under a Class II, III or IV-Special permit from Department of Natural Resources shall not be regulated by this Program and shall not require a shoreline permit. These permit categories shall only be authorized for lands that meet the definition DNR forestland including any policies of DNR relating to proximity to structures for hazard trees.

3. Site preparation by burning and scarification piles shall be prohibited within shoreline jurisdiction.

4. When timberland is to be converted to another use, such conversion shall be clearly indicated on the Forest Practices application. Failure to indicate the intent to convert the timberland to another use on the application will result in subsequent conversion proposals being reviewed as conditional use applications. Such failure to declare intent to convert on the application shall may provide adequate grounds for denial of subsequent conversion proposals for a period of six (6) years from the date of the Forest Practices application approval, [RCW 76-09-060(3)(b)(I) or its successor].

5. Conversion of forest land to non-forestry uses (Class IV – General Forest Practice Permit) shall be reviewed in accordance with the provisions for the proposed non-forestry use and the general provisions in the Shoreline Master Program and shall be subject to any permit requirements associated with the non-forestry use.

6. Timber harvesting and forest practices conducted within the shoreline jurisdiction shall be by selective cutting and shall not exceed thirty (30) percent of the merchantable trees (not including trees in native vegetation zone areas) in any ten-year period as required by WAC 222-30-110. Remaining trees shall be distributed evenly throughout the shoreline area and shall be representative of the species and age distribution in the stand prior to cutting.

1. Forest Practices requiring a Forest Practices permit shall be allowed as a conditional use in the Rural, Semi-rural, Urban and Conservancy environments, and shall be prohibited in the Natural environment.

2. An undisturbed native vegetation zone of one hundred (100) feet from the OHWM (measured horizontally) shall be required. This native vegetation zone shall be fenced prior to beginning any forest practices activities and protected during forest practices (Table 4-3).

4. Timber cutting within the shoreline jurisdiction shall be based on a harvest plan approved by the City or other appropriate means as established by the City and its regulations. The plan shall protect the shoreline jurisdiction and water bodies from degradation caused by upland forest practices, as well as practices within the shoreline jurisdiction, and shall provide for protection of wildlife habitat.

5. The responsible forester shall maintain a log and map indicating species, age, and date for each tree cut within the shoreline jurisdiction.
2. Trees shall be directionally felled away from shorelines and other protected areas.


9. Wheeled and tracked equipment shall not be allowed within any native vegetation zone or sensitive area.

11. Skid roads, fire trails, abandoned roads, and other erodible soil conditions caused by timber harvest operations shall be water-barred, as needed, on completion of the activity.

12. Replanting or seeding shall be accomplished during the first planting season.

13. When timberland is to be converted to another use, such conversion shall be clearly indicated on the Forest Practices application. Failure to indicate the intent to convert the timberland to another use on the application will result in subsequent conversion proposals being reviewed as conditional use applications. Such failure to declare intent to convert on the application shall provide adequate grounds for denial of subsequent conversion proposals for a period of six (6) years from the date of the Forest Practices application approval. [RCW 76.09.060(3)(b)(I) or its successor]
5.6 H. Industry

5.6.1 Applicability

Uses and activities that are identified as separate uses but associated with industrial development which are identified as separate uses (this section) or as shoreline modification activities (Section VI) are also subject to those regulations. Examples include transportation facilities, utilities, dredging, landfill, piers and docks, and bulkheads. Industrial development is subject to Section 4.0 Section III, General Policies and Regulations, and Section 3.0 Section IV, Environment Shoreline Designations.

5.6.2 Policies

1. Review new industrial proposals with consideration of Regional and state-wide needs for industrial facilities should be carefully considered in reviewing new proposals as well as in allocating shorelines for such development. Such reviews or allocations should be coordinated with port districts, adjacent counties and cities, and the State in order to minimize new industrial development which would unnecessarily duplicate under-utilized facilities elsewhere in the region or result in unnecessary adverse impacts on other jurisdictions.

2. Encourage expansion or redevelopment of existing, legally established industrial areas, facilities, and services with the possibility of incorporating mixed-use development over in lieu of the addition and/or location of new or single-purpose industrial facilities.

3. Strongly encourage joint use of piers, cargo handling, storage, parking, and other accessory facilities among private or public entities should be encouraged in waterfront industrial areas.

4. Design and locate Industrial development to avoid or minimize adverse impacts to ecological functions and ecosystem wide processes, should not be located sensitive ecologically valuable shorelines such as natural accretion shoreforms, areas regulated under the City’s environmentally sensitive areas ordinance, and their native vegetation zones.

5. Require New industrial development should be required to provide physical and/or visual access to shorelines and visual access to facilities whenever possible, and when such access does not cause significant interference with operations or hazards to life and property.

6. Preference should be given to locating new industrial development on those parts of the shoreline where industrial development is already permitted. Industrial uses and redevelopment are encouraged to locate where environmental cleanup and restoration can be accomplished.

7. Limit new industrial uses to existing industrial or water-dependent commercial sites, such as marinas, where that use is consistent with the shoreline designation. Preferred

Comment [R838]: Staff Recommendation, Clarity of sentence: 4-9-12

Comment [R839]: WAC 173-26-241(3)(f) 12/7/2010
industrial sites should be limited to water oriented uses, and encourage the development of preferred industrial uses such as small boat haul-out and repair facilities, vessel fueling facilities and water-oriented industry serving local boating needs.

8. Discourage non-water-oriented uses unless use is in a mixed-use development containing a public use benefit such as open space or recreation use and includes a water oriented commercial use. Sustainable (low energy) industrial uses shall be preferred over more consumptive uses.

5.6.3 Regulations - Prohibited

1. Storage and/or disposal of industrial wastes within shoreline jurisdiction.
2. Log storage in water.

5.6.4 Regulations - General

1. Water-dependent industry shall be permitted in the Urban environment designation, and those portions of the Aquatic environment designation which are waterward of the Urban environment designation and shall be prohibited in all other environment designations. Water-related industry shall be a conditional use in the Urban environment designation and prohibited in all other environment designations. Nonwater-oriented industry shall be prohibited in all environment designations.

2. Where industrial development is allowed, it shall be located, designed and constructed in a manner that minimizes adverse impacts to shoreline resources and shall include mitigation to ensure no net loss of shoreline ecological functions and processes.
   a. Water-dependent industrial uses, such as small boat haul-out and repair facilities or vessel fueling facilities shall be given preference over water-related and water-enjoyment industrial and port uses.
   b. A use or development shall not be considered water-dependent, water-related or water-enjoyment until the Administrator makes the determination that the proposed design, layout and operation of the use or development meets the definition and intent of the water-dependent, water-related or water-enjoyment designation.

3. Proposed industrial developments shall be consistent with any applicable comprehensive waterfront and/or long-range harbor development plans and should be coordinated with applicable adopted regional and state plans.

4. Except where otherwise provided for in an official plan, New industrial development shall be compatible consistent with existing adjacent uses of neighboring the shoreline designation in which it is located areas.

5. Proposed industrial development shall be located to maximize the use of legally established, existing industrial facilities, and in areas where environmental cleanup and restoration can be accomplished; and shall avoid duplication of pier and dock facilities.

Comment [R840]: PC agreed to include a section on prohibited use for consistency with document. 4-12-12

Comment [LH841]: Staff, efferson 5 C.1. Implements Policy #4 &7 (and ICF #11). 4-20-11

Comment [LH842]: Staff, Implements Policy #1
4-20-11

Comment [LH843]: Staff, Revised for clarity and ability to administer as recommended by staff. Consider relocating to design section below. 4-20-11

Comment [LH844]: Staff, Implements Policy #2 & Policy #6; Amended to meet WAC 173-26-241(3)(f), encourage to locate where environment designation al cleanup and restoration can be accomplished. IFC #119. Consider relocating to design section below. 4-20-11
before expanding into undeveloped areas or building new facilities.

6. Water-related industrial development shall be set back from the OHWM a sufficient distance to avoid disturbance of the native shoreline vegetation management area zone. (See Section 4.1.3 Section III for native shoreline vegetation management requirements zone and Section 4.0 Section IV, Tables 4-1 through 4-32 for dimensions.)

7. Accessory industrial development which does not require a shoreline location at or near the water’s edge shall be located upland of the water-dependent portions of the development and outside of the Shoreline Buffer set back from the OHWM as established in Section 4.0 IV, Table 4-34.2. This category includes, but is not limited to, parking, warehousing, open air storage, waste storage, storm runoff control and treatment facilities, utilities, and land transportation development.

7. The developer must demonstrate adequate mitigation of negative environmental impacts including, but not limited to, air, water, aesthetics, noise pollution, and sensitive areas. Industrial development shall comply with the City’s environmentally sensitive areas regulations, BIMC 16.20.

8. Water-dependent industry shall be located and designed to minimize the need for initial and/or continual dredging, filling, dredge material disposal, and other harbor and channel maintenance activities.

9. Piers, marinas, slips, floats, and launching facilities may be permitted accessory to industrial development provided:
   a. The facility will serve a water-dependent use.
   b. The facility does not constitute a hazard to navigation.
   c. All other provisions pertaining to these uses are met.

8. New industrial development that includes offshore facilities, floating docks, and artificial islands for deep-water port expansion shall not be permitted except by conditional use permit, and only when it can be demonstrated that:
   a. Such development is fundamental for the allowed industrial operation; and
   b. Such development results in no net loss of shoreline ecological functions or ecosystem-wide processes or expansion will not adversely impact the marine environment or diminish the natural productivity of the estuarine or aquatic system.

4. Storage and/or disposal of industrial wastes is prohibited within shoreline jurisdiction.

4. At new or expanded port and/or industrial developments, as specified by state and local agencies, the best available facilities practices and procedures shall be employed for the safe handling of fuels and toxic or hazardous materials to prevent them from entering the water, and optimum means shall be employed for prompt and effective clean-up of those spills that do occur.

5.6.5 Regulations – Design and Location

1. The design and location of industrial facilities shall meet the following:
a. Those portions of the industrial development which are accessory to and not considered water-dependent and/or do not require direct contact with the water or shoreline shall be set back from the shoreline at a sufficient distance to minimize impacts to water quality, to other shoreline uses and to the shoreline as a scenic view. (See Section 4.1.6, Water Quality and Stormwater Management, Section 3.0, Environment Shoreline Designations, and Tables 4-1 through 4-3.)
   i. Piers
   ii. Docks
   iii. Storage
   iv. Restrooms; and
   v. Parking.

b. Industrial facilities shall be designed and operated to promote joint use of over-water and accessory facilities such as piers, docks, storage, and parking whenever practicable.

c. Consistent with provisions in Section 4.2.4III, subsection G, Public Access, ports and/or water-dependent industry shall provide public access to the shoreline and/or provide opportunities for public viewing of the industrial activity whenever feasible and safe.

d. Noise standards of BMC 16.16.

2. Display and other exterior lighting shall be designed and operated to minimize glare impacts to nearby properties and local traffic, and shall meet the lighting standards of the Bainbridge Island Municipal Code, Section 18.15.040.

4. Log storage in water shall be prohibited.

3. See Section III, subsection K, Water Quality and Stormwater Management, for stormwater requirements.

5.6.6 Regulations - Ship and Boat Building and Repair Yards

1. Shipyards and mobile services shall employ best management practices (BMPs) concerning the various services and activities they perform and their impacts on the surrounding water quality. Standards for BMPs shall be found in the Washington State Department of Ecology’s most recent editions of the “Boatyard General Permit, National Pollution Discharge Elimination System (NPDES)” and the “Storm Water Pollution Prevention Plan for Facilities Covered Under the Boatyard General Permit”, Best Management Practices for Small Boat Yards (The Lake Union Association, November 1990, or most recent edition).

2. Mobile services shall comply with the applicable BMPs described in the most recent edition of Best Management Practices for Small Boat Yards (The Lake Union Association, November 1990, or most recent edition). Any cleaning, surfacing, or
resurfacing operation occurring over water that may result in the entry of debris, such as paint chips, shall employ tarpaulins temporarily affixed to the hull above the water line. Prior to removing the tarpaulins, the accumulated contents shall be removed by vacuuming or an equivalent method.
5.7  I.—Mining

5.7.1  Applicability

Mining is the removal and primary processing of naturally occurring materials from the earth for economic use. For purposes of this definition, “processing” includes screening, crushing, stockpiling, all of which utilize materials removed from the site where the processing activity is located. Mining activities also include in-water dredging activities related to mineral extraction. Processing does not include general manufacturing, such as the manufacture of molded or cast concrete or asphalt products, asphalt mixing operations, or concrete batching operations.

5.7.2  Policies

1. Mining is prohibited within the shoreline jurisdiction.

5.7.3  Regulations - General

1. Mining, including the excavation of sand, gravel, and other minerals, shall be prohibited within the shoreline jurisdiction.

2. Impacts to shorelands and water bodies due to mining operations upland of the shoreline jurisdiction shall be minimized.

Comment [R859]: Existing Policy

Comment [R860]: Workgroup, Approved 2-10-11 with no changes.
5.8 Recreational Development

5.8.1 Applicability

These provisions apply to development, not to casual use of undeveloped open space. They also apply to both publicly and privately owned facilities intended for use by the general public, private clubs, groups, associations, or individuals. Recreational development is subject to Section 4.0 Section III, General Policies and Regulations; Section 3.0 Section IV, Environment Shoreline Designations, including Tables 4-1 through 4-32, Setbacks and Height, and Section 6.0 Section VI, Shoreline Modifications Policies and Regulations.

5.8.2 Goal

Provide substantial recreational opportunities for the public along the shoreline and manage the development of recreational uses to assure that shoreline ecological functions are not adversely impacted.

5.8.3 Policies

1. Public recreation on public lands is a preferred use of the shoreline. Water-dependent recreational uses, such as swimming, boating and fishing, are priority uses and should be encouraged.

2. The coordination of local, State and Federal recreation planning should be encouraged so as to mutually satisfy recreational needs. Shoreline recreational developments should be consistent with all adopted park, recreation, and open space plans.

3. A variety of compatible recreational experiences and activities should be encouraged to satisfy diverse recreational needs. The location and design of shoreline recreational developments should relate to local population characteristics, density, and special activity demands. Acquisition priorities should consider these needs, demands, and special opportunities as well as public transit access and access for the physically impaired, where planned or available.

4. Shoreline areas with potential for recreation or public access, should be identified and acquired. Acquire identified areas through lease, purchase, or easement and incorporate these areas into the public park and open space system.

5. Encourage a variety of compatible recreational experiences and activities should be encouraged to satisfy diverse recreational needs.

6. Where feasible, the linkage of shoreline parks, recreation areas, and public access points as linear systems, such as hiking paths, bicycle paths, easements and/or scenic drives, should be encouraged.

7. Recreational developments should be located, designed,
and operated to facilitate appropriate use of shoreline resources while also conserving them. These resources by being compatible with and by minimizing adverse impacts to ecological functions and ecosystem-wide processes, environmental quality and valuable natural features. Design recreational development to preserve, enhance or create scenic shoreline views and vistas, as well as on adjacent and surrounding land and water uses.

7. Recreational developments should be located and designed to preserve, enhance, or create scenic views and vistas.

8. Where appropriate, passive recreational uses may be permitted in floodplain areas.

9. Encourage the use of shoreline road street ends and publicly owned lands for public shoreline access and promote the development of shoreline recreational opportunities at suitable appropriate areas road ends should be encouraged.

10. The use of off-road vehicles should be prohibited in all shoreline areas.

11. All recreational developments should make adequate provisions for:
   a. Vehicular and pedestrian access, both on-site and off-site;
   b. Proper wastewater and solid waste disposal methods;
   c. Security and fire protection;
   d. The prevention of overflow and trespass onto adjacent properties, including, but not limited to, landscaping, fencing, and posting of property; and
   e. Screening (using shrubs and native vegetation or shoreline buffers) of such development from adjacent private property.

12. Trails and pathways on steep shoreline bluffs should be located, designed, and maintained to protect bank stability.

13. Recreational developments and plans should recognize the primacy of preserving the natural character, resources, and ecology of shorelines of state-wide significance (tidelands).

14. Protect and restore publicly owned natural resource areas located within the shoreline area and include public access and use as appropriate for the particular resource area.

15. Promote shoreline conservation through acquisition, preservation, and rehabilitation of important natural areas and manage natural areas of public shoreline parks to protect and restore ecological functions, values and features.

16. Use best management practices and low impact development technologies in the construction, maintenance and renovation of recreational facilities and grounds for public shoreline parks.
15. Incorporate opportunities for educational and interpretive information regarding shoreline ecological functions and processes in the design and operation of public recreation facilities and other amenities such as nature trails.

5.8.4 Regulation Prohibited

1. Motorized vehicular access on all beaches and spits, except at approved boat launching facilities (Section 5.3. Boating Facilities).
2. Golf Course in the Natural designations.
3. Golf course fairways which cross streams.

5.8.5 Regulations - General

1. Water-oriented recreational development is a priority use in the shoreline and the primary focus shall be to provide access to, and enjoyment and use of the water and shorelines of the State and shall be consistent with the development regulations for the shoreline designation in which it occurs. Valuable shoreline resources and fragile or unique areas such as marshes, bogs, swamps, estuaries, wetlands, and accretion beaches, shall be used only for passive and nondestructive recreational activities.
   a. Water-oriented recreational uses shall be consistent with the shoreline designation in which it is being proposed and permitted in the Island Conservancy, Shoreline Residential Conservancy, Shoreline Residential, Rural, Semi-rural, Urban, and Aquatic designation environments.
   b. Development to accommodate passive (non-intensive) water-dependent and/or water-oriented recreational or educational uses shall be allowed as a conditional use in the Natural environment designation, except public trails and public stairways are permitted as a shoreline substantial development or shoreline exemption, when designed to minimize adverse impacts in accordance with Section 4.1.2, Environmental Impacts.
   c. Recreational development shall be prohibited in the Priority Aquatic designation Conservancy environment, however, vessels shall be allowed when operated at 5 knots or less, or such that a wake is not created and operated at a noise decibel that does not cause adverse impact to wildlife.
2. Water-oriented recreational use/development shall be allowed when the proponent demonstrates that it will not result in a net loss of shoreline ecological functions or processes or have a significant adverse impacts on other shoreline uses, resources and/or values such as navigation and public access, and will provide mitigation in accordance with Section 4.1.2 Environmental Impacts.
3. Activities provided by recreational facilities must bear a substantial relationship to the shoreline, or provide physical or visual access to the shoreline. Facilities for water-
dependent recreation such as fishing, clamming, swimming, boating, and wading, and water-related recreation such as picnicking, hiking, and walking should be located near the shoreline, while nonwater-related recreation facilities shall be located inland.

4. Recreational development on the shoreline shall provide physical or visual public access consistent with this program, Section 4.2.4, Public Access.

5. Recreational development on the shoreline shall protect existing shoreline vegetation consistent with this program, Section 4.1.3, Vegetation Management.

6. Use of fertilizers, pesticides, or other toxic chemicals is prohibited unless an exception is provided pursuant to Section 4.1.6, Water Quality and Stormwater Management.

7. The City shall consult applicable state and local health regulations when issuing shoreline permits for recreational facilities. [WAC 173-16-060-21(k) or its successor].

Valuable shoreline resources and fragile or unique areas such as marshes, bogs, swamps, estuaries, wetlands, and accretion beaches, shall be used only for passive and nondestructive recreational activities.

8. Recreational development is required to comply with local and regional recreation plans and to link to linear open space, recreational, or scenic systems as provided in the State Comprehensive Outdoor Recreation Planning Document (SCORP), Bainbridge Island Metropolitan Park and Recreation District Comprehensive Park Plan, the City of Bainbridge Island’s Winslow Master Plan, and Non-motorized Plan.

4. All permanent, substantial, recreational structures and facilities shall be located outside officially mapped floodplains and floodways, provided the City may grant administrative exceptions for passive recreational uses and minor accessory uses (e.g., picnic tables, tennis courts, etc.).

5. Substantial accessory use facilities such as restrooms, recreation halls and gymnasiums, commercial services, access roads, and parking areas, shall be set back from the OHWM unless it can be shown that the facilities are essentially water dependent. These areas may be linked to the shoreline by walkways.

6. For recreation developments that require the use of fertilizers, pesticides, or other toxic chemicals, such as golf courses and playfields, the applicant shall submit plans demonstrating the methods to be used to prevent these chemicals and the resultant leachate from entering adjacent water bodies and wetlands. Native vegetation zone strips and, if practical, shade trees shall be included in the development. The City shall determine the minimum width necessary for chemical-free, native vegetation zone strips, but in no case shall the native vegetation strip be less than fifty (50) feet.

7. The use of time-release fertilizer and herbicide shall be preferred over liquid or concentrate application for lawns within shoreline jurisdiction.

9. Recreational use of motor vehicles including unlicensed off-road vehicles is permitted only on roads and trails specifically designated for such use. Such use is prohibited on tidelands, backshore beaches, streams, or wetlands, except as necessary for public health and safety or maintenance or as provided in Regulation-Operation.
The use of off-road vehicles shall be prohibited in all shoreline areas.

10. The use of jet skis and similar recreational equipment shall be prohibited in the Priority Aquatic environment designation.

5.8.6 Regulations – Design and Location

1. Recreational The development shall be located, designed and constructed to maintain, enhance, or restore desirable shoreline features including unique and fragile areas, scenic views, and aesthetic values, and public access as appropriate. Through the site planning and permit review process, the City may adjust and/or prescribe project dimensions, location of on-site project components, intensity of use, screening, parking requirements, and setbacks as deemed appropriate to meet the recreational needs of the project and the standards of this program.

2. Recreational developments shall provide vehicular access and parking in accordance with Section 4.2.3, Parking of this program and shall provide facilities for nonmotorized access to the shoreline such as bicycle and/or pedestrian paths, as prescribed in the City’s Non-Motorized Transportation Plan connection.

3. Shoreline trails and pathways shall be located, designed, constructed and maintained to protect bank stability.

4. All permanent, substantial, recreational structures and facilities shall be located outside officially mapped floodplains and floodways, provided the City may grant administrative exceptions for passive recreational uses and minor accessory uses (e.g., picnic tables, tennis courts, etc.).

5. Substantial accessory use facilities; such as restrooms, recreation halls and gymnasiums, commercial services, access roads, and parking areas, shall be set back from the OHWM unless it can be shown that the facilities are essentially water-dependent. These areas may be linked to the shoreline by walkways.

6. Trails utilized for motorized vehicles, including golf carts. Golf cart routing shall be set back two hundred (200) feet from OHWM, unless these are combined with a public access trail system. If combined with a public access trail, trails shall be located at least one hundred (100) feet from OHWM.

7. The removal of on-site native vegetation shall be limited to the minimum necessary for the development of recreational development areas, such as picnic areas, campsites, selected views, or other permitted structures or facilities. (See Section 4.1.3, III, subsection B, Vegetation Management and Conservation Clearing and Grading.) Snags and living trees (i.e., large cedar, fir, alder, maple, etc.) shall not be removed from the required vegetation buffer area unless they are deemed extreme hazards by a professional.
arborist and the area biologist of the Washington Department of Fish and Wildlife.

8. **Recreational buildings or structures shall not be built over water, except as provided for in Section 5.3, Boating Facilities and Section 6.0, Shoreline Modifications VI, Shoreline Modification Policies and Regulations.**

9. **Proposals for recreational development shall include adequate facilities for water supply and sewage and garbage disposal, and recycling commensurate with the intensity of the proposed use. Where sewage treatment facilities are not available, the appropriate reviewing authority shall limit the intensity of development to meet local and State on-site sewage disposal requirements. On-site sewage disposal systems shall be located landward of the development unless not feasible due to site or development constraints and location is on-site disposal system is consistent with requirements of the reviewing and permitting authority.**

10. **Recreational facilities shall incorporate appropriate mitigation to minimize light and noise impacts on adjacent and nearby public and private property through use of screening, native vegetation, zone strips, fences, and signs and related measures.**

11. **Recreational proposals for publicly-owned shoreline parks shall provide the following:**
   
   a. **Recreational development and activities shall provide appropriate public recreational opportunities and promote the ecological restoration of the shoreline environment. Public shoreline areas are intended to provide access to, and enjoyment and use of the water and shorelines while conserving ecological functions and protecting shoreline resources and fragile areas.**
   
   b. **Best Management Practices (BMPs) and Low Impact Development (LID) techniques shall be incorporated into the design, construction, and operation of public recreation proposals in order to reduce erosion impacts and prevent harmful concentrations of chemicals and sediments from entering water bodies and meet the standards of Section 4.1.6, Water Quality and Stormwater Management.**
   
   c. **Educational and historical interpretation specific to the site’s shoreline ecology and local history shall be incorporated into the design and operation of a public shoreline recreational development through site amenities such as interpretive signs or other amenities.**

5.8.7 **Regulations –Operations**

1. **Motorized vehicular access is prohibited on all beaches and spits, except for at approved boat launching facilities. Operation of motorized vehicles, including utility and maintenance vehicles, shall only be allowed in designated areas specifically designed for vehicular use. Recreational facility design and operation shall prohibit the use of all-terrain and off-road vehicles in the shoreline area.**

2. **The use of jet skis and similar recreational equipment shall be limited in sensitive aquatic areas and prohibited in the Priority Aquatic Conservancy environment.**

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Comment [LH896]: Moved from Golf Course regulation, former #5. Implements Policy #14.

Comment [LH897]: Added to address Planning Commission concern 8/18/2011.

Comment [I898]: Implements Policy #1 Policy #5, and Policy #7.

Comment [I899]: Implements Policy #16

Comment [KD900]: Added reference to Water Quality and Stormwater sections.

Comment [I901]: Implements Policy #17

Comment [R902]: PC agreed to move to prohibited section 5.8.4, 4.12-12

Comment [I903]: Moved from Design Reg #3 and modified to remove last sentence as this is covered elsewhere.

Comment [I904]: Moved from General former #10. Implements Policy #11 Workgroup, added 5-17-11

Bainbridge Island Shoreline Master Program—PC Recommendation April 12, 2012
3. A chemical management plan designed to eliminate the possibility of damage to riparian vegetation, wildlife, and surface and ground water quality shall be prepared and implemented for golf courses located in shoreline jurisdiction.

4. Broadleaf and broad-spectrum (capable of killing all vegetation) herbicides shall be used only for spot application with wicking, or small spray equipment on noxious weeds on the applicable USDA Soil Conservation Service list of noxious weeds, within the two hundred (200) foot native vegetation zone. Hand and mechanical control of noxious weeds shall be encouraged in the chemical management plan. All other applicable local, State and Federal regulations and label requirements shall be adhered to in the use of such chemicals.

5. Recreational fires in commercial uses, public parks and common areas shall only be allowed BIMC Burn regulations and within designated barbeque/fire pits, which shall be designed and spaced to facilitate the control of fires both within recreational facilities between adjacent properties and public lands.

5.8.8 Regulations - Golf Courses- Design & Location

1. Golf courses shall be a conditional use requiring both a conditional use permit and a substantial development permit in the upland shoreline designations of Island Conservancy, Residential Conservancy, Residential Rural, Semi-rural, and Urban Conservancy environments, and shall be prohibited in the Natural, Aquatic and Aquatic Conservancy environments.

2. Golf courses shall be designed with a one hundred (100) foot undisturbed native vegetation zone from the OHWM.

3. Golf course fairways shall not cross streams which are within shoreline jurisdiction. Courses which are proposed to occupy both sides of such streams should be designed to avoid bridge crossings.

4. Degraded shorelines shall be revegetated with native species (trees, grasses, ferns, and other woody species) representative of undisturbed riparian communities in the immediate area, or those in the same or similar ecological zones. This revegetation shall occur in, but not be limited to, the one hundred (100) foot native vegetation zone area.

5. Snags and living trees (i.e., large cedar, fir, alder, maple, etc.) shall not be removed from the one hundred (100) foot native vegetation zone area unless they are deemed extreme hazards by a professional arborist and the area biologist of the Washington Department of Fish and Wildlife.

6. Golf cart routing shall be set back two hundred (200) feet from OHWM, unless combined with a public access trail system. If combined with a public access trail, it shall be located at least one hundred (100) feet from OHWM.

7. Wildlife resting or feeding on golf courses located within jurisdiction of the Shoreline Conservation Area.
Management Act shall not be harassed.

8. A chemical management plan designed to eliminate the possibility of damage to riparian vegetation, wildlife, and surface and ground water quality shall be prepared and implemented for golf courses located in shoreline jurisdiction.

9. Broadleaf and broad-spectrum (capable of killing all vegetation) herbicides shall be used only for spot application with wicking, or small spray equipment on noxious weeds on the applicable USDA Soil Conservation Service list of noxious weeds, within the two hundred (200) foot native vegetation zone. Hand and mechanical control of noxious weeds shall be encouraged in the chemical management plan. All other applicable local, State and Federal regulations and label requirements shall be adhered to in the use of such chemicals.

10. Public access for passive recreation shall be provided within shoreline jurisdiction.
5.9  Residential Development

5.9.1  Applicability

All development in the shoreline jurisdiction must comply with the Shoreline Management Act (Chapter 90.58 RCW or its successor) and the Master Program. While an individual owner-occupied, single-family residence and its "normal appurtenances" are exempt from the requirement that a substantial development permit (SSDP) be obtained from the local government (WAC 173-27-404-040 or its successor), they must comply with this section and other provisions of the Master Program. Subdivisions and short plats must also comply with all applicable provisions.

Residential development, when permitted by BIMC Title 18 and this Master Program, is subject to Section 4.1.3, Vegetation Management, Section III, General Policies and Regulations which contains provisions for a vegetation conservation and management zone, Section 4.1.4, Land Modifications, clearing and grading restrictions, 4.2.4, Public Access requirements, 4.2.5, Environmentally Sensitive Areas provisions, 4.2.7 Utilities Primary and Accessory, Section 3.0, Shoreline Designations, and others on-site utilities, and others. Section 3.0IV, Environment Shoreline Designations, also apply to residential development. Shoreline modifications (e.g., bulkheads and revetments, piers and docks) are provided for in Section 6.0. Section VI, Residential development is also subject to the BIMC 16.20, Environmentally Sensitive Section 4.1.5, Critical Areas and Appendix B.

5.9.2  Goal

Promote residential development opportunities along the shoreline that are consistent with controlling pollution and preventing damage to the natural environment, recognizing that single-family residential development is a priority use in the shoreline and that impacts to other shoreline priority uses such as, shoreline views, aesthetics and access, should be considered and minimized.

5.9.3  Policies

1. Single-family residential use is a priority use in the shoreline. Develop single-family residences in a manner consistent with producing no net loss of shoreline functions or ecosystem-wide processes, and in conformance with the requirements of this Shoreline Master Program.

2. Residential development should be located where there are suitable provisions for utilities, circulation and access and should be designed to
   a. Maintain or improve shoreline ecological functions and processes to assure no net loss; and
   b. Provide building setbacks; and
c. Be visually compatible with adjacent cultural and shoreline features, reasonable in size and purpose; and

d. Preserve and enhance shoreline vegetation; and

e. Protect water quality; and

f. Control erosion and provide stormwater management; and

g. Preserve Shoreline open space, views from the shoreline, and vistas of the shoreline and provide ample open space in side yards to preserve views from both the land and water.

3. The overall density of development, location of structures and access, lot coverage, and height should be consistent with Bainbridge Island Comprehensive Plan goals and policies, the provisions of the Bainbridge Island Zoning Code, Title 18, BIMC, and this Program, and should be appropriate to the physical capabilities and characteristics of the site.

4. Recognizing the single-purpose, irreversible and space consumptive nature of shoreline residential development, new development should provide adequate setbacks and native vegetation buffers from the water, and ample open space in side yards to preserve views from both land and water and to protect natural features and functions.

5. Structures and appurtenances should be designed and located to blend into the site, preserving views from the shoreline and vistas of the shoreline, and minimizing impacts on the environment.

6. Development of in-side yards should be restricted in order to preserve vegetation between developments, mitigate the effect of a “wall” of structures along the shoreline, and enhance public and private view potential.

7. When waterfront properties are divided, common access to the water should be provided to all resulting lots.

8. New residential development and accessory uses should be prohibited from locating in environmentally sensitive critical areas (and their native vegetation conservation and management zones) including marshes, bogs, swamps, mud flats, steep or unstable slopes, floodways, fish and wildlife habitat, migratory routes and spawning areas, and marine vegetation areas.

9. Existing, legally established overwater residences should not be enlarged or expanded.

10. New residential land subdivisions within the shoreline shall be configured to prevent the loss of shoreline ecological functions at full build-out of the subdivision; to reduce the impacts to shoreline processes by preventing the need for new shoreline stabilization or flood hazard reduction measures; maintain waterfront areas for the common use of all property owners within the development; and, if creating four or more lots, to provide...
9. New multi-family residential development shall provide public access to the shoreline.

10. Residential development should include measures to protect existing native vegetation and/or restore vegetation along shorelines. Conservation measures should require that residential development avoid, minimize, mitigate, or restore shoreline vegetation functions and achieve no net loss of shoreline ecological functions and processes. Vegetation conservation may include avoidance or minimization of clearing or grading, restoration of shoreline vegetation, and/or control of invasive or non-native vegetation.

11. For new residential development and alterations to existing residential development, non-regulatory methods should be used when possible to protect, enhance, and restore shoreline ecological functions and other shoreline resources. Such methods may include voluntary alternatives to address impacts to shoreline ecological functions and processes, low impact development techniques, voluntary protection and enhancement projects, habitat management planning, education, or other incentive programs. Such programs must be supported by current scientific and technical information, as described in WAC 173-26-201(2)(a).

5.9.4 Regulations – Prohibited

1. New overwater residences, including floating homes.

5.9.5 Regulations - General

General

1. Residential development shall be permitted in the Rural, Semi-rural, Shoreline Residential, Shoreline Residential Conservancy and Urban environment designations, shall be conditional uses in the Island Conservancy and Urban environment designations, and shall be prohibited in the Natural, Aquatic, and Priority Aquatic Conservancy environment designations.

2. Multifamily development shall be permitted in the Shoreline Residential and Urban designations and prohibited in the Shoreline Residential Conservancy, Island Conservancy and Natural designations.

3. Accessory dwelling units, shall be allowed as a conditional use in the Shoreline Residential Conservancy Shoreline Residential, Urban, and prohibited in the Natural and Island Conservancy designations.

4. Land subdivision, shall consistent with BIMC Zoning Code Title 17, be permitted in the Rural, Semi-rural, Shoreline Residential, Shoreline Residential Conservancy, and Urban environment designations and shall be allowed as a conditional use in the Natural and Island Conservancy environment designations. Subdivision of property in water environment designations, Aquatic and Priority Aquatic Conservancy environment,

Comment [R931]: Added by Workgroup 7/5/11 to reflect WAC emphasis on joint-use docks for new subdivisions.

Comment [R932]: (WAC173-26-241(3)(j) 11/15/2010

Comment [R933]: (WAC 173-26-221(5); VEG Workgroup comments; modified Whatcom 23.100.11 A.7)

Comment [R934]: (WAC 173-26-221(5); VEG Workgroup comments; modified Whatcom23.100.11 A.8)

Comment [LH935]: PC agreed to create a prohibited section consistent with the other SMP sections 4-12-12

Comment [R936]: Workgroup, consistent headings. 5-17-11

Comment [R937]: Staff Recommendation, Consistency with use table. 4-10-12; PC agreed 4-12-12.

Comment [R938]: Staff Recommendation, Move from Subdivision 5.9.8. 4-10-12; PC agree 4-12-12.

Comment [R939]: Workgroup clarifying change 7/5/11
regulated the same as the adjacent upland.

5. **All Residential development shall meet setback and height standards in Table 4-2 and dimensional provisions of the Zoning Code, BIMC Title 18.**

6. **Residential development shall meet all provisions of the Section 4.1.2, Environmental Impacts, such that the development results in no net loss to shoreline ecological functions and processes.**

7. **The buffer requirements in Table 4-3 of this Program shall apply to residences and appurtenances, except when a site-specific analysis is provided in accordance with Section 4.1.3, Vegetation Management. Residential development shall retain and protect existing native vegetation of the shoreline area, or restore and enhance native vegetation according to the Vegetation Management and Land Modification provisions of the SMP Section 4.1.3 and Section 4.1.4.**

8. **Side setbacks yards within two hundred (200) feet of OHWM, except in the Urban designation environment, shall total at least thirty (30) percent of the lot width and shall remain free of buildings and impervious surfaces as described below: above-ground structures and impervious surfaces except that fences up to four (4) feet high shall be allowed.**
   a. **Building.** The minimum side setback shall be that established by the Zoning Code (BIMC Title 18). Setbacks for each accessory building shall conform to the side setbacks required of, or established by, the primary building, with such setbacks continuing through the full depth of shoreline jurisdiction. Structures in the side setbacks may not exceed four feet in height from existing grade, except that fences may have an additional two feet (2') of non-screening material for a total of six feet (6').
   b. **Impervious Surfaces.** No more than a total of 200 square feet of impervious surface is allowed in the side yards setback outside of the Shoreline Standard Buffer.
   c. **Average Lot Width Measurement.** In determining allowed lot coverage for this subsection, average lot width shall be measured as depicted in the illustration below: GRAPHIC--Insert graphic of how to measure average width.

9. **All residential development shall meet BIMC 15.20 and water quality and stormwater Section 4.1.6 of this Program, Water Quality and Stormwater Management.**

10. **Home occupations meeting the criteria of BIMC Title 18 (18.96) shall be considered a residential use.**

5.9.6 **Regulations - Primary Residential Design and Location**

1. **Residential Development shall be:**

   Comment [KD940]: Also add reference to zoning – BIMC t. 18.

   Comment [R941]: Staff Recommendation, Maintain consistency between sections. 4-9-12; PC agreed 4-12-12

   Comment [l942]: Revised by Workgroup to provide for 200 feet max of impervious surface in the side yards. 7/5/11

   Comment [R943]: Staff Recommendation, Clarity of sentences, allows the impervious surface in the side-yard when it is outside of the buffer.; PC agreed 4-12-12

   Comment [R944]: Staff, added for clarity. 7-7-11

   Comment [R945]: Staff, moved from location and design to general. 6-30-11
a. Located and designed to avoid the need for shoreline stabilization and flood protection works for the life of the structure, as provided for in Section 6.2.9, Shoreline Stabilization.

b. Located and designed to protect existing ecological function in accordance with the Environmental Impact and Vegetation Conservation and Management and low impact development techniques to:
   i. Minimize area of disturbance as provided in the land alteration section; and
   ii. Minimize soil compaction; and
   iii. Infiltrate stormwater runoff, when site is suitable.

c. Stormwater conveyance shall be designed according to the provisions of Section 4.1.6, Water Quality and Stormwater Management.

d. Located to protect existing views from adjacent principal primary structures buildings on adjacent properties.
   i. Primary Structures shall meet the provisions for structure setback line in Vegetation Management, Section 4.1.3.7 and shall follow the provision for Shoreline Exemption permit in Shoreline Master Program Administration Section, BIMC Section 2.16.165.

e. Designed to provide a physical separation to reinforce the distinction between public and private space. Including but not limited to:
   i. Screening with a landscape plan, approved by the Administrator, developed in accordance with vegetation requirements in Section 4.1.3, Vegetation Management and BIMC Landscaping, or
   ii. Provide an open space setback recorded on plat or title; or
   iii. Fences or other means.

5.9.7 Regulations - Accessory Design and Location

1. Accessory uses and structures proposed within the buffer shall meet the standards of Section 4.1.3, Vegetation Management.
   a. Accessory structures allowed in the Shoreline Buffer in Table 4-3, which require a building permit, shall follow the provision for a Shoreline Exemption permit in the Shoreline Master Program Administration, Section 2.16.165, BIMC.

5.9.8 Regulations - Residential Subdivisions (Single-Family and Multifamily, including ADU)/Subdivision
1. **Subdivisions of properties** in water designations, Aquatic and Priority Aquatic, shall be regulated the same as the adjacent upland.

2. New land subdivision that would require shoreline stabilization is prohibited [WAC 173-26-311(3)(a)(iii)(A)]. Land subdivision shall be designed to assure future development will not require shoreline armoring for the next 100 years as demonstrated by a geotechnical report.

3. All new subdivisions shall provide for vegetation management to mitigate cumulative impacts of intensification of use within or adjacent to the shoreline that shall include compliance with vegetation conservation requirements, together with replanting and control of invasive species within setbacks and open space to assure establishment and continuation of a vegetation community as provided in Section 4.1.3, Vegetation Management.

4. Accessory dwelling units are conditional uses for all lots wholly or partially within the shoreline jurisdiction on lots abutting the shoreline.

5. New or expanded subdivisions and all multifamily multi-unit residential developments shall provide a community recreation and/or open space area for the benefit of all residents or property owners in the development; provided that, such provisions shall not apply to lot line adjustment, lot consolidation, and subdivision of land into four (4) or fewer lots.

6. New or expanded subdivisions of less than four (4) lots and all multifamily multi-unit residential developments shall provide a common physical or visual access for the benefit of all residents or property owners in the development that meets the conditions of No Net Loss in Sections 4.1.2, Environmental Impacts. An access easement shall be recorded on the face of the plat or title report.
   a. If one or more dwelling unit exists prior to the division of land or further residential development, the feasibility of providing a common access shall be determined by the Administrator.

7. New or altered residential developments of more than four (4) dwelling units adjacent to the waterfront, shall dedicate, improve, and maintain public access area sufficient to ensure usable access to the shoreline for all residents of the development and the general public. The amount and configuration of public access shall depend on the proposed use(s), provisions in Section 5.2.4, Public Access, and the following criteria:
   a. Subdivisions within the shoreline that have views of water areas shall provide a public pedestrian viewing area.
   b. Subdivisions adjacent to public waterways and marine waters shall provide visual and physical access to public waterways, public marine waters, and public tidelands that are physically accessible at low tide or low water.
   c. Subdivisions subject to requirements for dedication of land to provide open space or mitigate recreation demands of the development shall dedicate such land on or adjacent to public waterways or marine shorelines, as applicable.
unlless the ecological sensitivity of such land precludes public access. Portions of the dedicated area may be fenced or otherwise restricted to limit public access to ecologically sensitive areas.

5.9.9 Regulations - Residential Development Over Water

1. Residential development over water, including floating homes, is prohibited.
2. Live-aboard vessels, houseboats, and legally non-conforming floating homes shall be allowed only at marinas or in the public open water marine moorage and anchorage area in Eagle Harbor in accordance with Section 5.3, Boating Facilities.
3. All new subdivisions shall record a prohibition on new single use private docks on the face of the plat. Shared moorage with less than 6 slips may be approved if it meets all requirements for community docks in Boating Facilities.
4. The total area of the native vegetation zone shall consist of an area equivalent to the length of the property along the shoreline times the depth required for the environment in which the property is located. (See Section III, General Policies and Regulations, subsection E, Native Vegetation Zone.)
5. In conformity with Section III, subsection E, Native Vegetation Zone, regulation 9, the configuration of the native vegetation zone may be altered by as much as twenty-five (25) percent to allow flexibility in using the property for certain specific purposes. However, the native vegetation zone shall never be less than twenty-five (25) feet. The purposes for which the 25 percent flexibility may be used shall include, and be limited to, the following:
   a. Replacing native vegetation with exotic vegetation;
   b. Siting permitted accessory structures (see regulation 10 below); and/or
   c. Siting the primary residence closer to the water.
6. Except as otherwise provided below, the required depth of the native vegetation zone for residential uses shall be as follows: twenty-five (25) feet in the Urban environment, fifty (50) feet in the Rural and Semi-rural environment, and one hundred (100) feet in the Conservancy environment. (Also shown in Table 4-2, Use-Related Development Standards Matrix.)
7. In the Semi-rural environment where an existing residential use has been legally constructed with a setback of twenty-five (25) feet or less, twenty-five (25) feet may be used as the setback when the Director makes a finding that:
   a. The proposed construction will not further obstruct the view from the most waterward indoor portion of a primary residence on an abutting property on either side and
   b. The property is not upland of an Aquatic Conservancy environment.
8. In the Semi-rural environment where there are adjacent primary residences within twenty-five (25) feet of the side property line on both sides of the property and both are less than fifty (50) feet from the OHWM, the average setback of the adjacent properties may be used as the required depth of the native vegetation zone, provided that:
   a. The property is not upland of an Aquatic Conservancy environment and

Comment [R957]: Workgroup, changed to reflect language in Boating Facilities Section 5-17-11
Comment [M958]: Staff – moved to Veg Conservation section 3/31/11
Comment [M959]: Staff – removed, inconsistent with policies 3/31/11
Comment [M960]: Staff – moved to Veg Conservation section 3/31/11
Comment [M961]: Staff – removed, inconsistent with policies 3/31/11
b. The setback from OHWM may not be less than twenty-five (25) feet.

9. No accessory structures shall be located within the required native vegetation zone, except a stairway to the beach, a tram, a pier or dock, a boat house, permeable decks less than thirty (30) inches in height above grade, and fences, provided that they conform to all other City and State requirements, including provisions of the Master Plan.

10. Single family dwellings shall not be permitted where flood control, shoreline protection measures, or bulkheading is required to create a buildable site. All structures shall be located and designed to avoid the need for structural shore defense.

11. Design and location of accessory structures shall protect existing views from adjacent principal buildings on adjacent properties and minimize adverse impacts to the environment.

12. In the Rural, Semi-rural, and Urban environments, a boat house or boat storage dock in no case shall exceed 200 square feet in size and 12 feet in height above existing grade and shall be in accordance with regulations 5 and 10 above. It shall also be considered a normal appurtenance to residential development not requiring a shoreline substantial development permit (SSDP), provided that the location is not upland of an Aquatic Conservancy environment.

13. In the Rural, Semi-rural, and Urban environments, permeable (slatted) decks of one hundred twenty (120) square feet or less that do not exceed thirty (30) inches in height above grade, shall be permitted in connection with regulation 5 above, provided the location is not upland of an Aquatic Conservancy environment. It shall also be considered a normal appurtenance to residential development not requiring a shoreline substantial development permit (SSDP), provided that the location is not upland of an Aquatic Conservancy environment.

14. In the Rural, Semi-rural, and Urban environments, hand-installed steps to the beach, or as part of a trail system, shall be permitted in the native vegetation zone.

15. Stairways exceeding one hundred twenty (120) square feet in footprint and all stairways in the Natural and Conservancy environments shall require a conditional use permit.

16. Stairways to the beach of less than one hundred twenty (120) square feet shall be permitted in the Rural, Semi-rural, and Urban environments. It shall also be considered a normal appurtenance to residential development not requiring a shoreline substantial development permit (SSDP), provided that the location is not upland of an Aquatic Conservancy environment. Stairways exceeding one hundred twenty (120) square feet in footprint and all stairways in the Natural and Conservancy environments shall require a conditional use permit.

17. All stairways to the beach shall require a building permit and conform to standards as defined by the Building Official.

18. a. Floating homes compliant with all the requirements of BIMC 12.40.080 and occupying the same location since November 25, 1996 shall be considered legally non-conforming.

b. Live-aboard vessels, houseboats, and legally non-conforming floating homes shall be allowed only at marinas or in open water moorage and anchorage area in Eagle Harbor.

c. Existing live-aboard vessels, houseboats, and legally non-conforming floating homes not located within a marina shall be required to relocate to a marina or open water moorage and anchorage area within Eagle Harbor within six (6) months after the establishment of such an open water moorage and anchorage area. Individuals who wish to moor in the open water...
all the citizens of Bainbridge Island must be obeyed. The City may charge fees to cover administrative costs and reserves the right to terminate the live aboard agreement and expel any non-compliant vessel from the harbor.

19. All residential development shall comply with BIMC 16.20, Environmentally Sensitive Areas.

20. All residential development shall meet setback and height standards in Table 4-2.

Comment [R972]: Workgroup, Moved to Boating Facilities, Operation and Management Section 5.17-11

Comment [M973]: Staff – removed, inconsistent with policies 3/31/11

Comment [M974]: Staff – removed, CAO now appendix to SMP 3/31/11

Comment [l975]: Moved to new regulation #3.
6.0 Section VI SHORELINE MODIFICATION POLICIES AND REGULATIONS

6.1 A. General Shoreline Modification Provisions

6.1.1 Applicability

Shoreline modifications are generally related to construction of a physical element such as a dike, bulkhead, dredged basin, pier or fill, but they can include other actions such as clearing, grading, application of chemicals, or significant vegetation removal. Shoreline modifications usually are undertaken in support of or in preparation for a shoreline use; for example, fill (shoreline modification) required for a ferry terminal (industrial use) or dredging (shoreline modification) to allow for a marina (boating facility use).

These provisions in this section apply to all shoreline modifications within the shoreline jurisdiction associated with Section 4.0 General Policies and Regulations, Section 5.0 Specific Shoreline Use Policies and Regulations and Section 4.1.8 Restoration and Enhancement. They also apply to projects whose chief intent is to protect the shoreline of a particular property for which the permit applies. They also apply to projects in which the chief intent is to protect the shoreline of a particular property for which the permit applies. Flood control projects and flood control programs must also conform to the provisions in Section 4.1.7, Subsection F, Flood Hazard and Section 4.16, Water Quality and Stormwater Management.

6.1.2 Goal

Manage shoreline modifications and flood protection to avoid, minimize, or mitigate adverse impacts and assure that individually and cumulatively shoreline modifications do not result in a net loss of ecological functions.

6.1.3 Policies

1. Allow structural shoreline modifications only where they are demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage or are necessary for reconfiguration of the shoreline for mitigation or enhancement purposes.

2. Reduce the adverse effects of shoreline modifications and, as much as possible, limit shoreline modifications in number and extent. All new development should be located and designed to prevent or minimize the need for shoreline stabilization measures and flood protection works.

3. Allow only shoreline modifications that are appropriate to the specific type of shoreline and environmental conditions for which they are proposed. Stabilization and protection works which are more natural in appearance, more compatible with on-going shore processes, and more flexible for long-term streamway management, such as protective berms or vegetative stabilization, should be utilized over structural means such as...
4. Give preference to those types of shoreline modifications that have a lesser impact on ecological functions. Require mitigation of identified impacts resulting from shoreline modifications. Structural solutions to reduce shoreline damage should be permitted only after it is demonstrated that nonstructural solutions would not be able to achieve the same purpose.

5. Plan for the enhancement of impaired ecological functions where feasible and appropriate while accommodating permitted uses. As shoreline modifications occur, incorporate all feasible measures to protect ecological shoreline functions and ecosystem-wide processes. Sloping revetments or other energy-dissipating designs are preferred to reduce the destructive scouring effect of bulkheads on beaches.

6. Avoid and reduce significant ecological impacts according to the mitigation sequence in Section 4.1.2.6.

7. Shoreline modification stabilization projects should provide for long-term multiple use and shoreline public access, where appropriate.

8. Natural features such as snags and stumps which support fish and other aquatic systems, and which do not intrude on navigational uses or threaten other permitted uses, should be left undisturbed except in cases of an approved beach stabilization project.

6.1.4 Regulations – Prohibited Uses

1. Shoreline stabilization and flood protection works are prohibited in wetlands (located in both the upland and the shoreline jurisdiction) and on point and channel bars. They are also prohibited in salmon and trout spawning areas, except for fish or wildlife habitat enhancement.

2. Beach enhancement is prohibited when it interferes with the normal public use of the navigable waters of the State.

3. Shoreline Modification located on feeder bluffs, except when the area is already developed with a primary residential structure, an essential public facility or transportation facility, in which case stabilization may be allowed pursuant to the provisions in Section 6.2, Shoreline Stabilization.

6.1.5 Regulations - General

1. Each application is required to apply for a pre-application meeting shall be required prior to submitting an application for a replacement, repair or new shoreline modification project.

2. All shoreline modification activities must be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage, support of an allowable shoreline use that is in conformance with the
provisions of the Master Program. All shoreline modification activities not in support of a conforming shoreline use are prohibited. Exception: Shoreline stabilization may be allowed as a shoreline use provided it can be demonstrated that it is necessary for reconfiguration of the shoreline for mitigation or enhancement purposes. Such activities are necessary for the maintenance of shoreline stability and habitat, and comply with all other provisions of the Shoreline Master Program.

3. All applicable Federal and State permits, including the Army Corps of Engineers and the Washington Department of Fish and Wildlife shall be obtained and complied with in the construction and operation of shoreline stabilization and flood protection works.

4. All new development activities, including additions to existing structures, shall be located away from geologically hazardous areas unless specifically allowed in Section 4.1.5, Geologically Hazardous Areas or Appendix B, and designed to prevent or minimize the need for shoreline stabilization for the life of the development or 100 years, whichever is greater.

5. All new, replacement and repair modification activities shall be limited to the minimum footprint necessary to protect an allowed primary structure or legally existing shoreline use.

6. All new, replacement and repair modification activity applications shall be designed, located, sized and constructed to assure no net loss of ecological functions pursuant to Section 4.1.2, Environmental Impacts, including considering impacts in conformance with mitigation sequencing.

7. All new, replacement and repair modification activity applications shall be designed, located, and constructed to assure no net loss of ecological functions pursuant to Section 4.1.2, Environmental Impacts, including considering impacts in conformance with mitigation sequencing.

8. The City shall require and/or utilize the following information during its review of shoreline stabilization, modification, and flood protection proposals:
   a. Project purpose;
   b. Environment of the project including:
      (1) Existing shoreline stabilization and flood protection devices within three hundred (300) feet on each side of proposed project;
      (2) Physical, geological, and/or soil characteristics of the area;
      (3) Net direction of littoral drift and tidal currents, if any.
(4) Profile rendition of beach and uplands; and
(5) Physical or geologic stability of uplands (beach type, slope and materials; uplands type, slope and material, soil types [Soil Conservation Service]).

e. Design, construction materials, and methods (to include annotated drawings):
   1. Materials used, dimensions, design;
   2. Slope angle; and
   3. Location of project relative to toe and crest of uplands and upland structures;

   Potential impact upon area shore and hydraulic processes, upland stability, adjacent properties, and shoreline and water uses; and

   e. Alternative measures, including nonstructural, which will achieve the has demonstrated that no significant change in littoral drift will result which will adversely affect adjacent properties or habitat.

5. The City shall require and utilize the following information in its review of all shoreline modification proposals:
   a. Shoreline stabilization measures shall not be designed and constructed in such a manner as to result in channelization of normal stream flows;
   b. Stream channel direction modification, realignment and straightening are prohibited unless they are essential to uses that are consistent with this program.

8. Shoreline stabilization shall not be designed in a manner that will minimize:
   a. Scouring of the beach at the toe of the structure protective devices; and
   b. Erosion on the level of the seaward beach; and or
   c. Impact to adjacent properties; and
   d. the need for mitigation measures; and

9. Upon project completion, all disturbed shoreline areas shall be restored to a near pre-project configuration as possible and replanted pursuant to Section 4.1.2., Revegetation standards with native vegetation or other species approved by the City.

10. Publicly financed or subsidized works should provide for long-term multiple use and public, pedestrian—shoreline access for low intensity recreation.

6.2 C. Shoreline Stabilization Armoring (Revetments and Bulkheads)

Background

In high-energy wave environments, bulkheads reflect some energy downward which may scour and erode the base, or "toe" of the bulkhead, lowering the beach level. This scouring at the toe may also undercut the bulkhead to the point of collapse. Bulkheading may also adversely impact longshore fishery habitat. The slope and irregular surface of revetments tends to absorb the wave energy similar to the run up on a natural beach.

6.2.1 Principles
Shorelines are by nature unstable, although in varying degrees. Erosion and accretion are natural processes that provide ecological functions and thereby contribute to sustaining the ecology of the shoreline. Human use of the shoreline has typically led to hardening of the shoreline for various reasons including reducing erosion or providing useful space at the shore, or for access to docks and piers. The impacts of hardening any one property may be minimal but cumulatively the impact of this type of shoreline modification is significant.

Shoreline hardening typically results in adverse impacts to shoreline ecological functions and habitat degradation such as:

- Starvation and/or impoundment of beach sediment which diminishes longshore sediment transport;
- Loss of shoreline vegetation and large woody debris;
- Ground water and hydraulic impacts; and
- Exacerbation of erosion.

There are nonstructural and structural methods of shoreline stabilization. Nonstructural methods include building setbacks, relocation of the structure to be protected, ground water management, and planning and regulatory measures to avoid the need for structural stabilization. Structural stabilization methods can be “hard” or “soft”. "Hard" structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads, while "soft" structural measures rely on less rigid materials, such as bioengineering vegetation measures or beach enhancement. Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions.

The range of non-structural and structural measures vary from soft to hard:

**“Soft”**
- Upland drainage control;
- Vegetation enhancement;
- Beach enhancement;
- Bioengineering measures;
- Anchor trees; and
- Gravel placement.

**“Hard”**
- Rock revetments;
- Gabions;
- Groins (rock or concrete);
- Retaining walls and bluff walls;
- Bulkheads; and
- Seawalls.

### 6.2.2 Applicability

Shoreline stabilization includes actions taken to address erosion impacts to property and dwellings, businesses, or structures resulting from natural processes, such as currents, flood tides, wind, or wave action. These actions include structural and nonstructural methods. The
provisions of this section apply to the construction, replacement and repair of structures intended to stabilize shorelines for protection of primary structures and primary appurtenances from shoreline erosion caused by wind, waves, and currents. For this section, repair, replacement and new stabilization are defined in Section 7.0, Definitions. The Shoreline Management Act exempts from the substantial development permit (SSDP) process the construction or repair of a normal, protective revetment or bulkhead when it is necessary to protect an existing single-family residence. Even when exempt, however, these structures must comply with all applicable Master Program regulations. A statement of exemption for an individual, single-family residence must be obtained from the City before commencing construction of any bulkhead or revetment. All proposed shoreline stabilization must also meet the provisions of Section 6.1, Shoreline Modification.

6.2.3 Policies

1. Discourage shoreline stabilization, particularly “hard” structural stabilization, through application of appropriate shoreline use designations, development standards, and public education outreach. The use of unarmored structural revetments should be limited to situations where it is demonstrated that nonstructural solutions, such as bioengineering, setbacks and buffers, or any combination thereof, will not provide sufficient shoreline stabilization.

2. Design, locate, size and construct new or replacement shoreline stabilization to minimize and mitigate adverse impacts on shoreline ecological functions and shoreline ecosystem-wide processes. An evaluation of the proposal should consider causes and effects of erosion, including upland erosion, and beach dynamics, such as sediment conveyance, geo-hydraulic processes and ecological relationships, and address these on a reach-specific basis. Because of the potential impact on complex, littoral long-shore drift systems and potential damage to other shoreline properties bulkhead construction should be discouraged, unless it can be demonstrated that a revetment or nonstructural solution (bioengineering, setbacks, native vegetation zones) is not feasible.

3. Design and locate new development, including the creation of new lots, in a manner that prevents the need for shoreline stabilization and armoring.

4. Structural shoreline stabilization should be permitted only when it has been demonstrated that shoreline stabilization is necessary for the protection of existing legally established structures, primary uses or public improvements in danger of loss, and when it can be demonstrated that there are no alternative options to the proposed shoreline stabilization that have less impact on the shoreline designation.

5. Existing “hard” armoring and shoreline stabilization structures may be replaced if there is a demonstrated need to protect principal uses or structures from erosion and the replacement structure is designed, located, sized and constructed to assure no net loss of ecological functions.

6. Preference is given to those types of shoreline stabilization that have a lesser impact on...
ecological functions. To protect ecological functions, alternatives to shoreline stabilization should be considered and be based on the following sequencing of solutions:

a. Avoidance (allow the shoreline to retreat naturally, increase building setbacks or relocate structures);

b. Flexible defense works constructed of natural materials including “soft” shore protection, bioengineering, including beach nourishment, protective berms, or vegetative stabilizations;

c. Combination of “soft” and structural “hard” shoreline stabilization, or hybrid design measures, which excludes structural stabilization below the ordinary high water mark;

d. “Hard” structural stabilization, or rigid works constructed of artificial materials such as riprap or concrete;

7. Materials used for construction of shoreline stabilization should be selected for long term durability, ease of maintenance, compatibility with local shore features, including aesthetic values and flexibility for future uses.

8. Shoreline armoring should be designed, improved, and maintained to provide public access whenever possible. Ensure that publicly financed or subsidized shoreline erosion control measures do not restrict appropriate public access to the shore except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions. Where feasible, incorporate ecological restoration and public access improvements into the project.

9. Shoreline stabilization armoring should not be constructed waterward of feeder bluffs.

10. Encourage neighboring property owners should be encouraged to coordinate planning and development of shoreline stabilization revetments or other solutions for an entire drift sector or shoreline reach, to avoid erosion of down-drift properties and to address ecological and geohydraulic processes, sediment conveyance, and beach management.

11. Where feasible, any failing, harmful, unnecessary, or ineffective structures should be removed and shoreline ecological functions and processes should be restored consistent with the priorities of an ecosystem-wide restoration plan, and replaced using shoreline stabilization measures that result in less impact to shoreline ecological functions and processes.

12. Encourage non-structural stabilization using non-regulatory methods to protect, enhance, and restore shoreline ecological functions and other shoreline resources. Non-regulatory methods should include incentive programs to utilize low impact development techniques and habitat/resource planning, voluntary enhancement and restoration projects, or programs that provide technical assistance and education to shoreline property owners.

13. Shoreline stabilization should incorporate beach restoration or enhancement in accordance with the restoration provisions of Section 4.1.8, Restoration and Beach Enhancement, and this master program.
naturally regenerating systems should be required where:

1. The length and configuration of the beach will accommodate such systems;
2. Such protection is a reasonable solution to the needs of the specific site; and
3. Beach restoration/enhancement will accomplish one or more of the following objectives:
   a. Recreate or enhance natural conditions.
   b. Create or enhance natural habitat.
   c. Mitigate erosion.
   d. Enhance public access to the shoreline.

6.2.4 Regulations - Prohibited

1. Gabions (wire mesh filled with concrete or rocks), groins, vertical, concave and flat (hard) faced structures (not including near-vertical rock riprap bulkheads) are prohibited in shoreline stabilization bulkhead construction.

2. Revetments and bulkheads shall be prohibited for any purpose unless part of a public facilities project if they will cause significant erosion or beach starvation.

3. Construction of a bulkhead, revetment, or other armoring structure for the purpose of retaining a landfill or creating dry land; unless it is proposed in conjunction with a commercial or industrial water-dependent use or public use.

4. Shoreline stabilization (except for proposals to protect a primary single family structure or essential public or transportation facilities hardening) shall not be located on shores where valuable geo-hydraulic or biological processes are sensitive to interference and critical to shoreline conservation, such as:
   a. feeder bluffs,
   b. marshes,
   c. wetlands, or
   d. accretion shoreforms such as spits, hooks, bars, or barrier beaches.

5. Use of hard structural stabilization to protect a vacant platted lot or to protect a developed lot where a primary structure or essential accessory structure is not in danger from erosion as demonstrated through a geotechnical report.

6. Stabilization that would cause significant impacts to adjacent or down current properties.

6.2.5 Regulations - General

1. Revetments and bulkheads are permitted uses in the Rural, Semi-rural, and Urban environments where there are either bulkheads or revetments within approximately 100 feet on either side of the property. If there are no revetments or bulkheads within 100 feet on either side of the property, new revetments and bulkheads shall be conditional uses. Bulkheads and revetments shall be prohibited in the Natural, Conservancy, and Aquatic Conservancy environments. Bulkheads and revetments may be permitted in the
aquatic environment only if they are permitted in the adjacent upland environment and are located at or near ordinary high water. In addition, where permitted or conditional uses, bulkheads or revetments to protect a platted lot where no structure presently exists will require an SSDP.

a. A statement of exemption shall be obtained from the City prior to construction of any bulkhead or revetment in front of a single-family residence. The statement of exemption shall meet all requirements of this Master Program.

2. All forms of protective structures shall be designed, constructed, and maintained in a manner that does not degrade water quality and/or fisheries habitat, and conforms to state agency policies and regulations, including Washington State Department of Fish and Wildlife criteria and permit requirements.

3. Evidence of professional design of proposed protective structures is required if it is determined there are uncertainties, such as:
   a. Inadequate data on local geophysical conditions;
   b. Potential effect on adjacent property; or
   c. Potential adverse effects on beach seaward of structure.

4. Natural materials and processes such as protective berms, drift logs, brush, beach feeding, or vegetative stabilization shall be utilized to the maximum extent possible.

5. Revetments and bulkheads may be allowed only when evidence is presented which conclusively demonstrates that the following conditions exist:
   a. Serious wave erosion threatens an existing development or land;
   b. Bulkheads or revetments may be approved for the operations and location of water dependent and water related activities consistent with the Master Program, provided that all alternatives have proven infeasible (i.e., use relocation, use redesign, nonstructural shore stabilization options). Such bulkheads or revetments must meet other policies and regulations of this chapter; and
   c. That use of natural materials and processes and nonstructural solutions to bank stabilization are unworkable in protecting existing development.

6. Revetments should be constructed to provide no steeper than a 45 degree slope (1 horizontal to 1 vertical)

1. All shoreline stabilization proposals shall meet applicable provisions of Section 6.1, Shoreline Modifications, including assurance of no net loss of ecological functions (Section 6.1.5(7)).

2. The following chart provides the application requirement specific to the structural stabilization proposed, dependent on the shoreline designation.

<table>
<thead>
<tr>
<th>E= Exemption</th>
<th>SD = substantial development</th>
<th>CU = conditional use</th>
<th>X = Prohibited</th>
</tr>
</thead>
<tbody>
<tr>
<td>Natural</td>
<td>Island Conservancy</td>
<td>Shoreline Residential Conservancy</td>
<td>Shoreline Residential</td>
</tr>
<tr>
<td>Repair of a structural stabilization</td>
<td>X</td>
<td>E</td>
<td>E</td>
</tr>
<tr>
<td>New or Replacement Structural stabilization, hard</td>
<td>X</td>
<td>X</td>
<td>E/SD</td>
</tr>
<tr>
<td>New or Replacement Structural stabilization, hybrid</td>
<td>X</td>
<td>X</td>
<td>E/SD</td>
</tr>
</tbody>
</table>
New or Replacement Structural stabilization, soft-treatment or non-structural  

| X | E | E | E | E |

Note: Repair of a structure is considered repairing or replacing less than 50% of the existing structure. See Repair of Existing Structural Stabilization, Section 6.2.9; and Replacement of a structure is considered repairing or replacing 50% or more of the existing structure. See Replacement and New Structural Stabilization, section 6.2.10 and 6.2.11.

6.2.6 Regulations – Location and Design of Shoreline Stabilization

1. Shoreline armoring stabilization shall not be approved in any known or suspected midden site without the written permission of the Director of the State Office of Archaeology and Historic Preservation (the State Historic Preservation Officer) (RCW 27.53.060 or its successor).

2. Shoreline hardening (revetments and bulkheads) shall be permitted only where local physical conditions such as foundation-bearing material and surface and subsurface drainage are suitable for such alterations.

3. On all shorelines, armoring hard structural stabilization structures shall be located landward of the OHWM. Other structural stabilization shall be located landward of protective berms (artificial or natural), and generally parallel to the natural shoreline except as allowed below:
   
   a. On marine accretion beaches, bulkheads shall be set back a minimum of twenty-five (25) feet landward of the OHWM and shall parallel the natural shoreline. However, for sloping or bluff/cliff shores, armoring structures shall be placed as far landward of the OHWM as is feasible.
   
   b. On high bluffs or bank shorelines where no other armoring stabilization structures are adjoining adjacent, such structures shall be as close to OHWM the bank as feasible to accommodate the design of shoreline stabilization possible. However, a revetment footing may extend waterward only the minimum extent necessary to permit adequate run-up to dissipate wave energy.

   c. Revetments and bulkheads Shoreline stabilization shall tie in flush with existing stabilization bulkheads on adjoining properties, except when the action will create dry land, where the adjoining bulkheads extend waterward of the OHWM or the toe of the bank or permitted landfill, in which case the location requirements of the above shall apply.

   d. Soft-treatment stabilization may be permitted waterward of the OHWM if the stabilization measures provide restoration of shoreline ecological functions.

3. Replacement structures may be located in the same location if relocation landward of OHWM is demonstrated to be infeasible to the satisfaction of the Administrator.

4. Bulkheads and revetments to protect a platted lot where no structure presently exists
shall be permitted with an SSDP where property is threatened as demonstrated in a geotechnical report and provided it complies with all other provisions in Regulations – General above.

Regulations – Design

1. If an armored revetment is employed, the following design criteria shall be met:
   a. The size and quantity of the material shall be limited to only that necessary to withstand the estimated energy intensity of the hydraulic system;
   b. Filter cloth or adequate smaller filter rock shall be used to aid drainage and help prevent settling; and
   c. The toe reinforcement or protection must be adequate to prevent a collapse of the system from wave action.

2. Revetments shall be sited and designed consistent with appropriate engineering principles. Professional, geologic, site studies or design may be required for any proposed revetment or bulkhead if the City determines sufficient uncertainties or potential for damage to other shoreline properties and features exist.

4. Shoreline stabilization revetments shall be designed to permit the passage of surface or ground water without causing ponding or saturation of retained soil/materials.

5. Soft-treatment stabilization shall be used to the maximum extent feasible.

6. Hard structural stabilization, including those portions of hybrid structures, shall be limited to the portion or portions of the site where necessary.

7. When allowed on feeder bluffs, hard structural stabilization including those portions of hybrid structures, shall be located landward of the OHWM.

8. Hard structural stabilization, including those portions of hybrid structures located in a shoreline area that does not include a feeder bluff, hard shall be located landward of the ordinary high water mark and shall follow the natural contours of the shoreline; unless it is found to be infeasible to locate the entire hard structural stabilization landward.

9. When a revetment hard structure is required at a public access site, provision for safe access to the water shall be incorporated into its design.

10. Stairs or other permitted upland structures may tie into existing hard structural stabilization, but shall not extend waterward of it, unless it is found to the satisfaction of the Administrator to be infeasible to locate the entire stairway landward. Such stairs shall not extend waterward of it.

11. Overwater structures may tie into existing hard structural stabilization.

12. Shoreline stabilization shall be designed to provide adequate toe protection shall be provided to ensure that future mitigation or hard structural stabilization measures are not required and revetment stability without relying on additional riprap.

13. Materials used in hard structural stabilization revetment construction shall utilize stable, nonerosion-prone, homogeneous materials such as concrete, wood, rock riprap, or...
other suitable materials which will accomplish the desired end with the maximum preservation of natural shoreline characteristics. See Section 4.1.6 Water Quality and Stormwater Management for additional provision for type of allowable material.

6.2.6.1 Regulations – Location Specific for Replacement of Hard Structural Stabilization

1. Replacement of hard structural stabilization measures shall not encroach waterward of the OHWM or waterward of the existing shoreline stabilization measure unless the primary structure was constructed prior to January 1, 1992, and there is overriding safety or environmental concerns if the stabilization measure is moved landward of the OHWM. In such cases, the replacement structure shall be constructed to abut the existing shoreline stabilization structure. All other replacement structures shall be located at or landward of the existing shoreline stabilization structure.

6.2.7 Regulations - Repair of Existing Structural Stabilization

1. The City shall allow repair of soft-treatment stabilization.
2. Repair of existing structural stabilization shall be allowed when:
   a. Failing, damaged structural stabilization may be repaired up to 50% of the linear length. Repair area that exceeds 50% shall be considered a replacement.
   b. Repairs may require mitigation pursuant to Section 4.1.2, Environmental Impacts.
   c. Repair applications shall be considered with cumulative approvals of each successive application within a five year period to ensure that the repair continues to fall under the 50% repair threshold.

6.2.8 Regulations – New or Replacement Structural Stabilization

Note: New and replacement stabilization is subject to the following provisions and the specific sections for the type of proposal and provisions for the kind (hard, soft, etc.) of shoreline stabilization measure being proposed.

1. When evaluating the need for new, expanded or replacement structural stabilization measures, the Administrator shall require the applicant to provide an analysis that examines and implements alternatives in the following order of preference:
   a. No action (allow the shoreline to retreat without intervention).
   b. Non-structural measures such as vegetation enhancement or addressing upland drainage concerns.
   c. Increase building setbacks and/or relocated structures and/or elevate the structures.
d. Implement flexible/natural materials and methods, beach nourishment, protective berms, bioengineered stabilization or other soft-treatment measures.

e. Hybrid structure.

f. Exclusively hard stabilization materials.

2. Analysis for these alternatives shall be included with each replacement or new structural stabilization application including a description of cost, maintenance needs and success in protecting the primary structure.

6.2.8.1 Specific Regulations: Replacement of Existing Structural Stabilization

1. Replacement of existing structural stabilization is allowed to protect public transportation infrastructure, essential public facilities, and primary structures when all the following apply:

a. The replacement is located landward of OHWM, unless demonstrated to the satisfaction of the Administrator to be infeasible, then is located in the same location, except as provided in subsection 3, below; and

b. The danger of loss or substantial damage from shoreline erosion is caused by tidal action, current, and waves rather than landslides, sloughing or other forms of shoreline erosion unrelated to water action at the toe of the slope and such has been identified through a geotechnical report except as provided in subsection (c), below.

c. A geotechnical report demonstrates a need to protect the primary structure and primary appurtenance from danger of loss or substantial damage within five (5) years due to shoreline erosion, except the following is not required to identify danger of loss or substantial damage through a geotechnical report:

   i. An existing primary single family residence located within ten (10) feet or less from the OHWM.

   ii. An existing primary single family residence located within ten (10) feet or less from the top of a high bluff (>15ft) that is situated landward of the structure; The top of the bluff is defined in Appendix B; and

d. The replacement structure is designed, located, sized and constructed to assure no net loss of ecological functions.

e. Replacement structures may encroach landward of the OHWM for soft-treatment stabilization measures that provide restoration of ecological functions.

f. Hard structural shoreline stabilization, including those portions of hybrid structures, is limited to the zone of impacts for protecting a primary structure and its primary appurtenances (See Section 7.0 for definition of ‘zone of impact’).

2. Where a geotechnical report confirms a need to prevent potential damage to a primary...
structure, but the need is not as immediate as five (5) years, the report may be used to justify more immediate authorization to protect against erosion using non-structural, soft-treatment or hybrid structural measures.

3. Hard structural stabilization shall not encroach waterward of the OHWM or waterward of the existing shoreline stabilization measure unless the primary structure was constructed prior to January 1, 1992, and there is overriding safety or environmental concerns if the stabilization measure is moved landward of the OHWM. In such cases, the replacement structure shall abut the existing shoreline stabilization structure. All other replacement structures shall be located at or landward of the existing shoreline stabilization structures.

6.2.8.2 Specific Regulations: New Shoreline Stabilization

1. The City may approve new or enlarged structural stabilization measures to protect public transportation infrastructure, essential public facilities, and primary structures when all the following apply:

   a. The danger of loss or substantial damage from shoreline erosion is caused by tidal action, current, and waves rather than landslides, sloughing or other forms of shoreline erosion unrelated to water action at the toe of the slope and such has been identified through a geotechnical report except as provided in subsection (b), below; and

   b. A geotechnical report demonstrates there is significant possibility that the primary structure or primary appurtenance structures will be damaged within three (3) years as a result of shoreline erosion, (a), above, in the absence of hard structural stabilization measures; except the following is not required to identify danger of loss or substantial damage through a geotechnical report:

      i. An existing primary single family residential structure located within ten (10) feet or less from the OHWM; or

      ii. An existing primary single family residential structure located within ten (10) feet or less from the top of a high bluff (>15ft) that is situated waterward of the structure: The top of the bluff is defined in Appendix B.

   c. Hard structural shoreline stabilization, including those portions of hybrid structures, is limited to the zone of influence for protecting a primary structure and its primary appurtenances;

   d. The new or expanded structure is designed, located, sized and constructed to assure no net loss of ecological functions; and

   e. Non-structural measures, including planting of vegetation, relocation of existing structures or installing on-site drainage improvements are shown not to be feasible or sufficient.

2. Where a geotechnical report confirms a need to prevent potential damage to a residential primary structure, but the need is not as immediate as three years, the report may be used...
to justify more immediate authorization to protect against erosion using non-structural or soft-treatment structural measures.

6.2.9 Regulations - Subdivisions

1. Land subdivision shall be designed to assure future development will not require shoreline armoring for the next 100 years as demonstrated by a geotechnical report.

6.2.10 Submittal Requirements for All Shoreline Modification Projects: Application

1. In addition to the general submittal requirements for all applications specified in BIMC Section 2.16.020(H), the following shall be submitted to the City including those applications where no primary structure exists:

   a. Purpose of the project; and
   b. Plan and cross section views of the existing and proposed shoreline configuration, showing accurate existing and proposed topography and ordinary high water mark (OHWM); and
   c. Documentation of pre-construction shoreline characteristics; and
   d. Description of physical, geological and/or soil characteristics of the site including existing and proposed slope profiles; and
   e. Examination and implementation of alternatives in the order of preference as described in Section 6.2.8 New and Replacement Structural Stabilization; and
   f. Existing shoreline stabilization within the reach of the proposed project; and
   g. Any outreach efforts to coordinate with property owners within the shoreline reach to address an ecosystem-wide restoration plan and
   h. A description of opportunities for providing public access to and along the affected shoreline, as well as any proposed on-site recreational features if applicable; and
   i. A description of any waste and debris disposal sites for materials generated during construction; and
   j. An assessment of the cause of erosion, looking at processes occurring both waterward and landward of the OHWM and on-site drainage; and
   k. Mitigation report as specified by Section 4.1.2 Environmental Impacts; and
   l. Geotechnical report including the estimated rate of erosion and urgency (3 years) and the following:
      i. Proof of a geotechnical design of the structural stabilization; and
      ii. Washington State licensed civil engineer with a specialty in coastal engineering or a qualified Washington State licensed geologist with a specialty in coastal geology and a qualified marine habitat biologist shall evaluate the cumulative effects of stabilization methods within a drift kelp; and
      iii. Maintenance, Monitoring and Planting Plan as specified by section 4.1.2, Environmental Impact.
6.2.11 Additional Submittal Requirements for Repairs of Existing Shoreline Stabilization

In addition to the general submittal requirements for all applications specified in BIMC Section 2.16.020(H) and Section 6.2.10, above, the following shall be submitted with applications for repairs:

1. The applicant shall submit to the City design recommendations for minimizing impacts and ensuring the replacement or repaired stabilization measure is designed, located, sized and constructed to assure no net loss of ecological functions.
2. An indication of the amount of area proposed to be repaired.
3. A calculation that demonstrates the amount proposed to be repaired and past amounts repaired.
4. A summary of the replacement, repair materials proposed.

6.3 Overwater Structures Piers, Docks, Recreational Floats, and Mooring Buoys

6.3.1 Applicability

Uses which may employ a pier or dock are subject to the provisions herein as well as to the provisions contained in Section V, Specific Shoreline Use Policies and Regulations. Community or joint-use docks which provide moorage for six (6) or more vessels also must comply with the provisions of Section 5.3, Subsection D, Boating Facilities.

Pursuant to RCW 90.58.030(3)(e)(vii), or its successor and WAC 173-27-44-040(2)(h), or its successor, certain activities are exempt from obtaining a Shoreline Substantial Development Permit (SSDP). For the benefit of the lot owner, surrounding properties, and water body users, the City will review all proposals for piers and docks to determine whether:

1. The proposal is or is not exempt from the requirements for a shoreline permit;
2. The proposal is suitably located and designed and that all potential impacts have been recognized and mitigated; and
3. The proposal is consistent with the intent, policies, and regulations of the Act [RCW 90.58.140(1) or its successor] and this program.

Activities that are exempt from a shoreline substantial development permit must still meet the provisions of the Master Program. Exempt activities are subject to the provisions of the Master Program. A pier, dock or float associated with a single-family residence is considered a water-dependent use provided that it is designed and intended as a facility for access to watercraft. Development of a dock or pier on single-family residential property shall require a Shoreline Substantial Development Permit or Conditional Use Permit or a Statement of Exemption issued by the City.

6.3.2 Goal
Limit the number and size of piers, docks, and floats to the extent necessary to accommodate the proposed use and avoid adverse impacts to shoreline ecological function. Allow overwater structures only when part of a permitted water-dependent use or for public access. Ensure consistency with Federal and State regulations.

6.3.3 Policies

1. **Encourage** multiple-use and expansion of existing conforming piers, docks, and floats **should be encouraged** over the addition and/or proliferation of new facilities. Joint-use facilities are preferred over new, single-use piers, docks, and floats.

2. **The use of mooring buoys are encouraged** in preference to either piers or docks. **Locate and design buoy installations to avoid or minimize adverse impacts on ecological functions and ecosystem-wide processes.**

3. **Piers, docks, and floats should be designed** to cause minimum interference with navigable waters, the public’s use of the shoreline, and views from adjoining properties.

4. **Locate and design piers, floats, and docks** should be designed to avoid and minimize possible adverse **environmental** impacts on ecological functions, including fish and wildlife habitat, and impacts to ecosystem-wide including potential impacts on shoreline processes such as littoral drift and sand movement, water circulation and quality, and fish and wildlife habitat. Ensure that piers, floats, and docks are:
   a. **Designed in consideration of the proposed intensity of use, the shoreline characteristics, tidal action, aesthetics and minimization of impacts to adjacent land and public use of the waters of the state.**
   b. **Prohibited at locations where critical physical limitations exist**, such as shallow, sloping bottoms; areas of frequent high wind, wave, or current exposure; high littoral drift areas; or slide prone and/or feeder bluffs.
   c. **Designed and maintained to mitigate adverse impacts to the environment such as eelgrass beds and fish habitats, shoreline aesthetics, and water quality, and to minimize interference with navigable waters and the public’s use of the water and shoreline. Design considerations should:**
      i. **Limit pier and float width to extent necessary for the intended use;**
      ii. **Provide functional grating for light penetration;**
      iii. **Configure pier and float orientation to minimize shading;**
      iv. **Prohibit auxiliary structures on piers and floats;**
      v. **Provide a mechanism to prevent floats from resting on tidelands;**
      vi. **Encapsulate floatation to prevent to breakup and loss of material; and**
      vii. **Use a site-specific span distance to avoid adverse impacts to salt water critical habitat.**
   d. **Designed, constructed, and maintained to provide a reasonable level of safety to users.**

4. **Proponents of commercial pier, float, and dock projects are encouraged to provide for**
public docking, launching, and recreational access.

5. Encourage the development of public docks with floats at appropriate road-end locations. Local programs and coordinated efforts among private and/or public agencies should be initiated to develop new public access docks, and to remove or repair failing, hazardous, or nonfunctioning piers and docks and restore such facilities and/or shore resources to a natural and/or safe condition.

6. Encourage the use of natural, nonreflective materials in pier and dock construction. Chemical wood treatments, such as creosote or pentachlorophenol, are prohibited on all new structures or repair projects. When plastics and other nonbiodegradable materials may be used, however, precautions as provided in Section 4.1.6, Water Quality and Stormwater Management should be taken to ensure their containment.

7. Implement an education program for boat owners and operators on best management practices for use of boat maintenance and overwater structure maintenance products. The proposed size of the structure and intensity of use of any dock, pier, and/or float should be compatible with the surrounding environment and land and water uses.

8. The development of new docks and piers should be limited in harbors and encourage public docks and private community docks, except that the development of new docks and piers shall be prohibited within Blakely Harbor between Restoration Point and the most eastern point along the north shore of Blakely Harbor (sometimes referred to as “Pigott Pt” or “Jasmine Pt”), except that:
   a. New docks shall be prohibited between Restoration Point and the most eastern point along the north shore of Blakely Harbor (sometimes referred to as “Pigott Pt” or “Jasmine Pt”), Public docks and private community docks should be encouraged.
   b. A total of two community docks should be allowed, with no more than one along each the north and south shores, respectively, provided that all residents along each shore are provided with a non-extinguishable option to access the community dock located along their respective shore; and
   c. One small public dock and/or pier for the mooring of dinghies and loading or unloading of vessels shall be allowed for daytime use.

6.3.4 Regulations - Prohibited

1. Overwater structures in the Natural and Priority Aquatic designations, except that joint-use docks are allowed in Priority Aquatic Category B and two mooring buoys per parcel are allowed for public access when upland property is owned by a public entity. Mooring buoys shall be prohibited offshore from the Natural designation.

2. Overwater Structures are prohibited at locations where critical physical limitations exist, such as shallow, sloping bottoms; areas of frequent high wind, wave, or current exposure.
as depicted by charts, isometric maps, or other technical sources; or areas with high levels of accretion or geological hazardous areas (outside of harbors) and/or feeder bluffs, except when specifically allowed in Section 4.2.4, Public Access or Section 5.3, Boating Facilities.

3. The development of new docks and piers shall also be prohibited within all shoreline designations within Blakely Harbor between Restoration Point and the most eastern point along the north shore of Blakely Harbor (sometimes referred to as “Pigott Pt” or “Jasmine Pt”), except as provided in this section.

4. Development of new docks and piers within Murden Cove as shown on the Shoreline Designation Map.

5. New boat houses and new covered moorage on either existing or new piers or docks.

6. Hydraulic water jets cannot be used to remove piling.

7. Use of arsenate compounds or creosote-treated members.

8. Over-water field applications of paint, preservative treatment, or other chemical compounds, except in accordance with best management practices set forth in the Boating Facility section of the Master Program or when allowed by a current NPDES permit from Department of Ecology.

9. Bulk storage for gasoline, oil and other petroleum products for any use or purpose on piers and docks. Bulk storage means nonportable storage in fixed tanks.

6.3.5 Regulations - General

1. Except for the provision contained in this chapter, new piers and docks shall be a permitted use in the Rural, Semi-rural, Urban, Shoreline Residential, and Aquatic designations, and shall be a conditional use in the Shoreline Residential Conservancy, and Island Conservancy designations, and shall be prohibited in the Natural and Aquatic Conservancy environment. The development of new docks and piers shall also be prohibited within all shoreline designations within Blakely Harbor between Restoration Point and the most eastern point along the north shore of Blakely Harbor (sometimes referred to as “Pigott Pt” or “Jasmine Pt”).

   a) A total of two community docks shall be a conditional use within the Urban, Semi-rural, Rural, and Aquatic environment with no more than one along each the north and south shores, respectively, provided that all residents along each shore shall have a non-extinguishable option to access the community dock located along their respective shore;

   b) One public dock and/or pier for the mooring of dinghies and loading or unloading of vessels shall be a conditional use within the Urban, Semi-rural, Rural, and Aquatic environment for daytime use; and

   c) Such community and public docks shall comply with this master program and other applicable laws; shall be the minimum size necessary; and shall be sighted and designed to mitigate adverse impacts to navigation, views, scenic character, and natural resources as much as possible. Such community and public docks shall also be reasonably passable to swimmers, beach walkers, and human-
2. Proposals for piers or docks shall include, at a minimum, the following information:
   a. Description of the proposed structure, including its location, dimensions, materials, design, and any shoreline stabilization or other modification required by the project.
   b. Ownership of uplands, tidelands, and shorelands within three hundred (300) feet of the property boundaries.
   c. Proposed location of piers, floats, or docks relative to property lines, OHWM, the line of navigation, the construction limit line, and the of the extreme low tide, as applicable.
   d. Location, width, height, and length of piers or docks on adjacent properties; and
   e. Agreements, if any, for cooperative use.
   a. Where functionally necessary to the propagation, harvesting, testing, or experimentation of said marine fisheries or wildlife, or
   b. Unless approved as a conditional use if it can be demonstrated that the dock or pier will not be detrimental to the natural habitat or species of concern.
4. Piers, floats, buoys, and docks shall not interfere with use of navigable waters.

2. Mooring buoys are a preferred use over docks, where feasible.
3. Piers and docks may be shall be located and designed to minimize interference with the use of navigable waters and may be limited in length or prohibited, where necessary, to protect navigation, public use, or habitat values.
4. If a bulkhead-like base is proposed for a fixed pier or dock where there is net-positive littoral drift (accretion beach), the base shall be built landward of the ordinary high water mark or protective berms, and is considered shoreline stabilization and must meet provisions of Section 6.2 Shoreline Stabilization.
5. New boat houses and new covered moorage shall not be permitted on either existing or new piers or docks. Other structures on piers and docks shall be strictly limited in size and height and avoid impacting shoreline views.
10. A pier or dock shall not extend offshore farther than the most shoreward of the following:
   a. The average length of the piers on the two adjoining properties;
   b. In Eagle Harbor, the Construction Limit Line; or
   e. Elsewhere, the distance necessary to obtain a depth of four (4) feet of water as measured at extreme low tide at the landward limit of the moorage.
6. Piers and docks shall require a building permit and shall meet standards set by the building official, except public ferry terminals as part of the state highway system, the appropriate shoreline development permit or shoreline exemption may be required.
7. Lighting shall:
   a. Satisfy the provisions of BIMC 18-12, and
   b. Be the minimum necessary, or as required by the Coast Guard, to locate the dock at powered water craft.

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night, and

c. Should minimize glare.

8. Mitigation requirements of Section 4.1.2, Environmental Impacts, may be met through mitigation standards for USACE permit process.

6.3.6 Regulations - General - Location, Design and Construction Standards

Pier, Dock, Float

1. A single use dock consists of pier, ramp, float, and one boat lift. An additional boat lift maybe added per dwelling unit for joint-use docks.

2. When plastics or other non-biodegradable materials are used in float, pier, or dock construction, precautions shall be taken to ensure their containment.

3. Overhead wiring or plumbing is not permitted on overwater structures - piers or docks.

6.3.7 Regulations - Specific

6.3.7.1 Piling Regulations

1. Principle: Piles are physical barriers to fish migration and have the potential to leach contaminants into aquatic and nearshore environments. Piling installed close together can cause floating debris to accumulate, which can lead to increased shading and predator protection. The fewest number of pilings necessary should be installed and spacing between piling should be maximized. Projects must be designed to minimize abrasion between the pier, ramp and float caused by tidal fluctuations because this can result in the deposition of contaminants into the water and over time will cause a loss of structural integrity requiring additional maintenance by the applicant.

a. Replacement or new piling shall be steel, concrete, plastic or untreated or approved treated wood, if approved by United States Army Corps of Engineer (Corps). Any piling subject to abrasion (and subsequent deposition of material into the water) must incorporate design features to minimize contact between all of the different components of overwater structures during all tidal elevations.

b. New piling associated with a new pier, except large water-dependent ferry terminal, must be spaced at least 20 feet apart (lengthwise along the structure) unless the length of structure itself is less than 20 feet. If the structure itself is less than 20 feet in length, piling can only be placed at the ends of the structure. Piles in forage fish spawning areas need to be spaced at least 40 feet apart.

c. If the project includes the replacement of existing piling, they should be either partially cut with a new piling secured directly on top, fully extracted, or cut 2-feet below the mudline. If treated piling are fully extracted or cut, the holes or piles must be capped with clean, appropriate material.
d. A maximum of two moorage pilings may be installed to accommodate the moorage of boats exceeding the length of the floats.

1. Pilings must be structurally sound prior to placement in the water. The minimum number of pilings shall be used, favoring large spans on fewer pilings over smaller spans on more pilings.

e. Piles, floats, or other members in direct contact with water shall not be treated or coated with biocides such as paint or pentachlorophenol. Use of arsenate compounds or creosote-treated members is discouraged. In saltwater areas characterized by significant shellfish populations or in shallow embayments with poor flushing characteristics, untreated wood, used pilings, precast concrete, or other nontoxic alternatives shall be used. In all cases where toxic-treated products are allowed, products, methods of treatment, and installations shall be limited to those that are demonstrated as likely to result in the least possible damage to the environment based on current information. Used, creosote pilings are preferable to new ones.

6.3.7.2 Pier Regulations

1. Principle: In the Puget Sound, the intertidal and subtidal substrate supports a complex web of plant and animal species. Juvenile salmon, called “salmonids”, young and adult bull trout, and juvenile rockfish use nearshore marine areas for feeding, rearing, and as migratory corridors. Their predators are generally located in deeper waters that young fish tend to avoid. As they mature they become less dependent on shallow areas and begin preying on forage fish, many of which spawn on the intertidal substrate around eelgrass, kelp beds and macroalgae. Piers create shadows that can impact the viability of marine vegetation that require sunlight to grow. This subsequently adversely impacts the habitat of fish that so many other species (including human beings) rely upon. In addition, large shaded areas provide cover for predators so for these reasons the amount of shade created by piers must be minimized.

a. The width of the modified portion of a pier or proposed new pier must not exceed 4 feet for single use and 6 feet for joint use. Pier width for marinas or public use docks may exceed these restrictions if they provide mitigation, which may include artificial lighting under the pier during daytime hours.

b. Functional grating resulting in a total open area of a minimum of 30% must be installed on all new or replacement piers that are 4 - 6 feet wide. For example, this can be achieved by installing grating with 60% open area on at least 50% of the pier or by grating a larger percentage of the pier with grating with openings of less than 60%. Site conditions may require pier to be 100% or fully grated.
c. For all sections of the pier that span upper intertidal areas with obligate vegetation, that pier section shall be fully grated with grating having 60% open area.

d. No over-water field applications of paint, preservative treatment, or other chemical compounds shall be permitted, except in accordance with best management practices set forth in the marina section of the Master Program.

4. Pilings employed in piers or any other structure shall have a minimum vertical clearance of one (1) foot above extreme high water.

6.3.7.3 Float Regulations

1. Principle: Sharp shadows cast by floats and float tubs have been shown to discourage salmonids and other young fish from passing underneath, forcing them into deeper water where their chance of being preyed upon is increased and water temperature and conditions are different. In the case of rockfish, they give birth to live larval young that spend several months being passively dispersed by tidal fluctuations, as they mature they move out to deeper water but initially are at a high risk of predation. Manmade shade creates artificial pockets of opportunity for the predators of young fish and unlike the shade from overhanging vegetation (which is encouraged in this Army Corps of Engineers, Regional General Permit) the negative impacts outweigh the benefits. Finally, to prevent damage to the substrate, benthic invertebrate communities and vegetation, floats should not ground out at low tide and should be fully encased to prevent the deterioration and dispersion of floatation materials.

a. For a single-use structure, the float width must not exceed 8 feet and the float length must not exceed 30 feet. Functional grating must be installed on at least 50% of the surface area of the float.

b. For a joint-use structure, the float width must not exceed 8 feet and the float length must not exceed 60 feet. Functional grating must be installed on at least 50% of the surface area of the float.

c. To the maximum extent practicable, floats must be installed with the length in the north-south direction.

d. If the float is removed seasonally, the applicant needs to indicate this in their application along with the proposed storage location. Floats should be stored above mean high/higher water/ordinary high water line at a Corps approved location. Corps authorization may be required if the float will be stored within Corps jurisdiction (even within a marina).

e. Flotation for the float shall be fully enclosed and contained in a shell (e.g., polystyrene tubs not shrink wrapped or sprayed coatings) that prevents breakup or loss of the flotation material into the water and is not readily subject to damage by ultraviolet radiation and/or abrasion caused by rubbing against pilings and/or waterborne debris.
f. Flotation components shall be installed under the solid portions of the float, not under the grating.

g. If the float is positioned perpendicular to the ramp, a small float may be installed to accommodate the movement of the ramp due to tidal fluctuations. The dimensions of the small float cannot exceed 6 feet in width and 10 feet in length.

6.3.7.3.1 Float Stops

1. Principle: Floats need to be above the tidal substrate at any time. There are a number of ways to achieve this, such as installing float stops (stoppers) on pilings designed to anchor floats, installing a few stub pilings, or in certain situations it could be appropriate to install float feet. In all cases, the stops must be able to fully support the entire float during all tidal elevations.

   a. Floats need to be suspended a minimum of 1 foot above the tidal substrate at all tide levels.

   b. To suspend the float above the substrate, the preferred and least impacting option is to suspend the float above the substrate by installing float stops (stoppers) on piling anchoring new floats. The stops must be able to fully support the entire float during all tidal elevations.

   c. If float stops attached to pilings are not feasible (this must be explained in the application), then up to four 10 inch diameter stub pilings can be installed instead.

   d. Float feet attached to the float may be considered an option only under these circumstances:

      i. In coarse substrate, D25 of 25 mm or larger for a grain size sample taken from the upper one foot of substrate;

      ii. For elevations of minus 3 MHHW and lower at D25 of 4 mm or larger for a grain size sample taken from the upper one foot of substrate (intent is to exclude muck);

      iii. For repair or replacement of existing float feet if the following two conditions are met: (1) substrate looks like it contains mostly gravel (no analysis needed, picture sufficient) and if (2) proposed replacement or repair includes other improvements of the environmental baseline like the removal of creosote-treated piling and increased amounts of grating.

   e. Floats can be held in place with lines anchored with a helical screw or “duckbill” anchor, piling with stoppers and/or float support/stub pilings.

      i. For a single-use float, a maximum of 4 piling (not including stub piling) or helical screw or “duckbill” anchors can be installed to hold the float in place.

Comment [KD1137]: This is a requirement, not a principle. Moved from principal above 2-29-12
ii. For a joint-use float, a maximum of 8 piling or helical screw or “duckbill” anchors can be installed to hold the float in place.

iii. If anchors and anchor lines need to be utilized, the anchor lines shall not rest on the substrate at any time.

iv. In rocky substrates where a helical screw or “duckbill” anchor cannot be used, if the applicant submits a rationale why these types of anchors cannot be used and the Corps concurs with this rationale, a Corps approved anchor of another type (i.e., concrete block) may be permitted.

5. All docks shall include stops which serve to keep the floats off the bottom of tidelands at low tide.

6.3.7.4 Regulations - Community and Joint-use Piers and Docks

1. Any hotel, motel, and/or multifamily residential development proposing to provide moorage facilities shall be required to construct a single, joint-use moorage facility. The City may authorize more than one joint-use moorage facility if a single facility would be inappropriate or undesirable, given the specific conditions of the site. Facilities for moorage of 6 or more vessels is considered a marina and must meet regulations in Section 5.3, Boating Facilities.

2. Proposals for joint-use community piers and docks shall demonstrate, by proof of recording of a covenant binding current and future parties, that adequate maintenance of the structure and the associated upland area will be provided by identified responsible parties. The proposed covenant shall be filed as part of the permit application and recorded after final approval. An access easement to joint use dock shall be granted for all lots or dwelling units.

3. In Blakely Harbor:
   a. A total of two community docks shall be a conditional use within the upland, and aquatic designations with no more than one along each the north and south shores, respectively, provided that all residents along each shore shall have a non-extinguishable option to access the community dock located along their respective shore;
   b. One public dock and/or pier for the mooring of dinghies and loading or unloading of vessels shall be a conditional use within the upland, and Aquatic designations for daytime use; and
   c. Such community and public docks shall comply with this master program and other applicable laws; shall be the minimum size necessary; and shall be sited and designed to mitigate adverse impacts to navigation, views, scenic character, and natural resources as much as possible. Such community and public docks shall also be reasonably passable to swimmers, beach walkers, and human-powered water craft.

6.3.7.5 Regulations - Commercial/Industrial Facilities Piers and Docks

These standards apply to piers and docks intended for any commercial or industrial use other than commercial moorage of boats in marinas. (See also Section 5.3, Commercial Dev...
1. Substantial development permits for docks or piers serving single commercial or industrial enterprises shall not be granted until the access needs of adjacent commercial and/or industrial enterprises have been determined.

2. Facilities and procedures for receiving, storing, dispensing, and disposing of oil and other toxic products shall be designed to ensure that such oil and other toxic products are not introduced into the water body.

3. Bulk storage for gasoline, oil and other petroleum products for any use or purpose is prohibited on piers and docks. Bulk storage means nonportable storage in fixed tanks.

4. Spill clean-up facilities shall be available for prompt response and application at all piers and docks involved in oil and hazardous products transfer.

6.3.7.6 Regulations – Residential Piers and Docks

1. If any docks are proposed, new subdivisions and short subdivisions with shoreline frontage shall be required to provide community docks rather than individual, private docks.

2. Docks shall be preferred over piers, where feasible.

2. Size

a. Maximum length and width of a pier or dock shall be the minimum necessary to accomplish moorage for the intended boating use. (See Regulations - General Design and Construction Standards, above, for additional restrictions.)

b. The length shall not extend beyond the average length of the two nearest adjacent docks within 500 feet of the proposed location or the distance necessary to obtain a depth of four nine (9 4) feet of water as measured at mean lower-low water (MLLW) extreme tide at the landward limit of the moorage slip, whichever is closer to shore. A dock shall not extend beyond the adjoining property dock or the line of navigation, whichever is more shoreward.

4. A pier or dock shall not extend offshore farther than the most shoreward of the following:

   a. In Eagle Harbor, a pier or dock shall not extend beyond the Construction Limit Line; or

   b. A pier or dock shall not extend beyond the Harbor Structure Limit line shown in Appendix E

   c. Elsewhere, the distance necessary to obtain a depth of four (4) feet of water as measured at extreme low tide at the landward limit of the moorage slip.
3. Side-yard Setbacks
   a. Docks, piers and floats shall be set back a minimum of ten (10) feet from side property lines, except that community piers, docks, and floats may be located adjacent to or upon a side property line when mutually agreed to by covenant with the owners of the adjacent property. A copy of the covenant must be recorded with the County Auditor and filed with the application for permit.

4. Community docks and piers shall include no more than one (1) moorage space per dwelling unit or lot.

6. Development of a dock or pier on single-family residential property shall require a Shoreline Substantial Development Permit or Conditional Use Permit or a Statement of Exemption issued by the City.

Submittal Requirements Piers and Docks
In addition to the general submittal requirements for all applications specified in BIMC Section 2.16.020(H), proposals for piers or docks shall include, at a minimum, the following information:

1. Description of the proposed structure, including its location, dimensions, materials, design, and any shoreline stabilization or other modification required by the project;
2. Mitigation plan as required, and shall comply with provisions in the Section 4.1.2, Environmental Impact and Section 4.1.3, Vegetation Management;
3. Eelgrass and Macro Algae survey, including an analysis of upper intertidal obligate vegetation, completed with two years of project construction and conducted as described in the WDFW guidelines for Eelgrass and Macro Algae survey;
   b. Ownership of uplands, tidelands, and shorelands within three hundred (300) feet of the property boundaries;
4. c. A scaled drawing that indicates the proposed location of piers, floats, or docks, and float storage location, if applicable, relative to the following:
   - Property lines
   - OHWM
   - The line of navigation
   - The construction limit line or the harbor structure limit line, as applicable: if projects is located in Eagle Harbor; and
   - Provides two foot contours at two-foot interval for a within 25 feet distance from the center line of the proposed structure of the extreme low tide, as applicable;
5. Survey of littoral boundary lines;
6. e. Location, width, height, and length of piers or docks on adjacent properties; and
7. Agreements, if any, for cooperative use; and
8. Method of removing piling, if applicable.

6.3.7.7 Regulations – General Mooring Buoys and Recreational Floats
   General
1. Mooring buoys and recreational floats shall be prohibited in the Aquatic Conservancy environment. Mooring buoys and floats for recreational use shall be permitted in the Aquatic environment designation offshore from Island Conservancy, Shoreline Residential, Shoreline Residential Conservancy, Rural, Semi-rural, and Urban...
environment designations and shall be prohibited offshore from the Natural environment. Mooring buoys for commercial use shall be permitted only as conditional uses offshore from the Urban environment. Mooring buoys for public open water moorage and anchorage areas shall be permitted in the Aquatic environment designation offshore of all upland environment designations.

2. Moorings buoys shall not be allowed to be placed in a density which exceeds the Department of Health threshold of X per X to maintain shellfish harvesting.

3. Mooring buoys shall not interfere with navigation. shall be visible in daylight one hundred (100) yards away, and shall have reflectors for night visibility.

4. Mooring buoys shall lie between the waterfront property side lot lines extended beyond the shoreline, except those on Department of Natural Resources tidelands. Vessels moored to the buoys shall not swing across the extended side lot lines. Where the configuration of the waterfront lot precludes these requirements, a mooring buoy owner shall file with the City a written statement from the affected, adjacent waterfront property owners agreeing to the buoy placement. This provision shall not apply to buoys for public open water moorage and anchorage areas.

5. Mooring buoys shall be installed at least twenty (20) yards from other permitted piers, docks, floats, or buoys so as not to interfere with or obstruct existing piers, docks, floats, or buoys.

2. Mooring buoys for commercial use shall be permitted only as conditional uses offshore from the Urban designation. Mooring buoys for public open water moorage and anchorage areas shall be permitted in the Aquatic designation offshore of all upland designations.

3. No more than one structure may be installed for each ownership beyond extreme low water or harbor structure limit lines. However, properties that contain at least 200 linear feet as measured along the shoreline may be permitted more installations on a case by case basis as determined by the City and the State Department of Natural Resources [WAC 332-30-148(3)-122 (1)(ii) or its successor].

4. Owners of waterfront property are permitted to install one (1) mooring buoy per waterfront lot, except that Properties where the waterfront lot is owned in community may be permitted, the City may permit upon the owners' application, additional mooring buoys with the total not more than one (1) per 100 linear feet of shoreline ownership in the community.

5. A contractor doing waterfront work involving floating equipment may place a temporary mooring buoy convenient to the work site, provided it is the responsibility of the contractor to ensure that all necessary permits are obtained from all agencies with
6.3.7.8 Regulations – Location, Design and Construction Standards Mooring Buoys and Recreational Floats

1. Moorings buoys shall be installed a minimum of 100 feet from other permitted buoys as to not exceed the Department of Health density threshold of 1 per acre to maintain shellfish harvesting.

2. Buoys shall not interfere with navigation, shall be visible in daylight one hundred (100) yards away, and shall have reflectors for night visibility.

3. If a buoy is located offshore of the extreme low tide line, the owner shall obtain a lease for the bed of navigable waters from Department of Natural Resources. [WAC 332-30-122 (1)(ii) or its successor].

4. Buoys shall lie between the waterfront property side lot lines extended beyond the shoreline, except those on Department of Natural Resources tidelands. Vessels moored to these buoys shall not swing across the extended side lot lines. Where the configuration of the waterfront lot precludes these requirements, a mooring buoy owner shall file with the City a written statement from the affected, adjacent, waterfront property owners agreeing to the buoy placement. This provision shall not apply to buoys for public open water moorage and anchorage areas.

5. Mooring buoys shall be installed at least twenty sixty (260) feet from other permitted piers, docks, or floats, or buoys so as not to interfere with or obstruct existing piers, docks, or floats, or buoys.

6. Owners of waterfront property are permitted to install one (1) mooring buoy per waterfront lot, except that where the waterfront lot is owned in community, the City may permit upon the owners' application, additional mooring buoys with the total not more than one (1) per owner in the community. [WAC 332-30-127 (1)(ii) or its successor].

6. Buoys shall be located offshore:
   a. At a minimum depth of 9 feet MLLW with a standard single mid line float; the minimum depth may be reduced with an alternate system approved by the Administrator; and
   b. No farther than the Construction Limit Line in Eagle Harbor, and
   c. No farther than the Harbor Structure Limit Line shown in Appendix E; and
   d. Elsewhere not more than two hundred (200) feet beyond extreme low tide, the -18 feet MLLW-3 fathom depth contour (-18 feet at mean low water), or the line of navigation, whichever is closest to shore appropriate. The placement of rafts and buoys beyond the -18 feet MLLW contour or 200 feet will be evaluated on a case-by-case basis. [WAC 332-30-128(2) or its successor]; and
   e. Buoys for public open water moorage and anchorage areas shall be allowed waterward of the Construction Limit Line in Eagle Harbor.

Comment [R1162]: Staff, deleted vessels are allowed to navigate across waters of the state. 6/24/2011

Comment [R1163]: Same as above

Comment [R1164]: Staff, Deleted new distance requirement above

Comment [R1165]: Located and amendment – Moved to “General Mooring Buoy”, new regulation

Comment [R1166]: Moved from 1996 SMP General Regulations.

Comment [R1167]: Planning Commission approved recommendation to language clarification. 4-12-12

Comment [LH1168]: Added to address public moorage. 3-10-12.
7. Recreational floats shall be located as close to shore as possible. They shall be located no farther waterward than the following limits:
   a. In Eagle Harbor, the construction limit line.
   b. The Harbor Structure Limit Line shown in Appendix E; and
   c. Elsewhere, the distance necessary to obtain a depth of four (4) feet of water as measured at extreme low tide at the landward end of the float, or the line of navigation, whichever is closer to shore.

8. Recreational floats must be built so that the deck surface is one (1) foot above the water's surface and shall have reflectors for night visibility.

9. Single-property-owner recreational floats shall not exceed eight (8) feet by (8) feet.

10. All recreational floats shall include stops, or device or system approved by the Administrator, which serve to keep the floats off the bottom of tidelands at low tide.

### 6.3.8 Submittal Requirements Piers and Docks

In addition to the general submittal requirements for all applications specified in BIMC Section 2.16.020(H), proposals for piers or docks shall include, at a minimum, the following information:

1. Description of the proposed structure, including its location, dimensions, materials, design, and any shoreline stabilization or other modification required by the project;

2. Mitigation plan as required, and shall comply with provisions in the Section 4.1.2, Environmental Impact and Section 4.1.3, Vegetation Management.

3. Eelgrass and Macro Algae survey, including an analysis of upper intertidal obligate vegetation, completed with two years of project construction and conducted as described in the WDFW guidelines for Eelgrass and Macro Algae surveys;

   a. Ownership of uplands, tidelands, and shorelands within three hundred (300) feet of the property boundaries;

4. A scaled drawing that indicates the proposed location of piers, floats, or docks, and float storage location, if applicable, relative to the following:

   a. Property lines; and
   b. OHWM;
   c. The line of navigation, the construction limit line or the harbor structure limit line, as applicable; and
   d. Provides two foot contours at two-foot interval for a within 25 feet distance from the center line of the proposed structure at the extreme low tide, as applicable.

5. Survey of littoral boundary lines;

6. Location, width, height, and length of piers or docks on adjacent properties; and
7. Agreements, if any, for cooperative use; and
8. Method of removing piling, if applicable.
6.4 D-Dredging and Dredge Material Disposal

6.4.1 Applicability

Dredging is the removal of material from the bottom of a water body. The purposes of dredging might include: deepening a navigational channel, berth, or basin; streambed maintenance; use of dredged material for fill or habitat enhancement (effective reuse); and removal of contaminated sediments. Dredged material disposal on land is also subject to the landfill policies and regulations of this program. Pursuant to WAC 173-27-14-040 or its successor, certain activities, such as those associated with normal maintenance and repair, are exempt from the requirements for a Shoreline Substantial Development Permit (SSDP), but may still require a shoreline conditional use permit or variance.

Actions exempt from substantial development permits are required to comply with the Shoreline Management Act and all provisions of the Master Program. Ecology/Army Corps of Engineers notifications of dredging proposals will be reviewed by the City to determine whether the activity is exempt from the requirement for a substantial development permit and to ensure compliance with regulations of the Act and the Master Program.

6.4.2 Goal

Minimize dredging and dredge material disposal within the shoreline jurisdictions.

6.4.3 Policies

1. Design and locate new development to avoid dredging and discourage operations, including disposal of dredge materials. When dredging cannot be avoided, the operations and dredged material disposal shall be located and conducted in a manner which minimizes damage to the existing ecology and natural resources of both the area to be dredged, and the disposal site.

2. Dredging of bottom materials for the primary purpose of obtaining fill material is prohibited except for projects associated with state or federal environmental remediation operations or authorized habitat restoration.

3. Dredging operations should be planned and conducted to minimize interference with navigation and adverse impacts to other shoreline uses, properties, and values.

   a. Dredging for the purpose of establishing, expanding, relocating or reconfiguring a navigation channel should be allowed where necessary to assure safe and efficient accommodation of existing or proposed navigational uses and then only when ecological impacts are minimized and mitigation is provided to offset adverse impacts.

Comment [LH1176]: Two policies to address navigation channel dredging, based on Anacortes policies 9.6.6 & 9.6.7.
b. Maintenance dredging of established navigation channels should be restricted to maintaining previously dredged and/or existing authorized location, depth, and width.

4. Dredged material disposal in marine waters is prohibited, except other than for approved environmental enhancement or remediation projects or approved habitat restoration projects, and only other uses permitted by this Shoreline Master Program, should only be allowed at sites designated through the Puget Sound Dredged Disposal Analysis (PSDDA) program (managed jointly by the Corps of Engineers, Environmental Protection Agency, Washington Department of Natural Resources, and Washington Department of Ecology) and consistent with the policies and procedures of PSDDA.

5. When dredged material has suitable organic and physical properties, dredging operations should be encouraged to recycle dredged material for beneficial use in beach enhancement, habitat creation, sediment remediation (capping), or aggregate or clean cover material at a landfill (where appropriate) and is allowed only through implementation of a regional dredge material management plan.

6.4.4 Regulations - Prohibited Dredging

1. New dredging activity is prohibited in the following locations:

a. In environmentally sensitive habitats (e.g., stream mouth estuaries, wetlands) except by shoreline conditional use permit.

b. Along net-positive drift sectors and/or where geo-hydraulic processes are active and accretion shoreforms would be damaged, altered, or irretrievably lost.

c. In shoreline areas with bottom materials that are prone to significant sloughing and refilling due to currents or tidal activity, thus resulting in the need for continual maintenance dredging.

d. In habitats identified as critical to the life cycle of officially designated or protected fish, shellfish, or wildlife.

e. In areas where concentrations of environmental pollutants or toxic chemicals are present in the bottom sediments and would be released in dredging operations, except as part of a permitted environmental enhancement or remediation program.

f. For the primary purpose of obtaining material for landfill, upland construction, or beach nourishment is prohibited.

2. Dredging and dredged material disposal shall be prohibited on or in archaeological sites.

6.4.5 Regulations - General

1. Dredging shall be permitted as a conditional use in the Aquatic environment designation if permitted in the upland designation and shall be for the restoration, enhancement, or maintenance of natural resources and navigational channels or for publicly-owned ferry
terminals. Dredging shall be prohibited in the Priority Aquatic Conservancy environment designation. Dredging shall be permitted as a conditional use in the Priority Aquatic Category B designation as part of an approved restoration proposal.

2. Proposals for dredging and dredge spoil disposal, when permitted, shall:
   a. Be kept to the minimum necessary to accommodate the proposed use;
   b. Comply with applicable federal, state, and other local regulations;
   c. Employ appropriate to protect public safety and prevent adverse impacts on other approved shoreline uses;
   d. Take appropriate measures to ensure the activity will not interfere with fishing or shellfishing;
   e. Employ appropriate best management practices to protect marine, estuarine, freshwater and terrestrial species and critical saltwater habitats and to minimize adverse impacts such as turbidity, release of nutrients, heavy metals, sulfides, organic materials, or toxic substances, depletion of oxygen, disruption of food chains, loss of benthic productivity, and disturbance of fish runs and important localized biological communities;
   f. Be scheduled so as to not materially interfere with the migratory movements of anadromous fish;
   g. Not adversely alter natural drainage and circulation patterns, currents, and tidal flows, or significantly reduce flood water capacities;
   h. Utilize techniques that cause minimum dispersal and broadcast of bottom material; hydraulic dredging shall be used wherever feasible in preference to agitation dredging;
   i. Not interfere with geohydraulic processes;
   j. Be found, through analysis by qualified personnel, to be minimally or nonpolluting; and
   k. Revegetate land disposal sites with native species and other approved plants shall be required according to Section 4.1.3, Vegetation Management.

2. Applications for shoreline dredging and dredged material disposal shall include a copy of all information, data, and analyses submitted in accordance with the PSDDA evaluation procedures for managing the in-water disposal of dredged material and the Corps of Engineers process for Section 10 (Rivers and Harbors Act), and Section 404 (Clean Water Act) permits. This shall include a copy of the PSDDA approved Sampling Analysis Plan, the PSDDA data report and quality assurance/quality control (QA/QC) report, and the suitability decision issued by the PSDDA agencies.

3. In evaluating permit applications for any dredging project, the adverse effects of the initial dredging, subsequent maintenance dredging, and necessary dredged material disposal shall be considered. Dredging and dredged material disposal shall be permitted
only where it is demonstrated that the proposed actions will not:
   a. Result in significant and/or ongoing damage to water quality, fish, shellfish, and other essential marine biological elements; and
   b. Adversely alter natural drainage and circulation patterns, currents, and tidal flows, or significantly reduce flood water capacities.
   c. The proposed action includes all feasible mitigation measures to protect marine, estuarine, freshwater and terrestrial species and habitats.

4. Dredging and dredged material disposal shall be carefully scheduled to protect biological productivity and to minimize interference with fishing activities. Dredging activities shall not occur in areas used for commercial fishing (e.g., gill net, crabbing, etc.) during a fishing season, unless specifically addressed and mitigated for in the permit.

5. Dredging and dredged material disposal shall be prohibited on or in archaeological sites which are on or eligible to be listed on the Washington State Register of Historic Places until such time that they have been released by the State Archaeologist.

6.4.6 Regulations – Specific Dredging

1. Dredging, when allowed in Section 6.4.6, Regulations-General, shall be only be allowed when necessary to support the following uses and developments:
   a. Approved harbors, marinas, ports, and water-dependent industries;
   b. Development or maintenance of essential public infrastructure and facilities;
   c. Environmental clean-up activities required by the Model Toxics Control Act or Comprehensive Environmental Response, Compensation, and Liability Act;
   d. Underground utility installation requiring trenches when boring, directional drilling, and other installation methods are not feasible;
   e. Maintenance dredging for the purpose of restoring a lawfully established industrial or commercial water-dependent development;
   f. Maintaining, establishing, expanding, relocating or reconfiguring navigation channels and basins where necessary to assure the safety and efficiency of existing navigational uses;
   g. Ecological restoration and enhancement projects benefiting water quality and/or fish and wildlife habitat; or
   h. Public access and public water-oriented recreational developments/uses, including construction of public piers and docks that benefit substantial numbers of people.

2. New development shall be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.

Dredging below the ordinary high water mark shall be permitted as a conditional use only:
   a. For navigation or navigational access;
   b. In conjunction with a water dependent use of water bodies or adjacent shorelands.
c. As part of an approved habitat improvement or environmental remediation project; or

d. In conjunction with a navigational structure, waste water treatment facility, or some other public facility, for which there is a documented public need and where other feasible sites or routes do not exist.

2. When dredging is permitted, the dredging shall be the minimum necessary to accommodate the proposed use. Dredging shall utilize techniques that cause minimum dispersal and broadcast of bottom material.

**Prohibited Dredging**

1. New dredging activity is prohibited in the following locations:
   a. In environmentally sensitive habitats (e.g., stream mouth estuaries, wetlands) except by shoreline conditional use permit.
   b. Along net-positive drift sectors and where geo-hydraulic processes are active and accretion shoreforms would be damaged, altered, or irretrievably lost.
   c. In shoreline areas with bottom materials that are prone to significant sloughing and refilling due to currents or tidal activity, thus resulting in the need for continual maintenance dredging.
   d. In habitats identified as critical to the life cycle of officially designated or protected fish, shellfish, or wildlife.
   e. In areas where concentrations of environmental pollutants or toxic chemicals are present in the bottom sediments and would be released in dredging operations, except as part of a permitted environmental enhancement or remediation program.
   f. Dredging for the primary purpose of obtaining material for landfill upland construction, or beach nourishment is prohibited.
   g. Dredging and dredged material disposal shall be prohibited on or in archaeological sites.

6.4.7 **Regulations - Dredge Material Disposal**

1. All unconfined, open water dredge disposal activities shall comply with the Puget Sound Dredged Disposal Analysis (PSDDA) criteria and guidelines and other applicable local, state and federal regulations.

2. When consistent with this Program, disposal of dredged materials in water areas other than PSDDA sites may only be allowed for the following reasons:
   a. To restore or enhance habitat; or
   b. To reestablish substrates for fish and shellfish resources; or

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c. To nourish beaches that are starved for sediment; or
d. To remEDIATE contaminated sediments.

1. Unconfined disposal of dredged material in marine waters, other than for approved environmental enhancement or remediation projects under a shoreline conditional use permit, shall only be allowed at sites identified through the process defined in the PSDDA report and incorporated in Department of Natural Resources WAC 332-30-166 or its successor (Open Water Disposal Sites).

2. Yearly status reports shall be prepared and submitted by the dredge disposal permittee to the Director as requested. The reports shall state the quantity of material dumped, characterize the quality of the material, and review any factors necessary to verify continued compliance with the shoreline permit.

3. In-water disposal shall utilize techniques that cause the least dispersal and broadcast of materials, unless specifically designed and approved as a dispersal site.

4. Use of dredged materials for beach enhancement shall be conducted to comply with Section VI, Subsection B, Beach Enhancement, so that:
   a. Dredged materials deposited on land shall constitute landfill and, when deposited within the jurisdiction of this Master Program, shall comply with the landfill regulations.
   b. Near-shore or upland disposal of dredged materials not used for beach enhancement shall not be located upon, adversely affect, or diminish environmentally sensitive areas, recognized wildlife habitat, public access, water quality, or drainage.
   c. Revegetation of land disposal sites with native species and other approved plants shall be required.

6.4.8 Submittal Requirements

1. In addition to the general submittal requirements for all applications specified in BIMC Section 2.16.020(H), applications for dredging operations shall include the following information:
   a. Location, depth, width, and total volume of material to be dredged;
   b. Projected frequency and quantity of maintenance dredging;
   c. Information on stability of bedlands adjacent to the proposed dredge area;
   d. Timing and method of dredging and dredged material disposal;
   e. Dredged material disposal area (non-PSDDA site): location, size, capacity; methods of stabilization; hydrology of site;
   f. For PSDDA disposal sites, applicant to provide all applicable data and analysis required by PSDDA agency;
   g. Dredged materials: existing biological communities or resources in areas to be dredged, and the physical, chemical, and biological makeup of the dredged materials;
   h. Hydraulic analysis, including tidal flows and potential impacts on ecological functions; and
i. Description of conformance with the no net loss standard for ecological processes and functions, including impact avoidance and minimization measures consistent with mitigation sequencing principles, and a description of any necessary mitigation.

2. Maintenance dredge options shall occur in the same location, depth, and width as previously permitted.

3. Yearly status reports shall be prepared and submitted by the dredge disposal permittee to the Director as requested. The reports shall state the quantity of material dumped, characterize the quality of the material, and review any factors necessary to verify continued compliance with the shoreline permit.

Comment [RE1202]: Moved from Disposal Section
6.5 E. Landfill

6.5.1 Applicability

Landfill is the placement of soil, sand, rock, gravel, existing sediment or other material (excluding solid waste) to create new land, tideland or bottom land area along the shoreline below the OHWM, or on wetland or upland areas in order to raise the elevation. Landfill shall only be allowed as part of an approved shoreline use and/or development activity and shall be subject to the requirements of the primary use/development. Speculative landfill activity is prohibited. Any landfill activity conducted within shoreline jurisdiction must comply with the following policies and regulations. Beach enhancement as defined in the Shoreline Master Program shall not be considered landfill.

6.5.2 Policies

1. Landfill waterward of OHWM should be allowed only when necessary to facilitate water-dependent and/or public access uses and/or cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan, and should be allowed only through a conditional use permit which are consistent with the Master Program.

2. Landfill landward of OHWM should be permitted when necessary to support permitted uses, and when significant impacts can be avoided or mitigated.

3. Shoreline fills must be limited to the minimum extent necessary to accommodate an approved shoreline use or development and should be designed and located so that there will be no significant damage to existing natural resources, including surface water drainage systems, and with assurance of no net loss of shoreline ecological functions and processes.

4. The evaluation of fill projects must address the following factors: In evaluating fill projects, factors that should be considered include:
   a. Impacts to shoreline ecological functions and ecosystem-wide processes;
   b. Conflict with potential and current public use of the shoreline and water surface area as identified in adopted City plans, policies, and programs; and
   c. Total water surface reduction;
   d. Navigation restrictions;
   e. Impediment to water flow and drainage;
   f. Reduction of water quality; and
   g. Destruction of habitat.

   Further, the City should assess the overall value of the landfill site in its present state versus the proposed shoreline use to be created to ensure consistency with the Act and the Master Program.

5. Fill projects must be designed to avoid or eliminate erosion and sedimentation impacts, both during initial landfill activities and over time.
5. Where permitted, landfills should be the minimum necessary to provide for the proposed use and should be permitted only when tied to a specific development proposal that is permitted by the Master Program. Speculative landfill activity is prohibited.

6.5.3 Prohibited

1. Speculative landfill activity.
2. Fill that will result in significant adverse impacts that cannot be avoided or mitigated.
3. Landfill in the Priority Aquatic designations.

6.5.4 Regulations - General

1. Landfill shall be permitted as a Shoreline Conditional Use as follows: in the Rural, Semi-rural, Shoreline Residential and Urban environments.

2. Landfill shall be permitted as a conditional use in the Conservancy and Natural environments only for the restoration, enhancement, or maintenance of natural resources. See Restoration Section for additional requirements and permit requirements.

3. In the aquatic environment, landfill over water may be permitted as a conditional use for water-dependent or public uses, or as part of a permitted environmental enhancement or remediation project.

4. Landfill in the Aquatic Conservancy environments is prohibited.
   a. In the Urban, Shoreline Residential, and Shoreline Residential Conservancy designations.
   b. In the Island Conservancy and Natural designations only for the restoration, enhancement, or maintenance of natural resources. See Section 4.1.8, Shoreline Restoration and Enhancement for additional requirements and permit requirements.
   c. May be permitted in the Aquatic designation for commercial or industrial water-dependent or essential public facilities, or as part of a permitted environmental enhancement or remediation project.

2. When allowed in (1) above, fill waterward of the ordinary high water mark shall be:
   a. Approved marinas, ports, and other water-dependent industries where upland alternatives or structural solutions including pile or pier supports are infeasible.
   b. Development or maintenance of essential public infrastructure and facilities.
   c. Environmental clean-up activities required by MTCA and CERCLA.
   d. Maintenance of a lawfully established use or development.

Comment [LH1205]: Included in #1 11/15/2010
Comment [RE1206]: Staff, Deleted combined into new regulation #1. 4-25-11
Comment [RE1207]: Staff, Deleted combined into new regulation #3. 4-25-11
Comment [RE1208]: Staff, Deleted combined into new regulation #4. 4-25-11
Comment [RE1209]: Staff, Moved to regulation #4. 4-25-11
Comment [RE1210]: Staff, Moved from beginning of section. 4-25-11
Comment [l1211]: 9/17/2011 for commercial and industrial uses only and essential public facilities.
Comment [RE1212]: Staff, Moved from beginning of section. 4-25-11
Moved to “prohibited” section above.
Comment [RE1213]: Staff, Jefferson County Article 7 modified 4-25-11
e. Ecological restoration and enhancement projects benefiting water quality and/or fish and wildlife habitat.

f. Public access and public water-oriented recreation projects benefiting substantial numbers of people.

5. Applications for landfill permits shall include the following:
   a. Proposed use of the landfill area;
   b. Physical and biological characteristics of the fill site;
   c. Impacts to wetlands and streams, aquatic habitats, flooding, sediment transport, navigation, and public access;
   d. Source of the landfill material and physical, chemical, and biological characteristics of the fill material as required by the Director;
   e. Method of placement and compaction;
   f. Location of landfill relative to natural and/or existing drainage patterns;
   g. Location, of the landfill perimeter and relative to the OHWM;
   h. Perimeter erosion control or stabilization means; and
   i. Type of surfacing and runoff control devices.

6.5.5 Regulations – Location, Design and Construction

1. When allowed, filling and/or excavation shall be located, designed, and carried out in a manner that:
   a. Minimizes adverse impacts on the shoreline environment including significant damage to water quality, critical saltwater habitat; and

3. Pile or pier supports shall be utilized whenever feasible in preference to landfills. Landfills for approved road development in floodways or wetlands shall be permitted only if pile or pier supports are proven demonstrated to be infeasible.

8. Landfill shall be permitted only where it is demonstrated that the proposed action will not:
   a. Result in significant damage to water quality, fish, shellfish and/or wildlife habitat; or
   b. Adversely alter natural drainage and circulation patterns, currents, river and tidal flows, or significantly reduce flood water capacities.

9. Landfills shall be the minimum necessary to provide for the proposed use and shall be permitted only when tied to a proposal that is permitted by the Master Program. Speculative landfill activity is prohibited.

Comment [LH1214]: Moved to new submittal section below.
Comment [RE1215]: Deleted moved to new regulation #1 Design and construction
Comment [RE1216]: Staff, moved to Regulation number # 1.
Comment [RE1217]: Staff, added Jefferson County Article 7 modified 4-25-11
b. Blends in physically and visually with natural topography, so as not to interfere with appropriate use, impede public access, or degrade the aesthetic qualities of the shoreline; and

c. Does not require shoreline armoring or stabilization to protect materials placed unless it is part of an approved shoreline restoration project and shoreline armoring or stabilization measures are needed to keep the material in place; and

d. Does not adversely alter natural drainage and circulation patterns, currents, river and tidal flows, or significantly reduce flood water capacities.

2. Where landfills are permitted, the landfill shall be the minimum necessary to accommodate the proposed use. Fills shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes.

3. Where landfills reduce public access, compensatory public access shall be provided as part of the development project.

4. Landfills shall be designed, constructed, and maintained to prevent, minimize, and control all material movement, erosion, and sedimentation from the affected area. Perimeters of permitted landfill projects shall be designed and constructed with silt curtains, vegetation, retaining walls, or other mechanisms, and appropriately sloped to prevent erosion and sedimentation both during initial landfill activities and afterwards. Such containment practices shall occur during the first growing season following completion of the landfill.

5. Fill materials shall be sand, gravel, soil, rock, or similar material. Use of contaminated dredge material is prohibited. (See Section 5.6, Industry and Section 6.4, Dredge/Dredge Disposal V, Subsection H, Industry and Section III.)

6. The timing of landfill construction shall be regulated to minimize damage to water quality and aquatic life within the time restraints recommended by the Washington State Department of Fish and Wildlife.

6.5.6 Submittal Requirements

1. In addition to the general submittal requirements for all applications specified in BIMC Section 2.16.020(H), applications for landfill permits shall include the following:

   a. Proposed use of the landfill area;

   b. Physical and biological characteristics of the fill site;

   c. Impacts to wetlands and streams, aquatic habitats, flooding, sediment transport, navigation, and public access;
d. Source of the landfill material and physical, chemical, and biological characteristics of the fill material as required by the Director;

e. Method of placement and compaction;

f. Location of landfill relative to natural and/or existing drainage patterns;

g. A description and map of fill location of the landfill perimeter and depth relative to the OHWM;

h. Perimeter erosion control or stabilization means; and

i. Type of surfacing and runoff control devices.
Section VII ADMINISTRATION (Moved to Title 2)
7.0 Section IV  DEFINITIONS

**Abutting** - Bordering or touching, such as sharing a common lot line. Lots that are separated by a street or right-of-way are not abutting.

**Accessory Building or Structure** - A subordinate building or structure that is incidental to the primary or principal building or structure on the same lot, or an abutting lot that meets the requirements in 18.09.030.1.12. Accessory structures include, but are not limited to, solar panels, small wind devices, barns and sheds. Accessory dwelling units are not considered accessory buildings or structures.

**Accessory Dwelling Unit** - Accessory dwelling unit means separate living quarters containing kitchen facilities, where the living quarters are contained within or detached from a single-family dwelling on a single lot. Separate living quarters contained within, or detached from, a single-family dwelling on a single lot, containing 800 square feet of floor area or less, excluding any garage area or accessory buildings, and sharing a single driveway with the primary dwelling, provided no recreational vehicle shall be an accessory dwelling unit.

**Accessory Development** - Any development incidental to and subordinate to a primary use of a shoreline site and located adjacent thereto.

**Accessory Use** - A use that is customarily incidental and related to the principal use, on the same lot. Accessory dwelling units are not considered accessory uses.

**Accretion; Accretion Shoreform** - The growth of a beach by the addition of material transported by wind and/or water. A shoreline with a relatively stable berm and backshore that has been built up by long term deposition of sand and gravel transported by wind and/or water from a feeder bluff or other material source. Examples of accretion included are such shoreforms as barrier beaches, points, spits, hooks, and tombolos.

**Act** - The Shoreline Management Act, Chapter 90.58 RCW or its successor [WAC 173-261-0240(1) or its successor].

**Activity** - Human activity associated with the use of land or resources.

**Adjacent** - Means (in addition to abutting) that which is near or close; for example, a property located across the road or highway shall be considered as adjacent.

**Adjacent Lands** - Lands adjacent to the shorelines of the state (outside of shoreline jurisdiction). The Shoreline Management Act directs local governments to develop land use controls (i.e., zoning, etc.) for such lands consistent with the policies of the Shoreline Management Act, related rules, and the local master program. See RCW 90.58.340 or its successor.
**Adjoining** - means immediately abutting or separated only by a street or right-of-way.

**Administrator** - Director of the Department of Planning and Community Development, or designee, charged with responsibility for administering the Shoreline Master Program.

**Adverse Impact** - An impact that can be measured or is tangible and has a reasonable likelihood of causing moderate or greater harm to ecological functions or processes or other elements of the shoreline environment designation.

**Agricultural Land** - Land primarily devoted to agricultural operations.

**Agriculture Operations** - See BIMC Title 18. Any facility or activity for the production of production for commercial or family use purposes of dairy, apiary, livestock, camels, raffles, vegetable or animal products, and crop products including, but not limited to, ornamental crops. Incidental vegetable gardening, landscaping and keeping common pets are not defined as agriculture.

**Agricultural activities** - Agricultural uses and practices including, but 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 as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation.

**Alteration** - Any human induced change in an existing condition of a shoreline, critical area and/or its buffer. Alterations include, but are not limited to grading, filling, channelizing, dredging, clearing (vegetation), draining, construction, compaction, excavation, or any other activity that changes the character of the area.

**Anadromous Fish** - Species such as salmon, which are born in fresh-water, spend most of their lifecycle in saltwater and a large part of their lives in the sea, and return to fresh-water rivers and streams to reproduce.

**Applicant** - An individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit, however designated [RCW 90.58.030(1d) or its successor].

**Appurtenance** - A structure or development which is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the OHWM and/or the OHWM.
perimeter of a wetland. “Normal appurtenance” means an appurtenance can include a garage, boat house, deck, driveway, utilities, fences, and grading which does not exceed two hundred fifty (250) cubic yards (except to construct a conventional drainfield) [WAC 173-27-040 (2)(g) or its successor]. Appurtenances must be landward of the ordinary high water mark (OHWM) and the perimeter of marshes, bogs, and swamps.

Appurtenance, Primary – A structure or development connected to a single-family residence and considered essential to the principal residential use in terms of protecting the appurtenant structure from danger from active shoreline erosion. A garage and/or septic drainfield are considered primary residential appurtenances. [WAC 173-26-231(3)(a)(ii), or its successor]

Aquaculture- The cultivation of fish, shellfish, and/or other aquatic animals or plants, including the harvesting and incidental preparation of these products for human use and consumption. Aquaculture does not include the harvest of freeswimming fish or gathering of shellfish for non-commercial purposes. Activities include the hatching, cultivating, planting, feeding, raising and harvesting 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, shellfish rafts, racks and long lines, seaweed floats and nets, and the culture of geoduck, clams and oysters on tidelands and subtidal areas. Aquaculture includes Intensive Aquaculture and Shellfish Garden (Individual and Community).

Aquaculture, Community Shellfish Garden – The cultivation, harvesting, and incidental preparation of shellfish for personal human use and consumption for a community-based shellfish farm. The area of the shellfish farm is 1000 square feet or less. To qualify as community-based Shellfish Garden the operation must include residents of Bainbridge Island, and may consist of volunteers or paid membership.

Aquaculture, Shellfish Garden – The cultivation, harvesting, and incidental preparation of shellfish for personal human use and consumption as an accessory use to a primary residential use.

Aquaculture Practices- Any activity directly pertaining to growing, handling, or harvesting of aquaculture produce including, but not limited to, propagation, stocking, feeding, disease treatment, waste disposal, water use, development of habitat and structures. Excluded from this definition are related commercial or industrial uses such as wholesale and retail sales, or final processing and freezing.

Aquaculture Processing – A commercial or industrial activity that involves preparing, fish or shellfish for human use or consumption by packaging, canning, freezing or other means of final wholesale or retail production.

Archaeological - Having to do with the scientific study of material remains of past human life and activities.
**Archeological Resource** - Any material remains of human life or activities which are at least 50 years old and which have potential to provide new information in the fields of history and archeology. This shall include all sites, objects, structures, artifacts, implements and locations of prehistoric or archeological interest. This shall include but not be limited to burial grounds, campsites, dwellings, and implements, such as projectile points, basketry, grinding stones or pestles, carvings and paintings. This shall include material remains of human life or activities from historic periods that are located at least partially below the ground surface necessitating the use of archeological methods for study or recovery. “Significant” is that quality in American history, architecture, archaeology, engineering, and culture that is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

a. That are associated with events that have made a significant contribution to the broad patterns of our history; or
b. That are associated with the lives of significant persons in our past; or
c. That embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
d. That have yielded or may be likely to yield, information important in history or prehistory.

**Archaeologist** - A person who has designed and executed an archaeological study as evidenced by a thesis or dissertation and has been awarded an advanced degree such as an M.A., M.S. or Ph.D. from an accredited institution of higher education in archaeology, anthropology, or history or other germane discipline with a specialization in archaeology; has a minimum of one (1) year of field experience with at least twenty-four (24) weeks of field work under the supervision of a professional archaeologist, including no less than twelve (12) weeks of survey or reconnaissance work, and at least eight (8) weeks of supervised laboratory experience. Twenty (20) weeks of field work in a supervisory capacity must be documentable with a report produced by the individual on the field work.

**Associated Wetlands** - Wetlands that are in proximinity to tidal waters, lakes, rivers or streams that are subject to the Shoreline Management Act and either influence or are influenced by such waters. Factors used to determine proximity and influence include, but are not limited to: location contiguous to a shoreline waterbody, formation by tidally influenced geo-hydraulic processes, presence of a surface connection including through a culvert or tide gate, location in part or whole within the 100-year floodplain of a shoreline, periodic inundation, and/or hydraulic continuity.

**Aquatic** - Those areas waterward of the ordinary high water mark.

**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, provided that, in case of structures to be built over water, average grade level shall be the elevation of ordinary high water. 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 173-4427-030(3) or its successor]. Note: This definition of "average grade level" differs from the definition in the City of Bainbridge Island Zoning Code (Chapter 18 of the City of Bainbridge Island Municipal Code). Structures within shoreline jurisdiction shall comply with the definition contained herein.

**Backshore** - The accretion or erosion zone, located landward of the line of ordinary high water tide, which is normally wetted only by storm tides. A backshore may take the form of a more or less narrow storm berm (ridge of wave-heaped sand and/or gravel) under a bluff, or it may constitute a broader complex of berms, marshes, meadows, or dunes landward of the line of ordinary high water. It is part of the littoral drift process along its seaward boundary.

**Backshore marina** - See Marina.

**Barrier Beach** - A linear accretion shoreform of sand and/or gravel berm(s) accreted waterward of bluffs, bays, marshes or estuaries by littoral drift; the berm acts as a natural dike and seawall to its backshore or marsh hinterland.

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

**Beach Face** - The steep part of the beach profile below the berm, which is normally exposed to the swash of waves and generally composed of gravel, although it can contain sand or boulders.

**Beach Enhancement/Restoration** - The alteration of terrestrial and tidal shorelines or submerged shorelines for the purposes of aquatic habitat creation or improvement, recreational enhancement, or soft-treatment stabilization. The materials used depend upon the intended use. For instance, to create a beach for recreational purposes, various grades of clean sand or pea gravel are often used. To restore or recreate a shore feature or an underwater aquatic environment (e.g., a reef) a combination of a rock matrix and sand or other materials may be used. To restore riparian habitat functions, native vegetation may be used. A process of restoring a beach to a state more closely resembling a natural beach using beach feeding, vegetation, drift sills, and other non-intrusive means, as applicable.

**Beach Feeding/ Nourishment** - The process of replenishing a beach by artificial means; e.g., by delivery of selected materials dredged or excavated from elsewhere and depositing it at one or several locations in the updrift portion of a drift sector. The material is then naturally transported by waves or currents downdrift to stabilize or restore accretion shoreforms and other berms, which may be eroding due to artificial obstructions in the shore process corridor.

**Beach Profile** - A vertical cross section of a beach measured perpendicular to the shoreline.

**Beach Scarp** - A steep slope produced by wave erosion.

**Bedlands** - Those submerged lands below the line of extreme low water in marine waters.
Benthic Organisms - Organisms that live in or on the bottom of a body of water.

Berm (Beach Berm) - The nearly horizontal portion at the beach or backshore formed by the deposition of sediments by waves. Some beaches have more than one berm at slightly different levels, separated by a scarp. A berm is also, a non-structural form of shoreline stabilization or a linear mound, or series of mounds, of sand and/or gravel generally paralleling the water at, or landward of, the line of ordinary high tide. Also, a linear mound used to screen an adjacent activity, such as a parking lot, from transmitting excess noise and glare.

Best Available Technology - The most effective method, technique, or product available which is generally accepted in the field, and which is demonstrated to be reliable, effective, and (preferably) low maintenance.

Best Management Practice (BMP) - See BIMC Title 18. Industry-established guidelines that are advised to reduce or eliminate anticipated adverse impacts to the environment from construction, development or other human activity.


Biofiltration System - A stormwater or other drainage treatment system that utilizes as a primary feature the ability of plant life to screen out and metabolize sediment and pollutants. Typically, biofiltration systems are designed to include grassy swales, retention ponds, and other vegetative features.

Biota - The animals and plants that live in a particular location or region.

Bluff, Marine – A high, steep bank or cliff.

BMP - See Best Management Practices.

Boat House - An upland building used primarily for boat storage. (See Section V, Subsection K, Residential).

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

Boat Lift - An in-water structure used for the dry berthing of vessels above the water level and lowering of vessels into the water. A boat lift as herein defined is used to berth and launch a single vessel, suspended over the water's surface. A boat lift is a manufactured unit without a canopy cover and may be placed in the water adjacent to a dock or as stand-alone structure. A boat lift may be designed either for boats or personal watercraft. A boat lift is to be differentiated from a hoist, boom or davit used for the launching of vessels. A boat lift with a canopy cover shall be considered a covered moorage for the purposes of this Program.

Comment [1248]: From the Battelle, Summary of Best Available Science, October 2003.

Comment [1249]: From the Battelle, Summary of Best Available Science, October 2003.

Comment [tcr1250]: Whatcom County
Boating Facilities - Includes marinas, boat launch facilities, dry storage facilities, marine travel lifts, and fixed marine railways serving commercial, industrial uses or serving five or more single-family residences. (See Section VI, Shoreline Modification Activities, for mooring buoys. For boat houses, see Section V, Subsection K, Residential.)

Boat Storage Deck – A deck used for the storage of boats.

Bog - A wet, spongy, poorly drained area which is usually rich in very specialized plants, contains a high percentage of organic remnants and residues, and frequently is associated with a spring, seepage area, or other subsurface water source. A bog sometimes represents the final stage of the natural process of eutrophication by which lakes and other bodies of water are very slowly transformed into land areas.

Breakwater - Offshore structure, usually aligned parallel to shore, sometimes shore-connected, that provides protection from waves. Their primary purpose is to protect harbors, morrages and navigation activity from wave and wind action by creating stillwater areas along shore. A secondary purpose is to protect shorelines from wave caused erosion.

Buffer - A parcel of area of land that is designed and designated to permanently remain vegetated in a predominantly undisturbed and natural condition or may need to be enhanced to support natural processes, functions and values to protect an adjacent aquatic or wetland area from upland impacts and to provide habitat for wildlife. Buffer widths vary depending on the relative quality and sensitivity of the area being protected. The "native vegetation zone Shoreline Buffer" is a buffer protecting the ecology and resources of and along the Puget Sound. A buffer may be used to protect any sensitive area, including geological hazardous areas.

Building - Any structure having a roof, designated for shelter of persons, animals or property.

Bulkhead - A solid or open pile wall erected generally parallel to and near the ordinary high water mark for the purpose of containing and preventing the loss of soil due to shoreline erosion caused by tidal action, current, or protecting adjacent uplands from waves or current action. Bulkheads are usually constructed of hard materials and may be built of posts and timbers, concrete, large rocks (riprap), or other materials. The normal purpose of a bulkhead is to protect land from erosion, not to create land. It is essentially a vertical structure (differentiated from a revetment, which slopes) that absorbs some of the wave energy. See also Seawall.

Coastal Processes - Collective term including the action of natural forces on the shoreline, and the nearshore seabed.

Channel - An open conduit for water either naturally or artificially created, but not including artificially created irrigation, return flow, or stockwatering channels. [WAC 173-14-030(8b) or its successor]. See also Stream.

Channel migration zone (CMZ) - The area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring
hydrological and related processes when considered with the characteristics of the river and its surroundings.

City - The City of Bainbridge Island.

Clean Water Act - The primary federal law providing water pollution prevention and control. This was previously known as the Federal Water Pollution Control Act. (See 33 USC 1251 et seq.)

Clearing - An activity associated with property modification or maintenance. Clearing means the destruction or removal of vegetation or plant cover, vegetative ground cover and/or trees including, but not limited to, root material removal and/or topsoil material by manual, mechanical, or chemical means. Clearing includes, but is not limited to, actions such as cutting, felling, thinning, flooding, killing, poisoning, girdling, or uprooting.

Coastline - The line where terrestrial processes give way to marine processes - tidal currents, wind waves, etc.

Commercial Development - Those developments whose primary use is for retail, personal and professional service or other commercial business activities. Included in this definition are developments such as hotels, motels, shops, restaurants, banks, professional offices, grocery stores, and laundromats. Not included, bed and breakfast establishments, marinas, home occupations, utilities and related utility development.

Commercial Fish - Those species of fish that are classified under the Washington Department of Fish and Wildlife Food Fish Classification as commercial fish (WAC 220-12-010).

Community Structure - A building, dock, or other structure which is intended for the common use of the residents of a particular subdivision or community. It is not intended to serve as a public facility.

Community or Joint-use Dock - A structure or structures which consists of a system of piers, buoys, or floats that is intended for the common use of the residents of adjoining parcels or subdivision, short subdivision or community located on adjacent uplands. A community dock is not a commercial endeavor or is not for the purpose of serving the public. If a community or joint-use dock is designed to accommodate six (6) or more vessels, it is no longer considered a community or joint-use dock, and it shall be considered a marina.

Compensatory Mitigation - A project for the purpose of mitigating, at an equivalent or greater level, unavoidable impacts that remain after all appropriate and practicable avoidance and minimization measures have been implemented. Compensatory mitigation includes, but is not limited to, wetland creation, restoration, enhancement, and preservation; stream restoration and relocation, rehabilitation; and buffer enhancement.
Conditional Use - A use or the expansion of a use permitted on shorelines which, because of certain characteristics, requires a special degree of review and consideration, and may require special conditions control to assure that it is consistent with the intent and provisions of the Act and these regulations, and compatible with other uses permitted on shorelines.

Conditional Use Permit - A permit for a use, development or substantial development listed in the regulations as being permitted only as a conditional use, or not classified in this Program. Conditional uses are subject to review and approval pursuant to the criteria in Chapter 7 regardless of whether or not the proposal requires a substantial development permit. Local governments are authorized under the Shoreline Management Act to include provisions for authorizing land uses and developments that may be permitted by Conditional Use permits (CUP). The purpose of the Conditional Use permit is to allow greater flexibility in varying the application of the use regulations of the Master Program.

Conservation Easement - A legal agreement that the property owner enters into to restrict uses of the land for purposes of natural resources conservation. 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.

Construction Limit Line - In Eagle Harbor, defined on U.S. Army, Corps of Engineers Drawing, File No. E-8-5-6, dated December 22, 1939, approved by the Secretary of War, July 2, 1940. Used in the Master Program for local regulatory purposes.

Contaminant - Any chemical, physical, biological, or radiological substance that does not occur naturally in ground water, air, or soil or that occurs at concentrations greater than those in the natural levels [WAC 173-200-020(7)].

Council - Legislative body of the City of Bainbridge Island.

Covered Moorage – A roofed floating or fixed offshore structure with or without walls, for boat moorage or moorage of other water craft or float planes, designed, with or without walls, that has a roof to protect a vessel or vessels.

Critical Aquifer Recharge Area - Areas designated by WAC 365-190-080(2) that are determined to have a critical recharging effect on aquifers (i.e., maintain the quality and quantity of water) used for potable water as defined by WAC 365-196-485(1)(d).

Critical Areas - The following areas are designated as critical areas:
- Critical Aquifer Recharge Areas
- Fish and Wildlife Habitat Conservation Areas
- Frequently Flooded Areas
- Geologically Hazardous Areas
- Wetlands
- Critical Saltwater Habitat Areas
Critical Habitat - Habitat areas identified by U.S. Fish and Wildlife Service or the National Marine Fisheries Service as habitat necessary for survival of endangered or threatened species.

Cultural Resource - Evidence of human occupation or activity that is important in the history, architecture, archaeology or culture of a community or region. Cultural resources include, but are not limited to, the following:

a. Archaeological resources. Physical evidence or ruins of human occupation or activity that are located on or below the surface of the ground and are at least 50 years old.
   i. Archaeological resources include, but are not limited to, the remains of houses, villages, camp and fishing sites, and cave shelters; rock art such as petroglyphs and pictographs; artifacts such as arrowheads, utensils, tools, fragments of tools and utensils, obsidian flakes or other material by-products from tool and utensil-making activities; and graves, human remains, and associated artifacts.

b. Historic buildings and structures. Standing or above-ground buildings and structures that are at least 50 years old.
   i. Historic buildings and structures include, but are not limited to, log cabins, barns, canals, flumes, pipelines, highways, and tunnels.

c. Traditional cultural properties. Locations, buildings, structures, and objects that are associated with cultural beliefs, customs, or practices of a living community that are rooted in that community's history and are important in maintaining the continuing cultural identity of the community.
   i. Traditional cultural properties include, but are not limited to, a location associated with the traditional beliefs of a Native American group about its origins or its cultural history; a location where a community has traditionally carried out artistic or other cultural practices important in maintaining its historical identity; and a location where Native American religious practitioners have historically gone, and go today, to perform ceremonial activities. Objects may include petroglyphs, pictographs, rock cairns or other rock structures, trees, and rock outcrops.

Cumulative Effects – The combined environmental impacts that accrue over time and space from a series of similar or related individual actions, contaminants, or projects. Although each action may seem to have a negligible effect, the combined effect can be significant.

Dam - A barrier across a stream or river to confine or regulate flow or raise water levels for purposes such as flood or irrigation water storage, erosion control, power generation, or collection of sediment or debris.

Davit – A fixed crane used to lift boats or cargo.

Day – Means a calendar day beginning at midnight and ending on the following midnight. When counting the number of days for notices required by the Master Program, the day a notice is
mailed, posted, or published is not counted, but the day of any hearing is counted. The day of the hearing shall be counted as an entire day, even though the hearing takes place before midnight and an entire twenty-four hour period has not passed. When counting the number of days or years for other time limits established by this title, the day a decision is made is not counted in computing the time limit.

Degradation - To scale down in desirability or salability, to impair in respect to some physical property, or to reduce in structure or function.

Department - The city’s Department of Planning and Community Development.

Deposition - The deposit of sediment in an area though natural means such as wave action or currents; may also be done through mechanical means by humans.

Development - A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; pile driving; 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 the Act at any state of water level of the state, subject to Chapter 90.58 RCW or its successor, at any state of water level (RCW 90.58.030(3d) or its successor). This term may include activities related to subdivision and short subdivisions; planned unit developments; clearing activity; land modification (grade and fill work); building or construction; and activities that are exempt from the substantial development permit process or that require a shoreline variance or conditional use.

Development regulations - The controls placed on development or land uses by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a shoreline master program other than goals and policies approved or adopted under chapter 90.58 RCW, and subdivision ordinances together with any amendments thereto.

Dike - An artificial embankment placed at a stream mouth or delta area to hold back sea water for purposes of creating and/or protecting land from flooding.

Director - The director of the department.

Dock - A fixed platform structure anchored in and floating upon a water body that abuts the shore to provide landing. A floating platform which abuts the shoreline, extending waterward from ordinary high water, which may include or from the bottom of a ramp, extending from a pier, and float; generally used as a landing for water dependent recreation or moorage place for commercial and/or pleasure craft. Excluded are boat launch or boat ramps.

Dock, Joint or Community - A dock, pier and/or float for pleasure craft moorage or water recreation for exclusive personal use of multiple waterfront lot owners.

Downwind - The direction of predominant alongshore sediment transport.
**Dredge** - To deepen by removing substrate material. Also mechanical or hydraulic equipment used for excavation.

Dredge Spoil - The material removed by dredging. Same as dredge material.

Dredged Material Disposal - Depositing of dredged materials on land or into water bodies. The purpose may be to create additional lands, to dispose of the by-products of dredging, or to enhance or remedy an environmental condition.

Dredging - Removal or displacement of earth or sediments such as gravel, sand, mud or silt, and/or other materials or debris from any stream, river, lake or marine water body, and associated shorelines and wetlands. Dredging is normally done for specific purposes or uses such as constructing and maintaining navigation channels, turning basins, harbors and marinas; installing submarine pipelines or cable crossing; or repairing and maintaining dikes or drainage systems. Dredging can be accomplished with mechanical or hydraulic machines. Most dredging is done to maintain channel depths or berths for navigational purposes; other dredging is for shellfish harvesting or cleanup of polluted sediments.

**Drift Cell or Drift Sector** - Drift cell, drift sector, or littoral cell means a particular segment or reach of marine shore in which littoral sediment movement or drift may occur without significant interruption, and which contains any and all natural sources of such drift as well as any shoreform(s) accreted by such drift. Each normal drift cell sector contains these shore process elements: a feed source that supplies the sediments (feeder bluff or estuary), a driftway, littoral drift along which the sediment can move, and an accretion terminal where the drift material is deposited (accretion shoreform).

Drift Sills - Small groins which hold sediments in place without blocking longshore drift.

Driftway - That portion of the shore process corridor, primarily that lower backshore and the upper intertidal area, through which sand and gravel are transported by the littoral drift process. It is the critical link between the feeder bluff and the accretion shoreform.

Dune - A hill or ridge of sand piled up by the wind and/or wave action.

**Ecological functions 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. See Section WAC 173-26-201(2)(c). Functions include, but are not limited to, habitat diversity and food chain support for fish and wildlife, ground water recharge and discharge, high primary productivity, low flow stream water contribution, sediment stabilization and erosion control, storm and water quality enhancement through biofiltration and retention of sediments, nutrients, and toxicants. These beneficial roles are not listed in order of priority.
Ecology (Washington State Department of Ecology) - Use of "Ecology" or "Washington State Department of Ecology" is preferred over "DOE" to avoid confusing the Washington State Department of Ecology with the federal Department of Energy.

**Ecosystem-wide processes** - The suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

**Embankment** - An artificial bank such as a mound or dike, generally built to hold back water or to carry a roadway.

**Emergency** - 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 the Master Program. Emergency construction is construed narrowly as that which is necessary to protect property from the elements and does not include development of new permanent protective structures where none previously existed. 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 required permit obtained, absent an emergency, pursuant to the Master Program and [or its successor] RCW 90.58.030(3iii); WAC 173-274-040(2)(d), or its successor. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not considered an emergency.

**Enhancement** - An action or alteration performed within an existing degraded shoreline, critical area, wetland or habitat and/or buffer to intentionally improve, or increase or augment one or more functions or values of the existing area or its characteristics and processes without degrading other existing functions. Enhancement actions include, but are not limited to, increasing plant diversity and cover, increasing wildlife habitat and structural complexity (snags, woody debris), installing environmentally compatible erosion controls, or removing non-indigenous plant or animal species. Enhancements are to be distinguished from wetland/habitat creation or restoration projects by the need for on-going assistance to maintain the improved function.

**Envelope** - The enclosing shell of a building's volume.

**Environmentally Sensitive Areas** - Those areas with especially fragile biophysical characteristics and/or with significant environmental resources as identified by the City or by a scientifically documented inventory accomplished as part of the SEPA/NEPA process or other recognized assessment. Environmentally sensitive areas include, but are not limited to, aquifer recharge areas; wildlife habitat areas; fish breeding, rearing or feeding areas; frequently flooded areas; geologically hazardous areas (e.g., steep, unstable slopes); wetlands (i.e., marshes, bogs, and swamps); streams; tidal lagoons; mud flats; salt marshes; and marine vegetation areas.
**Erosion** - The wearing away of land by the action of natural forces, such as wind, rain, water and other natural agents that mobilize, transport, and deposit soil particles.; On a beach, the carrying away of beach material by wave actions, tidal currents, or littoral currents.

**Erosion Hazard Area** – A landform or soil type subject to being worn away by the action of water, wind, freeze-thaw, or ice, including areas rated in the Soil Survey of Kitsap County Area, Washington, USDA (1980), as having severe hazard of water erosion; areas classified in the Department of Ecology Coastal Zone Atlas as Class 3, unstable, Class 3, unstable old slides, or Class 5, unstable recent slide; soils identified by soils identified by the U.S. Department of Agriculture Natural Resource Conservation Service (NRCS) as having “severe” or “very severe” erosion hazards; and/or soils subject to impacts from shoreline retreat.

**Estuary** - The zone in which fresh water and saltwater mingle and affect the total land and water habitat.

**Essential Single Family Residential Accessory Structure** – An accessory structure that contains a use or is intended for a use that is essential to a single family residential primary use. The following structures shall be considered an essential residential structure: a garage or carport, one septic system (including one tank and one on-site septic drainfield), one well house and associated well head, and existing decks attached serving that serves as necessary access to the primary structure.

**Estuarine Zone, Estuary** - The zero-gradient sector of a stream where it flows into a standing body of water, together with associated wetlands. Tidal flows reverse flow in this zone twice daily, determining its upstream limit. It is characterized by low bank channels branching off the main streamway to form a broad, near-level delta. The bank, bed, and delta materials are typically silt and clay. Banks are stable with vegetation ranging from marsh to forest, and the water is usually brackish due to daily mixing and layering of fresh and salt water. Estuarine shores are rich in aquatic and other bird and animal life, and in their natural condition are the most productive of all shoreline habitats in terms of the marine food chain.

**Excavation** - The disturbance, displacement and/or disposal of unconsolidated earth material such as silt, sand, gravel, soil, rock or other material from all areas landward of OHWM.

**Exemption or Exempt Development** - Certain developments as listed in WAC 173-27-040 and Chapter 90.58 RCW are exempt from the definition of substantial developments and, therefore, are exempt from the substantial development permit process of the Shoreline Management Act. An activity that is exempt from the substantial development provisions of the Shoreline Management Act must still be carried out in compliance with policies and standards of the Act and the local master program. Conditional use and/or Variance permits may also still be required even though the activity does not need a substantial development permit. [RCW 90.58.030(3e) or its successor; WAC 173-274-030(26); 040-or its successor].

**Extreme High Tide** - The highest tide level reached in a 19-year tidal cycle.
**Extreme Low Tide** - The lowest line on the land reached by a receding tide [RCW90.58.030(2a) or its successor]. For the purposes of the Shoreline Master Program, it is the contour 4.5 feet below Mean Lower Low Water (datum plane 0.0). [WAC 332-30-106 (18) or its successor].

**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 173-274-1030(82) or its successor].

**Feasible** - When an action, such as a development project, mitigation, or preservation requirement, meets 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 reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

**Feasible Location** - A location that accommodates a development in a manner that achieves its intended purpose consistent with the constraints of the applicable land use regulations and characteristics of the property, including but not limited to lot size, configuration, presence/absence of critical areas and compatibility with adjacent land use/development. Feasibility shall take into account both short and long-term monetary and non-monetary costs and benefits.

**Feeder Bluff, Erosional Bluff** - Any bluff (or cliff) experiencing periodic erosion from waves, sliding, or slumping, whose eroded earth, sand, or gravel material is naturally transported (littoral drift) via a driftway to an accretion shoreform. These natural sources of beach material are limited and vital for the long-term stability of driftways and accretion shoreforms.

**Fetch** - The distance over unobstructed open water on which waves are generated by a wind having a constant direction and speed.

**Fill** - The addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

**Fill Material** - Any solid or semi-solid material, including rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mining or other excavation activities, and
materials used to create any structure or infrastructure that, when placed, changes the grade or elevation of the receiving site.

**Fish and Wildlife Habitat Areas** - A seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term. These include areas of relative density or species richness, breeding habitat, winter range, and movement corridors. These also include habitats of limited availability or high vulnerability to alteration, such as cliffs, streams and wetlands.

**Fisheries** - All species of fish and shellfish commonly or regularly originating or harvested commercially or for sport in Puget Sound and its tributary freshwater bodies, together with the aquatic plants and animals and habitat needed for continued propagation and growth of such species.

**Fisheries Enhancement** - Actions taken to rehabilitate, maintain or create fisheries habitat, including but not limited to hatcheries, spawning channels, lake rehabilitation, planting of fisheries stocks. Fisheries Enhancement differs from Aquaculture in that the increase in fisheries stocks eventually becomes available for public harvest.

**Float** - A floating platform that moves vertically with a tide and is anchored or attached to a fixed or anchored overwater structure or an anchoring system.

**Float, Recreational** – A float used primarily for swimming, diving, water skiing, or other recreational purpose and not for the moorage of watercraft.

**Floating Home** - A nonvessel structure designed and operated substantially as a permanently based over-water residence. Floating homes lack adequate self-propulsion and steering equipment to operate as a vessel. They are typically served by permanent utilities and semi-permanent anchorage/moorage facilities.

**Flood or Flooding Coastal** - A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters and/or the unusual and rapid accumulation of runoff of surface waters from any source.

**Flood Protection Measures** - All development on water bodies, usually rivers and streams, designed to retard bank erosion, to reduce flooding of adjacent lands, to control or divert stream flow, or to create a reservoir, including but not limited to revetments, dikes, levees, channelization, dams, vegetative stabilization, weirs, flood and tidal gates. Excluded are water pump apparatus.

**Flood Hazard Management** - A long term program or major project carried out on a single parcel or coordinated on a series of parcels for the primary purpose of preventing or mitigating damage to life and property and to minimize public expenses due to flooding through a
comprehensive system of planning development regulations, building standards, structural works, and monitoring and warning systems. Flood hazard management projects or programs may employ physical and/or regulatory controls.

Floodplain - Synonymous with one hundred-year floodplain, this is that land area susceptible to being inundated by stream-derived waters with a one percent chance of being equaled or exceeded in any given year. The limits of this area are based on flood regulation ordinance maps or a reasonable method that meets the objectives of the Shoreline Management Act [WAC 173-262-0230(2)] or its successor.

Floodway - Those areas or portions of the areas as identified in the master Program that are either a) established in federal emergency management agency flood insurance rate maps or floodway maps or b) those portions of a river valley lying streamward from the outer limits of a watercourse, and upon which flood waters are carried during periods of flooding that occur with reasonable regularity, though not necessarily annually. The floodway is identified, under normal conditions, by changes in surface soil conditions, or changes in types or quality of vegetative ground cover conditions. The floodway does not include lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the Federal government, the State, or a political subdivision of the State. The limits of the floodway are based on flood regulation ordinance maps or by a reasonable method which meets the objectives of the Shoreline Management Act. [RCW 90.58.030(2g) or its successor; WAC 173-262-030(183) or its successor].

Foreshore - In general terms, the intertidal area beach between mean higher high water and mean lower low water.

Foreshore Marina - See Marina.

Forest Practice - Any activity conducted on, or directly related to, forest land and relating to growing, harvesting, or processing timber. This includes: 1) site preparation and regeneration, 2) protection from insects, fire, and disease, 3) silvicultural practices such as thinning, fertilization, and release from competing vegetation, and 4) harvesting. Forest practices do not include log storage. (See industrial use.) These activities include, but are not limited to, road and trail construction, final and intermediate harvesting, pre-commercial thinning, reforestation, fertilization, prevention and suppression of disease and insects, salvage of trees, and brush control. See WAC 222-16-010(21) or its successor.

Forest Land - All land which is capable of supporting a merchantable stand of timber and is not being actively used in a way which is incompatible with timber growing. [WAC 222-16-010 or its successor].

Frequently Flooded Areas - Lands subject to a one percent or greater chance of flooding in any given year, as determined by the Federal Emergency Management Agency. These areas include, but are not limited to, floodplains adjacent to streams, lakes, coastal areas, and wetlands. (Also see Chapter 15.16 BIMC, Flood Damage Prevention.)
**Gabions** - Structures composed of masses of rocks, rubble, or masonry held tightly together, usually by wire mesh, to form blocks or walls. Sometimes used on heavy erosion areas to retard wave action, or as foundations for breakwaters or jetties.

**Geologically Hazardous Areas** - Areas susceptible to significant erosion, sliding, or other geological events. They pose a threat to the health and safety of citizens when used as sites for incompatible commercial, residential or industrial development. Geologically hazardous areas include erosion hazard areas, landslide hazard areas, and seismic hazard areas.

**Geomorphology** - The shape or form of a natural surface or object. Also, the study of the forms of the land surface and the processes producing them.

**Geotechnical Engineer** - Practicing geotechnical/civil engineer who has a valid Washington State engineering license and a valid certificate of registration in civil engineering, at least four years of professional employment as a geotechnical engineer with experience in landslide evaluation, and appropriate training and experience as specified in Chapter 18.43 RCW.

**Geotechnical report or geotechnical analysis** - A scientific study or evaluation conducted by a qualified expert that includes a description of the 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 qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

**Grading** - An activity associated with land property modification or maintenance; grading means the physical 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, manipulation of the earth’s surface and/or surface drainage pattern without significantly adding or removing on-site materials.

**Grassy Swale** - A vegetated drainage channel that is designed to remove various pollutants from storm water runoff through biofiltration.

**Groins** - Also referred to as a spur-dike or rock weir. This is a rigid, barrier-type structure extending on an angle waterward from the shore into the intertidal zone, from the backshore or streambank into a water body, generally perpendicular to the shore; for the purpose of building or preserving an accretion shoreform or berm on their updrift side by trapping littoral drift to or protecting a shoreline and adjacent upland by influencing the movement of water and/or...
deposition of materials. Groins are relatively narrow in width but vary greatly in length. Groins are sometimes built in series as a system, and may be permeable or impermeable, high or low, and fixed or adjustable.

**Growth Management Act** - RCW 36.70A, as amended.

**Guidelines** - Those standards adopted by the Washington State Department of Ecology to implement the policy of the Shoreline Management Act, chapter 90.58 RCW, for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards provide criteria for local governments and the Department of Ecology in developing and amending master programs.

**Habitat** - The place or type of site where a plant or animal naturally or normally lives and grows.

**Habitat Function** - The use and benefits of physical and biological factors to associated biological communities of organisms.

**Harbor Area** - The area of navigable tidal waters as determined in Section 1 of Article 15 of the Washington State Constitution, which is forever reserved for landings, wharves, streets, and other conveniences of navigation and commerce.

**Harbor Structure Limit Line** – A line defined in a harbor to demarcate the limits of overwater structures in aquatic areas and maintain navigation, as recommended by the Harbor Commission and approved by the City of Bainbridge Island City Council.

**Hazard Tree** - A tree with structural defects likely to cause failure of all or part of the tree, which could strike a “target.” A target can be a building or a place where people gather such as a park bench, picnic table, street, or backyard. In the case of steep slopes, a hazard tree can also be a tree that is a hazard to stability of the slope, as determined by a geotechnical engineer.

**Hazardous Materials** - Any substance containing such elements or compounds which, when discharged in any quantity in shorelines, present an imminent and/or substantial danger to public health or welfare; including, but not limited to: fish, shellfish, wildlife, water quality, and other shoreline features and property.

**Hazardous Substance** - Any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical or biological properties described in WAC 173-303-090 or 173-303-100.

**Height** - The distance measured from the average grade level to the highest point of a structure. Television antennas, chimneys, and similar structures or appurtenances shall not be used in calculating height except where they obstruct the view of residences adjoining such shorelines. Temporary construction equipment is excluded in this calculation [WAC 173-2744-030(9) or its
successor]. For all over-water structures, height shall be measured from ordinary high water mark.

**Hook** - A spit or narrow cape of sand or gravel which turns landward at its outer end.

**Houseboat** - A particular type of vessel licensed and designed for use as a mobile structure with adequate self-propulsion and steering equipment to be operated as a vessel but also characterized by detachable utilities or facilities for residential use. When principally used as an over-water residence, it is a "live-aboard vessel."

**HPA** - Hydraulic Project Approval. The permit issued by the Washington State Department of Fish and Wildlife pursuant to the State Hydraulic Code Chapter 75.20.100-140 RCW or its successor.

**Hydric Soils** - Generally, soils which are, saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part or have had a history of being, wet long enough to periodically produce anaerobic conditions, thereby influencing the growth of plants [WAC 173-22-030(5)] or its successor. The presence of hydric soil shall be determined following the methods identified by the Department of Ecology.

**Hydrophytes** - Those plants capable of growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content. The presence of hydrophytic vegetation shall be determined following the methods identified by the Department of Ecology.

**Impact** – An action producing a significant causal effect of the whole or part of a given area.

**Impoundment** – The retention or trapping of sediment in a location, either by natural or structural means.

**Industrial Development** - Facilities for processing, manufacturing, fabrication or storage of goods or materials, including but not limited to oil, metal or mineral product refining, power generating facilities, including hydropower, ship building and major repair, storage and repair of large trucks and other large vehicles or heavy equipment, related storage of fuels, commercial storage and repair of fishing gear, warehousing construction contractors’ offices and material/equipment storage yards, wholesale trade or storage, and log storage on land or water, together with necessary accessory uses such as parking, loading, and waste storage and treatment. Excluded from this definition are mining, including on-site processing of raw materials, and off-site utility, solid waste, road or railway development, and methane digesters that are accessory to an agricultural use.

**Industrial Use** - Uses intended primarily to provide for heavy commercial water-dependent uses such as ship and boat building, haul out and repair and related uses serving boating needs.
In-kind Compensation - To replace wetlands, biota or other organisms with substitute flora or fauna whose characteristics closely match those destroyed, displaced, or degraded by an activity.

Inshore – The zone of the beach profile extending seaward from the foreshore to just beyond the breaker.

Intertidal - The substratum area exposed at low tides and inundated at high tides, situated from the extreme low water of spring tides (mean lower-low water, MLLW) to the upper limit of spray or influence of ocean-driven salts (mean higher-high water, MHHW). It includes all land that is sometimes submerged, but sometimes exposed to air. (Source: M.N. Dethier, A Marine and Estuarine Habitat Classification System for Washington State 10 [Washington State Department of Natural Resources, Washington Natural Heritage Program, 1990].

Invasive Species - A species that is 1) non-native (or alien) to the Puget Sound region and 2) whose introduction causes or is likely to cause economic or environmental harm, or harm to human health. Invasive species can be plants, animals, and other organisms (e.g., microbes). Human actions are the primary means of invasive species introductions.

Jetty - A structure that is generally perpendicular to shore extending through or past the intertidal zone. It is built at harbor entrances or river mouths mainly to prevent shoaling or accretion from littoral drift in entrance channels, which may or may not be dredged. A jetty also serves to protect a channel from storm waves or cross currents, and stabilize inlets through barrier beaches. On the West Coast and in this region, most jetties are of riprap mound construction, projecting out into the sea at the mouth of a river for the purpose of protecting a navigation channel or harbor, or to influence water currents.

Lagoon - See Tidal Lagoon.

Landfill - The placement of soil, sand, rock, gravel, existing sediment or other material (excluding solid waste) to create new land, tideland or bottom land area along the shoreline below the OHWM, or on wetland or in upland areas landward of OHWM, generally in order to raise the elevation.

Landslide - A general term covering a wide variety of mass movement landforms and processes involving the downslope transport, under gravitational influence of soil and rock material en masse; included are debris flows, debris avalanches, earthflows, mudflows, slumps, mudslides, rock slides, and rock falls.

Landslide Hazard Areas - Areas that, due to a combination of site conditions like slope inclination and relative soil permeability, are susceptible to mass wasting, as designated in BIMC 16.20.030(33).

Land Use - The development or activities that occurs or is allowed to occur on a particular property.
**Large Woody Debris (LWD)** – Generally naturally occurring material that is recruited from during storms from downed trees in rivers, streams or other waters.

**Levee** - A large dike or embankment, often having an access road along the top, which is designed as part of a system to protect land from floods.

**Limited Utility Extension** - The extension of natural gas, electricity, telephone, water, or sewer service where all of the following are met: 1) the extension is categorically exempt under the Washington State Environmental Policy Act (SEPA)(See WAC 197-11-800(24 or its successor) for the utility improvements which are categorically exempt under SEPA), 2) the extension will serve existing uses that are in compliance with the Shoreline Management Act, and 3) the project does not involve the construction of more than 2,500 linear feet of utility lines or pipes within shoreline jurisdiction.

**Littoral** – of or pertaining to Living on, or occurring on, the shore.

**Littoral Cell** – See Drift Cell

**Littoral Drift** - The natural movement of sediment, particularly mud, sand, or gravel material parallel to along the shoreline in the nearshore zone by waves and currents (see also Drift Cell and Driftway).

**Live-aboard Vessel** - A vessel licensed and designed for use as a mobile structure with adequate self-propulsion and steering equipment to be operated as a vessel, but which is principally used as an over-water residence. Principal use as an over-water residence means essentially full-time occupancy within the City's jurisdiction for a total of more than sixty (60) days, whether or not consecutive, in any calendar year.

**Longshore Current** – The littoral current in the breaker zone moving essentially parallel to the shore.

**Longshore Transport** – Transport of sedimentary material parallel to the shore.

**Maintenance** – See Normal Maintenance and Normal Repair.

**Marina** - A commercial or public facility with the primary purpose of providing moorage for six (6) or more vessels, which consists of a system of piers, docks, buoys, or floats. Foreshore marinas are located in the intertidal or offshore zone (the Aquatic environment designation). Backshore marinas are located landward of OHWM. There are two common types of backshore marinas, one with wet moorage that is dredged out of the land to artificially create a basin, and the other, dry moorage, which has upland storage with a hoist, marine travel lift, or ramp for water access. Open water marinas, including open water moorage and anchorage areas, are generally located in the center of a waterbody to provide moorage in addition to any marinas and docks along the edge of the waterbody.
Marine Travel Lift - A mechanical device that can hoist vessels off trailers and transport them into the water. Often associated with dry land moorage.

Marine Railway - A fixed set of rails running from the upland area into the water upon which a cart or dolly can carry a boat to be launched.

Marsh - Soft, wet area periodically or continuously flooded to a shallow depth, usually characterized by a particular subclass (monocotyledons) of grasses, cattails, and other low plants.

Marshes, Bogs, and Swamps - Lands transitional between terrestrial and aquatic systems where saturation with water is the dominant factor determining plant and animal communities and soil development. Such lands must have one or more of the following attributes: a) at least periodically, the land predominately supports hydrophytes, and/or 2) the substrate is predominately undrained hydric soil. [WAC 173-22-030 (105) or its successor]. See Hydrophyte, Hydric Soil.

Mean Higher-High Water Tide (MHHW) – The plane of the arithmetic mean of the higher of two (2) daily high tides calculated from the most recent 19-year tidal cycle.

Mean Low Water (MLW) - The plane of the arithmetic mean of all low tides calculated from the most recent 19-year tidal cycle.

Mean Lower-Low Water (MLLW) - The plane of the arithmetic mean of the lower of two (2) daily low tides calculated from the most recent 19-year tidal cycle (datum plane 0.0).

Mean Sea Level – The average height of the surface of the sea for all stages of the tide over a 19-year period, usually determined from hourly height readings.

Midden - An ancient refuse heap. Often a source of archaeological material.

Mining - Removal and primary processing of naturally occurring materials from the earth for economic use. "Processing" includes screening, crushing, stockpiling - all of which utilize materials removed from the site where the processing activity is located. Processing does not include the manufacture of molded or cast concrete, or asphalt products, asphalt mixing operations, or concrete batching operations.

Mitigation – Mitigation must follow mitigation sequencing requirements of WAC 173-26-2011(2)(e) and includes:

a. Avoiding, minimizing or compensating for adverse impacts, in the following order of preference:
   i. Avoiding the impact altogether by not taking a certain action or parts of an action;
   ii. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
   iii. Rectifying the impacts by repairing, rehabilitating or restoring the affected environment;

[Comment [1333]: From the Battelle, Summary of Best Available Science, October 2003]

[Comment [1334]: CAO – 16.20.020 (35) Modified to include reference to sequencing. ICF #14]
iv. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
v. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
vi. Monitoring the impact and the compensation project and taking appropriate corrective measures. Mitigation for individual actions may include a combination of the above measures; and

b. The following specific categories:
   i. Mitigation, compensatory: replacing project-induced critical area losses or impacts, including, but not limited to, establishment, re-establishment, rehabilitation or enhancement.
   ii. Mitigation, establishment: mitigation performed to intentionally establish a critical area (e.g., wetland) at a site where it does not currently exist.
   iii. Mitigation, re-establishment: the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former critical area.
   iv. Mitigation, rehabilitation: the manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions and processes to a degraded critical area.
   v. Mitigation, enhancement: the manipulation of the physical, chemical, or biological characteristics of a biological wetland to heighten, intensify or improve specific function(s) or to change for specific purposes such as water quality improvement, flood water retention, or wildlife habitat.

Mitigation Sequence. Individual actions that may include a combination of the following measures, listed in order of preference:
   a. Avoiding the impact altogether by not taking a certain action or parts of actions;
   b. Minimizing impacts by limiting the degree or magnitude of an action and its implementation;
   c. Rectifying impacts by repairing, rehabilitating, or restoring the affected environment;
   d. Reducing or eliminating an impact over time by preservation and maintenance operations;
   e. Compensating for an impact by replacing enhancing, or providing substitute resources or environments; and
   f. Monitoring the impact and the compensation projects and taking appropriate corrective measures when necessary.

Mitigation Plan. A detailed plan indicating actions necessary to mitigate adverse impacts of development.

Mixed Use. A combination of residential and commercial uses integrated within the same building or site as a part of an development project.

Monitoring. Evaluating the impacts of development proposals over time on the biological, hydrological, pedological, and geological elements of ecosystem functions and processes and/or assessing the performance of required mitigation measures through the collection and analysis of
data by various methods for the purpose of understanding and documenting changes in natural ecosystems and features compared to baseline or pre-project conditions and/or reference sites.

**Mooring Buoy** - A floating object anchored to the bottom of a water body that provides tie-up capabilities for vessels.

**Mudflat** - Low, unvegetated much substrat that is flooded at high tide and uncovered at low tide.

**Muds** - Sediments in which the size of the particles is smaller than 1/16 mm. In order for sediments in a tidal inlet to be classified as critical habitat, they need to contain at least 30% by weight of mud (i.e., 30% of the sediments, by weight, have to pass through a 1/16 mm mesh sieve).

**Multi-family Dwelling or Residence** - A building containing two or more dwelling units or more than one dwelling unit on one lot, including, but not limited to, duplexes, apartments, and condominiums.

**Natural Riparian Habitat Corridor** - The streamside environment maintained in its natural state, primarily for fisheries and wildlife habitat, and water quality improvements, and, secondarily, for flood control works, while allowing controlled access to avoid damage to the resource.

**Native Vegetation** - Plant species that are indigenous to the Central Puget Sound lowland region and suitable to the specific site conditions.

**Native Vegetation Equivalent** - Plant species that are equivalent in providing the same site-specific functional arrays as would the native species. Functional arrays may include forage, floodwater restraint, hiding habitat, or other physical or biologic roles in the ecosystem, that singly or in combination correspond to those of the native species. As with natives, the role mix of an alternative species may vary depending on the site and its surrounding ecosystem. Invasive/exotic species shall not be considered equivalent species.

**Native Vegetation Zone** - A required vegetation buffer measured horizontally upland from and perpendicular to the ordinary high water mark (OHWM).

**Nearshore or Nearshore Zone** - The area of marine and estuarine shoreline, generally extending from the top of the shoreline bank or bluff to the depth offshore where light penetrating the water falls below a level supporting plant growth, and upstream in estuaries to the head of the tidal influence. It includes bluffs, beaches, mudflats, kelp and eelgrass beds, salt marshes, gravel spits, and estuaries.

**No Net Loss** - As a public policy goal, the maintenance of the aggregate total of the City`s shoreline ecological functions at its current level of environmental resource productivity. As a development and/or mitigation standard, no net loss requires that the impacts of a particular...
shoreline development and/or use, whether permitted or exempt, be identified and prevented or mitigated, such that it has no resulting adverse impacts on shoreline ecological functions or processes. Each project shall be evaluated based on its ability to meet the no net loss standard commensurate with its scale and character.

**Nonconforming Development** - A shoreline use or structure which was lawfully constructed or established prior to the effective date of the applicable Shoreline Management Act/SMP provision, and which no longer conforms to the applicable shoreline provisions. [WAC 173-2714-08055(1) or its successor].

**Nonwater-oriented** - Nonwater-oriented uses serve to describe those uses which have little or no relationship to the shoreline and are not water-dependent, water-related, or water-enjoyment, or considered priority uses under the Shoreline Management Act. (27) Nonwater-oriented uses means those uses that are not water-dependent, water-related, or water-enjoyment. Nonwater-oriented use examples include professional offices, automobile sales or repair shops, mini-storage facilities, multifamily residential development, department stores, and automobile gas stations.

**Normal appurtenance** - See Appurtenance.

**Normal Maintenance** - Those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. [WAC 173-2714-040(21b)(b) or its successor]. (See Normal Repair.)

**Normal Repair** - To restore a structure or development to a lawfully established state comparable to its original condition within a reasonable period after decay or partial destruction, except where repair involves total replacement which is not common practice, or causes substantial adverse effects to the shoreline resource or environment. This does not include any activities that change the character, scope or size of the original structure or development beyond the original design. [WAC 173-2714-040(21b)(b) or its successor]. (See Normal Maintenance.)

**Normal Protective Bulkhead** - See Bulkhead.

**OHWM, Ordinary High Water Mark** - That mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, that the soil has a character distinct from that of the abutting upland in respect to vegetation as that condition existed on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the City or Washington State Department of Ecology, 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 water and the ordinary high water mark adjoining fresh water shall be the line of mean high water. [See RCW 90.58.030(2)(b) or its successor and WAC 173-22-030(6) or its successor].
**Offshore** - The area seaward of the breaker zone, extending in a direction seaward from the shore.

**Oil/Water Separator** - Specialized catch basins that are designed to trap oil and other materials lighter than water in the basin while allowing the water to escape through the drainage system.

**Open Space** - See BIMC Title 18.

**Open Water Moorage and Anchorage Area** – A designated area of state-owned aquatic lands leased for the moorage and anchorage of vessels that does not abut uplands and does not include a built connection to the uplands. Open water moorage and anchorage areas are leased only by municipalities in accordance with WAC 332-30 and subject to the restrictions therein.

**Outfall** – A structure extending into a body of water for the purpose of discharging an effluent (sewage, storm runoff, cooling water).

**Overwater structures** – Human-made structures that extend over all or part of the surface of a body of water, such as a pier.

**Parking** - The temporary storage of automobiles or other motorized vehicles.

**Periodic** - Occurring at regular intervals.

**Person(s)** - Includes organizations and corporations.

**Pier** - A fixed platform structure or anchored device that is fixed above the water which abuts the shoreline, extending waterward from ordinary high water, and which is generally used as a landing or moorage place for industrial, commercial, and/or pleasure craft; including but not limited to: wharves and quays.

**Plant Community** – Association of plants in a given area or region in which various species are more or less dependent upon each other.

**Pocket Beach** - An isolated beach existing usually without benefit of littoral drift from sources elsewhere. Pocket beaches are produced by erosion of immediately adjacent bluffs or banks and are relatively scarce and therefore valuable shoreforms on the Island; they are most common between rock headlands and may or may not have a backshore.

**Point** - A low profile shoreline promontory of more or less triangular shape, the top of which extends seaward.

**Primary Structure** – A structure that includes the principal use of a property, or is intended to be occupied with the principal use of the property.

**Principal Building, Adjacent** – A principal building located on a lot abutting the applicant’s lot.
**Priority Habitat** - A habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes:

a. A Comparatively high fish or wildlife density;
b. B Comparatively high fish or wildlife species diversity;
c. C Fish spawning habitat;
d. D Important wildlife habitat;
e. E Important fish or wildlife seasonal range;
f. F Important fish or wildlife movement corridor;
g. G Rearing and foraging habitat;
h. H Important marine mammal haul-out;
i. I Refugia habitat;
j. J Limited availability;
k. K High vulnerability to habitat alteration;
l. L Unique or dependent species; or
m. M Shellfish bed.

A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as a consolidated marine/estuarine shoreline, talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife.

**Priority species** - Species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below:

a. 1 Criterion 1. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the department of fish and wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.

b. 2 Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.

c. 3 Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.

d. 4 Criterion 4. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered.
Public Access - The public's right to get to and use the State's public waters, both saltwater and freshwater, the water/land interface and associated shoreline area. It includes physical access that is either lateral (areas paralleling the shore) or perpendicular (an easement or public corridor to the shore), and/or visual access facilitated by means such as scenic roads and overlooks, viewing towers and other public sites or facilities.

Public Interest - The interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected including, but not limited to, an effect on public property or on health, safety, or general welfare resulting from adverse effects of a use or development.

Puget Lowland - The low area between the Olympic and Cascade Mountain ranges.

Puget Sound - All marine water contained south and east of Admiralty Inlet and Deception Pass.

Qualified Professional or Qualified Consultant - A person with experience and training with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4). A qualified professional must possess the required education and experience stipulated for that profession pursuant to this Program and/or BIMC 16.20.020 for the following:

a. Fisheries Biologist (BIMC 16.20.020(17);
b. Geotechnical Engineer (BIMC 16.20.020(21);
c. Hydrogeologist (BIMC 16.202.020(27);
d. Wetland Specialist (BIMC 16.202.020(56)
e. Wetland Biologist (BIMC 16.202.020(57); and
f. Professional Archeologist.

RCW - Revised Code of Washington.

Recharge - The process involved in the absorption and addition of water from the unsaturated zone to ground water.

Recreation - An experience or activity in which an individual engages for personal enjoyment and satisfaction through forms of play, sports, relaxation, amusement or contemplation. Most shore-based recreation includes outdoor recreation such as: fishing, hunting, clamming, beach combing, and rock climbing; various forms of boating, swimming, hiking, bicycling, horseback riding, camping, picnicking, watching or recording activities such as photography, painting, bird watching or viewing of water or shorelines, nature study and related activities.

Recreational Development, Active - activities that generally require the use of constructed facilities such as playgrounds, athletic fields, boat ramps, and marinas.

Recreational Development, Passive - activities that require a minimum of facilities such as swimming, picnicking, hiking, canoeing and fishing.
**Recreational Floats** - Anchored off-shore platforms used for water-dependent recreational activities such as swimming and diving.

**Repair** – See “Normal Repair”

**Replacement Area** - An area of replacement native vegetation which compensates for the disturbance of a portion of the required Native Vegetation Zone. (See Section III.E. regulations 10 and 11 for requirements that must be met to allow for such disturbance.)

**Residential Development** - Construction or alteration, earth modifications, subdivision and use of land primarily for human residence; including but not limited to, of one or more buildings, structures, or portions thereof which are designed for and used to provide a place of abode for human beings. This includes single-family residences and multifamily dwellings, accessory uses, and structures normally associated with residential uses and structures. Residential development includes land divisions, including short plats, of residually zoned land. It also includes all modifications to land and vegetation associated with construction, preparation, or maintenance of residential structures or accessory structures.

**Restoration or Ecological Restoration** - To revitalize, or reestablish or upgrade ecological shoreline functions, the characteristics and/or natural processes of a degraded shoreline resource to a condition that sustains the ecological functions and process at a state of equilibrium. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures, and removal or treatment of toxic materials.

**Retaining Wall** - A build wall to keep a bank of earth from sliding or water from flooding.

**Revetment** - A sloping structure built to protect a scarp, embankment, or shore against erosion by waves or currents. Usually built of riprap, with a heavy armor layer, one or more filter layers of smaller rock or filter cloth, and “toe” protection. A revetment slopes shoreward and has a rough or jagged facing. Its sloping face absorbs wave energy and differentiates it from a bulkhead, which is a vertical structure.

**Riparian** - Of, on, or pertaining to, or situated or living on the banks of a river or other body of water, including tidewater.

**Riparian Management Zone** - A specified area alongside a shoreline where specific measures are set out in the Forest Practice Regulations to protect water quality and fish and wildlife habitat. [WAC 222-30 or its successor]. The area adjacent to a water body (stream, lake or marine water) that contains vegetation that influences the aquatic ecosystem, nearshore area and/or fish and wildlife habitat. The zone include terrestrial habitat and riparian vegetation.

**Riparian Vegetation** - Vegetation that tolerates and/or requires moist conditions and periodic free flowing water thus creating a transitional zone between aquatic and terrestrial habitats which...
provides cover, shade and food sources for aquatic and terrestrial insects for fish species. Riparian vegetation and their root systems stabilizes banks, attenuates high water flows, provide wildlife habitat and travel corridors, and provide a source of limbs and other woody debris to terrestrial and aquatic ecosystems.

Riprap - A layer, facing, or protective mound of stones placed to prevent erosion, scouring, or sloughing of a structure or embankment.

Rock Weir - See Groin.

Runoff - Water that is not absorbed into the soil, but rather flows along the ground surface following the topography.

Salish Sea – Broadly defined as the confined water body inland from Cape Flattery, including Puget Sound, the Strait of Juan de Fuca and the Strait of Georgia.

Salmon and Steelhead Habitats - Gravel bottom streams, creeks, and rivers used for spawning; streams, creeks, rivers, side channels, ponds, lakes, and wetlands used for rearing, feeding, cover and refuge from predators and high water; streams creeks, rivers, estuaries, and shallow areas of saltwater bodies used as migration corridors; and salt water bodies used for rearing, feeding, and refuge from predators and currents.

Salt Tolerant Vegetation - Vegetation which is tolerant of interstitial soil salinities greater than or equal to 0.5 parts per thousand. [WAC 173-22 or its successor].

Scarification - Loosening the top soil and/or disrupting the forest floor in preparation for regeneration.

Seawall - Structure separating land and water areas primarily to prevent erosion and other damage by wave action. Generally more massive and capable of resisting greater wave forces than a bulkhead or revetment.

Seaward - To or toward the sea.

Sediment - The material, such as sand, silt, or clay, suspended in or settled on the bottom of a water body, generally deposited by erosion, water or wind.

Sediment Transport - The movement of sediment along a current pathway.

Seismic Hazard Areas - Areas that are subject to severe risk of damage as a result of earthquake-induced ground shaking, or surface faulting. While ground shaking is the principal risk because the entire island will shake significantly, severe damage will occur where slope failure, liquefaction, and settlement are induced by the shaking and surface rupture is created by fault movement. The following areas are considered seismic hazard areas:
a. Seismic Landslide Hazard Areas. Slopes which are stable in nonearthquake periods, but fail and slide during ground shaking:

b. Liquefaction Hazard Areas. Areas of non-cohesive, loose or soft, saturated soils of low density in association with a shallow groundwater table that are subject to settlement and/or liquefaction from ground shaking; or

c. Fault Hazard Areas. Areas of known surface rupture or significant surface deformation as a result of an active fault movement, including 50 feet on either side.

Setback - The required space that is left open and unoccupied between the nearest projection of a structure and the property line of the lot on which the structure is located, and that are required to remain unobstructed from the ground to the sky except for modifications to setbacks and height specifically allowed by code, distance measured horizontally from the ordinary high water mark to any allowed development.

Shall - A mandate; the action must be done.

Shared Moorage - Moorage for pleasure craft and/or landing for water sports for use in common by shoreline residents of a certain subdivision or community within shoreline jurisdiction or for use by patrons of a public park or quasi-public recreation area, including rental of non-powered craft. If a shared moorage provides commercial services of six or more slips, it shall be considered a marina.

Shellfish - Invertebrates of the phyla Arthropoda (class Crustacea), Mollusca (class Pelecypoda) and Echinodermata.

Shellfish Habitat Conservation Areas - All public and private tideland suitable for shellfish, as identified by the Washington Department of Health classification of commercial growing areas, and those recreational harvest areas as identified by the Washington Department of Ecology are designated as Shellfish Habitat Conservation Areas pursuant to WAC 365-190-80. Any area that is or has been designated as a Shellfish Protection District created under RCW 90.72 is also a Shellfish Habitat Conservation Area.

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 feet from such floodways; and all wetlands, including river deltas associated with streams, rivers 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.

Shorelands - See “Shoreland areas.”
Shoreline Armoring - Structural protection from wave erosion including but not limited to, revetments, bulkheads, sea walls, gabions, and so forth.

Shoreline Environment designation. Designations - The categories of shorelines established by local Shoreline Master Programs in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas. [WAC 173-16-040(4) or its successor].

Shoreline Jurisdiction (Associated Wetlands [Jurisdictional]) - The proper term describing all of the geographic areas covered by the Shoreline Management Act, related rules, and the applicable master program. Those lands extending landward for 200 feet in all directions, as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred (200) feet from such floodways; and all marshes, bogs, swamps, and deltas associated with the streams, lakes, and tidal waters subject to the Shoreline Management Act. See RCW 90.58.030 (2f) or its successor, WAC 173-16-030(17) or its successor; WAC 173-22-030(10) or its successor. Also, such areas within a specified local government's authority. See definitions of shorelines, shorelands, shorelines of the state, and Shorelines of Statewide Significance, and wetlands, jurisdictional.

Shoreline Management Act - The Shoreline Management Act of 1971, Chapter 90.58 RCW, as amended.

Shoreline master program or master program - The comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020. As provided in RCW 36.70A.480, the goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city’s comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city’s development regulations.

Shoreline modifications - Those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.

Shoreline Permit - A Substantial Development, Conditional Use, Revision, Variance, or any combination thereof. [WAC 173-274-030(13) or its successor].

Shoreline Stabilization and Flood Protection - Structural or non-structural modifications to the existing shoreline intended Actions taken to reduce or prevent erosion impacts to property and dwellings, businesses, or structures of upland beaches or reduce adverse impacts caused by natural processes, such as current, flood, tides, wave, wind, or wave action. These are generally located parallel to the shoreline at or near the OHHWM. These actions include all structural and nonstructural means to reduce impacts due to flooding, erosion, and accretion. Examples of
specific structural and nonstructural shoreline modification activities include revetments, riprap, bulkheads, and bank stabilization.

**Shoreline Stabilization, Bioengineered** - Biostructural and biotechnical alternatives to hardened structures (bulkheads, walls) for protecting slopes or other erosive features including soft-treatment techniques. Bioengineered stabilization uses vegetation, geotextiles, geosynthetics and similar materials. An example is Vegetated Reinforced Soil Slopes (VRSS), which uses vegetation arranged and embedded in the ground to prevent shallow mass-movements and surficial erosion.

**Shoreline Stabilization, Hard structural** - Shore erosion control practices using hardened structures that armor and stabilize the shoreline landward of the structure from further erosion. (NOAA Coastal Resource Management)

**Shoreline Stabilization, non-structural** – This is a soft treatment which does not use driftwood, logs, geotextile fabric, or other organic or non-organic structural materials. Examples include:

a. Addressing upland drainage issues;
b. Planting stabilizing vegetation without fill, grading, or use of non-biodegradable geotextile fabric, gabions other stabilizing structures to provide temporary erosion control;
c. Beach Berm.

**Shoreline Stabilization, Replacement** – The construction of a new structure to perform a shoreline stabilization function of an existing legally-established shoreline stabilization structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures are considered new structures.

**Shoreline Stabilization, New** – Placement of shoreline stabilization where no such structure previously existed, including additions to or increases in size of existing shoreline stabilization measures are considered new structures.

**Shoreline Stabilization, Soft-treatment** – Shore erosion control and restoration practices using only plantings or organic materials to restore, protect or enhance the natural shoreline environment (NOAA Coastal Resource Management). This technique mimics natural conditions for ecological functions and ecosystem wide processes. When used organic/biodegradable structural components are to be place to avoid significant disruption of sediment recruitment, transportation, and accretion. Examples include:

a. d Bioengineered Shoreline Stabilization;
b. e Beach Nourishment/Replenishment;
c. f Vegetated Soil Stabilization Retention Methods;
d. Driftwood;
e. Coir fiber logs or other natural materials;
f. Nonstructural Shoreline Stabilization.

**Shoreline Stabilization, Hybrid structure** - An approach to erosion control that combines soft-treatment shoreline treatment placed waterward of more conventional structural shoreline stabilization elements. The soft shoreline treatment preserves natural beach contours and mimics habitat structure in order to preserve ecological functions. The hard structure provides long-term stability to the upland site, but is located sufficiently landward of the OHWM as not to impair ecological processes.

**Shoreline Substantial Development Permit** - A mechanism through which the City determines whether a proposed development or activity complies with the State of Washington Shoreline Management Act (Chapter 90.58 RCW or its successor) and the Master Program.

**Shorelines** - All of the water areas of the State, including reservoirs and their associated wetlands, together with the lands underlying them, except those areas excluded under RCW 90.58.030(2)(d) or its successor and shorelines of state-wide significance.

**Shorelines Hearings Board (SHB)** - A six-member, quasi-judicial body, created by the Shoreline Master Program, which hears appeals by any aggrieved party on the issuance of a shoreline permit and appeals by local government on Washington State Department of Ecology approval of master programs, rules, regulations, guidelines, or designations under the Shoreline Management Act. [RCW 90.58.170 or its successor; 90.58.180 or its successor; and WAC 173-26-174 or its successor].

**Shorelines of State-wide Significance** - A select category of shorelines of the State, defined in RCW 90.58.030(2)(e) or its successor, where special preservation policies apply and where greater planning authority is granted by the Shoreline Management Act [RCW 90.58.020 or its successor]. Within the City’s jurisdiction all those areas lying seaward from the line of extreme low tide are shorelines of state-wide significance [RCW 90.58.030(1)(e)(iii) or its successor].

**Shorelines of the State** - Shorelines and shorelines of state-wide significance.

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

**Sign** - Any letter, figure, design, symbol, trademark or other device which is intended to attract attention to any activity, service, place, political office, subject, firm, corporation or merchandise, except traffic signs or signals, public or court notices, signs not visible from the public right-of-way or adjacent properties, signs on moving vehicles, newspapers, leaflets or other printed materials intended for individual use or individual distribution to members of the public, government flags, flags and buntings exhibited to commemorate national patriotic holidays and temporary banners announcing charitable or civic events.
**Significant removal of vegetation** - The removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. The approved removal of trees determined to be hazardous does not apply. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal in the Washington State Shoreline Master Program Guidelines, Chapter 173-26 WAC 99 of 100.

**Single-family Residence (SFR)** - A detached dwelling designed for and occupied by one family, including those structures and developments within a contiguous ownership which are a normal appurtenance. [WAC 173-27-44040(21)(g) or its successor].

**Soil Bioengineering** - An applied science that combines structure, biological, and ecological concepts to construct living structures that stabilize the soil to control erosion, sedimentation, and flooding using live plant materials as a main structural component.

**Solid Waste Disposal** - Discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste, including hazardous waste, on land or in the water.

**Solid Waste** - Solid and semi-solid wastes, including garbage, rubbish, ashes, industrial wastes, wood wastes, and sortyard wastes associated with commercial logging activities, swill, demolition and construction wastes, abandoned vehicles and parts of vehicles, household appliances, and other discarded commodities. Solid waste does not include wastewater, dredge material, agricultural, or other commercial logging wastes not specifically listed above. See landfill and dredging material.

**Spit** - An accretion shoreform which extends seaward from and parallel to the shoreline. They are usually characterized by a wave-built berm on the windward side and a more gently sloping, muddy, or marshy shore on the leeward side. A curved spit is normally called a hook.

**Spur Dock** - See Groin.

**SSDP** - Shoreline Substantial Development Permit.

**Statement of Exemption** - A written statement by the Administrator that a particular development proposal is exempt from the substantial development permit requirement and is generally consistent with this Program including the policy of the Act (RCW 90.58.020).

**Storm Surge** - A rise above normal water level on the open coast due to the action of wind forces on the water surface or to atmospheric pressure reduction.

**Stormwater Management** – The control of storm water drainage through a systematic design that performs a particular function, or multiple functions, and includes but not limited to, pipes.
swales, ditches, culverts, street gutters, detention basins, retention basins, constructed wetlands, infiltration devices, catchbasins, oil/water separators, sediment basins and modular pavement.

**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 173-274-030(15) or its successor].

**Subdivision** - The division or redivision of land, including short subdivisions, for the purpose of sale, lease, or conveyance.

**Substantial Development** - Any development of which the total cost or fair market value exceeds the amount specified in WAC 173-26-040(2)(a): two thousand five hundred (2,500) dollars [or another amount established in 90.58.030(3)(e) RCW or its successor], or any development which materially interferes with the normal public use of the water or shorelines of the State, except as specifically exempted pursuant to RCW 90.58.030(3)(e) or its successor and WAC 173-27-14-040 or its successor. See definitions for Development and Exemption.

**Substantial Progress** - Substantial progress toward completion of a permitted activity includes all of the following, where applicable: the making of contracts, signing of notice to proceed, completion of grading and excavation and the laying of major utilities; or, where no construction is involved, commencement of the activity. [WAC 173-27-14-0690 or its successor].

**Subtidal** - The area of the marine environment below extreme low tide.

**Sustainable Development** - Development which maintains a balance between the health of the natural environment and the needs of the human community which lives within it.

**Surface Water** - Water that travels across the surface of the ground, rather than infiltrating.

**Swamp** - A depressed area flooded most of the year to a depth greater than that of a marsh and characterized by areas of open water amid soft, wetland masses vegetated with trees and shrubs. Extensive grass vegetation is not characteristic.

**Swell** - Wind-generated waves that have traveled out of their generating area. Swell characteristically exhibits a more regular and longer period and has flatter crests than waves with their fetch.

**Terrestrial** - Of or relating to land as distinct from air or water.

**Tidal Inlet** - A salt water bay, subject to the daily influence of the tides, whose mouth is narrower than its length. The inlet is considered to be all lands and waters seaward of the ordinary high water mark, and extending to its mouth. Within tidal inlets, specific areas that constitute critical habitat are designated for special protection under the Master Program.
**Tidal Flats** - Marshy or muddy areas of the seabed which are covered and uncovered by the rise and fall of tidal water.

**Tidal Lagoon** - A body of saline water (salinity greater than 0.5 parts per thousand) with a constricted or subsurface outlet that is subject to the periodic, but not necessarily daily, exchange of water with Puget Sound or a tidal inlet. The exchange may occur seasonally, during storms, or during the highest spring tides. The connection between the sea and the lagoon does not necessarily have to be on the surface; the connection can be subsurface through permeable gravel or sand berms.

**Tidal Range** - The difference in height between consecutive high and low water.

**Tidal Water** - Includes marine and estuarine waters bounded by the ordinary high water mark. Where a stream enters the tidal water, the tidal water is bounded by the extension of the elevation of the marine ordinary high water mark within the stream. [WAC 173-22-030(9) or its successor].

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

**Toxic Material** - Any material damaging marine life including, but not limited to, paints, varnishes, anti-fouling agents, bleaches, petroleum, and contaminated bilge waste water.

**Transient Moorage** - Moorage for a stay of less than two (2) weeks.

**Transportation Facilities** - Those structures and developments that aid in land and water surface movement of people, goods, and services. They include roads and highways, bridges and causeways, bikeways, trails, railroad facilities, ferry terminals, float plane terminals, heliports, and other related facilities.

**Unavoidable** - Adverse impacts that remain after all appropriate avoidance and minimization measures have been implemented.

**Updrift** - In the direction opposite of dominant alongshore sediment transport.

**Upland** - Generally described as the area above and landward of the OHWM.

**Utilities, Accessory** - Small scale distribution systems directly serving a permitted shoreline use. They include power, telephone, cable, water, sewer, septic, and stormwater lines.

**Utilities, Primary** - Facilities that produce, transmit, carry, store, distribute, or process electric power, gas, water, sewage, or information. Primary utilities include solid waste handling and disposal facilities, wastewater treatment facilities, utility lines, electrical power generating or
transfer facilities, radio, *cellular*–wireless telephone and microwave tower, and gas distribution and storage facilities.

**Variance** - A means to grant relief from the specific bulk, dimensional, or performance standards specified in the applicable Master Program. Variance permits must be specifically approved, approved with conditions, or denied by the Washington State Department of Ecology. (See WAC 173-14-150 or its successor).

**Vegetative Stabilization** – Planting of vegetation to retain soil and retard erosion, reduce wave action, and retain bottom materials. It also means utilization of temporary structures or netting to enable plants to establish themselves in unstable areas.

**Vessel** - A floating structure that is designed primarily for transportation, is normally capable of self propulsion and navigation, and meets all applicable laws and regulations pertaining to navigation and safety equipment on vessels, including, but not limited to, registration as a vessel by an appropriate government agency. A ship, boat, barge, or any other floating craft which is designed and used for navigation and does not interfere with normal public use of the water. [WAC 173-27-14-030(18) or its successor].

**View Corridor** - An area free of buildings and other view-blocking structures which provides visual access to water and/or the shoreline.

**WAC** - Washington Administrative Code.

**Water-bar** – A diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which cause soil movement and erosion.

**Water-dependent Use** - A use or a portion of a use which cannot exist in a location that is not adjacent to the water which is dependent on the water by reason of the intrinsic nature of its operation requires direct contact with the water and cannot exist at a nonwater location due to the intrinsic nature of its operations. Examples of water-dependent uses may include ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities, and sewer outfalls.

**Water-enjoyment Use** - A recreational use, or other use facilitating public access to the shoreline as a primary characteristic of the use, or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through the location, design, and operation ensure the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public, and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that foster shoreline enjoyment. Primary water-enjoyment uses may include, but are not limited to, parks, piers, and other improvements facilitating public access to shorelines of the State. General water-enjoyment uses may include, but are not limited to, restaurants, museums, aquariums.
educational/scientific reserves, resorts, and mixed use commercial, provided that such uses conform to the above water-enjoyment specifications and the provisions of the Master Program.

**Water-oriented Use** - Refers to any combination of water-dependent, water-related and/or water-enjoyment uses and serves as an all-encompassing definition for priority uses under the Shoreline Management Act.

**Water quality** - The physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, the term "water quantity" refers only to development and uses regulated under this chapter and affecting water quantity, such as impermeable surfaces and storm water handling practices. Water quantity, for purposes of this chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

**Water-related** - A use or a portion of a use which is not intrinsically dependent on a waterfront location, but whose economic viability is dependent upon a waterfront location because:

a. 1. Of a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water or,

b. 2. The use provides a necessary service supportive of the water-dependent commercial activities and the proximity of the use to its customers makes its services less expensive and/or more convenient.

Examples include: 1) manufacturers of ship parts large enough that transportation becomes a significant factor in the product(s) cost, 2) professional services serving primarily water-dependent activities, and 3) storage of water-transported foods. Examples of water-related uses may include warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker, and log storage.

**Wave Direction** - The direction from which waves approach an observer.

**WDFW** - Washington State Department of Fish and Wildlife.


**Weir** - A structure in a stream or river for measuring or regulating stream flow.

**Wetlands** - Areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to 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 nonwetland 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 that were created after July 1, 1990, that were unintentionally created as a result of the...
construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands. \([\text{WAC 173-22-030 (10) and (11)}]\)

**Wetlands, Jurisdictional** - See “shoreland areas.”

**Zone of Impact** - The area of the subject property where the incident wave energy is distributed, in relation to the primary structure and primary appurtenances and the angle of the incident wave.

**Zone of Influence** - *For geological hazardous areas,* the zone of influence means an area, usually upslope from a geologically hazardous area, where changes in land use and hydrology can affect the stability of the geologically hazardous area. The zone of influence is defined as 300 feet upslope from slopes greater than 40 percent, and 200 feet upslope from slopes greater than 15 percent but less than 40 percent that are determined to be geologically hazardous areas.

**Zoning** - To designate by ordinance, including maps, areas of land reserved and regulated for specific land uses.
Appendix A

Shoreline Designation Map

Appendix B
Bainbridge Island Shoreline Master Program---PC Recommendation April 12, 2012
Critical Areas

B-1. Definitions.

For the purposes of this subsection, the following definitions shall apply:

1. “Aquifer recharge area” means the surface area of any geological formation sufficiently pervious to provide fresh water to an aquifer through the process of infiltration and percolation.
2. “Base flood” means a general and temporary condition of partial or complete inundation of normally dry land areas having a one percent chance of being equaled or exceeded in any given year. Base flood elevation data is commonly displayed as an elevation line on flood insurance maps, showing the location of the expected whole-foot water-surface elevation of the base (100-year) flood.
3. “Best management practices” (BMPs) means conservation practices or systems of practices and management measures that:
   a. Control soil loss and protect water quality from degradation caused by nutrients, animal waste, toxins, and sediment; and
   b. Minimize adverse impacts to surface water and groundwater flow, and to the chemical, physical, and biological characteristics of critical areas.
   BMPs are defined by the United States Department of Agriculture, the State of Washington Department of Agriculture, the Washington State Department of Ecology, Washington State Department of Health, Kitsap Conservation District, and other professional organizations.
4. “Buffer” means an area adjoining to and a part of a critical area that is required for the continued maintenance, functioning, and/or structural stability of that critical area, or an area adjacent to a stream or wetland that (a) surrounds and protects the functions and values of the stream or wetland from adverse impacts, (b) is an integral part of a stream or wetland ecosystem, and (c) provides shading, input of organic debris and coarse sediments, room for variation in stream or wetland edge, habitat for wildlife, and protection from harmful intrusion, to protect the public from losses suffered when the functions and values of the wetland or stream are degraded.
5. “Category I, II, III, IV wetlands”: see “Wetland category”.
6. “Critical areas” means aquifer recharge areas, fish and wildlife habitat-conservation areas, frequently flooded areas, geologically hazardous areas, and wetlands.
7. “Critical habitat” means a habitat identified by US Fish and Wildlife Service or the National Marine Fisheries Service as habitat necessary for survival of endangered or threatened species.
8. “Educational or scientific activities” means controlled and/or supervised scientific activities or educational activities that are associated with an educational program that is approved through a conditional use permit.

9. “Engineering geologist” means a practicing engineering geologist who has at least four years of professional employment as an engineering geologist with experience in landslide evaluation, and a Washington State specialty license in engineering geology as specified in Chapter 18.220 RCW.

10. “Erosion hazard area” means a landform or soil type subject to being worn away by the action of water, wind, freeze-thaw, or ice, and which are:
   a. Rated in the Soil Survey of Kitsap County Area, Washington, USDA (1980), as having severe hazard of water erosion, including:
      i. Indianola-Kitsap Complex, 45 to 70 percent slope;
      ii. Kitsap Silt Loam, 15 to 30 percent slope, 30 to 45 percent slope;
      iii. Ragnar Fine Sandy Loam, 15 to 30 percent slope; and
      iv. Schneider very gravelly loam, 45 to 70 percent slope;
   b. Classified in the Department of Ecology Coast Zone Atlas as:
      i. Class 3, class U (unstable) includes severe erosion hazards and rapid surface runoff areas;
      ii. Class 4, class UOS (unstable old slides) includes areas having severe limitations due to slope; and
      iii. Class 5, class URS (unstable recent slides); and
   c. Identified by the USGS Surface Geology Map of Bainbridge Island (Haugerud, 2001) as rilled slopes/scarps.

11. “Existing development” means a development that was lawfully constructed, approved or established prior to the effective date of the ordinance codified in this chapter.

12. “Fish” means species of the vertebrate taxonomic groups Cephalospidomorphi and Osteichthyes.

13. “Fish and wildlife habitat” means a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term. These include areas of relative density or species richness, breeding habitat, winter range, and movement corridors. These also include habitats of limited availability or high vulnerability to alteration, such as cliffs, streams and wetlands.

14. “Fisheries biologist” means a person with experience and training in fisheries who is able to submit substantially correct reports on fish population surveys, stream surveys and other related data analyses of fisheries resources. “Substantially correct” means that technical or scientific errors, if any, are minor and do not delay or affect the site plan review process. Qualifications of a fisheries biologist include:
   a. Either:
      i. Certification by the American Fisheries Society, or;
ii. Bachelor of Science degree in fisheries or the biological sciences from an accredited institution and five years of professional fisheries experience; and
b. The prior successful completion of at least three habitat management plans; and
c. The biologist is listed on a roster of qualified professionals prepared by the Director.

15. “Frequently flooded areas” means lands subject to a one percent or greater chance of flooding in any given year, as determined by the Federal Emergency Management Agency. These areas include, but are not limited to, floodplains adjacent to streams, lakes, coastal areas, and wetlands. (Also see Chapter 15.16 BIMC, Flood Damage Prevention.)

16. “Functions” means the beneficial roles served by critical areas including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, groundwater recharge and discharge, erosion control, wave attenuation, aesthetic value protection, and recreation. These roles are not listed in order of priority.

17. “Geologically hazardous areas” means areas susceptible to significant erosion, sliding, or other geological events. They pose a threat to the health and safety of citizens when used as sites for incompatible commercial, residential or industrial development. Geologically hazardous areas include erosion hazard areas, landslide hazard areas, and seismic hazard areas.

18. “Geotechnical engineer” means a practicing geotechnical/civil engineer who has a valid Washington engineering license and a valid certificate of registration in civil engineering, at least four years of professional employment as a geotechnical engineer with experience in landslide evaluation, and appropriate training and experience as specified in Chapter 18.43 RCW.

19. “Habitat Management Plan” (HMP) means a report prepared by a professional wildlife biologist or fisheries biologist which discusses and evaluates critical fish and wildlife habitat functions and identifies and evaluates measures necessary to enhance and improve habitat conservation on a proposed development site.

20. “Habitat of local importance” means a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain their population and reproduce over the long-term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These might also include habitats that are of limited availability or areas of high vulnerability to alteration, such as cliffs and wetlands.

21. “Hazard tree” means a tree with structural defects likely to cause failure of all or part of the tree, which could strike a “target.” A target can be a building or a place where people gather such as a park bench, picnic table, street, or backyard. In the case of steep slopes, a hazard tree can also be a tree that is a hazard to stability of the slope, as determined by a geotechnical engineer.

22. “Hazardous substances” means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the characteristics or criteria of hazardous waste as specified in RCW 70.105.010. (Also see BIMC 18.06.450 through 18.06.510).
23. “Hydric soil” means soil which is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

24. “Hydrogeologist” means a practicing hydrogeologist who has at least four years of professional employment as a hydrogeologist with experience in the specific subject area in which they are providing a report, and a Washington specialty license in hydrogeology as specified in RCW Chapter 18.220.

25. “Hydrophyte or hydrophytic vegetation” means plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content. The presence of hydrophytic vegetation shall be determined following the methods described in the "Washington State Wetlands Identification and Delineation Manual (Department of Ecology publication #96-04)" or its most current edition, Within the Federal delineation manual and Regional supplement or its successor.

26. “Impact of land use” means the relative measure of the intensity of land use used to determine the appropriate buffer widths for wetlands and streams which is categorized as follows:
   a. High impact land use includes commercial development, industrial development, institutional development, residential (more than one unit per acre) development, new agriculture (high-intensity such as dairies, nurseries, greenhouses, raising and harvesting crops requiring annual tilling, raising and maintaining animals), and high-intensity recreation such as golf courses and ballfields.
   b. Moderate impact land use includes residential development (1 unit/acre or less), new agriculture (moderate-intensity such as orchard and hay fields), paved trails, and building of logging roads.
   c. Low impact land use includes low-intensity open space such as passive recreation, natural resources preservation, and unpaved trails.

27. “Invasive/exotic species” means plants and animals that are not native to the Puget Sound lowlands and are recognized by wetland professionals or biologists to be highly competitive with native vegetation and animals. Invasive/exotic plant species include those listed on the noxious weed list developed by the Washington State Noxious Weed Board, nonnative blackberries and English ivy. Invasive/exotic animal species include any species, such as rats, bullfrogs, zebra mussels and green crabs, considered by resource professionals to be damaging to the native animal populations.

28. “Landslide hazard areas” means areas which are potentially subject to risk of mass movement due to a combination of factors, including historic failures, geologic, topographic, and hydrologic features. Some of these areas are identified in the Department of Ecology Coastal Zone Atlas and USGS Surface Geology Map of Bainbridge Island (Haugerud, 2001). The presence of these factors shall be determined through assessment, by the least intrusive means, by the City Engineer or at the City Engineer’s request by a third party geoengineer or geotechnical expert, prior to issuance of any permit. Landslide hazard areas include the following:
   a. Areas characterized by slopes greater than 15 percent having springs or groundwater seepage and having impermeable soils (typically silt and clay) overlain or frequently interbedded with permeable granular soils (predominantly sand and gravel);
   b. Any area potentially unstable due to rapid stream incision or stream bank erosion;
c. Any area located on an alluvial fan, debris flow deposit, or in a debris flowpath, presently or potentially subject to impacts or inundation by debris flows or deposition of stream-transported sediments;
d. Any area with a slope of 40 percent or greater and with a vertical relief of 10 or more feet except areas composed of competent consolidated rock;
e. Any area designated or mapped as class U, UOS, or URS by the Department of Ecology Coastal Zone Atlas and/or mapped as a landslide or scarp on the USGS Surface Geology Map of Bainbridge Island (Haugerud, 2001); or

29. “Liquefaction” means a process in which a water-saturated soil, upon shaking, suddenly loses strength and behaves as a fluid.

30. “Mitigation categories” means
   - b. The following specific categories: (need for mitigation ratios)
     - i. Mitigation, Compensatory: replacing project-induced critical area losses or impacts, including, but not limited to, establishment, re-establishment, rehabilitation or enhancement.
     - ii. Mitigation, Establishment: Mitigation performed to intentionally establish a critical area (e.g., wetland) at a site where it does not currently exist.
     - iii. Mitigation, Re-Establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former critical area.
     - iv. Mitigation, Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions and processes to a degraded critical area.
     - v. Mitigation, Enhancement: The manipulation of the physical, chemical, or biological characteristics of a biological wetland to heighten, intensify or improve specific function(s) or to change for specific purposes such as water quality improvement, flood water retention, or wildlife habitat.

31. “Normal maintenance” means those usual acts to prevent a decline, lapse or cessation from a lawfully established condition. Normal maintenance includes removing debris from and cutting or manual removal of vegetation in crossing and bridge areas. Normal maintenance does not include:
   - a. Use of fertilizer or pesticide application in wetlands, Fish and Wildlife Habitat Conservation Areas, or their buffers;
   - b. Re-digging ditches in wetlands or their buffers to expand the depth and width beyond the original ditch dimensions;
   - c. Re-digging existing drainage ditches in order to drain wetlands on lands not classified as existing and ongoing agriculture under Section B-2(C) (Exemptions).

32. “Open space” means undeveloped areas of varied size. Open space often contains distinctive geologic, botanic, zoologic, historic, scenic or other critical area, or natural resource land features.

33. “Ravine” means a V-shaped landform generally having little to no floodplain and normally containing steep slopes, which is deeper than 10 vertical feet as measured from the centerline of the ravine to the top of the slope. Ravines are typically created by the wearing of...
action of streams. The top of the slope is determined where there is a significant change in the slope to generally less that a 15 percent slope.

34. “Reasonable alternative” means an activity that could feasibly attain or approximate a proposal’s objectives, but at a lower environmental cost or decreased level of environmental degradation.

35. “Repair” means activities that restore the character, size, or scope of a project only to the previously authorized condition.

36. “Seismic hazard areas” means areas subject to severe risk of damage as a result of seismic induced ground shaking, or surface faulting. While ground shaking is the principal risk because the entire island will shake significantly, severe damage will occur where slope failure, liquefaction, and settlement are induced by the shaking and surface rupture is created by fault movement. The following areas are considered seismic hazard areas:
   a. Seismic Landslide Hazard Areas - Slopes which are stable in non-earthquake periods, but fail and slide during ground shaking;
   b. Liquefaction Hazard Areas - Areas of cohesionless, loose or soft, saturated soils of low density in association with a shallow groundwater table that are subject to settlement and/or liquefaction from ground shaking, or;
   c. Fault Hazard Areas - Areas of known surface rupture or significant surface deformation as a result of an active fault movement, including 50 feet on either side.

37. “Site” means the entire lot, series of lots, or parcels on which a development is located or proposed to be located, including all contiguous undeveloped lots or parcels under common ownership.

38. “Streams” means those areas in the City of Bainbridge Island where the surface water flows are sufficient to produce a defined channel or bed. A defined channel or bed is an area which demonstrates clear evidence of the passage of water and includes but is not limited to bedrock channels, gravel beds, sand and silt beds, and defined-channel swales. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff devices, or other artificial watercourses unless they are used by fish or used to convey streams naturally occurring prior to construction.

39. “Stream Types” means a streams classification system based on fish usage and perennial or seasonal water regime as found in WAC 222-16-030 and meeting the standards listed below:
   a. “Type F Stream” means a stream that has suitable fish habitat. If fish usage has not been determined, water having the following characteristics are presumed to have fish use: Streams segments having a defined channel of 2 feet or greater within the bankfull width and having a gradient of 16 percent or less. Determination of fish usage shall use the methodology found in Washington Department of Natural Resource’s Forest Practice Board Manual, Section 13.
   b. “Type Np” means all segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are waters that do not go dry any time of a year of normal rainfall. However, for the purpose of water typing, Type Np Waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow.
c. “Type Ns” means all segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np Waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np Water. Ns Waters must be physically connected by an above-ground channel system to marine waters, Type F, or Np Waters.

40. “Wetland or wetlands” means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined in Department of Ecology publication #96-94, Washington State Wetlands Identification and Delineation Manual or the current Washington State Department of Ecology methodology. Wetlands generally include swamps, estuaries, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland 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 result of the construction of a road, street, or highway. Wetland may include those artificial wetland intentionally created from nonwetland areas to mitigate the conversion of wetlands.

41. “Wetland boundary” means the boundary or edge of a wetland as delineated using the methodology found in Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Cost Region (Version 2.0) or Washington State Department of Ecology current methodology. Per WAC173-22-035.

42. “Wetland category” means category as defined in “Washington State Wetland Rating System for Western Washington, Revised,” Department of Ecology publication #04-06-025, or as revised and adopted by the department.


44. Wetland Mitigation.
   a. In-kind: To replace wetlands with substitute wetlands whose characteristics closely approximate those destroyed or degraded by a regulated activity. It does not mean replacement “in-category.”
   b. Off-site: To replace wetlands away from the site on which a wetland has been impacted by a regulated activity.
   c. On-site: To replace wetlands at or adjacent to the site on which a wetland has been impacted by a regulated activity.
   d. Out-of-kind: To replace wetlands with substitute wetlands whose characteristics do not closely approximate those destroyed or degraded by a regulated activity. It does not refer to replacement “out-of-category.”

45. Wetlands, Regulated.
   a. “Regulated wetlands” means:
      i. All Category I and II wetlands;
ii. All Category III and Category IV wetlands that are greater than 1,000 square feet;

b. Category I, II, III and IV wetlands include:
   i. Lands defined as wetlands shall be those 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.
   ii. Wetlands created as mitigation and wetlands modified for approved land use activities.

c. Regulated wetlands do not include artificial wetlands intentionally created from nonwetland 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.

46. “Wetlands specialist” means a person with experience and training in wetland issues who is able to submit substantially correct reports on wetland delineations, classifications, functional assessments and mitigation plans. “Substantially correct” means that errors, if any, are minor and do not delay or affect the site plan review process. Qualifications of a wetlands specialist include:
   a. Either:
      i. Certification as a Professional Wetland Scientist (PWS) or Wetland Professional in Training (WPIT) through the Society of Wetland Scientists, or;
      ii. Bachelor of science degree in the biological sciences from an accredited institution and five years of professional field experience; and
   b. The prior successful completion of at least three wetland reports; and
   c. The specialist is listed on a roster of qualified professionals prepared by the Director.

47. “Wildlife biologist” means a person with experience and training in the principles of wildlife management and with practical knowledge in the habits, distribution and environmental management of wildlife. Qualifications include:
   a. Either:
      i. Certification as a professional wildlife biologist through The Wildlife Society, or;
      ii. Bachelor of science or bachelor of arts degree in wildlife management, wildlife biology, ecology, zoology, or a related field, from an accredited institution and five years of professional field experience; and
   b. The prior successful completion of at least three habitat management plans; and
   c. The biologist is listed on a roster of qualified professionals prepared by the Director.

46. “Zone of Influence” means an area, usually upslope from a geologically hazardous area, where changes in land use and hydrology can affect the stability of the geologically hazardous area. The zone of influence is defined as 300 feet upslope from slopes greater than 40 percent, and 200 feet upslope from slopes greater than 15 percent but less than 40 percent that are determined to be geologically hazardous areas.
B-2. Applicability, exemptions, and prior development activity.

A. Applicability. This appendix establishes regulations for the protection of sites which contain critical areas or are adjacent to sites which contain critical areas in the shoreline jurisdiction. Development and land use activities proposed on critical area sites shall comply with the provisions of this Appendix. No action shall be taken by any person, company, agency, governmental body (including the City), or applicant, which results in any alteration of a critical area except as consistent with the purposes, requirements, objectives, and goals of this chapter.

B. Inventory of Critical Areas. This appendix shall apply to all critical areas located within the shoreline jurisdiction of the city. The approximate location and extent of these areas on Bainbridge Island is displayed on various inventory maps available at the city’s Department of Planning and Community Development. Maps and inventory lists are guides to the general location and extent of critical areas. Critical areas not shown are presumed to exist on Bainbridge Island and are protected under all the provisions of this chapter. In the event that any of the designations shown on the maps or inventory lists conflict with the site-specific conditions, site-specific conditions shall control.

C. Exemptions. The following activities are exempt from the requirements of this chapter

1. Emergencies that threaten the public health, safety and welfare. An "emergency" is an unanticipated and immediate threat to public health, safety, or the environment which requires action within a time too short to allow compliance with this chapter. Restoration or mitigation of critical areas and buffers impacted by emergency action shall be required in a timely matter.

2. Normal and routine maintenance of structures, landscaping and vegetation that will not further impact or alter critical areas or buffers.

3. Normal and routine maintenance and operation of pre-existing retention/detention facilities, biofilters and other stormwater management facilities, irrigation and drainage ditches, and fish ponds; provided, that such activities shall not involve conversion of any wetland not currently being used for such activity. Any maintenance of ponds located in stream habitat areas shall require appropriate approval from the Washington Department of Fish and Wildlife.

4. Structural alterations to buildings that do not increase the structural footprint or introduce new adverse impacts to an adjacent critical area, except for structures located on geologically hazardous areas which are not exempt.

5. Normal and routine maintenance or repair of existing utility structures within a right-of-way or existing utility corridor or easements, including the cutting, removal and/or mowing of vegetation.

6. Forest practices conducted pursuant to Chapter 76.09 RCW, except Class IV (general conversions) and Conversion Option Harvest Plans (COHP).

7. Activities within a portion of a wetland buffer or fish and wildlife habitat area buffer located landward of an existing, substantially developed area, such as a paved area, or permanent structure, which eliminates or greatly reduces the impact of the proposed activities on the
wetland or fish and wildlife habitat area. The Director shall review the proposal to determine the likelihood of associated impacts.

8. Hazard Tree Removal. Where a threat to human life, property, or slope stability is demonstrated, the Director may allow removal of danger or hazard trees subject to the following criteria:
   a. Tree removal is the minimum necessary to balance protection of the critical area and its buffer with protection of life and property; and
   b. The critical area or its buffer shall be replanted as determined by the Director.

   The Director may require the applicant to consult with a professional forester or a certified arborist prior to tree removal. Hazard tree abatement can sometimes be achieved by felling the tree or trimming the tree. Habitat needs may require leaving the fallen tree in the riparian corridor or maintaining a high stump for wildlife habitat.

9. Aquifer recharge areas. A person, or property, shall be exempt from the provisions of this chapter unless either of the following is true:
   a. The property is located in a fish and wildlife habitat conservation area, frequently flooded area, geologically hazardous area, and/or wetland; or
   b. One of more of the uses identified in Section B-E are proposed.

D. Standards for existing development.

1. Existing structures and related improvements. Structures and related improvements that were legally built or vested prior to the effective date of Ordinance No. 2012-4 that do not meet the setback or buffer requirements of this chapter may continue to exist in their present form, and may be altered, including remodeled, reconstructed, or expanded, if such alteration complies with the provisions of this Section and will result in no net loss of ecological function.

2. Existing structures, not located in a geologically hazardous area, that were legally built or vested prior to the effective date of Ordinance No. 2012-4 may be altered if:
   a. There is no change in the footprint of the building;
   b. The remodel is entirely inside the existing building;
   c. There is no further encroachment into the buffers required pursuant to this chapter unless a Variance is first approved; or
   d. Any expansion of the building footprint is exclusively on the sides that do not touch the buffers.

3. Existing property improvements other than structures, including driveways, parking areas, yards, play areas, storage areas, and similar improvements that were legally established or vested prior to the effective date of Ordinance No. 2012-4 may be altered if:
   a. There is no change in the location of the improvement;
   b. Any alteration of the improvement is entirely inside of the existing boundaries of the improvement;
   c. There is no further encroachment into the buffers unless a Variance is first approved; or
   d. Any increase in the area of the improvement is exclusively on the sides that do not touch the buffers.

4. Alterations permitted by this Section shall not be exempt from applicable City review or permit requirements or other applicable City codes.
B-3. Prescriptive buffers variations.
A. Intent. The City recognizes that in some cases it may not be possible to provide a critical area buffer that meets the dimensions prescribed by this ordinance, due to land area or other constraints. The City further recognizes that in some cases the desired or better critical area protection can be achieved through alternative approaches.

This section provides alternatives that can be pursued in lieu of the prescribed buffers when warranted by site-specific conditions. In considering an application for any of these alternatives, it shall always be the primary intent of the City to protect the functions and values of the critical areas. It is further the intent of the City to ensure that the application of the provisions of this chapter does not deprive an owner from reasonable use of their property.

Any proposed use of the following alternatives shall be supported by analysis utilizing appropriate science, to determine and minimize the impacts of the alternative:

B. Buffer Averaging. If characteristics of the property do not allow reasonable use with prescribed buffers, the Director may allow wetland and/or fish and wildlife conservation area buffer widths to be averaged. It is intended that the process for reviewing a buffer averaging proposal be as simple as possible, while ensuring that the following criteria are met:

1. The total area contained within the buffer after averaging shall be no less than that contained within the standard buffer prior to averaging;
2. The applicant demonstrates that such averaging will clearly provide greater protection of the functions and values of critical areas than would be provided by the prescribed habitat buffers.
3. The averaging will not result in reduced buffers next to highly sensitive habitat areas; and
4. The applicant demonstrates one or more of the following:
   a. That the wetland contains variations in sensitivity due to existing physical characteristics;
   b. That only low intensity uses would be located within 200 feet of areas where the buffer width is reduced, and that such low intensity uses restrictions are guaranteed in perpetuity by covenant, deed restriction, easement, or other legally binding mechanism; or
   c. That buffer averaging is necessary to avoid an extraordinary hardship to the applicant caused by circumstances peculiar to the property.

C. Habitat Management Plan. A Habitat Management Plan may be prepared pursuant to subsection A-4 when it can clearly be demonstrated that greater protection of the functions and values of critical areas can be achieved through the HMP than could be achieved through providing the prescribed habitat buffers. A Habitat Management Plan may be used as a means to protect wetland and/or fish and wildlife habitat conservation area buffers. Habitat Management Plans may not be used to reduce the water quality buffers for wetlands and/or fish and wildlife habitat conservation areas.

D. Public notice. Appropriate notice of, and opportunity to comment on, the proposed use of any of the foregoing alternatives shall be given to surrounding property owners and the general public, in a manner to be established by the Director.
B-4. Habitat management plan.

A. General. A Habitat Management Plan shall comply with the requirements of this Section, and shall clearly demonstrate that greater protection of the functions and values of critical areas can be achieved through the HMP than could be achieved through providing the prescribed habitat buffers. The Director shall prepare performance standards and monitoring guidelines for Habitat Management Plans, including a program for City oversight of such plans. Once the standards and guidelines are in place, an applicant may propose to implement an HMP as a means to protect habitat buffers associated with wetlands and/or fish and wildlife conservation areas.

B. Intent. HMPs are primarily intended as a means to restore or improve buffers that have been degraded by past activity, and should preserve, and not reduce, existing high quality habitat buffers. While not primarily intended as a means to reduce buffers, the HMP may propose a reduction of the habitat buffer width where it is shown that the HMP will comply with the other requirements of this Section. An HMP shall not reduce the prescribed water quality buffer width as listed in B-8 and B-10 under any circumstance.

C. Effect of buffers. An HMP shall provide habitat functions and values that are greater than would be provided by the prescribed habitat buffers. When habitat buffers are a component of an HMP, they shall be at least the minimum size necessary to accomplish the objectives of the HMP. The HMP may propose, but the City shall not require, a habitat buffer containing a greater area than is required by the prescribed habitat buffer.

D. Impact mitigation - general. The HMP shall encompass an area large enough to provide mitigation for buffer reduction below the standard required buffers, and shall identify how the development impacts resulting from the proposed project will be mitigated. The developer of the plan shall use the best available science in all facets of the analyses. The Washington Department of Fish and Wildlife Priority Habitat and Species Management Recommendations, dated May 1991, and/or bald eagle protection rules outlined in WAC 232-12-292, as now or hereafter amended, may serve as guidance for this report. For Habitat Management Plans addressing wetland buffers, Method for Assessing Wetland Functions, Ecology Publication #99-116 shall be used for guidance in determining function equivalency. All Habitat Management Plans shall be reviewed by a qualified third party selected by the City. The applicant will be responsible for the cost of the review.

F. Map. The Habitat Management Plan shall contain a map prepared at an easily readable scale, showing:
   1. The location of the proposed development site;
   2. Property boundaries;
   3. The relationship of the site to surrounding topographic, water features, and cultural features;
   4. Proposed building locations and arrangements;
   5. A legend which includes a complete legal description, acreage of the parcel, scale, north arrow, and date of map revision.

G. Report. The Habitat Management Plan shall also contain a report which contains:
   1. A description of the nature and intensity of the proposed development;
2. An analysis of the effect of the proposed development, activity or land use change upon the wildlife species and habitat identified for protection. If the Habitat Management Plan is addressing wetland habitat, the analysis shall compare an assessment of wildlife habitat suitability of the wetland applying standard buffers with an assessment of habitat suitability as proposed using Method for Assessing Wetland Functions, Washington State Department of Ecology (if available for the specific Hydrogeomorphic classification); and

3. A plan which identifies how the applicant proposes to mitigate any adverse impacts to wildlife habitats created by the proposed development. For wetland or other habitats protected by this chapter, the application shall show, using the appropriate function assessment methodology, that habitat functions and values are greater after the development than would occur had the prescribed buffers been provided (see Mitigation Plan requirements, Section 16.20.110).

4. All review comments received from outside reviewers. If the HMP recommends mitigation involving federally listed threatened or endangered species, migratory waterfowl or wetlands, the U.S. Fish and Wildlife Service shall receive a copy of the draft HMP.

5. The HMP shall specifically address, as appropriate, the following:
   a. Enhancement of existing degraded buffer area and replanting of the disturbed buffer area with native or equivalent vegetation;
   b. The use of alternative on-site wastewater systems in order to minimize site clearing;
   c. Infiltration of stormwater where soils permit;
   d. Retention of existing native or equivalent vegetation on other portions of the site in order to offset habitat loss from buffer reduction; and
   e. The need for fencing and signage along the buffer edge.

H. Mitigation measures. Possible mitigation measures to be included in the report, or required by the Director, could include, but are not limited to:
   1. Establishment of buffer zones;
   2. Preservation of critically important plants and trees;
   3. Limitation of access to habitat areas;
   4. Seasonal restriction of construction activities;
   5. Establishing phased development requirements; and
   6. Monitoring plan for a period necessary to establish that performance standards have been meet. Generally this will be for a period of seven to ten years.

I. HMP adequacy. The HMP shall demonstrate to the satisfaction of the Director that the habitat functions and values are improved by implementation of the HMP. If there is a disagreement between the Director and the applicant as to the adequacy of the HMP, the issue of plan adequacy shall be resolved by consulting with the Washington Department of Fish and Wildlife for HMPs relating to streams or the Washington Department of Ecology for HMPs relating to wetlands. If the State agencies are not available in a timely manner, the applicant may choose to have the City refer the HMPs to a third party consultant at the expense of the applicant. After consultation with such State departments or third party consultant, the Director shall make a final decision on the adequacy of the HMP.
J. Timing. An HMP must be developed and approved either prior to preliminary plat approval or issuance of the building permit, as applicable, and must be implemented before the City grants either final plat approval or an occupancy permit, as applicable.

K. Performance Surety. The Director may require that the applicant provide a performance surety to ensure conformance with mitigation requirements of the habitat management plan pursuant to Section B-4.

B-5. Application requirements.
A. Submittal Requirements. In addition to the general submittal requirements for all applications in the Administration Handbook applications for land use or development proposals within critical areas or their buffers shall be filed with the information requested on the application forms available from the Department of Planning and Community Development. The applicant shall not be granted any approval or permission to conduct development or land use in a critical area and/or its buffer prior to fulfilling the requirements of this chapter.

B. Support Information Requirements. When support information is required by the Director it shall contain the following and be prepared by one or more of the experts listed in Subsection B.4 of this section:

1. A description of the critical areas on or adjoining the site and how the proposed development will or will not impact critical areas, their buffers, and adjoining properties, including:
   a. Drainage, surface and subsurface hydrology, and water quality;
   b. Existing vegetation as it relates to wetlands, steep slopes, soil stability, and fish and wildlife habitat value; and
   c. Other critical area characteristics and functions.

2. Recommended methods for mitigating impacts and a description of how these methods may impact adjacent properties;

3. Any additional information determined as relevant by the Director;

4. Such studies shall be prepared by experts in the area of concern, who shall be selected from a list of approved consultants prepared by the Director, as follows:
   a. Aquifer recharge study: Hydrogeologist;
   b. Flood hazard area study: Professional civil engineer; hydro-geologist;
   c. Geologically hazardous area study: Engineering geologist; geotechnical engineer, provided that:
      i. An engineering geologist may provide a study, including interpretation, evaluation, analysis, and application of geological information and data and may predict potential or likely changes in types and rates of surficial geologic processes due to proposed changes to a location, provided it does not contain recommended methods for mitigating identified impacts, other than avoidance, structural impacts to, or suitability of civil works; and
      ii. Engineering geologists may not provide engineering recommendations or design recommendations, but may contribute to a complete geotechnical report that is co-sealed by a geotechnical engineer.
   d. Stream, riparian area, drainage corridor study: Biologist with stream ecology expertise; fish or wildlife biologist; a civil engineer may provide studies for drainage, surface and subsurface hydrology, and water quality;
   e. Wetland study: Wetlands specialist.
f. Habitat Management Plans: Wildlife biologist and/or fisheries biologist.

5. The Director may in some cases retain experts at the applicant’s expense to assist in the review of studies; and

6. Such studies shall be prepared in accordance with procedures established by the Director or City Engineer as specified.

B-6. Mitigation plan requirements.

A. All critical area restoration, creation and/or enhancement projects required pursuant to this chapter appendix either as a permit condition or as a result of an enforcement action shall follow a mitigation plan prepared by an expert approved by the Director. The applicant or violator shall receive written approval of the mitigation plan by the Director prior to commencement. Compensatory mitigation is not required for allowed activities which utilize best management practices to protect the functions and values of regulated critical areas.

B. Purpose of Mitigation Plan. The mitigation plan shall provide information on land acquisition, construction, maintenance and monitoring of the replaced critical area. The mitigation plan shall recreate as nearly as possible the original critical area in terms of its acreage, function, geographic location and setting.

C. Mitigation Plan Submittal Requirements. A complete mitigation plan shall consist of plot plans, a written report, and performance bonds, as required below. The plot plans and written report shall be prepared by qualified professionals approved by the Director.

1. Plot Plan Requirements. The following information shall be submitted on one or more plot plans (as determined by the Director):

a. A legal description and a survey (boundary and topography) prepared by a licensed surveyor of the proposed development site, compensation site, and location of existing critical area(s) on each. This shall include wetland delineation and existing wetland acreage.

b. Scaled plot plan(s) indicating:

i. Proposed construction;

ii. Zoning setback and critical area buffer requirements;

iii. Construction phasing and sequence of construction;

iv. Site cross-sections, percent slope, existing and finished grade elevations;

v. Soil and substrate conditions;

vi. Grading and excavation plan, including erosion and sediment control plans needed for construction and long-term survival; substrate stockpiling locations and techniques, and source controls needed for critical area construction and maintenance;

vii. Landscape plans indicating species, types, quantities, locations, size, spacing or density of planting; planting season or timing; planting instructions, watering schedule and nutrient requirements; source of plant materials or seeds; and, where appropriate, measures to protect plants from destruction or predation; and

viii. Water control structures and water-level maintenance practices needed to achieve the necessary hydrocycle/hydroperiod characteristics, etc.

2. Written Report Requirements. A written report shall accompany the plot plan(s) and shall provide the additional information required below. In addition, the report should be used as needed to clarify or explain elements of the plot plan(s).

a. Baseline Information.
i. Wetland delineation and existing wetland acreage;
ii. Vegetative, faunal and hydrologic characteristics;
iii. Soil and substrate conditions;
iv. Relationship within watershed and to existing streams, wetlands, ponds, or saltwater;
v. Existing and proposed adjacent site conditions; and
vi. Existing and proposed ownership.

b. Environmental Goals and Objectives. The report shall contain a description of the environmental goals and objectives to be met by the compensation plan. The goals and objectives shall be related to the functions and values of the original critical area or, if out-of-kind wetland mitigation, the type of wetland to be emulated. This analysis shall include, but is not limited to the following:
i. Site selection criteria;
ii. Identification of compensation goals;
iii. Identification of functions and values;
iv. Dates for beginning and completion of the project and compensation plan;
v. A complete description of the relationship between and among structures and functions sought;
vi. Review of available literature and/or known like-projects to date in restoring or creating the type of critical area proposed;
vii. Likelihood of success of the proposed compensation project at duplicating the original critical area. This shall be based on experiences of comparable projects identified in the literature review or existing projects, if any; and
viii. Likelihood of the ability of the created or restored critical area to provide the functions and values of the original critical area. This shall be based on such factors as surface water and groundwater supply and flow patterns; dynamics of the ecosystem; sediment or pollutant influx and/or erosion, periodic flooding and drought, etc.; presence of invasive flora or fauna; potential human or animal disturbance; and previous comparable projects, if any.

c. Performance Standards. Specific criteria shall be provided for evaluating whether or not the goals and objectives of the project are met and for beginning remedial action or contingency measures. Such criteria may include water quality standards, survival rates of planted vegetation, species abundance, and diversity targets, habitat diversity indices, or other ecological, geological or hydrological criteria.

d. Detailed Specifications. Written specifications and descriptions of compensation techniques shall be provided. These shall include, but not be limited to, items in Subsection C.2 of this Section.

e. Monitoring Program. A program outlining the approach for monitoring construction of the compensation project and for assessing a completed project shall be provided. Monitoring may include, but is not limited to:
i. Establishing vegetation plots to track changes in plant species composition and density over time;
ii. Using photo stations to evaluate vegetation community response;
iii. Sampling surface and subsurface waters to determine pollutant loading, and changes from the natural variability of background conditions (pH, nutrients, heavy metals);
iv. Measuring base flow rates and storm water runoff to model and evaluate water quality predictions, if appropriate;

v. Measuring sedimentation rates, if applicable; and

vi. Sampling fish and wildlife populations to determine habitat utilization, species abundance and diversity.

f. A protocol shall be included outlining how the monitoring data will be evaluated by agencies that are tracking the progress of the compensation project. A monitoring report shall be submitted annually, at a minimum, documenting milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than seven years.

g. Contingency Plan. Identification of potential courses of action, and any corrective measures to be taken when monitoring or evaluation indicates project performance standards are not being met.

D. Performance and Maintenance Surety and Demonstration of Competence. A demonstration of financial resources, administrative, supervisory, and technical competence and scientific expertise to successfully execute the compensation project shall be provided. A compensation project manager shall be named and the qualifications of each team member involved in preparing the mitigation plan and implementing and supervising the project shall be provided, including educational background and areas of expertise, training and experience with comparable projects. In addition, a surety ensuring fulfillment of the compensation project, monitoring program, and any contingency measure shall be posted. pursuant to BIMC 16.20.180.

E. City Consultation. The City may consult with and solicit comments from any federal, state, regional, or local agency, including tribes, having any special expertise with respect to any environmental impact prior to approving a mitigation proposal which includes critical areas compensation. The compensation project proponents should provide sufficient information on plan design and implementation in order for such agencies to comment on the overall adequacy of the mitigation proposal.

F. Permit Conditions. Any compensation project prepared pursuant to this section and approved by the Director shall become part of the application for the permit.

B-7. Aquifer recharge areas.

A. Classification. The entirety of Bainbridge Island is the recharge area for the island aquifers. Certain uses must be carefully evaluated before being approved, and others must be prohibited, in order to protect the city’s aquifers, due to the following:

1. Bainbridge Island is dependent upon its aquifers as the sole and essential source for drinking water. Critical recharge areas have the potential to affect potable water where an essential source of drinking water is vulnerable to contamination.

2. The island aquifers are vulnerable to pollution that has the potential to create a significant public health hazard. High vulnerability is indicative of land uses which produce contaminants that may degrade groundwater and low vulnerability is indicative of land uses which will not.

3. Susceptibility to pollution is a function of depth of groundwater, permeability of soils, soil types, presence of potential sources of contamination and any other relevant factors.
4. Soil types that transfer water to the aquifer are rated in terms of infiltration rate. Soil types with the high infiltration rates are associated with areas of high aquifer recharge. The rates and soil types are defined by the U.S. Department of Agriculture, Soil Conservation Service, in the Soil Survey of Kitsap County.

5. The island aquifers are vulnerable to a reduction in recharge from activities that reduce the infiltration rate on a site.

B. Hydrogeologic Assessment. The following proposed activities will require the preparation of a hydrogeologic assessment:

1. The use of hazardous substances, other than household chemicals used according to the directions specified on the packaging for domestic applications;
2. The use of injection wells, including on-site septic systems, except those domestic septic systems releasing less than 14,500 gallons of effluent per day; or
3. Any other activity determined by the Director likely to have an adverse impact on ground water quality or quantity or on the recharge of the aquifer.

C. Hydrogeologic Assessment Requirements. A hydrogeologic assessment shall include, at a minimum, the following site and proposal-related information:

1. Available information regarding geologic and hydrogeologic characteristics of the site including the surface location of all critical aquifer recharge areas located on site or immediately adjacent to the site, and permeability of the unsaturated zone;
2. Ground water depth, flow direction, and gradient based on available information;
3. Currently available data on wells and springs within 1,300 feet of the project area;
4. Location of other critical areas, including surface waters, within 1,300 feet of the project area;
5. Available historic water quality data for the area to be affected by the proposed activity;
6. Best management practices proposed to be utilized to protect groundwater quality; and
7. Low impact development practices designed to maintain infiltration rates to the underlying aquifers.

D. Performance Standards – Specific Uses.

1. Storage Tanks. All storage tanks proposed in a critical aquifer recharge area must comply with local building code requirements and must conform to the following requirements:
   a. Underground Tanks. All new underground storage facilities proposed for the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:
      i. Prevent releases due to corrosion or structural failure for the operational life of the tank;
      ii. Be protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substances; and
      iii. Use material in the construction or lining of the tank that is compatible with the substance to be stored.
   b. Aboveground Tanks. All new aboveground storage facilities proposed for the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:
      i. Not allow the release of a hazardous substance to the ground, ground waters, or surface waters;
      ii. Have a primary containment area enclosing or underlying the tank or part thereof; and
iii. A secondary containment system either built into the tank structure or a dike system built outside the tank for all tanks.

2. Vehicle Repair and Servicing
   a. Vehicle repair and servicing must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur.
   b. No dry wells shall be allowed on sites used for vehicle repair and servicing. Dry wells existing on the site prior to facility establishment must be abandoned using techniques approved by the state Department of Ecology prior to commencement of the proposed activity.

3. Residential Use of Pesticides and Nutrients. Application of household pesticides, herbicides, and fertilizers shall not exceed times and rates specified on the packaging.

4. Use of Reclaimed Water for Surface Percolation or Direct Recharge. Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer comprehensive plans that have been approved by the state departments of Ecology and Health.
   a. Use of reclaimed water for surface percolation must meet the ground water recharge criteria given in Chapter 90.46.080(1) and Chapter 90.46.010(10) RCW. The state Department of Ecology may establish additional discharge limits in accordance with Chapter 90.46.080(2) RCW.
   b. Direct injection must be in accordance with the standards developed by authority of Chapter 90.46.042 RCW.

5. State and Federal Regulations. The uses listed below shall be conditioned as necessary to protect critical aquifer recharge areas in accordance with the applicable state and federal regulations.

<table>
<thead>
<tr>
<th>Activity</th>
<th>Statute – Regulation – Guidance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Above Ground Storage Tanks</td>
<td>Chapter 173-303-640 WAC</td>
</tr>
<tr>
<td>Animal Feedlots</td>
<td>Chapter 173-216 WAC, Chapter 173-220 WAC</td>
</tr>
<tr>
<td>Below Ground Storage Tanks</td>
<td>Chapter 173-360 WAC</td>
</tr>
<tr>
<td>Chemical Treatment Storage and Disposal Facilities</td>
<td>Chapter 173-303-182 WAC</td>
</tr>
<tr>
<td>Hazardous Waste Generator (Boat Repair Shops)</td>
<td>Chapter 173-303 WAC</td>
</tr>
<tr>
<td>Activity</td>
<td>Statute – Regulation – Guidance</td>
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<td>------------------------------------------------------------------------</td>
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<tr>
<td><strong>Biological Research Facility, Dry Cleaners, Furniture Stripping, Motor Vehicle Service Garages, Photographic Processing, Printing and Publishing Shops, etc.)</strong></td>
<td></td>
</tr>
<tr>
<td>Injection Wells</td>
<td>Federal 40 CFR Parts 144 and 146, Chapter 173-218 WAC</td>
</tr>
<tr>
<td>Oil and Gas Drilling</td>
<td>Chapter 332-12-450 WAC, Chapter 173-218 WAC</td>
</tr>
<tr>
<td>On-Site Sewage Systems (Large Scale)</td>
<td>Chapter 173-240 WAC</td>
</tr>
<tr>
<td>On-Site Sewage Systems (&lt; 14,500 gal/day)</td>
<td>Chapter 246-272 WAC, Local Health Ordinances</td>
</tr>
<tr>
<td>Pesticide Storage and Use</td>
<td>Chapter 15.54 RCW, Chapter 17.21 RCW</td>
</tr>
<tr>
<td>Solid Waste Handling and Recycling Facilities</td>
<td>Chapter 173-304 WAC</td>
</tr>
<tr>
<td>Surface Mining</td>
<td>Chapter 332-18-015 WAC</td>
</tr>
</tbody>
</table>

E. Prohibited Uses. Uses Prohibited In Aquifer Recharge Areas. The following activities and uses are prohibited in Aquifer Recharge Areas:
1. Landfills. Landfills, including hazardous or dangerous waste, municipal solid waste, special waste, wood waste, and inert and demolition waste landfills;

2. Underground Injection Wells. Class I, III, and IV wells and subclasses 5F01, 5D03, 5F04, 5W09, 5W10, 5W11, 5W31, 5X13, 5X14, 5X15, 5W20, 5X28, and 5N24 of Class V wells;

3. Wood Treatment Facilities. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade);

4. Storage, Processing, or Disposal of Radioactive Substances. Facilities that store (other than minor sources such as medicinal uses or industrial testing devices) process, or dispose of radioactive substances; and

5. Other Prohibited Uses or Activities:
   a. Activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source; and
   b. Activities that would significantly reduce the recharge to aquifers that are a source of significant baseflow to a regulated stream.

B-8. Fish and wildlife habitat conservation areas.

A. Purpose. This section applies to all Fish and Wildlife Habitat Conservation Areas, as categorized in Subsection B-8 (B) below. The intent of this Section is to:

1. Preserve natural flood control, stormwater storage, and drainage or stream flow patterns;

2. Control siltation, protect nutrient reserves, and maintain stream flows and stream quality for fish and marine shellfish;

3. Prevent turbidity and pollution of streams and fish or shellfish bearing waters;

4. Preserve and protect habitat adequate to support viable populations of native wildlife and fish on Bainbridge Island; and,

5. Encourage non-regulatory methods of habitat retention whenever practical, through education and the Open Space Tax Program.

B. Fish and Wildlife Habitat Conservation Areas Categories.

1. Classification. The following categories shall be used in classifying Fish and Wildlife Habitat Conservation Areas:
   a. Marine Critical Areas. Commercial and recreational shellfish areas; kelp and eelgrass beds; marine and estuarine waters of the state and herring, sand lance and smelt spawning areas.
   b. Streams: All streams which meet the criteria for Type F, Np and Ns waters as set forth in WAC 222-16-030 of the Department of Natural Resources Water Typing System and as further modified by the definitions in this appendix. Once a stream has been classified, the City must document the reasons for changes in the classification.
   c. Fish and Wildlife Conservation Areas:
      i. Class I Fish and Wildlife Conservation Areas: Habitats recognized by federal or state agencies for federal and/or state listed endangered, threatened, and sensitive species documented in maps or data bases available to the City of Bainbridge Island and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.
ii. Class II Fish and Wildlife Conservation Areas. Habitats for State listed candidate, monitor, or priority species documented in maps or data bases available to City of Bainbridge Island and its citizens, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.

d. Habitats and Species of Local Importance. This section provides for the designation and protection of habitats and species of local importance.

i. Designation of species of habitat of local importance can be based on any of the following circumstances:

(a) Local populations of native species are in danger of extirpation based on existing trends.
(b) Local populations of native species are likely to become threatened or endangered under state of federal law.
(c) Local populations of native species are vulnerable or declining.
(d) The species or habitat has recreation, commercial, game, tribal, or other special value.
(e) Long-term persistence of a species is dependent on the protection, maintenance, and/or restoration of the nominated habitat.
(f) Protection by other county, state, or federal policies, laws, regulations, or non-regulatory tools is not adequate to prevent degradation of the species or habitat in the city.
(g) Without protection, there is likelihood that the species or habitat will be diminished over the long term.

ii. Nomination.

(a) Any person may nominate habitats and species for designation.
(b) The nomination should indicate whether specific habitat features are to be protected (for example, nest sites, breeding areas, and nurseries), or whether the habitat or ecosystem is being nominated in its entirety.
(c) Where the nomination is a specific habitat site, the nomination shall include the name and address of all property owners of record of all assessor parcels within the area potentially affected by the management recommendations. The list shall at a minimum include all properties within 300 feet from the edge of all property identified for special designation.
(d) The nomination shall include recommended management strategies for the species or habitats. Management strategies must be supported by the best available science, and where restoration of habitat is proposed, a specific plan for restoration must be provided prior to nomination.

iii. Nomination processing and approval. The decision whether to designate a nominated species or habitat as one of local importance shall be made by the City Council. If approved, the City Council shall pass an ordinance establishing the designation.

iv. Establishment of specific rules for protection. Within 120 days of the effective date of an ordinance designating a species or habitat of local importance, the Director shall develop an administrative rule addressing protection in compliance with this section.

C. Development Standards. Regulated uses in designated Fish and Wildlife Habitat Conservation Areas and/or buffers shall comply with the performance standards outlined in this section.

1. Development standards – streams:
a. Water quality buffers – An applicant shall provide the prescribed water quality buffers in Table 2 unless relief is granted through SMP Section 4.2.1.7 nonconforming lot or through a shoreline variance. A Reasonable Use Exception is granted pursuant to BIMC 16.20.080.

b. Habitat buffers – An applicant shall provide either:
   i. The prescribed habitat buffers in Table 2; or
   ii. An approved Habitat Management Plan, pursuant to Section B-4, that clearly provides greater habitat functions and values in perpetuity than the prescribed habitat buffers in Table 2.

c. Buffer distances shall be measured from the ordinary high water mark (OHM) or from the top of the bank where the OHM cannot be identified. Buffers shall be retained in their natural condition. It is acceptable, however, to enhance the buffer by planting native or equivalent vegetation as approved by the Director.

d. The buffer width shall be increased to include streamside wetlands which provide overflow storage for stormwater, feed water back to the stream during low flow, or provide shelter and food for fish. In braided channels, the ordinary high water mark or top of bank shall be defined so as to include the entire stream feature.

e. Refuse and landscaping debris shall not be placed in buffers.

f. Streams in Ravines - Buffers. For streams in ravines outside the Mixed Use Town Center with ravine sides 10 feet or greater in height, the buffer width shall be the greater of:
   i. The buffer width required for the stream type; or
   ii. A buffer width which extends 25 feet beyond the top of the ravine.

h. Building Setback Line. A building surface setback line of 15 feet is required from the edge of any fish and wildlife habitat conservation area buffer except as provided for in Section B-11. BIMC 16.20.170. Minor structures such as decks or impervious surfaces such as driveways may be permitted if the Director determines that such intrusions will not adversely impact the fish and wildlife habitat conservation area. The setback shall be identified on the site plan and filed as an attachment to the notice on title, as required by BIMC 16.20.190.

Table 2: Stream Buffers

<table>
<thead>
<tr>
<th>Stream Category</th>
<th>Water Quality Buffer</th>
<th>Habitat Buffer</th>
<th>Total Buffer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fish Bearing (F)</td>
<td>100 ft</td>
<td>50 ft</td>
<td>150 ft</td>
</tr>
<tr>
<td>Non-Fish Perennial (Np)</td>
<td>40 ft</td>
<td>10 ft</td>
<td>50 ft</td>
</tr>
<tr>
<td>Non-Fish Seasonal (Ns)</td>
<td>40 ft</td>
<td>10 ft</td>
<td>50 ft</td>
</tr>
</tbody>
</table>

3. Class I Fish and Wildlife Conservation Areas Development Standards. All development as described within this chapter or within 200 feet of designated Class I Wildlife Conservation Areas shall adhere to the following standards:

a. The applicant shall submit a Habitat Management Plan as specified in Section B-4 for approval by the Director. If a wildlife conservation area designation is based on the presence of bald eagles, a Bald Eagle Management Plan, approved by the Washington State Department of
Fish and Wildlife and meeting the requirements and guidelines of the bald eagle protection rules, WAC 232-12-292, as now or hereafter amended, shall satisfy the requirements for a Habitat Management Plan (HMP).

b. All new development within ranges and habitat elements with which Class I Fish and Wildlife have a significant relationship may require the submittal of a Habitat Management Plan (HMP) as specified in BIMC 16.20.060, Section B-4. The requirement for an HMP shall be determined during the SEPA/Critical Areas review on the project.

c. An HMP required pursuant to this section shall consider measures to retain and protect the wildlife habitat and shall consider effects of land use intensity, buffers, setbacks, impervious surfaces, erosion control and retention of native or equivalent vegetation.

d. Increased Buffer Provisions. The Director may increase buffer widths, up to 50% greater than the applicable buffer set in this chapter for critical areas with known locations of endangered, threatened, or state monitor or priority species for which a habitat management plan indicates a larger buffer is necessary to protect habitat values for such species. Such determination shall be based on site-specific and project-related conditions.

4. Class II Fish and Wildlife Conservation Area Development Standards. All development within designated Class II Wildlife Conservation Areas shall adhere to the following standards:

a. An HMP may be required for any proposed development within designated Class II Fish and Wildlife Conservation Areas. The HMP shall consider measures to retain and protect the wildlife habitat and shall consider effects of land use intensity, buffers, setbacks, impervious surfaces, erosion control and retention of native or equivalent vegetation. The requirement for an HMP shall be determined during the SEPA/Critical Areas review on the project.

b. Increased Buffer Provisions. The Director may increase buffer widths, up to 50% greater than the applicable buffer set in this chapter for critical areas with known locations of endangered, threatened, or state monitor or priority species for which a habitat management plan indicates a larger buffer is necessary to protect habitat values for such species. Such determination shall be based on site-specific and project-related conditions.

5. Stream Crossings. Any private or public road expansion or construction which is allowed and must cross streams classified within this chapter, shall comply with the following minimum development standards:

a. Bridges or bottomless culverts shall be required for all streams which have Salmonid breeding habitat. Other alternatives may be allowed upon submittal of a Habitat Management Plan which demonstrates that other alternatives would not result in significant impacts to the Fish and Wildlife Conservation Area, as determined appropriate through the Washington State Department of Fish and Wildlife, Hydraulics Project Approval process. The plan must demonstrate that salmon habitat will be replaced on a 1:1 ratio.

b. Crossings shall not occur in Salmonid spawning areas unless no other feasible crossing site exists. For new development proposals, if existing crossings are determined to adversely impact salmon spawning or passage areas, new or upgraded crossings shall be located as determined necessary through coordination with the Washington State Department of Fish and Wildlife;

c. Bridge piers or abutments shall not be placed in either the floodway or between the ordinary, high water marks unless no other feasible alternative placement exists;

d. Crossings shall not diminish flood carrying capacity;
e. Crossings shall serve multiple properties whenever possible;

f. Where there is no reasonable alternative to providing a conventional culvert, the culvert shall be the minimum length necessary to accommodate the permitted activity.

6. Stream Relocations. Stream relocations for the purpose of flood protection and/or fisheries restoration shall only be permitted when adhering to the following minimum performance standards and when consistent with Washington State Department of Fish and Wildlife Hydraulic Project Approval:

a. The channel, bank, and buffer areas should be replanted with native or equivalent vegetation that replicates a natural, undisturbed riparian condition;

b. For those shorelands and waters designated as Frequently Flooded Areas pursuant to Section B-1, a professional engineer licensed in the State of Washington shall provide information demonstrating that the equivalent base flood storage volume and function will be maintained; and

c. Relocated stream channels shall be designed to meet or exceed the functions and values of the stream to be relocated.

7. Pesticides, Fertilizers and Herbicides. No pesticides, herbicides or fertilizers may be used in Fish and Wildlife Conservation Areas or their buffers, except those approved by the EPA and approved under a DOE Water Quality Modification Permit for use in Fish and Wildlife Habitat Conservation Area environments. Where approved, herbicides must be applied by a licensed applicator in accordance with the safe application practices on the label.

8. Land Divisions and Land Use Permits. All land divisions and land uses proposed on a site that includes Fish and Wildlife Habitat Conservation Areas shall comply with the following procedures and development standards:

a. The open water area of lakes, streams, and tidal lands shall not be permitted for use in calculating minimum lot area.

b. Land division approvals shall be conditioned so that all required buffers are designated as an easement or covenant encumbering the buffer. Such easement or covenant shall be recorded together with the land division and represented on the final plat, short plat or binding site plan.

c. In order to avoid the creation of non-conforming lots, each new lot shall contain at least one building site that meets the requirements of this chapter, including buffer requirements for habitat conservation areas. Each lot must also have access and a sewage disposal system location that are suitable for development which do not adversely impact the Fish and Wildlife Conservation Area.

d. After preliminary approval and prior to final land division approval, the Director may require that the common boundary between a required buffer and the adjacent lands be identified using permanent signs. In lieu of signs, alternative methods of buffer identification may be approved when such methods are determined by the Director to provide adequate protection to the aquatic buffer.

10. Trails and Trail-Related Facilities. Construction of public and private trails and trail-related facilities, such as benches, interpretive centers, and viewing platforms, may be allowed in Fish and Wildlife Habitat Conservation Areas or their buffers pursuant to the following standards:
a. Trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or other such previously disturbed areas;
b. Trails and related facilities shall be planned to minimize removal of trees, shrubs, snags and important wildlife habitat;
c. Viewing platforms, interpretive centers, benches and access to them, shall be designed and located to minimize disturbance of wildlife habitat and/or critical characteristics of the affected conservation area;
d. Trails, in general, shall be set back from streams so that there will be no or minimal impact to the stream from trail use or maintenance. Trails shall be constructed with pervious surfaces when feasible.

   a. A stream channel and bank may be stabilized when naturally occurring earth movement threatens existing structures (defined as requiring a Building Permit pursuant to the applicable building code), public improvements, unique natural resources, public health, safety or welfare, or the only feasible access to property, and, in the case of streams, when such stabilization results in maintenance of Fish and Wildlife Habitat, flood control, and improved water quality.
   b. Where bank stabilization is determined to be necessary, bioengineering or other non-structural methods should be the first option for protection. Bulkheads and retaining walls may only be utilized as an engineering solution where it can be demonstrated that an existing residential structure cannot be safely maintained without such measures, and that the resulting retaining wall is the minimum length necessary to provide a stable building area for the structure. The Director may require that bank stabilization be designed by a professional engineer licensed in the State of Washington with demonstrated expertise in hydraulic actions of shorelines. Bank stabilization projects may also require a City of Bainbridge Island clearing or grading permit and Hydraulic Project Approval from the Washington Department of Fish and Wildlife.
   c. Nonstructural streambank protective techniques are preferred to bulkheads or other types of streambank armoring. Nonstructural techniques include but are not limited to vegetation plantings and bioengineering.

13. Fencing and Signs. Prior to approval or issuance of permits for land divisions or other new development, the Director may require that the common boundary between a required buffer and the adjacent lands be identified using fencing or permanent signs. In lieu of fencing or signs, alternative methods of buffer identification may be approved when such methods are determined by the Director to provide adequate protection to the buffer.

B-9. Geologically hazardous areas.
   A. General. Geologically hazardous areas include erosion hazard areas, landslide hazard areas, and seismic hazard areas. Zone of influence areas are not considered geologically hazardous areas.
   B. Purpose. The intent of this section is to prevent the potential for personal injury or loss of life or property due to flooding, erosion, landslides, seismic events, or soil subsidence. Development must not increase slope instability, and must avoid on-site and off-site impacts, as
well as potential risk to structures. Preserving the existing vegetation may be an important part of minimizing those risks.

C. Classification. Geologically hazardous areas shall be classified based upon landslide history and the presence of unstable soils, steepness of slopes, erosion potential, and seismic hazards. Areas in this category are a potential threat to public health, safety, and welfare when construction is allowed. While some potential risk due to construction can be reduced through structural engineering design, construction in these areas should be avoided when the potential risk cannot be reduced to a level comparable to the risk if the site were initially stable prior to construction. Classification and rating shall be based upon the risk to the environment and to development in geologically hazardous areas.

D. Minimum Submittal Requirements.

1. All geologically hazardous areas and buffers.
   a. Indemnification. An indemnification or hold harmless agreement shall be required for all projects in geologically hazardous areas and buffers except erosion hazard areas and tsunami hazard areas. The form of the agreement shall be approved by the City and executed prior to the commencement of construction or site alteration.
   
   b. Notice. A notice of intent to construct on a landslide hazard area or reduce the minimum buffer in a landslide hazard area shall be given pursuant to BIMC 2.16.085.C.2.20. The notice of intent shall be issued within 14 days of a completed application pursuant to BIMC 2.16.020(5). The notice shall include a 21-day comment period and no permits or approval of reduced buffers shall be issued before the end of the comment period.
   
   c. All reports or analyses required or prepared pursuant to this Section shall be prepared pursuant to BIMC 16.20.090, 16.20.150, Section B-5, B-9 and/or any other applicable provisions of this chapter appendix, and shall meet the satisfaction of, and be approved by, the City Engineer prior to the commencement of any development activity.
   
   d. To protect public health, safety and welfare, the City Engineer may call for a third party review of any geotechnical report in cases where there may be potential for substantial damage to life, property or the environment should the proposed engineering solution fail. When a third party review is required, costs incurred for a qualified third party geotechnical engineer to perform the review shall be borne by the applicant.
   
   e. Geological Hazards Assessment. A Critical Area report is required for all projects in geologically hazardous areas and buffers and shall contain an
assessment of geological hazards including the following site- and proposal-related information at a minimum:

i. Site and Construction Plans. The report shall include a copy of the site plans for the proposal showing:
   A. The type and extent of geologic hazard areas, any other Critical Areas, and buffers on, adjacent to, or within a zone or distance of potential significant influence as determined by a professional engineer/geologist;
   B. Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain, if available;
   C. The topography, as determined by a professional engineer or geologist, of the project area and all hazard areas addressed in the report; and
   D. Clearing limits.

ii. Assessment of Geological Characteristics. The report shall include an assessment of the geologic characteristics of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion, and prior grading. Soils analysis shall be accomplished in accordance with accepted classification systems in use in the region. The assessment shall include, but not be limited to:
   A. A description of the surface and subsurface geology, hydrology, soils, and vegetation found in the project area and in all hazard areas addressed in the report;
   B. A detailed overview of the field investigations, published data, and references; data and conclusions from past assessments of the site; and site specific measurements, test, investigations, or studies that support the identification of geologically hazardous areas; and
   C. A description of the vulnerability of the site to seismic and other geologic events.

iii. Analysis of Proposal. The report shall contain a hazards analysis including a detailed description of the project, its relationship to the geologic hazard(s), and its potential impact upon the hazard area, the subject property, and affected adjacent properties.

iv. Minimum Buffer and Building Setback. The report shall make a recommendation for the minimum no-disturbance buffer and minimum building setback from any geologic hazard based upon the geotechnical analysis. Where the recommended buffers are less than the standard buffers set forth in section 16.20.150(E) of BIMC Section B-9(E)(2)(a) the rationale and basis for the reduced buffer shall be clearly articulated and demonstrate that the protection standard set forth in that section has been met.
f. Incorporation of Previous Study. Where a valid Critical Areas report has been prepared for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, said report may be incorporated into the required Critical Area report, if deemed still valid and appropriate by a professional engineer or geologist. The applicant shall submit a hazards assessment detailing any changed environmental conditions associated with the site based on best professional judgment of the engineer/ geologist.

g. Mitigation of Long-Term Impacts. When hazard mitigation is required, the mitigation plan shall specifically address how the activity maintains or reduces the pre-existing level of risk to the site and adjacent properties on a long-term basis (equal to or exceeding the projected life span of the activity or occupation). Proposed mitigation techniques shall be considered to provide long-term hazard reduction only if they do not require regular maintenance or other actions to maintain their function. Mitigation may also be required to avoid any increase in risk above the pre-existing conditions following abandonment of the activity.

h. In addition to the general Critical Area report requirements of section B-9(D) Critical Area reports for geologically hazardous areas must meet requirements of this section. Critical Area reports for two or more types of Critical Areas must meet the report requirements for each relevant type of Critical Area.

2 Landslide Hazard and Erosion Hazard Areas. In addition to the basic Critical Areas report, a Critical Area report for an erosion hazard or landslide hazard area shall include the following information at a minimum:

a. Erosion Control. An erosion control plan prepared by a civil engineer shall be submitted to the City prior to the issuance of a clearing or grading permit.

b. The applicant shall provide a geotechnical analysis containing the following information:

i. Site Plan. The Critical Area report shall include a copy of the site plan for the proposal showing:
   A. The height of slope, slope gradient, and cross-section of the project area;
   B. The location of springs, seeps, or other surface expressions of ground water on or a zone or distance of potential significant influence as determined by a professional engineer/ geologist; and
   C. The location and description of surface water run-off features.

ii. Hazards Analysis. The hazards analysis component of the Critical Areas report shall specifically include:
   A. A description of the extent and type of vegetative cover;
   B. A description of subsurface conditions based on data from site-specific explorations;
C. Descriptions of surface and ground water conditions, public and private sewage disposal systems, fills and excavations, and all structural improvements;
D. An estimate of slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure;
E. An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a one hundred-year storm event;
F. Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on down slope properties;
G. A study of slope stability including an analysis of proposed cuts, fills, and other site grading;
H. Recommendations for building siting limitations; and
I. An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion.

iii. Geotechnical Engineering Report. The technical information for a project within a landslide hazard area shall include a geotechnical engineering report prepared by a licensed engineer that presents engineering recommendations for the following:
A. Parameters for design of site improvements including appropriate foundations and retaining structures. These should include allowable load and resistance capacities for bearing and lateral loads, installation considerations, and estimates of settlement performance;
B. Recommendations for drainage and subdrainage improvements;
C. Earthwork recommendations including clearing and site preparation criteria, fill placement and compaction criteria, temporary and permanent slope inclinations and protection, and temporary excavation support, if necessary; and
D. Mitigation of adverse site conditions including slope stabilization measures for seismically unstable soils, surface water management, location and methods of erosion control, a vegetation management and/or replanting plan, and/or other means for maintaining long-term soil stability if appropriate.

43. Seismic Hazards Areas. In addition to the basic report requirements, a Critical Area report for a seismic hazard area shall also meet the following requirements:
a. Fault Hazard. The applicant shall provide a geologic/geotechnical analysis containing information specified by the City Engineer that documents the presence or absence of any surface deformation on the site in areas mapped by the City. If deformation is located, the applicant shall provide a geotechnical analysis containing information specified by the City Engineer, which concludes that the development proposal as mitigated meets the standards of this section.
b. Liquefaction Hazard. The applicant shall provide a geotechnical analysis containing information specified by the City Engineer that meets the standards of this section (as mitigated).
c. Seismic Landslide Hazard. The applicant shall provide the same analysis and plan as required for landslide hazard areas, pursuant to Section B-9(D).

54. Tsunami Hazards. The City shall provide applicants for development in low lying shoreline areas and other areas where flood elevation is controlled by tide level with information on tsunami hazards. (may need revision)

65. Zone of Influence Areas beyond the established buffer. The applicant shall have the surface and storm water management plan for the project reviewed by a geotechnical engineer to determine if there is any potentially adverse impacts to the landslide hazardous area. If the geotechnical engineer or the City Engineer determines that there are potential adverse impacts, the applicant shall provide a geotechnical analysis containing information specified by the City Engineer which analyzes the potential impacts to the geological hazard from the proposed development in the zone of influence and meets the standards of this section. The report shall contain recommendations to avoid adverse impacts to the geologically hazardous area. Concentrated discharge of stormwater shall only be allowed where specially recommended in the report and authorized by the City Engineer.”

E. Development Standards.
1. General Requirements. The City Engineer shall establish administrative procedures to implement BIMC 16.20.150 this section. These procedures shall include review by an administrative Technical Review Committee if the development is proposed in a landslide hazard area and/or its buffer. The Technical Review Committee shall include a civil engineer, a geologist or geotechnical engineer and hydrologist. Where landslide areas are associated with other critical areas in shall also include an experienced biologist, ecologist or wetland specialist. The City Engineer must document in the file those involved in the Technical Review Committee and their expertise. The applicant shall meet the following standards for all activities permitted in geologically hazardous areas or associated buffers:
   a. The proposed activity shall not create a net increase in geological instability, either on- or off-site, which is defined as follows:
      i. The subject parcel shall not be less stable after the planned development than before; and
      ii. The adjacent parcels shall not have greater risk or be less stable after the planned development than before.
   b. The proposed activity shall not increase the risk of life safety due to geological hazards above professionally acceptable levels.
   c. The proposed activity shall not increase the risk due to geological hazards above professionally acceptable levels for:
      i. Property loss of any habitable structures or their necessary supporting infrastructure on-site or;
      ii. Risk to any off-site structures or property of any kind; and
d. Proposed buildings shall be constructed using appropriate engineering methods that respond to the geologic characteristics specific to the site in order to achieve the highest standard of safety feasible.

e. The proposed development shall not decrease the factor of safety for landslide occurrences below the limits of 1.5 for static conditions and 1.0 for dynamic conditions. Analysis of dynamic conditions shall be based on the minimum horizontal acceleration for the probabilistic maximum considered earthquake as established by the currently adopted version of the International Building Code.

f. The proposed activity shall not further degrade the values and functions of the associated critical areas.

2. Development Design and Location.
The following requirements shall apply to any land or vegetation modification or construction within a landslide hazard area and/or its buffer as described herein:

a. Buffer Requirement: A buffer equal to the height of the slope or fifty (50) feet, whichever is greater, shall be established from all edges of a landslide hazard area except where no other reasonable alternative exists, reduction may be allowed as follows:

i. Buffer Reduction.
   A. Buffer reductions may be allowed provided a critical areas report, pursuant to Section B-9(D)(1)(2) and any other related section of Appendix B, demonstrates to the Director that the buffer reduction will not reduce the level of protection to the proposed development, adjacent properties, and other associated critical areas as required by Section B-9(E)(1).
   B. For slopes forty (40) percent or greater the buffer may in no case be reduced to less than ten (10) feet. A decision by the Director to reduce buffer shall be based on a critical areas report pursuant Section B-9(D)(1)(2) that may includes a third-party independent review by a qualified geotechnical engineer pursuant to BIMC Section B-9(D)(1)(d);

ii. Increased Buffer. The buffer may be increased beyond that specified in subsection (a) above if the Director determines a larger buffer is necessary to prevent risk of damage to proposed development, adjacent development, and uses and the associated critical areas;

iii. Building Setback. All building and structures shall have a minimum setback of (15) feet from the outer edge of the buffer around landslide hazard areas to allow for construction activity; and

iv. Vegetation Retention. Unless otherwise provided or as part of an approved alteration, removal of vegetation from an erosion or landslide hazard area or related buffer shall be prohibited.
b. All development proposals shall be designed to avoid impacts to the geologically hazardous areas. The development shall be designed to minimize the footprint of building in other disturbed areas, minimize removal of vegetation, minimize topographic change, and retain open space to the maximum extent practicable;

c. Development design shall utilize clustering, under-structure parking, multi-level construction, and tiered foundations to the extent feasible to minimize impervious lot coverage, slope disturbance, and changes to the natural topography;

d. Access shall be in the least sensitive part of the site, and common access drives and utility corridors are required to the extent feasible;

e. Roads, walkways and parking areas shall be designed to parallel the natural contours to the extent feasible;

f. All proposed clearing and tree removal shall be marked in the field for inspection and approval prior to alteration of the site;

g. Cut and fill slopes shall be prepared and maintained to control against erosion and instability;

h. Drainage and stormwater designs in zones of influence shall incorporate elements of low impact design, to the extent feasible, and shall be designed in such a manner that stormwater outlet discharges do not create additional impacts. The proposed activities shall not increase surface water discharge or sedimentation to adjacent properties beyond the pre-development condition; and

F. Exemptions. The following activities are permitted in geologically hazardous areas or associated buffers; provided, that the applicant can demonstrate that applicable standards in Subsection B-9(E)(1) can be met, or where the applicant has demonstrated through a Critical Areas report prepared by a geotechnical engineer in accordance with the specifications of the City Engineer that no adverse impact will result from the proposal and where approved surface water drainage will result in minimum slope and vegetation disturbance:

1. Structural alteration to an existing legally constructed structure that does not increase the structural footprint and are determined by the City Engineer as having a minimal potential for increasing landslide hazard;

2. Surface Water Management: Slopes or buffers may be used for approved surface water conveyance if no other reasonable alternative route is available. Installation techniques shall minimize disturbance to the slope and vegetation.
3. The construction of approved public or private trails; provided, they are constructed of material, for example cable lift access, which will not contribute to surface water runoff;

4. The construction of public or private utility corridors or streets; provided, it has been demonstrated that such alterations will not increase landslide or erosion risks through required analysis pursuant to section B-9(D)(1) and the City determines that no other feasible alternative exists;

5 Select Vegetation Removal Activities. The following vegetation removal activities are allowed, provided that no vegetation shall be removed from a geologically hazardous area or its buffer without approval from the Director;
   a. Removal of noxious weeds using non-motorized equipment or light equipment if approved by the Director. If herbicides are used to control these weeds, a licensed applicator is required, unless otherwise authorized by the Director. Bare areas remaining after weed removal shall be re-vegetated with native plant species pursuant to an enhancement plan approved by the City.
   b. Removal and pruning of hazard trees as defined ISA (International Society of Arboriculture) standards by provided that a ISA certified arborist documents the hazard and provides a report to the Director for review and approval. Replacement shall be based on the recommendations of the arborist and geotechnical engineer and approved by the Director. The Director may require a second opinion from a certified ISA arborist in cases of removal of hazard trees. Replacement trees shall be native species indigenous to the vicinity and approved by the Director. Size of trees shall be approved by the Director. The landowner shall ensure 100% survival of replacement trees

4-6. The trimming and limbing of vegetation for the creation and maintenance of view corridors in accordance with the pruning standards of the International Society of Arboriculture; provided, that the soils are not disturbed and activity will not increase the risk of landslide or erosion. All vegetation removal must be based on a plan developed by a certified arborist and reviewed by a geotechnical engineer to determine if it will impact slope stability. A clearing permit will be required prior to any vegetation removal.

7. Limited Exemption - For landslide areas 40% or greater with a vertical elevation change of up to twenty (20) feet may be exempted from section B-9(E)(2)(i) based on the City review and acceptance of a Critical Areas report from a geologist or licensed geotechnical engineer in accordance with section B-9(D) when no adverse impact will result from the exemption.

B-10. Wetlands.
A. Purpose. This section applies to all regulated uses within or adjacent to areas designated as wetlands, as categorized in section B-10(B) below. The intent of this Section is listed in no specific priority, as follows:

1. Preserve, protect, restore, and improve wetland functions and values. Achieve no net loss and increase the quality of wetland acreage, functions, and values within the city. Mitigation measures, as conditions of permits, must have a reasonable expectation of success. Under the conditions of this Section, the Director may deny development proposals that would irreparably impact regulated wetlands; and

2. Protect the public's health, safety, and welfare, while preventing public expenditures that could arise from improper wetland uses and activities; and

3. Plan wetland uses and activities in a manner that protects and enhances the natural systems and environmental quality of Bainbridge Island and allows property holders to benefit from wetland property ownership wherever allowable under the conditions of this chapter; and

4. Preserve ecological functions and values of wetlands which provide water quality protection, natural flood control, stormwater storage, contributes to groundwater and stream flow, shoreline stabilization, and wildlife and fish habitat; and

5. Prevent turbidity and pollution of wetlands and fish or shellfish bearing waters, and maintain healthy wildlife habitat; and

6. Encourage land use development patterns that maintain, enhance, or restore natural wetland systems and protect disturbance-sensitive and wetland-dependent wildlife, fish resources, and open space; and

7. Protect and preserve wetlands values as natural areas providing aesthetic, recreational, and educational opportunities that need to be preserved for future generations; and

8. Enhance the connectivity between wetland landscapes.

B. Wetland Delineation and Categories. 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 of Bainbridge Island meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this Chapter.

The City uses the Department of Ecology's (DOE's) Washington State Wetland Rating System for Western Washington, 2004, or as amended hereafter and adopted by the Director to categorize wetlands for the purposes of establishing wetland buffer widths, wetland uses and replacement ratios for wetlands. Once a wetland has been classified using the current DOE rating system, the City shall not reclassify the wetland without clearly documenting the reason for the change. If the wetland has a rating in the City GIS system, this rating can be used for regulatory purposes. This system consists of four wetland categories generally described as follows:

1. Category I wetlands are those that:
   a. Represent unique or rare wetland type; or
   b. Are more sensitive to disturbance than most wetlands; or
   c. Are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or
d. Provide a high level of function.

Category I wetlands include estuarine wetlands larger than one acre, bogs, mature and
old-growth wetlands over one acre, wetlands in coastal lagoons, and wetlands that perform many
functions very well as demonstrated by a score of over 70 points using the DOE rating system.

2. Category II wetlands are difficult, though not impossible, to replace, and provide a
high level of function. Category II wetlands include estuarine wetlands smaller than one acre or
disturbed and larger than one acre and wetlands that perform functions well as demonstrated by a
score of 51-69 using the DOE rating system.

3. Category III wetlands are wetlands with a moderate level of function as demonstrated
by a score of 30-50 points using the DOE rating system.

4. Category IV wetlands have the lowest level of function as demonstrated by a score
less than 30 points using the DOE rating system and are often heavily disturbed.

C. Regulated and Non-Regulated Wetlands Classification.

1. Regulated Wetlands:
   a. All natural wetlands that meet the criteria in the Regional Supplement to the Corps
      of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Cost Region
      (Version 2.0) Washington State Wetland Identification and Delineation manual and are greater
      than 1000 square feet.
   b. Unintentionally created wetlands that meet the criteria in the Regional Supplement
      to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Cost Region
      (Version 2.0) Washington State Wetland Identification and Delineation manual except as
      listed in subsection (C)(2)(b) of this section.
   c. Wetlands intentionally created from non-wetland areas to mitigate conversion of
      other wetlands.
   d. Wetlands less than or equal to 1000 square feet if the wetland is associated with a
      riparian corridor or is part of a wetland mosaic, or contains habitat identified as essential for
      local populations of priority species identified by the Washington State Department of Fish and
      Wildlife.

2. Non-Regulated Wetlands:
   a. Wetlands less than or equal to 1000 square feet if the wetland is not
      associated with a riparian corridor or is not part of a wetland mosaic, or does not contain habitat identified
      as essential for local populations of priority species identified by the Washington State
      Department of Fish and Wildlife.
   b. Created Wetlands. Wetlands created intentionally from a non-wetland site that
      was not required to be constructed as mitigation for adverse wetland impacts. These may include,
      but are not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention
      facilities, wastewater treatment ponds, farm ponds not contiguous, as defined in this chapter, and
      landscape amenities. The applicant shall bear the burden of proving that the wetland was
      intentionally created from a non-wetland site. Where enhancements or restorations are made to
      wetlands for purposes other than mitigation, the original rating shall be maintained even if the
      changes would otherwise result in a higher classification.
   b. Recent, Road Construction Related Wetlands. Wetlands created after July 1,
      1990, that were unintentionally created as a result of the construction of a road, street, or
      highway. The applicant shall bear the burden of proving that the wetland meets these criteria.

D. Development Standards.
1. Water quality buffers – An applicant shall provide the prescribed water quality buffers in this section (Tables 3-6) unless relief is granted through SMP Section 4.2.1.7 nonconforming lot or through a shoreline variance.

2. Habitat buffers – An applicant shall provide either:
   a. The prescribed habitat buffers specified in this section (Tables 3, 4, 5, and 6); or
   b. An approved Habitat Management Plan, pursuant to section B-4, that clearly provides greater habitat functions and values in perpetuity than the prescribed habitat buffers in this section (Tables 3, 4, 5, and 6).

3. Buffers. Buffers shall remain undisturbed natural vegetation areas except where the buffer can be enhanced to improve its functional attributes. Any buffer enhancement and/or limited view clearing activity must be reviewed and approved by the Director. No refuse shall be placed in the buffer. Alteration of habitat buffer areas may be allowed for water dependent and water related activities and for development authorized by Section B-2 (C ) (Exemptions), or Section B-2(D)(Standards for Existing Development), or Section B-3(3) (Buffer Averaging), or through SMP Section 4.2.1.7 nonconforming lot or through a shoreline variance.

4. If a wetland meets more than one of the criteria listed in each table, the buffer needed to protect the wetland is the widest one.

<table>
<thead>
<tr>
<th>Wetland Characteristics</th>
<th>Impact of Land Use (See Definitions)</th>
<th>Water Quality Buffer</th>
<th>Habitat Buffer</th>
<th>Total Buffer</th>
<th>Other Protection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Natural Heritage Wetlands</td>
<td>Low</td>
<td>50 ft</td>
<td>75 ft</td>
<td>125 ft</td>
<td>No additional discharge of surface water.</td>
</tr>
<tr>
<td></td>
<td>Moderate</td>
<td>75 ft</td>
<td>115 ft</td>
<td>190 ft</td>
<td></td>
</tr>
<tr>
<td></td>
<td>High</td>
<td>100 ft</td>
<td>150 ft</td>
<td>250 ft</td>
<td></td>
</tr>
<tr>
<td>Bogs</td>
<td>Low</td>
<td>50 ft</td>
<td>75 ft</td>
<td>125 ft</td>
<td>No additional surface discharges.</td>
</tr>
<tr>
<td></td>
<td>Moderate</td>
<td>75 ft</td>
<td>115 ft</td>
<td>190 ft</td>
<td></td>
</tr>
<tr>
<td></td>
<td>High</td>
<td>100 ft</td>
<td>150 ft</td>
<td>250 ft</td>
<td></td>
</tr>
<tr>
<td>Forested</td>
<td>Low</td>
<td>50 ft</td>
<td>75 ft</td>
<td>125 ft</td>
<td>If forested wetland scores high for habitat, maintain connectivity to other natural areas.</td>
</tr>
<tr>
<td></td>
<td>Moderate</td>
<td>75 ft</td>
<td>115 ft</td>
<td>190 ft</td>
<td></td>
</tr>
<tr>
<td></td>
<td>High</td>
<td>100 ft</td>
<td>150 ft</td>
<td>250 ft</td>
<td></td>
</tr>
<tr>
<td>Estuarine</td>
<td>Low</td>
<td>50 ft</td>
<td>50 ft</td>
<td>100 ft</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>Moderate</td>
<td>75 ft</td>
<td>75 ft</td>
<td>150 ft</td>
<td></td>
</tr>
<tr>
<td></td>
<td>High</td>
<td>100 ft</td>
<td>100 ft</td>
<td>200 ft</td>
<td></td>
</tr>
<tr>
<td>Wetlands in Coastal</td>
<td>Low</td>
<td>50 ft</td>
<td>50 ft</td>
<td>100 ft</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>Moderate</td>
<td>75 ft</td>
<td>75 ft</td>
<td>150 ft</td>
<td></td>
</tr>
<tr>
<td>Wetland Characteristics</td>
<td>Impact of Land Use (See Definitions)</td>
<td>Water Quality Buffer</td>
<td>Habitat Buffer</td>
<td>Total Buffer</td>
<td>Other Protection</td>
</tr>
<tr>
<td>-------------------------</td>
<td>--------------------------------------</td>
<td>----------------------</td>
<td>---------------</td>
<td>--------------</td>
<td>------------------</td>
</tr>
<tr>
<td>Lagoon</td>
<td>High</td>
<td>100 ft</td>
<td>100 ft</td>
<td>200 ft</td>
<td></td>
</tr>
<tr>
<td>High level of function for habitat (score for habitat is 29-36 pts.)</td>
<td>Low Moderate High</td>
<td>50 ft</td>
<td>150 ft</td>
<td>300 ft</td>
<td>Maintain connectivity to other natural areas. Restore degraded parts of the buffer.</td>
</tr>
<tr>
<td>Moderate level of function for habitat (score for habitat is 20-28 pts.)</td>
<td>Low Moderate High</td>
<td>50 ft</td>
<td>35 ft</td>
<td>110 ft</td>
<td>N/A</td>
</tr>
<tr>
<td>High level of function for water quality improvement and low for habitat (score for water quality 24-32 pts.; habitat less than 20 pts.)</td>
<td>Low Moderate High</td>
<td>50 ft</td>
<td>0 ft</td>
<td>100 ft</td>
<td>No additional discharges of untreated runoff.</td>
</tr>
<tr>
<td>Not meeting any of the above criteria.</td>
<td>Low Moderate High</td>
<td>50 ft</td>
<td>0 ft</td>
<td>100 ft</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Table 4: Category II Wetlands - Buffers

<table>
<thead>
<tr>
<th>Wetland Characteristics</th>
<th>Impact of Land Use (See Definitions)</th>
<th>Water Quality Buffer</th>
<th>Habitat Buffer</th>
<th>Total Buffer</th>
<th>Other Protection</th>
</tr>
</thead>
<tbody>
<tr>
<td>High level of function for habitat (score for habitat is 29-36 pts.)</td>
<td>Low Moderate High</td>
<td>50 ft</td>
<td>150 ft</td>
<td>300 ft</td>
<td>Maintain connectivity to other natural areas.</td>
</tr>
<tr>
<td>Moderate level of</td>
<td>Low Moderate</td>
<td>50 ft</td>
<td>75 ft</td>
<td>110 ft</td>
<td>N/A</td>
</tr>
<tr>
<td>function for habitat (score for habitat is 20-28 pts.)</td>
<td>High</td>
<td>100 ft</td>
<td>50 ft</td>
<td>150 ft</td>
<td></td>
</tr>
<tr>
<td>------------------------------------------------------</td>
<td>------</td>
<td>--------</td>
<td>-------</td>
<td>--------</td>
<td></td>
</tr>
<tr>
<td>Estuarine Low</td>
<td>50 ft</td>
<td>25 ft</td>
<td>75 ft</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Moderate</td>
<td>75 ft</td>
<td>35 ft</td>
<td>110 ft</td>
<td></td>
<td></td>
</tr>
<tr>
<td>High</td>
<td>100 ft</td>
<td>15 ft</td>
<td>115 ft</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Not meeting any of the above criteria Low</td>
<td>50 ft</td>
<td>0 ft</td>
<td>50 ft</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Moderate</td>
<td>75 ft</td>
<td>0 ft</td>
<td>75 ft</td>
<td></td>
<td></td>
</tr>
<tr>
<td>High</td>
<td>100 ft</td>
<td>0 ft</td>
<td>100 ft</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Table 5: Category III Wetlands - Buffers

<table>
<thead>
<tr>
<th>Wetland Characteristics</th>
<th>Impact of Land Use (See Definitions)</th>
<th>Water Quality Buffer</th>
<th>Habitat Buffer</th>
<th>Total Buffer</th>
<th>Other Protection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Moderate level of function for habitat (score for habitat is 20-28 pts.)</td>
<td>Low Moderate High</td>
<td>40 ft 60 ft 80 ft</td>
<td>35 ft 50 ft 70 ft</td>
<td>75 ft 110 ft 150 ft</td>
<td>N/A</td>
</tr>
<tr>
<td>Not meeting above criterion</td>
<td>Low Moderate High</td>
<td>40 ft 60 ft 80 ft</td>
<td>0 ft 0 ft 0 ft</td>
<td>40 ft 60 ft 80 ft</td>
<td>N/A</td>
</tr>
</tbody>
</table>

### Table 6: Category IV Wetlands - Buffers

<table>
<thead>
<tr>
<th>Wetland Characteristics</th>
<th>Impact of Land Use (See Definitions)</th>
<th>Water Quality Buffer</th>
<th>Habitat Buffer</th>
<th>Total Buffer</th>
<th>Other Protection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Larger than 10,000 square feet</td>
<td>Low Moderate High</td>
<td>25 ft 40 ft 50 ft</td>
<td>0 ft 0 ft 0 ft</td>
<td>25 ft 40 ft 50 ft</td>
<td>N/A</td>
</tr>
<tr>
<td>Smaller than 10,000 square feet</td>
<td>Low Moderate High</td>
<td>25 ft 25 ft 25 ft</td>
<td>0 ft 0 ft 0 ft</td>
<td>25 ft 25 ft 25 ft</td>
<td>N/A</td>
</tr>
</tbody>
</table>

a. For Category II or III wetlands smaller than 10,000 square feet with a habitat score of less than 20 points, the buffer may be reduced by 50 percent.

b. For the purpose of determining the impact of land use, unless the Director determines a lesser level of impact is appropriate based on information provided by the applicant, the intensity of impact of the adjacent land use is determined based on the “impact of land use” definition.

5. If an applicant elects to propose an HMP, and that HMP proposes habitat buffer widths less than those prescribed in Tables 3 – 6, the HMP shall be prepared pursuant to Section B-4 and fulfill all requirements specified therein.

6. Table 7 provides examples of measures that might be provided in an HMP or when prescribed buffers are otherwise altered to minimize impacts of certain activities. Other measures may also be effective in minimizing impacts depending on site-specific circumstances and the nature of proposed activity.
Table 7: Examples of measures to minimize impacts to wetlands from different types of activities.

<table>
<thead>
<tr>
<th>Examples of Disturbance</th>
<th>Examples of Measures to Minimize Impacts</th>
<th>Activities that Cause the Disturbance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lights</td>
<td>Direct lights away from wetland.</td>
<td>Parking lots, warehouses, manufacturing, residential</td>
</tr>
<tr>
<td>Noise</td>
<td>Locate activity that generates noise away from wetland.</td>
<td>Manufacturing, residential</td>
</tr>
<tr>
<td>Toxic runoff*</td>
<td>Route all new runoff away from wetland. Establish covenants limiting use of pesticides within 150 ft of wetland. Apply integrated pest management.</td>
<td>Parking lots, roads, manufacturing, residential areas, application of agricultural pesticides, landscaping</td>
</tr>
<tr>
<td>Change in water regime</td>
<td>Infiltrate or treat, detain, and disperse new runoff into buffer.</td>
<td>Impermeable surfaces, lawns, tilling</td>
</tr>
<tr>
<td>Pets</td>
<td>Plant dense vegetation around buffer, such as rose, hawthorn, etc.</td>
<td>Residential areas</td>
</tr>
<tr>
<td>Human disturbance</td>
<td>Plant buffer with impenetrable natural vegetation appropriate for region.</td>
<td>Residential areas</td>
</tr>
<tr>
<td>Dust</td>
<td>Utilize best management practices to control dust.</td>
<td>Tilled fields</td>
</tr>
</tbody>
</table>

* These examples are not necessarily adequate to meet the rules for minimizing toxic runoff if threatened or endangered species are present at the site.

7. Small wetlands
   a. Wetlands of less than 1,000 square feet are exempt from regulation of this section where the applicant has shown that they are not associated with a riparian corridor, are not part of a wetland mosaic, and do not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife.
   b. All wetlands between 1,000 and 4,000 square feet shall be evaluated using Department of Ecology’s Wetland Rating System for Western Washington (2004) to establish category and evaluate functions. Using the following criteria, the Director shall determine whether to exempt wetlands between 1,000 and 4,000 square feet from the requirement to avoid impacts:
      1. The wetland is not associated with a riparian corridor; and
      2. The wetland is not part of a wetland mosaic; and
      3. The wetland does not score 20 points or more for habitat in the Wetland Rating System; and
iv. The wetland does not contain habitat identified as essential for local populations of priority species identified by Washington Department of Fish and Wildlife; and
v. The wetland is substantially covered by invasive species or otherwise severely disturbed.

78. Buffer Measurement. All buffers shall be measured on a horizontal plane from the regulated wetland edge as marked in the field.

89. Fencing and Signs. This section applies to those wetlands and their buffers that are within 200 feet of regulated development activities.

a. Wetland buffers shall be temporarily fenced or otherwise suitably marked, as required by the Director, between the area where the construction activity occurs and the buffer. Fences shall be made of a durable protective barrier and shall be highly visible. Silt fences and plastic construction fences may be used to prevent encroachment on wetlands or their buffers by construction. Temporary fencing shall be removed after the site work has been completed and the site is fully stabilized per City approval.

b. The Director may require that permanent signs and/or fencing be placed on the common boundary between a wetland buffer and the adjacent land. Such signs will identify the wetland buffer. The Director may approve an alternate method of wetland and buffer identification, if it provides adequate protection to the wetland and buffer.

240. Building or Impervious Surface Setback Lines. A building or impervious surface setback line of 15 feet is required from the edge of any wetland buffer. Minor structural or impervious surface intrusions into the areas of the setback may be permitted if the Director determines that such intrusions will not adversely impact the wetland. The setback shall be identified on a site plan and filed as an attachment to a notice on title.

E. Regulated Uses And Activities. New development activities on properties containing regulated wetlands and buffers are subject to the development standards in this section, as permitted in the underlying zoning designation. Requirements for additional activities are specified in Table 8. The City may grant exceptions to these uses and activities according to the intent and specifications of this chapter. All authorized uses and activities in a regulated wetland or its buffer shall be subject to conditions established by the Director and may be subject to mitigation as required by this chapter.

Development shall be classified as “allowed,” “permitted,” “special use” or “prohibited” according to this Section. Any regulated uses not specifically listed in Table 8 shall be considered unclassified and may be allowed if granted a special use review in accordance with this chapter. For the purpose of Table 8, “W” and “B” refer to the terms “wetland” and “buffer.”
<table>
<thead>
<tr>
<th>Category</th>
<th>Category I</th>
<th>Category II</th>
<th>Category III</th>
<th>Category IV</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>W</td>
<td>B</td>
<td>W</td>
<td>B</td>
</tr>
<tr>
<td>Category I: Agriculture - existing &amp; ongoing</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Category II: Agriculture - Building (Grazed Wet Meadows)</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>S</td>
</tr>
<tr>
<td>Category III: Agriculture Conversion (Wetland dependent)</td>
<td>X</td>
<td>S</td>
<td>X</td>
<td>S</td>
</tr>
<tr>
<td>Category III: Agriculture Conversion (Non-wetland dependent)</td>
<td>X</td>
<td>S</td>
<td>X</td>
<td>S</td>
</tr>
<tr>
<td>Category IV: Bank stabilization</td>
<td>X</td>
<td>X</td>
<td>S</td>
<td>S</td>
</tr>
<tr>
<td>Category V: Boat ramp</td>
<td>X</td>
<td>X</td>
<td>S</td>
<td>S</td>
</tr>
<tr>
<td>Category VI: Dock/Float</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
</tr>
<tr>
<td>Category VII: Draining Wetlands (associated with no other permitted use, except as allowed under Section 120.C)</td>
<td>X</td>
<td>N/A</td>
<td>X</td>
<td>N/A</td>
</tr>
<tr>
<td>Category VIII: Driving of Piles</td>
<td>X</td>
<td>X</td>
<td>S</td>
<td>S</td>
</tr>
<tr>
<td>Category IX: Educational or Scientific Activities</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Category X: Enhancement</td>
<td>S</td>
<td>S</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Category XI: Excavation (not associated with enhancement)</td>
<td>X</td>
<td>X</td>
<td>S</td>
<td>S</td>
</tr>
<tr>
<td>Category I</td>
<td>Category II</td>
<td>Category III</td>
<td>Category IV</td>
<td></td>
</tr>
<tr>
<td>------------------------------------</td>
<td>-------------</td>
<td>--------------</td>
<td>-------------</td>
<td></td>
</tr>
<tr>
<td>Fill (associated with no other use)</td>
<td>X X</td>
<td>X X</td>
<td>X X</td>
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</tr>
<tr>
<td>Fish Hatchery</td>
<td>X X S S</td>
<td>S S S S</td>
<td>S S S S</td>
<td></td>
</tr>
<tr>
<td>Flooding (associated with no other use)</td>
<td>X X S S</td>
<td>S S S S</td>
<td>S S S S</td>
<td></td>
</tr>
<tr>
<td>Forest Practice-Class IV General or COHP</td>
<td>X X X X X X X X X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Golf Course</td>
<td>X X X X S S S S S</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Land Division</td>
<td>P P P P P P P P</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Parks Development-Public &amp; Private</td>
<td>S S S S S P P</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Placing of Obstruction</td>
<td>X X X X X X X X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public Facility</td>
<td>X X X S S S S S</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public Project of Significant Importance</td>
<td>S S S S S S S S</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Radio/TV Towers</td>
<td>X X X S S S S S</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Restoration/Revegetation of Site</td>
<td>S S P P P P P P</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Road/Street-Public/Private Access</td>
<td>S S S S S P P</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A) Expand within existing ROW</td>
<td>S S S S S P P</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B) New Facilities</td>
<td>X X X S S S S S</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Bainbridge Island Shoreline Master Program---PC Recommendation**

April 12, 2012
<table>
<thead>
<tr>
<th>Category</th>
<th>Category I</th>
<th>Category II</th>
<th>Category III</th>
<th>Category IV</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>W</td>
<td>B</td>
<td>W</td>
<td>B</td>
</tr>
<tr>
<td>26. Site Investigation (non-mechanized)</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Site Investigation (mechanized)</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>27. Trails and Trail Related Facilities</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>30. Utility Facility</td>
<td>X</td>
<td>X</td>
<td>S</td>
<td>S</td>
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<tr>
<td>31. Utility-On-Site Sewage Facility</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>S</td>
</tr>
<tr>
<td>32. Utility Line-Overhead</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
</tr>
<tr>
<td>33. Utility Line-Underground</td>
<td>X</td>
<td>S</td>
<td>S</td>
<td>S</td>
</tr>
</tbody>
</table>

Key:  
A = Allowed Outright  
P = Permitted Subject to Development Standards and Underlying Permit  
S = Special Use Review Required  
X = Prohibited  

F. Additional development standards for regulated uses. In addition to meeting the Development Standards in section D, above, those regulated uses identified below shall also comply with the standards of this section and other applicable state, federal and local ordinances.

2. Forest Practice, Class IV General, and Conversion Option Harvest Plans (COHPs). All timber harvesting and associated development activity, such as construction of roads, shall comply with the provisions of this chapter, including the maintenance of buffers around regulated wetlands.
   a. Density Calculation.
i. The actual density that will allowed to be built upon a parcel containing a wetland shall ultimately be determined during the site specific review of the parcel’s planned development.

ii. In determining the actual density of a parcel based on a specific site plan, the site plan shall locate all buildings outside of the wetland buffers;

iii. The number of development rights allowed for any residentially-zoned parcel shall be its size in square feet divided by the number of square feet per home that is required by its zoning;

iv. If the land can be subdivided such that all setbacks, buffers, and other zoning requirements can be observed, and no variances are requested, the density from the wetland can be transferred within the property;

v. To the extent that the number of allowable development rights cannot be used on-site, they may be sold, traded, or transferred by the property owner through the transfer of development rights program pursuant to Chapter 18.37 BIMC;

vi. Property owners may voluntarily extinguish development rights that are provided by the underlying zoning, but the City shall not extinguish any of these rights outside the aforementioned transactions.

b. Land division approvals shall be conditioned to require that regulated wetlands and regulated wetland buffers be designated as an easement or covenant encumbering the wetland and wetland buffer. Such easement or covenant shall be recorded together with the land division and represented on the final plat or binding site plan, and title.

c. In order to implement the goals and policies of this chapter, to accommodate innovation, creativity, and design flexibility, and to achieve a level of environmental protection that would not be possible by typical lot-by-lot development, the use of the clustered development or similar innovative site planning is strongly encouraged for projects with regulated wetlands on the site.

6. Surface Water Management. The following stormwater management activities may be allowed within wetland or buffer areas only if they meet the following requirements, in addition to the development standards in this section and in conformance with the Stormwater Management Ordinance, Chapter 15.20 BIMC:

a. Surface water discharges from stormwater facilities or structures; provided, that the new surface water discharges to regulated wetlands from retention/detention facilities;

b. Pre-settlement ponds or other surface water management structures; provided, that the discharge does not significantly increase or decrease the rate of flow and/or hydro-period, nor decrease the water quality of the wetland. Water quality treatment best management practices will be required prior to discharge. Pre-treatment of surface water discharge through biofiltration or other means shall be required.

(to be combined with trail section of SMP) 7. Trails and Trail-Related Facilities:

Construction of public and private trails and trail-related facilities, such as benches and viewing platforms, may be allowed in wetlands or wetland buffers pursuant to the following guidelines:

a. Trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or any other previously disturbed areas.

b. Trails and related facilities shall be planned to minimize removal of trees, soil disturbance, and existing hydrological characteristics, shrubs, snags, and important wildlife habitat.
c. Viewing platforms and benches, and access to them, shall be designed and located to minimize disturbance of wildlife habitat and/or critical characteristics of the affected wetland.

d. Trails and related facilities shall generally be located outside required buffers. Where trails are permitted within buffers they shall be located in the outer portion of the buffer and a minimum of 25 feet from the wetland edge, except where wetland crossings or viewing areas have been approved by the Director. Trail locations close to the wetland may be allowed if the primary purpose of the trail is wetland viewing or enjoyment.

e. Trails shall generally be limited to pedestrian use unless other more intensive uses, such as bike or horse trails, have been specifically allowed and mitigation has been provided. Trail width shall not exceed five feet unless there is a demonstrated need, subject to review and approval by the Director. Trails shall be constructed with pervious materials unless otherwise approved by the Director.

9. Parks. Development of public park and recreation facilities may be permitted; provided, that no alteration of wetlands or wetland buffers is allowed except for uses allowed in Table 8. For example, enhancement of wetlands and development of trails may be allowed in wetlands and wetland buffers subject to special use requirements and approval of a Wetland Mitigation Plan.

10. Educational or scientific activities. These activities shall only be permitted if they are directly related to the affected wetland and related buffers, and may include the viewing and sampling of natural systems. They may also include the installation of physical structures, including pervious trails, benches, permanent wildlife watching blinds, boardwalks, viewing platforms, or similar structures, or minor modifications to wetlands and their buffers. Any physical structures or minor modifications are subject to City approval to minimize the impacts of human intrusion on the functions and values of critical areas and their buffers according to the following criteria:

   a. Minimize the footprint of structures and the number of access points to any particular critical area;
   b. Minimize the amount of clearing and grading;
   c. Elevate structures where possible;
   d. Avoid impacting the flow of water;
   e. Use appropriate building materials; and
   f. Minimize the impacts of construction.

G. Special Use Review. Development identified as a Special Use Review in Table 8 of this section may be approved, with conditions, or denied according to the procedures and criteria outlined in this subsection. Special Use Review is an administrative process unless the underlying permit requires a public hearing.

1. The Director is authorized to take action on permits as required by this chapter.

2. The Director may approve a permit after review of the application and a Wetland Mitigation Plan submitted in accordance with this chapter. The Director shall determine whether the use or activity cannot be avoided because no reasonable or practicable alternative exists, the proposed use is consistent with the spirit and intent of this chapter and it will not cause adverse impacts to the wetland or the wetland buffer which cannot be mitigated. In taking action to approve a Special Use Review, the Director may attach reasonable conditions as necessary to minimize impacts, rectify impacts or compensate for impacts to the wetland or wetland buffer.
3. The Director shall deny a Special Use Review request if the proposed use or activity is inconsistent with this chapter and/or will cause adverse impacts to the wetland or wetland buffer, which cannot be adequately mitigated and/or avoided.

4. Special use review requests for agricultural conversions shall include a farm plan developed by the Kitsap Conservation District. The plan shall identify the best management practices for the proposed agricultural activity.

5. Special Use Review determinations are appealable to the hearings examiner pursuant to BIMC 2.16.020(P).

II. Wetlands and Streams Restoration, Creation, Mitigation, or Enhancement

1. Any person who alters regulated wetlands or streams or their standard buffers as required by this chapter shall restore, create or enhance equivalent areas or greater areas than those altered in order to compensate for losses. In the alternative, conservation easements or mitigation banking may be considered as appropriate mitigation provided that areas equivalent to those altered are achieved.

2. Where feasible, restored or created wetlands and streams shall be a higher category than the altered wetland or stream.

3. Compensation areas shall be determined according to function, acreage, type, location, time factors, ability to be self-sustaining and projected success. Multiple compensation projects may be proposed for one project in order to best achieve the goal of no net loss.

4. Given the need for expertise and monitoring, voluntary restoration, creation or enhancement projects or compensatory projects may be permitted only when the Director finds that the proposed project is associated with an activity or development otherwise permitted. Additionally, the applicant shall:
   a. Demonstrate sufficient scientific expertise, supervisory capability, and financial resources to carry out the project;
   b. Demonstrate the capability for monitoring the site and to make corrections during this period if the project fails to meet projected goals and plans; and
   c. Provide for the long-term protection and management of the compensation area to avoid further development or degradation.

5. Acreage Replacement Ratio. Any applicant proposing to alter wetlands may propose to reestablish, create, rehabilitate, or enhance wetlands in order to compensate for the wetland losses.
   a. Replacement Ratios for Wetlands. Table 9 provides the required replacement ratios for the reestablishment or creation, rehabilitation, or enhancement of a wetland. The first number specifies the replacement acreage of wetlands and the second specifies the acreage of wetlands altered.

<table>
<thead>
<tr>
<th>Category and Type</th>
<th>Re-establishment or Creation</th>
<th>Rehabilitation</th>
<th>1:1 Re-establishment or Creation (R/C) or Enhancement (E)</th>
<th>Enhancement Only</th>
</tr>
</thead>
</table>

Table 9: Replacement Ratios for Wetlands

Bainbridge Island Shoreline Master Program---PC Recommendation  April 12, 2012
<table>
<thead>
<tr>
<th>Category</th>
<th>Ratio</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>I - Forested</td>
<td>6:1</td>
<td></td>
</tr>
<tr>
<td></td>
<td>12:1</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1:1 R/C 10:1 E</td>
<td></td>
</tr>
<tr>
<td></td>
<td>24:1</td>
<td></td>
</tr>
<tr>
<td>I - Highly functioning</td>
<td>4:1</td>
<td>Case by Case</td>
</tr>
<tr>
<td></td>
<td>8:1</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1:1 R/C 6:1 E</td>
<td></td>
</tr>
<tr>
<td></td>
<td>16:1</td>
<td></td>
</tr>
<tr>
<td>I - Bog</td>
<td>Not possible</td>
<td></td>
</tr>
<tr>
<td></td>
<td>6:1 of a Bog</td>
<td>Case by Case</td>
</tr>
<tr>
<td></td>
<td>Case by Case</td>
<td></td>
</tr>
<tr>
<td>I - Estuarine</td>
<td>Case by Case</td>
<td>6:1 - Estuarine</td>
</tr>
<tr>
<td></td>
<td>Case by Case</td>
<td>Case by Case</td>
</tr>
<tr>
<td>II - Estuarine</td>
<td>Case by Case</td>
<td>4:1 - Estuarine</td>
</tr>
<tr>
<td></td>
<td>Case by Case</td>
<td>Case by Case</td>
</tr>
<tr>
<td>II - Others</td>
<td>3:1</td>
<td></td>
</tr>
<tr>
<td></td>
<td>8:1</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1:1 R/C 4:1 E</td>
<td></td>
</tr>
<tr>
<td></td>
<td>12:1</td>
<td></td>
</tr>
<tr>
<td>III</td>
<td>2:1</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4:1</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1:1 R/C 2:1 E</td>
<td></td>
</tr>
<tr>
<td></td>
<td>8:1</td>
<td></td>
</tr>
<tr>
<td>IV</td>
<td>1.5:1</td>
<td></td>
</tr>
<tr>
<td></td>
<td>5:1</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1:1 R/C 2:1 E</td>
<td></td>
</tr>
<tr>
<td></td>
<td>6:1</td>
<td></td>
</tr>
</tbody>
</table>

b. Replacement ratios for buffers shall be 1:1.

c. Increased Replacement Ratio. The Director may increase the ratios under the following circumstances:
   i. Uncertainty as to the probable success of the proposed rehabilitation or creation;
   ii. Significant period of time between destruction and replication of wetland functions; or

   iii. Projected losses in functional value.

d. Decreased Replacement Ratio. The Director may decrease these ratios when there are findings of special studies coordinated with agencies with expertise which demonstrate that no net loss of wetland function or value is attained under the decreased ratio.

e. In all cases, a minimum acreage replacement ratio of 1:1 shall be required.

6. Wetland Type. In-kind compensation shall be provided except where the applicant can demonstrate that:
   a. The wetland system is already significantly degraded and out-of-kind replacement will result in a wetland with greater functions and values;
   b. Scientific problems such as invasive/exotic vegetation and changes in watershed hydrology make implementation of in-kind compensation impossible;
   c. Out-of-kind replacement will best meet identified regional goals (e.g., replacement of historically diminished wetland types); and

   d. Where out-of-kind replacement is accepted, greater acreage replacement ratios may be required to compensate for lost functions and values.

7. Location. On-site compensation shall be provided except where the applicant can demonstrate that:
   a. The hydrology and ecosystem of the original wetland and those who benefit from the hydrology and ecosystem will not be substantially damaged by the on-site loss;
   b. On-site compensation is not scientifically feasible due to problems with hydrology, soils, or other factors;

   c. Compensation is not practical due to potentially adverse impacts from surrounding land uses;

   d. Existing functions and values at the site of the proposed restoration are significantly greater than lost wetland functional values;
e. That established regional goals for flood storage, flood conveyance, habitat or other wetland functions have been established and strongly justify location of compensatory measures at another site;
   f. There is no feasible location for on-site mitigation;
   g. Off-site compensation shall occur within the same watershed, if feasible, as the wetland loss occurred; provided, that Category IV wetlands may be replaced outside of the watershed when there is no reasonable alternative; and
   h. In selecting compensation sites, an applicant shall pursue siting in the following order of preference:
      i. Upland sites which were formerly wetlands;
      ii. Idled upland sites generally having bare ground or vegetative cover consisting primarily of invasive introduced species, weeds, or emergent vegetation; or
      iii. Other disturbed upland.

8. Timing. Wherever feasible, compensatory projects shall be completed prior to activities that will disturb wetlands, and immediately after activities that will temporarily disturb wetlands. In all other cases, except for Category I wetlands, compensatory projects should be completed prior to use or occupancy of the activity or development which was conditioned upon such compensation. Construction of compensation projects shall be timed to reduce impacts to existing wildlife and flora.

9. Cooperative Restoration, Creation or Enhancement Projects. The Director may encourage, facilitate, and approve cooperative projects wherein a single applicant or other organization with demonstrated capability may undertake a compensation project with funding from other applicants under the following circumstances:
   a. Restoration, creation or enhancement at a particular site may be scientifically difficult or impossible; or
   b. Creation of one or several larger wetlands may be preferable to many small wetlands;
   c. Persons proposing cooperative compensation projects shall:
      i. Submit a joint permit application;
      ii. Demonstrate compliance with all standards;
      iii. Demonstrate the organizational and fiscal capability to act cooperatively; and
      iv. Demonstrate that long-term management can and will be provided.

10. Mitigation Banking.
   a. The City may consider and approve replacement or enhancement of wetlands to address unavoidable adverse impacts caused by development activities through an approved wetland mitigation bank. Compensatory mitigation in advance of authorized impacts must be provided through an approved mitigation bank if a bank is used.
   b. When off-site mitigation is authorized, the Director shall give priority to locations within the same drainage basin as the development proposal site that meet the following:
      i. Mitigation banking sites and resource mitigation reserves as authorized by this chapter;
      ii. Private mitigation sites that are established in compliance with the requirements of this chapter and approved by the Director; and
      iii. Public mitigation sites that have been ranked in a process that has been supported by ecological assessments.
c. The Director may require documentation that the mitigation site has been permanently preserved from future development or alteration that would be inconsistent with the functions of the mitigation. The documentation may include, but need not be limited to, a conservation easement, transfer of clearing credits or other agreement between the applicant and owner of the mitigation site. The City may enter into agreements or become a party to any easement or other agreement necessary to ensure that the site continues to exist in its mitigated condition.

d. The Director shall maintain a list of sites available for use for off-site mitigation projects.

e. The Director may develop a program to allow the payment of a fee in lieu of providing mitigation on a development site. The program should address:

   i. When the payment of a fee is allowed, considering the availability of a site in geographic proximity with comparable hydrologic and biological functions and potential for future habitat fragmentation and degradation; and

   ii. The use of the fees for mitigation on public or private sites that have been ranked according to ecological criteria through one or more programs that have included a public process.


A stream commonly known as the “Winslow Ravine Stream” is located in a ravine commonly known as, and identified on department maps as, the “Winslow Ravine”. Both the stream and the ravine are partially located in the Mixed Use Town Center (MUTC). In order to accommodate more dense development within the MUTC, and recognizing the significant distance from the top of the ravine to the stream and its adjacent wetlands, in lieu of the buffer and setback rules provided for Fish and Wildlife Conservation Areas (Section B-8) and Wetlands (Section B-10), the applicant may select the prescriptive option or the mitigated option with respect to the Winslow Ravine Stream and the Winslow Ravine within the MUTC as described below:

A. “Option A” - Prescriptive Standards.

<table>
<thead>
<tr>
<th>CATEGORIES</th>
<th>BUFFER WIDTH STANDARD</th>
<th>MINIMUM BUILDING SETBACK</th>
<th>OTHER DEVELOPMENT STANDARDS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Streams, Wetlands and Wildlife Conservation Areas associated with the Winslow Ravine or Winslow Ravine Stream within the MUTC.</td>
<td>50 feet beyond the top of the Winslow Ravine.</td>
<td>15 feet beyond the buffer.</td>
<td></td>
</tr>
</tbody>
</table>
B. “Option B” - Mitigated Standards. The applicant shall demonstrate by submittal of necessary studies and proposed mitigation, that measures can and will be taken to ensure that the functions and values provided by the buffers prescribed under “Option A” are retained or improved.

<table>
<thead>
<tr>
<th>CATEGORIES</th>
<th>BUFFER WIDTH STANDARD</th>
<th>MINIMUM BUILDING SETBACK</th>
<th>OTHER DEVELOPMENT STANDARDS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Streams, Wetlands and Wildlife Conservation Areas associated with the Winslow Ravine or Winslow Ravine Stream within the MUTC.</td>
<td>25 feet beyond the top of the Winslow Ravine.</td>
<td>10 feet beyond the buffer.</td>
<td>The buffer area shall be landscaped to facilitate filtration and infiltration of storm water. If such landscaping is installed, the buffer area may be used for recreational purposes. Fences, sitting areas and walking paths are allowed within the buffer area. There is no requirement that the buffer be dedicated as permanent open space tracts or otherwise.</td>
</tr>
</tbody>
</table>

Table I – Shoreline Study Requirements

<table>
<thead>
<tr>
<th>Use</th>
<th>Analyses Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Activities below Mean Higher High Water</td>
<td>Dive Survey and/or Biological Evaluation or Biological Assessment¹</td>
</tr>
<tr>
<td>Pier and Docks</td>
<td>Dive Survey and/or Biological Evaluation or Biological Assessment¹</td>
</tr>
<tr>
<td>Shoreline Armoring (bulkhead and revetments)</td>
<td>Sediment analyses Biological Evaluation or Biological Assessment¹</td>
</tr>
<tr>
<td>Development Activities Disturbing Native Vegetation Zone (Single Family Residences or Commercial)</td>
<td>Re-vegetation Plan</td>
</tr>
</tbody>
</table>

Footnotes:

¹ Only as required by Washington Department of Fish and Wildlife, US Army Corp of Engineers, NOAA Fisheries or US Fish and Wildlife.
Additional Studies may be required by the Director as necessary to determine whether the application meets the decision criteria for Shoreline Substantial Development Permit, Shoreline Substantial Development Exemption, Shoreline Conditional Use Permit or Shoreline Variance.
Appendix C

Buffer Recommendation Memorandum
Appendix D
DRAFT Single Family Residential Mitigation Manual

Introduction

This manual provides guidance for City of Bainbridge Island (City) staff, resource managers, homeowners, and consultants on requirements and mitigation opportunities for specific types of single-family residential (SFR) development within the shoreline jurisdiction of the City. Under Washington State Shoreline Management Act Guidelines [WAC 173-26-186(8) & 201(2)(c)], all new development, activities and uses must meet the standard of no net loss of ecological functions and shoreline processes, and to meet no net loss mitigate any impacts of new development. In accordance with the Mitigation Sequence (see side bar) when permanent impacts not addressed in number 2, 3, and 4 the applicant must compensate for the remaining adverse impacts to meet the no net loss standard. To demonstrate that the no net loss standard has been met, a site-specific analysis must be submitted, requiring preparation of a technical report addressing existing ecological conditions, functions, impacts, and proposed mitigation.

To give homeowners a low cost alternative for meeting the no net loss standard, this manual provides prescriptive compensatory mitigation options. These mitigation options include replacement, enhancement, or substitution of resources to offset impacts from common types of SFR developments as an alternative to preparing a site-specific analysis and technical report. A homeowner can employ the mitigation options provided in this guidance manual if:

- the SFR is not part of a new subdivision application;
- the proposed project is located within a qualifying site; and
- the proposed project is listed among the development and structure types and maximum footprints covered by this guidance in Table 1.

This manual only describes City requirements for compensatory mitigation of primary and accessory upland single-family residential structures. Subdivisions, including short plats and other development, uses or activities not associated with single family development shall provide a site specific analysis in accordance with the Shoreline Master Plan Section 4.1.2 Environmental Impacts.

New in-water or overwater structures (shoreline stabilization, docks, etc) are not covered by this guidance and must submit a site-specific analysis in accordance with Shoreline Management Program (SMP). For new, replacement and repair an applicant may be required to obtain a U.S. Army Corps of Engineers (USACE) and Washington Department of Fish and Wildlife (WDFW) permit and provide mitigation for those activities. The City may determine the mitigation and conditions from federal and state agencies meet local requirements according to provisions in the SMP. The SMP prohibits new overwater covered moorage in the marine environment.

Mitigation activities prescribed for the qualifying types of construction in this document are selected to compensate for direct in-kind impacts which are not accounted for through site design, temporary protective practices, or use of existing environmental protective systems, such
Appendix D

as stormwater best management practices which remove pollutants from stormwater. For example, permanent clearing of vegetation is mitigated by replanting vegetation, and any permitted fill placed below the ordinary high water mark (OHWM) is mitigated by removing fill already located below the OHWM.

Mitigation is first required to be conducted on the same parcel as the proposed construction unless impractical. More mitigation is required when it will occur on a different parcel. These measures ensure that mitigation provides a clear link between the types of impact the construction would have on the shoreline and the City’s responsibility to ensure there is no net loss of shoreline functions.

If off-site mitigation is necessary, be sure to check with City of Bainbridge Island Planning and Community Development Department (PCD) for preferred locations recommended by the City’s Shoreline Restoration Plan. In limited cases a reduction in replacement or removal remedies for offsite compensatory mitigation may be allowed if the Administrator determines a greater ecological benefit is achieved at the proposed location.

**What is mitigation? This will be a sidebar**

Mitigation is used to avoid, limit, reduce, compensate for or eliminate adverse impacts of a project over time. Mitigation for impacts follows a specific sequence described in WAC 173-26-201((2)(e) as follows:

1. Avoid the impact altogether by not taking a certain action or parts of an action;
2. Minimize impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
3. Rectify the impact by repairing, rehabilitating, or restoring the affected environment;
4. Reduce or eliminating the impact over time by preservation and maintenance operations;
5. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments; and
6. Monitor the impact and the mitigation activities and take appropriate corrective measures as needed.

The mitigation measures identified in this manual address steps 2 through 6 of this sequence.

**What sites qualify for this approach?**

Sites which qualify for this manual do not contain nor are adjacent to a marsh and/or lagoon. The site must qualify as “typical” of Bainbridge Island beaches or bluffs. Sites which are marsh, lagoon, or atypical, must complete a site specific analysis according to the SMP Section 4.1.2, Environmental Impacts, and/or Appendix B, Critical Areas.

What is a typical beach? Your beach is typical if it is relatively low lying and flat landward of the ordinary high water mark (OHWM), and uplands are less than 15 feet in elevation above the OHWM. (Show photo from typical COBI beach with elevation measure – consider including official definition of OHWM)
What is a typical bluff? A typical bluff has a steeply sloping shoreline where upland developed areas are greater than or equal to 15 feet in elevation above the OHWM. Show photo of typical bluff (with elevation measure)

**What kinds of SFR development qualify for this guidance?**

SFR construction that qualifies for this guidance includes the categories of New, Accessory (to existing), Expansion, Replacement, and Repair. Within these construction categories, structures that qualify are within the footprint size constraints provided in Table 1. Structure types may include construction of a new home, or an accessory structure (or building) to an existing home, such as a detached garage, patio or stairs to the beach, remodel of an existing structure, or replacement or repair of shoreline structures such as a bulkhead, stairs or dock.

Development of each of these structures results in one or more of the following shoreline and nearshore disturbances that require mitigation: 1) vegetation is cleared, 2) new impervious surface is created, 3) fill is permitted to be located below the OHWM, and/or 4) aquatic habitat is permanently disturbed.

**Note:** Not all impacts may apply to proposed activity do to project design. You will select all the impacts that apply to your project.

A complete list of construction categories and structure types, their footprint limitations to qualify for using this manual and the associated impacts which require mitigation are listed in Table 1.

To use the Table:

1. Select the category of construction (new, accessory etc.) from the first column and the type of structure from the second column.
2. Check to make sure your proposed development is within the footprint size constraints.
3. Review the activities requiring mitigation (circle column entry for all that apply).
4. Select one or more of the impacts which apply to your project.
5. Once you have identified the impacts requiring mitigation, go to the corresponding section of this brochure to learn how you can mitigate for your proposed project.
## Appendix D

Table 1. Qualified SFR developments and associated impacts requiring mitigation.

<table>
<thead>
<tr>
<th>Construction Category</th>
<th>Structure Type</th>
<th>Maximum Size Constraints (based on total footprint)</th>
<th>Impacts Requiring Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Vegetation is Cleared</td>
<td>New Impervious Area is Created</td>
</tr>
<tr>
<td>New</td>
<td>SRF including any accessory development</td>
<td>4,000 ft²</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>Driveway or parking area</td>
<td>No maximum</td>
<td>X</td>
</tr>
<tr>
<td>Accessory</td>
<td>Detached garage or carport</td>
<td>580 ft²</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>Guest House or ADU</td>
<td>800 ft²</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>Boathouse</td>
<td>200 ft²</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>Patio – with or without BBQ pit or deck</td>
<td>120 ft²</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>Hot Tub + deck/patio</td>
<td>120 ft²</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>Sport Court</td>
<td>200 ft²</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>Gazebo, Utility Shed, Well House, Greenhouse</td>
<td>200 ft²</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>Retaining wall – new or replacement (upland)</td>
<td>3.5 ft depth and 4 ft height with no surcharge</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>Deck (attached to house)</td>
<td>400 ft²</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>Stairs to beach</td>
<td>50 ft² to 120 ft²</td>
<td>X</td>
</tr>
<tr>
<td>Primary Replace/Expand</td>
<td>Demolished (Replace) structure in same location</td>
<td>Same size as existing</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Expand size</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>Addition to or Expansion of SFR</td>
<td>4,000 ft² including existing structure</td>
<td>X</td>
</tr>
</tbody>
</table>
## Bainbridge Island Shoreline Master Program---PC Recommendation  
**April 12, 2012**

### Accessory Replacement

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Replacement</th>
<th>Existing</th>
<th>New</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bulkhead</td>
<td>Same size as existing</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Boathouse</td>
<td>200 ft²</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Stairs to beach</td>
<td>50 ft² to 120 ft²</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Dock</td>
<td>Same size as existing</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

### Repair

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Replacement</th>
<th>Existing</th>
<th>New</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bulkhead</td>
<td>3.5 ft. depth and 4 ft. height with no surcharge</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Boathouse</td>
<td>200 ft²</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Stairs to beach</td>
<td>50 ft² to 120 ft²</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Dock</td>
<td>Same size as existing</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

*(Size constraints limit the use of this manual and are not maximum permitted square footage)*

- **a** New dock, or other new in-water or overwater structures are not covered by this manual. Covered moorage is prohibited by the City.
- **b** Mitigation is not required for beach stairs with a footprint smaller than 50 ft².
- **c** If stairs are grated and pass stormwater freely no mitigation for impervious area is required.
- **d** Repairs or replacements of this in-water and overwater structure are exempt from this mitigation requirement if the footprint and impact is reduced (such as by replacing wood decking with grating to increase light penetration and reducing the number of pilings). Specific requirements for footprint and impact reduction are explained in the section called *Aquatic Habitat is Disturbed*.
- **e** Surcharge is the slope above and behind a retaining wall or bulkhead.
- **f** This program does not cover mitigation required for use of barges. If you intend to use a barge for construction, you will need to submit a site specific technical report.
Compensatory Mitigation Requirements

Vegetation is Cleared

Mitigation for vegetation cleared in the shoreline jurisdiction requires replacement with an equivalent or larger area of native tree and shrub plantings. Areas planted for mitigation are subject to approval by the Administrator and shall be recorded with the County Auditor on a Notice on Title, or other similar document, prior to approval of the project. Areas planted for mitigation are intended to be protected in perpetuity, while future alterations may be allowed with an approved mitigation plan.

What best describes the character of the vegetation in the area you will be clearing? Is it predominantly:
- Comprised of mowed grass or lawn.
- Comprised of non-native landscaping (including groundcovers, shrubs, or trees).
- Comprised of native vegetation (including groundcovers, shrubs, and trees).

Based on the character of vegetation being cleared and whether you intend to plant native vegetation within the Zone 1 of the Shoreline Buffer, which lies (at minimum) within 30 feet landward of the OHWM, different ratios of new area of native vegetation planting to be cleared area are required. These ratios are provided in Table 2.

Native vegetation is defined as a selection of a mix of native tree, shrub, ground cover species from Appendix A, or species otherwise demonstrated to be native and appropriate to the site conditions, planted with on-center spacing designed to achieve a minimum 65% native vegetation coverage within 10 years while also protective of views from the primary structure on the property.

Table 2. Mitigation requirements for vegetation clearing.

<table>
<thead>
<tr>
<th>Character of Existing Vegetation being Cleared</th>
<th>Will Mitigation Planting be Located Within Zone 1?</th>
<th>Mitigation Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Area is comprised of mowed grass or lawn.</td>
<td>Yes</td>
<td>Plant ½ the equivalent area of cleared grass or lawn with native vegetation.</td>
</tr>
<tr>
<td></td>
<td>No</td>
<td>Plant the equivalent area of cleared grass or lawn with native forest and shrub vegetation.</td>
</tr>
<tr>
<td>Area is comprised of non-native landscaping (including groundcovers, shrubs or trees).</td>
<td>Yes</td>
<td>Plant the equivalent area of cleared non-native landscaping with native vegetation.</td>
</tr>
<tr>
<td></td>
<td>No</td>
<td>Plant 2 times the area of cleared non-native landscaping with native forest and shrub vegetation.</td>
</tr>
<tr>
<td>Area is comprised of native vegetation (including groundcovers, shrubs or trees).</td>
<td>Yes</td>
<td>Plant 2 times the area of cleared native forest to native vegetation.</td>
</tr>
<tr>
<td></td>
<td>No</td>
<td>Plant 3 times the area of cleared native forest with native vegetation.</td>
</tr>
</tbody>
</table>
To assist you with planting areas of native forest and shrub vegetation, a list of native species suitable for the City’s shorelines is provided in Appendix A along with a planting detail showing typical tree and shrub spacing and recommended plant sizes.

**New Impervious Area is Created**

To mitigate for new impervious area, you can:

- Remove existing impervious area of equal size within your shoreline buffer and replant with native forest and shrub species or
- Install a raingarden that is sized to be at least 20 percent of the size of your new impervious and compacted surfaces (measured in sqft).

The use of a rain-garden as in-kind mitigation is based on the understanding that rain gardens can help provide the water-collecting, retaining, and infiltration capacity that are lost due to creation of impervious surface. The Rain Garden Handbook for Western Washington Homeowners, found at [www.raingarden.wsu.edu/index.html](http://www.raingarden.wsu.edu/index.html), describes how rain-gardens act like a native forest by collecting, absorbing, and filtering stormwater runoff from roof tops, driveways, patios, and other areas that don’t allow water to soak in. Rain gardens:

- Can be shaped and sized to fit your yard.
- Are constructed with soil mixes that allow water to soak in rapidly and support healthy plant growth.
- Can be landscaped with a variety of plants that look beautiful and help manage stormwater.

To install a raingarden, follow the methods for calculating your drainage area, locating, designing (sizing), planting and maintaining a rain-garden available in resources from WSU extension (link is provided above). Local landscape architects, Kitsap County WSU Extension office, Kitsap County Conservation District, and the City’s Planning and Community Development are other resources available for the homeowner.

**Caution**: Collecting and allowing water to soak into a landslide hazard area can cause instability and potentially endanger your structure. If you need to place your rain-garden on or near a landslide hazard area (slope greater than 15%), a letter or report from a qualified licensed geologist or geotechnical engineer that evaluates the site and your rain garden design must be submitted with your application for review and approval by the Administrator.

**Aquatic Habitat is Disturbed – Applies to Replacement/Repair of in-water or overwater structures**

Modification of shorelines has the potential to interrupt or negatively affect ecological functions or processes. In addition, construction activities related to development may temporarily affect...
Appendix D

fish and wildlife, water quality, or shoreline processes. This section applies to the permanent effect from allowed shoreline development waterward of the Ordinary High Water Mark.

Projects which satisfy the SMP requirements as repair may result in additional loss of ecological functions list in WAC 173-26. No net loss sets a baseline of today some impacts such as sediment impoundment have the potential to continue degradation of shoreline process and ecological functions, whereas, the loss of shoreline vegetation from the initial construction of a bulkhead is a discrete event and the impact is accounted for in the baseline.

In-water and overwater replacement and repairs covered by this guidance include bulkheads, boathouses, stairs to the beach, and docks (the components of a dock include ramps, piers and floats, and requirements apply to all components). In-water and overwater replacement and repairs of any structure require permits from USACE and WDFW, and the City.

Upon project completion all areas of shoreline disturbed for in-water or overwater structure should be restored to as near pre-project configuration as possible and replanted with native vegetation appropriate to the site and approved by the City.

Exemption from mitigation is provided for structures which meet the reduction provisions provided for overwater structures below, when the structures shading footprint is not reduced you are required to remove an equivalent or greater area of overwater structure elsewhere within the City, contact the Planning and Community Development department for more details. Some considerations when planning to repair or replace your dock that could help avoid or minimize impacts that require mitigation:

- Could you use a mooring buoy instead of repairing or replacing your dock?
- Could you replace your fixed dock with a dock that can be retracted when not in use to minimize disturbance to aquatic habitat?
- Is there a neighbor you could share a dock with as an alternative to replacement or repair?

Permitted Fill Material is Placed Below OHWM: Shoreline Modification

All shoreline modifications that include placing fill material below the OHWM will require an equivalent volume of fill material to be removed elsewhere from below the OHWM for mitigation (Table 3). Typical shoreline modifications that include fill placed below the OHWM include bulkheads, stairs, boathouses, and docks.

If the fill removal mitigation occurs within the same parcel, the volume removed must be at minimum equal to the volume of fill material placed. If the fill removal occurs on a different parcel, than the volume removed must be two times the volume of fill material placed. See Table 3.

Preferred types of fill material for removal as mitigation may include construction debris such as concrete pieces, riprap, creosote logs, and failing bulkheads.

In many instances structures can be constructed that can be retracted when not in use (for example retractable access stairs). Retractable structures are exempted from fill-placement mitigation.
Also, in many instances, the footprint of fill for structures can be small enough to have an insignificant impact on aquatic resources. If the footprint of fill below the OHWM is smaller than 10 square feet, the structure is exempted from fill-placement mitigation.

In addition to fill removal, bulkhead replacement or repair will require mitigation in the form of beach nourishment (Table 3).

Beach nourishment differs from fill because it is mobile and permeable, unlike immobile, placed and protected materials associated with nearshore structures. Beach nourishment provides spawning habitat for forage fish species, which are food sources for salmon (and other) fish species, birds, and marine mammals. While nearshore structures can provide a type of nearshore habitat (for example holdfasts for barnacles and mussels), these habitats do not improve impaired features of the nearshore ecosystem and contribute to natural geomorphic processes in the ways that mobile beach sand can support these processes.

<table>
<thead>
<tr>
<th>Development Type</th>
<th>Location of Fill Removal On Site</th>
<th>Location of Fill Removal Off Site</th>
<th>Beach Nourishment Required?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stair construction, replacement or repair</td>
<td>Remove fill equivalent to volume added below OHWM</td>
<td>Remove fill equivalent to 2 times volume added below OHWM *</td>
<td>No</td>
</tr>
<tr>
<td>Boathouse replacement or repair</td>
<td>Remove fill equivalent to volume below OHWM</td>
<td>Remove 2 times volume of fill below OHWM</td>
<td>No</td>
</tr>
<tr>
<td>Dock replacement or repair</td>
<td>Remove fill equivalent to volume below OHWM</td>
<td>Remove 2 times volume of fill below OHWM</td>
<td>No</td>
</tr>
<tr>
<td>Bulkhead replacement or repair</td>
<td>Remove fill equivalent to volume below OHWM</td>
<td>Remove 2 times volume of fill below OHWM</td>
<td>Nourish beach along shoreline length of repaired or replaced bulkhead as per WDFW recommendations</td>
</tr>
</tbody>
</table>

* A reduced ratio may be used in limited instances when a greater ecological benefit is obtained at an off site location.

**What is beach nourishment?**

Beach nourishment is where sediment (usually sand also known as fish mix) lost through alongshore drift or erosion is replaced from sources outside of the eroding beach (often an upland source). Beach nourishment can protect beach resources and avoid or minimize the negative effects of bulkheads. Nourishment creates “soft” (non-permanent) protection by creating a larger sand reservoir, pushing the shoreline seaward.
How do I do beach nourishment?
It is preferred that beach nourishment be located on-site, waterward of the bulkhead. If it is not possible to do beach nourishment on-site or it is determined to be more beneficial off-site, alternative sites relevant to the sites drift cell may be acceptable to the City, particularly if they are in areas identified as benefiting from beach nourishment in the City’s Shoreline Restoration Plan.

Beach nourishment should be placed to provide mobile sediments suitable to sustain nearshore forage fish spawning habitat. Beach nourishment material should be comprised of 100 percent WDFW Fish Mix or other material approved by the Administrator according to the SMP.

The volume of nourishment should rise at least 1-foot above OHWM and have a foreshore slope no greater that 1 vertical unit per 5 horizontal units (1:5 slope). The frequency of nourishment should follow WDFW recommendations. Determining the frequency of nourishment may require that a sediment loss analysis be completed by a qualified professional and could be as often as every five years over a 25 year period. This may require an agreement between Applicant, WDFW and the City.

Mitigation Exemption for Replacement of Overwater Structures
For impacts to ecological function and process occurring waterward of OHWM retractable docks or access stairs are exempt from City - required mitigation as are those structures that reduce the shading footprint of the existing dock through any two of the following measures, in accordance with provisions in the SMP:

- Replace dock surface with grating or gridding
- Reduce dock width, sufficiently to protect critical saltwater habitat
- Increase dock height, sufficiently to protect critical saltwater habitat

These alterations must conform to the most recent design guidance provided by the USACE found in its current Regional General Permit for Residential Inland Marine Overwater Structures (Permit Number CENWS-OD-RG-RGP-6) or meet City requirements, whichever standards provide a smaller footprint and greater light penetration. The City’s requirements are provided below; the department of Planning and Community Development is available to assist with making this determination, please contact the department if you have any questions.

City requirements are:

a. Grating or gridding resulting in a total open area of a minimum of 30% must be installed on all replacement piers that are 4 to 6 feet wide. For example, this can be achieved by installing grating with 60% open area on at least 50% of the dock or by grating a larger percentage of the dock with grating with openings of less than 60%.

Site conditions, as established through a site specific analysis, may require the dock to be 100% grated, if near critical saltwater habitats. The following equation is used:

\[
\text{Grating Open Area} \times \text{Pier Area} = \geq 30\%
\]

Example: .5 (50%) x .6 (60%) = .3 (30%)
b. For a **single-use** structure, the float width must not exceed 8 feet and the float length must not exceed 30 feet. Functional grating must be installed on at least 50% of the surface area of the dock.

c. For a **joint-use** structure, the float width must not exceed 8 feet and the float length must not exceed 60 feet. Functional grating must be installed on at least 50% of the surface area of the dock.

**What is the process for obtaining approval to use this guidance?**

Submit your project proposal, completed checklist, and site plan along with your list of required mitigation activities and their proposed design and any other shoreline permit applications to PCD for review and approval by the Administrator. The applicant must obtain required shoreline permits as outlined in Table 4-1 of the SMP, and a pre-application conference maybe required. A check list is provided to assist you with submitting a complete proposal, please see the attached Check List or obtain a copy from the department of Planning and Community Development.
Appendix D

**Draft Checklist for Mitigation Guidance Approval Procedure:** This will be further developed as a separate document by CoBI

- Project Description – This should include a brief description of your proposed structure including its footprint.

- List of impacts requiring mitigation from Table 1.

- Description of proposed mitigation for each impact listed above. Note also whether mitigation will be on-site or off-site. If off-site, please provide location and confirmation that the property owner has agreed to have mitigation on their property.

- Site plan showing locations of existing and proposed structures as well as locations for mitigation.

If applicable provide the following:
- For vegetation clearing provide species list and example spacing for species for replanting.

- For creation of new impervious area provide drainage area calculations using methods from *Rain Garden Handbook for Western Washington Homeowners* found at [www.raingarden.wsu.edu/index.html](http://www.raingarden.wsu.edu/index.html) and location and size of rain garden.

- For fill located below OHWM, provide calculation of fill volume and proposed location for removing required fill volume.

- If beach nourishment is required, provide location, volume to be deposited and frequency of nourishment.

- If a USACE permit or WDFW HPA was obtained, briefly describe the mitigation requirements and provide a copy of each permit.

**Appendix A: List of Native Plants and Suggested Plant Spacing.** – This will include list and plan view figure showing typical on center spacing of trees and shrubs. Also cover ways to frame for views.