SPECIAL/REGULAR STUDY SESSION
WEDNESDAY, MAY 15, 2013
LOCATION: BAINBRIDGE ISLAND CITY HALL
280 MADISON AVENUE N., BAINBRIDGE ISLAND, WASHINGTON

AGENDA

1. EXECUTIVE SESSION

6:00 PM Property Disposition (RCW 42.30.110(1)(c)), Collective Bargaining Negotiations, Issues, or Proceedings (RCW 42.30.140), Current Litigation (RCW 42.30.110(i))

2. CALL TO ORDER / ROLL CALL

7:00 PM Mayor: Steven Bonkowski

Councilmembers: Anne Blair, Sarah Blossom, Kirsten Hytopoulos, Debbi Lester, Bob Scales, David Ward

3. ACCEPTANCE OR MODIFICATION OF AGENDA / CONFLICT OF INTEREST DISCLOSURE

7:05 PM

4. STAFF INTENSIVE

7:10 PM

A. **Subject**: Ordinance No. 2013-10, Adopt 2012 Washington State Building Codes and Amend Chapter 15.04 BIMC and Building Division 2013 Status Update**,** AB 13-060 – 15 min. **(Pg. 1)**
Discussion Leader: Planning
Discussion Goal: First reading. Consider scheduling second reading for June 26, 2013.

B. **Subject:** Department of Ecology Supplemental Statewide Stormwater Grant Application for the Proposed Waterfront Park Project, AB 13-064 – 10 min. **(Pg. 6)**
Discussion Leader: Public Works
Discussion Goal: Consider approval to submit grant application for Waterfront Park Outfall.

C. **Subject:** Process for Review of General Sewer Plan Policies Discussion, AB 13-065 – 5 min. **(Pg. 11)**
Discussion Leader: Executive
Discussion Goal: Information.

D. **Subject:** Ordinance No. 2013-11, Confirming the Exemption of the Police Chief Position from Civil Service, AB 13-067 – 5 min. **(Pg. 12)**
Discussion Leader: Executive
Discussion Goal: First reading. Consider scheduling second reading for May 22, 2013.

E. **Subject:** KPUD Interlocal Agreement, AB 13-066 – 30 min.
Discussion Leader: Executive
Discussion Goal: Discussion. Next steps.

F. **Subject:** Citizen Committees and Commissions, AB 13-069 – 10 min. **(Pg. 15)**
Discussion Leader: Executive
Discussion Goal: Information. Staff to advertise committee and commission vacancies.

**** Public comment at study sessions is encouraged. Times listed on this agenda are approximate****

Americans with Disabilities Act (ADA) accommodations provided upon request. Those requiring special accommodations, please contact the City Clerk at 206-842-2545 (cityclerk@bainbridgewa.gov) by noon on the day preceding the Meeting.

5. **COUNCIL DISCUSSION**
   8:25 PM
   A. **Subject:** Resolution No. 2013-10, Shoreline Master Program Update, AB 13-068 – 60 min. **(Pg. 38)**
      Discussion Leader: Council.
      Discussion Goal: Consider approval.

   B. **Subject:** National Public Works Week Proclamation, AB 13-062 – 5 min. **(Pg. 50)**
      Discussion Leader: Mayor Bonkowski
      Discussion Goal: Consider approval.

   C. **Subject:** National Police Week Proclamation, AB 13-063 – 5 min. **(Pg. 52)**
      Discussion Leader: Mayor Bonkowski
      Discussion Goal: Consider approval.

6. **COMMITTEE REPORTS**
   9:35 PM

7. **REVIEW UPCOMING COUNCIL MEETING AGENDAS**
   9:40 PM

8. **FOR THE GOOD OF THE ORDER**
   9:45 PM

9. **ADJOURNMENT**
   9:50 PM

**** Public comment at study sessions is encouraged. Times listed on this agenda are approximate****

Americans with Disabilities Act (ADA) accommodations provided upon request. Those requiring special accommodations, please contact the City Clerk at 206-842-2545 (cityclerk@bainbridgewa.gov) by noon on the day preceding the Meeting.

CITY OF BAINBRIDGE ISLAND
CITY COUNCIL AGENDA BILL

PROCESS INFORMATION	
Subject: Ordinance No. 2013-10, Adopt 2012 Washington State Building Codes and Amend Chapter 15.04 BIMC and Building Division 2013 Status Update	Date: May 15, 2013
Agenda Item: Staff Intensive /1st Reading	Bill No.: AB 13-060
Proposed By: James Weaver, Building Official	Referral(s):

BUDGET INFORMATION		
Department:	Fund:	Munis Contract #
Expenditure Req:	Budgeted? ☐ Yes ☐ No	Budget Amend. Req? ☐ Yes ☐ No

REFERRALS/REVIEW		
Study Session:	Recommendation:	
City Manager ☐ Yes ☐ No ☒ N/A	Legal ☒ Yes ☐ No ☐ N/A	Finance ☐ Yes ☐ No ☒ N/A

DESCRIPTION/SUMMARY

Action Item:

Consider 1st Reading of Ordinance No. 2013-10 relating to the City's building codes and regulations, and amending Sections 15.04.020, 15.04.021, 15.04.023 and 15.04.050 of the Bainbridge Island Municipal Code.

History:

This is an ordinance to update the City of Bainbridge Island building codes to be consistent with Washington State requirements. The last City of Bainbridge Island update of the Washington State building codes was in June 9, 2010, via Ordinance No. 2010-17. The State of Washington, via RCW19. 27.031 and WAC 51-50 mandates the update of standardized uniform Building Codes protecting the life, safety, and public welfare of the built environment for application within and throughout all cities and counties within Washington State.

The attached ordinance ensures the City of Bainbridge Island is consistent with state Building Code requirements and also provides an update to after-the-fact fees that ensures they are internally consistent and comparable with other Washington State jurisdictions. The Washington State building code updates, per RCW 19.27.031, are effective statewide on July 1, 2013.

Budget:

No additional funding for this update is anticipated, as the 2012 building code book purchase allocations, staff training, and documentation updates were accommodated and included within the preparation of the 2013 Building Department Budget.

RECOMMENDED ACTION

Motion:

I move that the City Council schedule 2nd reading of Ordinance No. 2013-10 relating to the City's building codes and regulations on June 26, 2013.

ORDINANCE NO. 2013-10

AN ORDINANCE of the City of Bainbridge Island, Washington, relating to the City's building codes and regulations, amending Sections 15.04.020, 15.04.021, 15.04.023 and 15.04.050 of BIMC Chapter 15.04.

WHEREAS, the State Building Code Council amended and adopted the 2012 International Building Code, the 2012 International Residential Code, the 2012 International Mechanical Code published by the International Code Council, as well as the 2012 Uniform Plumbing Code published by the International Association of Plumbing and Mechanical Officials and the 2012 Washington State Energy Code; and

WHEREAS, the City of Bainbridge Island is required by RCW 19.27.031 to adopt provisions of certain uniform codes of technical building and related regulations as adopted by the Washington State Building Code Council ("WSBCC"); and

WHEREAS, pursuant to WAC 51-50, these new codes become effective July 1, 2013; and

WHEREAS, the City wishes to be consistent with other jurisdictions and internally consistent with the application of the after-the-fact permit fees; and

WHEREAS, Washington statutes require all jurisdictions in the state to adopt by reference and enforce the same building code throughout Washington; now, therefore,

THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Section 15.04.020 of the Bainbridge Island Municipal Code is amended to read as follows:

Section 15.04.020 Codes adopted by reference.

The following codes are adopted by reference subject to the amendments set forth in BIMC 15.04.021 through 15.04.070 and Resolution 99-31:

A. The International Building Code, ~~2009~~ 2012 Edition, published by the International Code Council, and amended by the State Building Code Council in Chapter 51-50 WAC, together with ICC A117.1-~~2003~~ 2009, Appendix C (Agricultural Buildings), Appendix E (Supplementary Accessibility Requirements), ~~and~~ Appendix J (Grading), and the 2012 International Existing Building Code;

B. The International Residential Code, ~~2009~~ 2012 Edition, published by the International Code Council, and amended by the State Building Code Council in Chapter 51-51 WAC together with Appendix F (Radon Control Measures), and Appendix G (Swimming Pools, Spas and Hot Tubs)~~, and Appendix R (Dwelling Unit Fire Sprinkler Systems)~~;

C. The Uniform Plumbing Code, ~~2009~~ 2012 Edition, published by the International Association of Plumbing and Mechanical Officials, and ~~as~~ amended by the State Building Code Council in Chapters 51-56 and 51-57 WAC including Appendices A, B and I;

D. The International Mechanical Code, ~~2009~~ 2012 Edition, published by the International Code Council, and ~~as~~ amended by the State Building Code except that the standards for handling liquefied petroleum gas installations shall be NFPA 58 (Liquefied Petroleum Gas Code) and NFPA 54 (National Fuel Gas Code);

E. The Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition, as published by the International Conference of Building Officials;

F. The Washington State Energy Code, ~~2009~~ 2012 Edition, published by the State Building Code Council, including Appendices A, B, & C, and amended in Chapter ~~51-11 WAC~~ 51-11C WAC and Chapter 51-11R WAC;

G. The Uniform Administrative Code, 1997 Edition, published by the International Conference of Building Officials;

H. The International Fuel Gas Code, ~~2009~~ 2012 Edition, published by the International Code Council;

I. The Uniform Building Code, 1997 Edition, Table 1-A only, published by the International Conference of Building Officials.

In case of conflict among the BIMC and codes adopted in subsections A, B, C, D, E, F, G, H, and I of this section, the BIMC shall govern.

Section 2. Section 15.04.021 of the Bainbridge Island Municipal Code is amended to read as follows:

Section 15.04.021 Design Requirements

IRC Table R301.2(1) is amended by filling in the blanks of the table as follows:

~~Roof~~ Snow Load: 25 psf
Wind Speed: 85 mph
Seismic Category: D2
Weathering: Moderate
Frost Line Depth: 12 inches
Termite: Slight to Moderate
Decay: Slight to Moderate
Winter Design Temp: 27 degrees F
Ice Shield Underlayment Required: No
Flood Hazards: Per BIMC 15.16
Air Freezing Index: 113
Mean Annual Temp: 53 degrees F

Section 3. Section 15.04.023 of the Bainbridge Island Municipal Code is amended to read as follows:

15.04.023 International Building Code, Section 104.6 and International Residential Code, Section R104.6 amended – Right of Entry; International Building Code, Section 114 and International Residential Code, Section R113 amended – Violations; International Building Code, Section 114 and International Residential Code, Section R114 amended – Stop Work Order.

Section 104.6 Right of Entry. The right of entry for the building official shall be as set forth in BIMC 1.26.020.

Section R104.6 Right of Entry. The right of entry for the building official shall be as set forth in BIMC 1.26.020.

Section 114 Violations. The building official may order discontinuance or vacation of a use, structure, building or equipment in accordance with Chapter 1.26 BIMC.

Section R11~~3~~4 Violations. The building official may order discontinuance or vacation of a use, structure, building or equipment in accordance with Chapter 1.26 BIMC.

Section 115 Stop Work Orders. The building official may order work stopped in accordance with Chapter 1.26 BIMC.

Section R114 Stop Work Orders. The building official may order work stopped in accordance with Chapter 1.26 BIMC.

Section 4. Section 15.04.050 of the Bainbridge Island Municipal Code is amended to read as follows:

Section 15.05.050 International Building Code, Section 108.2 and International Residential Code, Section R108.2 amended - Fees.

A. Permit Fees. The fee for each permit shall be calculated from the 1997 Uniform Administrative Code, which is adopted by reference, and using the most current building valuation data supplied by the International Code Council times a factor of 1.41. When building valuation data is updated by the International Code Council, the city's fees shall be adjusted as of the first of the month at least 30 days after release of the updated figures from the International Code Council. The calculated fees may be reduced by a percentage discount as determined by resolution of the city council. In no case shall the fees charged for building permits exceed the cost to the city of the building permit regulatory function.

B. Plan Review Fees. When a plan or other data is required to be submitted, a plan review fee shall be paid at the time of submitting plans and specifications for review. Said plan review fee shall be 65 percent of the building permit fee calculated in subsection A of this section. Where plans are incomplete or changed so as to require additional plan review, an additional plan review fee shall be charged.

C. Investigation Fees – Work Without a Permit. Whenever any work for which a permit is required by this code has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work. An investigation fee, in addition to the permit fee, shall be collected whether a permit is then or subsequently issued. <u>If a permit is not issued, the investigation fee shall be due to the City within sixty (60) days from the date of notification the fee is due.</u> The investigation fee shall be <u>equal to the total permit cost, except the SBCC fee.</u> ~~based on the actual time spent on the investigation.~~ The payment of such investigation fee shall not exempt any person

from compliance with all other provisions of this chapter or from any penalty prescribed by law.

D. Renewal Fees. Fees for renewals shall be one-half the amount required for a new permit for the work. Such fee may be waived by the building official following written request for same upon showing that circumstances beyond the control of the applicant prevented work from commencing or action from being taken.

E. Fee Refunds.

1. The building official may authorize the refunding of any fee paid hereunder which was erroneously paid or collected.

2. The building official may authorize the refunding of not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.

3. The building official may authorize the refunding of not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan reviewing is done. The building official shall not authorize the refunding of any fee paid except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

F. Planning Review of Building Permits. When a plan or other data is required to be reviewed for conformity with the environmental or zoning chapters of the Bainbridge Island Municipal Code, a review fee shall be charged in the amount established by the city by resolution. Where plans are incomplete or changed so as to require additional environmental or zoning review, an additional review fee shall be charged.

Section 5. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared invalid or unconstitutional for any reason, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 6. This ordinance shall take effect and be in force five (5) days from its passage, approval, and publication as required by law.

PASSED by the City Council this ___ day of June, 2013.

APPROVED by the Mayor this ___ day of June, 2013.

Steven Bonkowski, Mayor

ATTEST/AUTHENTICATE:

Rosalind D. Lassoff, CMC, City Clerk

FILED WITH THE CITY CLERK:	May 10, 2013
PASSED BY THE CITY COUNCIL:	June ___, 2013
PUBLISHED:	June ___, 2013
EFFECTIVE DATE:	June ___, 2013
ORDINANCE NO.:	2013-10

CITY OF BAINBRIDGE ISLAND
CITY COUNCIL AGENDA BILL

PROCESS INFORMATION	
Subject: Department of Ecology Supplemental Statewide Stormwater Grant Application for the Proposed Waterfront Park project	Date: May 15, 2013
Agenda Item: Staff Intensive	Bill No.: 13-064
Proposed By: Engineering Manager Chris Hammer	Referral(s):

BUDGET INFORMATION		
Department/Fund: Proposed 2014 Budget		
Expenditure Req: $42,500.00	Budgeted? ☐ Yes ☐ No	Budget Amend. Req? ☐ Yes ☐ No

REFERRALS/REVIEW		
Study Session	Recommendation:	
City Manager ☐ Yes ☐ No ☐ N/A	Legal ☐ Yes ☐ No ☒ N/A	Finance ☐ Yes ☐ No ☒ N/A

DESCRIPTION/SUMMARY

Action Item:

Consider placement of the DOE Supplemental Statewide Stormwater grant application for the stormwater portion of the proposed Waterfront Park project at the next City Council business meeting.

Background:

In 2012, the State Legislature provided $67M through appropriation provisions for statewide stormwater construction projects. The Department of Ecology (DOE) is providing the unobligated funds in a new competitive funding cycle with the remaining $7M via the Supplemental Statewide Stormwater Grant Program. Eligible applicants for this funding opportunity are cities, counties, etc. covered by the NPDES Municipal Stormwater General Permit. Applications are due June 14th and projects are expected to complete by June 30, 2015. See attached memo for more information.

Budget:

Estimated $170,000 for project with a 25% local match of $42,500. Requesting funding from the proposed 2014 budget.

RECOMMENDED ACTION

Motion:

I move that the City Council forward the request to apply for a DOE Supplemental Statewide Stormwater grant application for the stormwater portion of the proposed Waterfront Park project and authorize funding for this project from the 2014 budget to the next City Council business meeting consent agenda.

City of Bainbridge Island
PUBLIC WORKS DEPARTMENT

MEMORANDUM

TO: City Council
Doug Schulze - City Manager

FROM: Chris Hammer P.E. PMP - Engineering Manager

DATE: For May 15, 2013

RE: Department of Ecology Statewide Stormwater Grant Application Consideration

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Background

The DOE is supplementing the 2012 stormwater grant program with an additional $7,027,000. In 2012 the City received a grant under this grant program for stormwater improvements at Lynwood Center. Applications are due June 14, 2013. Projects are to be completed by June 30, 2015.

The existing storm water outfall at Shannon Drive is in need of retrofit improvements in order to improve water quality. The existing stormwater system conveys much of the area below Winslow Way, east of Madison, and west of Bjune and outfalls in the vicinity of the Waterfront Park Dock. The existing outfall is the remnant of the old combined sewer and storm water system and is located in deep water below the intertidal zone. When DNR permits expire they propose new practices or reconfigurations as necessary. The Department of Natural Resources (DNR) lease has expired (May 22, 2004) for this outfall and requested the City reconfigure the outfall.

Proposal

The City Council has embarked on a community effort to improve the Waterfront Park. Council may desire to address the outfall deficiency and provide water quality improvements in coordination with other proposed park improvements. The Statewide Stormwater Grant is a possibility for addressing this work and at a reduced cost.

A proposed project scope is as follows:

- Provide a new outfall to the shoreline and abandonment of the old outfall.
- Provide a new water quality structure.

The proposed scope of work assumes that the outfall can be abandoned in place, the existing pipe conveyances in the park are adequate, and that cultural resource impacts can be avoided.

The work will include design, permitting, and construction. Given the timing and current workload staff has not prepared a detailed scope and estimate. A cost opinion has been derived

using analogous estimating plus a 35% contingency. The preliminary cost opinion to deliver the design, permitting, and construction is $170,000.

If awarded, seventy-five percent (75%) of these improvements would be funded by the Grant and twenty-five percent (25%) of the improvements would need to be budgeted and funded by the City. As annual stormwater funds for 2013, are needed to meet preservation needs, Staff recommends that Council fund the local match for the improvements using funding appropriated for the park project, by allocating additional stormwater funds above what is currently budgeted, or from contingency.

Summary

We ask that council consider authorizing the City to apply for a DOE Statewide Stormwater Grant to fund a storm water element of the Waterfront Park project and commit to budget for the local match not to exceed $42,500.

Supplemental Statewide Stormwater Grant Program

NEW! **UPDATE - April 9, 2013:**

The 2012 State Legislature provided $67M through appropriation provisions for statewide stormwater construction projects. Funding offers were made on May 1, 2012 to 117 grant applicants. For varying reasons, a portion of the funding offers were declined or deobligated. Ecology is providing the declined/deobligated funds in a new competitive funding opportunity: Supplemental Statewide Stormwater Grant Program.

The amount available for the Supplemental Statewide Stormwater Grant Program is $7.027M. Ecology is developing the stormwater grant program guidance and application materials based on the FY2012 stormwater funding criteria and the FY2012 Supplemental Capital Budget language. Projects are expected to complete by June 30, 2015.

Eligible applicants for this funding opportunity are cities, towns, counties, and ports covered by one of the following NPDES Municipal Stormwater General Permits:

- Phase I Municipal Stormwater Permit
- Phase II Eastern Washington Municipal Stormwater Permit
- Phase II Western Washington Municipal Stormwater Permit

Following is the tentative Schedule for this funding opportunity. Ecology will also email the permit holder staff contacts with this information.

SCHEDULE

May 1	Application period begins (Application and Guidance available below on this date)
June 14	Applications DUE at Ecology Headquarters in Lacey, no later than 5pm
June 15 - July 26	Review, Rate and Rank Proposals
August 2	Final Offer and Applicant List available, Offer letters mailed
August 2 - Dec. 1	Grant start date, Negotiate agreements
June 30, 2015	Project completion

If you have questions regarding this funding program, please contact:

Patricia Brommer
Department of Ecology
Water Quality Program
PO Box 47600
Olympia, WA 98504-7600
(360) 407-6566
patricia.brommer@ecy.wa.gov

LINKS

- Program Guidelines
- Funding Application
- Applicant List (Not Yet Available)
- Final Offer and Applicant List (Not Yet Available)

CITY OF BAINBRIDGE ISLAND
CITY COUNCIL AGENDA BILL

PROCESS INFORMATION	
Subject: Process for Review of General Sewer Plan Policies Discussion	Date: May 15, 2013
Agenda Item: Staff Intensive	Bill No.: 13-065
Proposed By: Doug Schulze, City Manager	Referral(s):

BUDGET INFORMATION		
Department:	Fund:	Munis Contract #
Expenditure Req:	Budgeted? ☐ Yes ☐ No	Budget Amend. Req? ☐ Yes ☐ No

REFERRALS/REVIEW		
City Manager ☒ Yes ☐ No ☐ N/A	Legal ☐ Yes ☐ No ☒ N/A	Finance ☐ Yes ☐ No ☒ N/A

DESCRIPTION/SUMMARY

Action Item:

The City Council is being asked to provide input regarding the proposed process for reviewing policy options and providing recommendations for updating the General Sewer Plan policies.

Schedule/Next Activities:

The process of updating the City of Bainbridge Island General Sewer Plan will involve a review of several policy issues across a range of areas. As such, input from three separate citizen advisory bodies would be appropriate. Policy areas to be addressed include:

- Environmental Stewardship
- Financial Policies
- Agency Coordination Policies
- System Reliability Policies
- Design Criteria Policies
- Sewer Service and Extension Policies

Primarily, the staff proposal is to conduct a series of joint meetings with members of the Utility Advisory Committee, Environmental Technical Advisory Committee and the Planning Commission.

During the joint meetings, participants will be asked to:

1. Identify required policy issues or policies of interest to the advisory bodies;
2. Review a range of policy options;
3. Develop recommended policies for City Council consideration.

RECOMMENDED ACTION

Formal action is not required at this time.

CITY OF BAINBRIDGE ISLAND
CITY COUNCIL AGENDA BILL

PROCESS INFORMATION		
Subject: Ordinance No. 2013-11 confirming the exemption of the police chief position from civil service and recognizing the authority of the police chief to exempt additional positions		Date: May 15, 2013
Agenda Item: Staff Intensive/1st Reading		Bill No.: 13-067
Proposed By: Douglas Schulze, City Manager	Referral(s):	

BUDGET INFORMATION		
Department:	Fund:	Munis Contract #
Expenditure Req:	Budgeted? ☒ Yes ☐ No	Budget Amend. Req? ☐ Yes ☐ No

REFERRALS/REVIEW		
Study Session	Recommendation:	
City Manager ☒ Yes ☐ No ☐ N/A	Legal ☒ Yes ☐ No ☐ N/A	Finance ☐ Yes ☐ No ☒ N/A

DESCRIPTION/SUMMARY

Action Item:

1st Reading of Ordinance No. 2013-11 confirming the exemption of the police chief position from civil service and recognizing the authority of the police chief to exempt additional positions.

History:

RCW 41.12.050 authorizes the exemption of the police chief position from civil service. The statute further provides that an exempt police chief may designate certain other positions as the unclassified service and thereby exempt them from civil service as well. The attached ordinance will confirm that the position of chief of police is exempt from civil service and recognize the authority given an exempt police chief by the statute.

RECOMMENDED ACTION

Motion:

I move that the City Council schedule 2nd reading of Ordinance No. 2013-11 confirming the exemption of the police chief position from civil service and recognizing the authority of the police chief to exempt additional positions on May 22, 2013.

ORDINANCE NO. 2013-11

AN ORDINANCE of the City of Bainbridge Island confirming the exemption of the police chief position from civil service and recognizing the authority of the police chief to exempt additional positions; amending Sections 2.28.020, 2.28.050, and 2.28.060 of the Bainbridge Island Municipal Code; and establishing an effective date.

WHEREAS, RCW 41.12.050 authorizes exempting the police chief position from civil service; and

WHEREAS, the statute further provides that an exempt police chief may designate certain other positions as the unclassified service and thereby exempt them from civil service; and

WHEREAS, the Bainbridge Island City Council desires to confirm that the position of chief of police is exempt from civil service and to recognize the authority given an exempt police chief by the statute.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Sections 2.28.020, 2.28.050, and 2.28.060 of the Bainbridge Island Municipal Code are hereby amended to read as follows:

2.28.020 Applicability.

The provisions of this chapter shall be applicable to ~~only~~ all full-time employees of the police department employed by the city after the effective date of ~~the o~~Ordinance No. ~~codified in this chapter.~~ 76-15, except for the following:

A. The position of police chief shall be exempt from the provisions of this chapter; and

B. Pursuant to RCW 41.12.050, the police chief shall be entitled to designate a certain number of additional positions, to be known as the unclassified service, as exempt from the provisions of this chapter. In designating such positions as exempt, the police chief shall follow the procedures set forth in RCW 41.12.050.

2.28.050 Employment, advancement and vacancy filling in the police department.

All applicants for employment with, advancement in, or the filling of a vacancy in, any position in the police department of the city covered by civil service shall be required to have specified qualifications, have tenure of office, and be subject to removal, as provided in the civil service regulations adopted by the commission

consistent with the law of the state, except that in the employment, advancement and filling of vacancies in the department, the commission shall certify to the appointing power the names of the three persons highest on the eligible list for the class (or the list held appropriate for such class) to which the vacant position has been allocated, or willing to accept employment, the appointing power shall select one of the three persons to be appointed to the available position.

2.28.060 Appointing power.

~~The appointing power for the position of the chief of police shall be the city manager.~~ All ~~other~~ appointments to positions in the police department covered by civil service shall be ~~appointed~~ made by the chief of police but only with the concurrence of the city manager of the city.

Section 2. This ordinance shall take effect and be in force five (5) days from its passage, approval, and publication as required by law.

PASSED BY THE CITY COUNCIL this _____ day of _____, 2013.

APPROVED BY THE MAYOR this _____ day of_____, 2013.

_____
Steven Bonkowski, Mayor

ATTEST/AUTHENTICATE:

_____
Rosalind D. Lassoff, CMC, City Clerk

FILED WITH THE CITY CLERK: May 10, 2013
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NUMBER: 2013-11

INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT is effective this _____ day of _____, 20_____ by and between Kitsap Public Utility District ("KPUD") a municipal water district organized pursuant to RCW Chapter 54 and the City of Bainbridge Island ("COBI"), a municipal corporation organized under the laws of the State of Washington.

RECITALS

COBI owns, operates, and maintains a municipal water supply system consisting of wells, storage tanks, transmission and distribution systems. COBI and KPUD wish to enter into an agreement whereby KPUD will provide ongoing administration, operation, maintenance, and repair of COBI's system for the term of this agreement and for the consideration hereinafter stated.

The parties have the power to contract with each other in the performance of these services pursuant to RCW Chapter 39.34.180.

NOW, THEREFORE, in consideration for the mutual covenants and promises set forth in this Agreement, and in the exercise of authority granted by the Interlocal Cooperation Act, Chapter 39.34 RCW, COBI and KPUD do hereby agree to the following:

1. Purpose. The purpose of this Agreement is to provide water utility operation and management services to COBI for the Winslow/Fletcher Bay, Public Works and Rockaway Beach Water Systems.

2. Administration. The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party.

   Kitsap Public Utility District's representative shall be Bob Hunter, Assistant General Manager.
   The City of Bainbridge Island representative shall be Doug Schulze, City Manager.

   No joint acquisition of real or personal property is contemplated hereunder.

3. Services to be Provided.

   A. **Supply.** KPUD will manage COBI's system to provide water from any combination of COBI's wells. Water quality shall be provided to Safe Drinking Water Act (SDWA) standards.

B. **Management of Regulatory Matters.**

1. Water Quality Testing. KPUD will provide water quality sampling, testing, monitoring, and reporting according to SDWA and the Washington Department of Health (DOH) statutes, rules and regulations for municipal entities of COBI's size.

2. KPUD will provide all regulatory interface with Washington Department of Ecology, Department of Health and other regulatory agencies with regard to the water system on behalf of COBI.

3. KPUD will develop a wellhead protection program in partnership with COBI.

C. **Backflow/Cross Connection Control Program.** KPUD will continue the backflow/cross-connection control program established by COBI. PUD staff will provide survey, notification, testing, and enforcement of backflow prevention devices.

D. **Mapping.** COBI will provide all available maps, drawings, as-builts, AUTOCADS and other information to enable KPUD to develop a mapping system compatible with KPUD's information system. In the ordinary course and schedule of KPUD business, KPUD will upgrade City mapping periodically.

E. **Billing.** KPUD will assume all billing and collection functions, including management of any existing agreements COBI may have for meter reading and other billing and collection services.

1. KPUD will include COBI sewer billings as part of a combined bill with the Water billing.

2. COBI may include inserts to citizens to be included in customer bills so long as it does not increase postage cost for a typical bill. If so, COBI must pay the additional postage or send it separately.

3. KPUD will submit all revenues collected from COBI water and sewer customers to COBI, with billing and collection reports, on a bi-monthly basis.

F. **B and O Tax, Sales Tax, and Utility Taxes.** KPUD will assume all responsibility for reporting and paying B & O taxes, sales taxes and utility taxes levied against water and sewer revenues collected by KPUD on behalf of COBI.

G. **Utility Charges.** KPUD will assume all responsibility for payment of utility bills (electricity, telephone) related to COBI water utility facilities.

H. **Public Relations and Media.** KPUD will provide public relations and media services related to water, including school outreach programs.

I. **Council/City Staff Meetings.**

1. KPUD representatives familiar with COBI's system and familiar with current issues of interest to COBI will attend Council meetings as requested by COBI, but not less often than quarterly.

2. KPUD's General Manager or his/her designee will meet with the COBI City Manager or his/her designee bi-monthly to review water service issues.

3. KPUD will provide such written reports as requested by COBI for inclusion in Council packets or for other City departments.

J. **Off Hours/Callouts/Emergencies.** KPUD will designate employees for off hours/callouts. KPUD will keep records of calls and include statistics in an annual report to COBI. KPUD shall be responsible for providing all personnel necessary for emergency events.

K. **Water Management Plan/Conservation.**

1. In conjunction with City staff, KPUD will oversee the implementation and updating of the City's Water System Plan and Water Use Efficiency Plan with the Department of Ecology and Washington Department of Health.

2. KPUD will perform water audits and leak detection, as necessary.

L. **System Operation and Maintenance.** KPUD will operate and maintain COBI's system, which consists of wells, reservoirs, piping, booster stations, services and meters.

1. KPUD will install services and meters for new developments and repairs as needed in accordance with COBI's standards.PUD shall charge fees as set by COBI with input from the PUD for these new services.

2. KPUD will provide recommendations for amendments to COBI's standards for construction, as identified.

3. KPUD will develop maintenance schedules consistent with prudent water utility practices.

4. KPUD will be responsible for service requests and account inquiries.

M. **Repairs.**

1. KPUD will be responsible for the cost of all repairs less than $3,500 per incident .

2. COBI will be responsible for the cost of all repairs exceeding $3,500 per incident. If a repair estimate exceeds $3,500, KPUD will provide COBI with a detailed estimate and obtain COBI authorization prior to proceeding with any repair work, except in the event of an emergency when a repair is required to protect life or property.

N. **Water Resource Management**. KPUD will be responsible for management of water resources, including coordination with COBI Planning and Community Development, Engineering, Bainbridge Island City Council and citizen advisory bodies.

Capital Improvement. COBI will be responsible to budget and appropriate money for capital improvements. Capital improvement is defined as a non-recurring expenditure or any expenditure for physical improvements, including costs for: construction of new facilities such as water mains and reservoirs , including additions and major alterations; acquisition of fixed equipment; change, alteration, rearrangement, replacement or addition to existing facilities such as meters and pump stations. It is also new construction, acquisition or improvements to sites, buildings, or service systems.

1. Capital improvements shall be made according to COBI's Capital Improvement Plan and timing reasonably designated by COBI.

2. KPUD will manage the Capital Improvement Program for the Water Utility, which will include providing recommendations to COBI for annual CIP updates and coordination of water utility projects with COBI.

3. All Capital Improvements shall be constructed according to COBI standards.

4. KPUD will manage the City's current water-related Capital Projects for an additional management fee of 4.5% of the project cost or as negotiated. COBI shall be solely responsible for construction related expenses. COBI reserves the option of retaining others to manage its water related Capital Projects

5. When a City Project involves an incidental water system improvement, the City may elect to include the improvement in its overall non-water project. In this case, the City will obtain KPUD review and coordinate with KPUD in meeting the provisions of this agreement. The associated costs will be borne by the City directly unless other arrangements have been made.

O. **Budget.** According to a schedule developed by COBI, KPUD will provide a draft budget for water services by July 31st of each year. COBI will then use that budget as the starting point for its budget processes. The scope of services will be adjusted accordingly, depending upon COBI's budget choices.

P. **Telemetry.** KPUD will manage, maintain, and upgrade, as necessary, the existing telemetry system. KPUD will interface with COBI's system. COBI will determine what expenditures to make to achieve that interface. COBI will be responsible for maintaining its telemetry radio license. KPUD will notify COBI when license renewal is required.

Q. **Planning.** COBI will provide information and cooperate with KPUD to determine ultimate demand needs and water system planning in that regard.

R. **Activities in COBI's Right-of-Way.**

1. Right-of-Way permit fees will be charged by COBI for projects benefiting ratepayers.

2. KPUD will seek the appropriate permits prior to working in COBI's right-of-way except for emergencies in which event a permit shall be obtained as soon as possible after the repair

S. **Pay Stations.** COBI will designate publicly accessible location(s) for pay stations, which shall include City Hall.

T. **Consumer Confidence Reports.** KPUD will prepare Consumer Confidence Reports on behalf of COBI, commencing with the report due June 30, 2014.

U. **Landscape** and other facility maintenance at City water sites will be performed by KPUD.

V. **New Development.**

1. KPUD will review and provide comments to COBI on development applications. These comments will be provided within the timelines set in current land use statutes.

2. KPUD will provide the review and approval of engineering plans for additions or modifications to COBI's water system. Plan review fees will be billed to the developer in accordance with the Districts schedule of charges and fees.

3. KPUD will provide inspection and final acceptance of additions and modifications to COBI's water system. Inspection fees will be billed to the developer in accordance with the Districts schedule of charges and fees.

4. Payment by COBI.

In exchange for the services provided above by KPUD, COBI agrees to pay an annual fee of $_____, which shall be invoiced one-sixth of the total amount on a bi-monthly basis. This fee shall be adjusted annually to account for increased

customers and increases in PUD costs not to exceed the Seattle-Tacoma CPI. Additionally KPUD will invoice COBI bi-monthly for Utilities, Property Insurance and any other costs related to services requested by COBI that are beyond the scope of this contract. See Attachment #_____ for a breakdown of charges.

5. Term of the Agreement.

   The term of this Agreement shall be for five years commencing _____, 20__, and ending _____, 20____, unless the Agreement is terminated for default. By mutual agreement, the contract may be renewed for two additional terms of five years each. Notice of renewal by each party must be given one year in advance of the termination date.

6. Employees.

   The parties agree that KPUD requires additional employees and equipment to manage, operate, and maintain COBI's water system. The parties agree that those positions and corresponding persons set forth on Exhibit A, attached hereto and incorporated by reference, shall be transferred from COBI to KPUD and KPUD will accept those individuals as District employees with salaries and benefits in accordance with KPUD's salary and benefit program. These employees will be incorporated into KPUD's work force and assigned by KPUD to best fit the needs of the District.

7. Indemnity.

   To the extent permitted by Washington law, each party agrees to indemnify and hold harmless the other, its governing body, officers, agents and employees from any and all claims, demands, damages, or liabilities of any type, including attorney's fees and costs of defense, arising solely out of the negligent act of that party.

8. Insurance.

   Each party shall provide general liability, workers compensation and employers liability insurance in an amount not less than the monetary limits of Washington Tort Claims Act. KPUD shall maintain property damage insurance on COBI's water facilities.

9. Notice.

   All notices and communications in connection with this Agreement shall be given in writing to:

General Manager Kitsap Public Utility District P.O. Box 1989 Poulsbo, WA 98370	City Manager City of Bainbridge Island 280 Madison Avenue North Bainbridge Island, WA 98110

10. Termination.

In the event of a default or other breach of this agreement, the non-defaulting party may give written notice of termination of the agreement upon 30 days' written notice to the other party. In the event of termination, the parties shall cooperate and assist in an orderly transition of functions back to COBI.

11. Default.

    A default shall occur under this agreement if either party breaches its obligations hereunder. If the defaulting party does not remedy or commence to diligently remedy following 30 days' written notice, then the non-defaulting party may terminate the agreement and the parties shall engage in an orderly transition.

12. Attorney's Fees.

    In the event of any suit or action to enforce the provisions of this Agreement, the parties agree the prevailing party shall receive from the other party such as the trial court my adjudge reasonable as attorney's fees to be allowed in said suit or action, and if an appeal is taken, any judgment or decree of such trial court, the parties further agree to pay such sum as the appellate court shall adjudge reasonable as prevailing party and attorney's fees on such appeal.

13. Disputes.

    If a dispute arises between the parties regarding breach of this Agreement or interpretation of any term of this Agreement, the parties shall first attempt to resolve the dispute by negotiation, followed by mediation, if negotiation fails to resolve the dispute.

    Step One: (Negotiation)
    Each of the disputing parties shall appoint a person to negotiate on behalf of the entity. The nature of the dispute shall be reduced to writing by the party alleging breach or seeking interpretation and shall be presented to each designated person who shall then meet and attempt to resolve the issue. If the dispute is resolved at this step, there shall be a written determination of such resolution, signed by each designated person and ratified by his or her respective Board/Council, which shall be binding upon the parties.

    Step Two: (Mediation)
    If the dispute cannot be resolved within thirty (30) days at Step One, the parties shall submit the matter to non-binding mediation. The parties shall attempt to agree on a mediator. If they cannot agree, the parties shall request a list of five (5) mediators from an entity or firm providing mediation services. The parties will attempt to mutually agree on a mediator from the list provided, but if they cannot agree, each party shall select one (1) name. The two selected shall select a third person. The dispute shall be heard by a panel of three (3) mediators and any common costs of mediation shall be borne equally by the parties who shall each bear their own costs and fees therefor. If the issue is resolved at this step, a written determination of such resolution shall be signed by the General Manager/City Manager and approved by their respective Board/City Council.

Step Three: (Litigation)ARBITRATION

Any dispute or claim arising out of this Agreement must be submitted to mandatory, conclusive and binding arbitration under the rules and procedures of the Kitsap County Mandatory Arbitration Rules, provided that there shall be no appeal and provided that the arbitrator will be selected by the parties as set forth below and not by the MAR procedure. Each Party shall submit the names of three proposed arbitrators to the other Party and the Parties shall attempt to agree upon a single arbitrator as proposed on the list of each Party. If the Parties are unable to agree upon an arbitrator, that arbitrator shall be appointed by the presiding judge of the Kitsap County Superior Court. The Parties agree and hereby request of the presiding judge that the arbitrator to be selected or appointed shall be familiar with municipal law, construction law, water systems operations and maintenance and other topics generally covered by this Agreement. The Parties agree that the arbitrator shall be allowed to utilize his or her own independent experts to help resolve technical questions beyond the expertise of the arbitrator. The arbitrator's award shall not be limited by otherwise applicable MAR rules and the prevailing Party shall be entitled to reasonable attorneys fees and costs. The arbitrator's decision may only be appealed pursuant to RCW 7.04.

14. Successors and Assigns.

    All the terms and provisions contained herein shall inure to the benefit of and shall be binding upon the parties hereto and the respective legal representatives, successors, and assigns.

15. Entire Agreement.

    This Agreement embodies the entire agreement and understanding between the parties hereto and supersedes all prior agreements and understandings relating to the subject matter hereof.

16. Assignment.

    This Agreement is binding on the heirs, successors, and assigns of the parties hereto. This Agreement may not be assigned by either party without prior written consent of the other.

17. Severability.

    The invalidity of any section, clause, sentence, or provision of this agreement shall not effect the validity of any other part of this agreement, which can be given effect without such invalid part or parts.

IN WITNESS WHEREOF, the parties have, pursuant to official action of their respective governing bodies, duly authorizing the same, caused their respective officers to execute this instrument on their behalf.

CITY OF BAINBRIDGE ISLAND

By:_____
Douglas Schulze, City Manager

Approved as to Form:

_____
James Haney, City Attorney

KITSAP PUBLIC UTILITY DISTRICT

By:_____
David Siburg, General Manager

Approved as to Form:

_____
Legal Counsel

CITY OF BAINBRIDGE ISLAND
CITY COUNCIL AGENDA BILL

PROCESS INFORMATION	
Subject: Citizen Committees and Commissions	Date: May 15, 2013
Agenda Item: Staff Intensive	Bill No.: 13-069
Proposed By: Doug Schulze, City Manager	Referral(s):

BUDGET INFORMATION		
Department:	Fund:	Munis Contract #
Expenditure Req:	Budgeted? ☐ Yes ☐ No	Budget Amend. Req? ☐ Yes ☐ No

REFERRALS/REVIEW		
City Manager ☒ Yes ☐ No ☐ N/A	Legal ☐ Yes ☒ No ☐ N/A	Finance ☐ Yes ☐ No ☒ N/A

DESCRIPTION/SUMMARY

Action Item:

Consider requesting staff bring back legislation amending the number of members established for various committees and commissions.

History:

City Council directed staff to investigate applying a standard size to the City's citizen committees and commissions. Council discussion identified a proposed standard minimum of five members in all cases, and requested information from staff on City legislative updates that would be needed to accomplish this change.

The draft scopes of work provide information on the citizen groups currently established and the associated authorizing legislation. In all cases, the number of members is established through a City ordinance or resolution, and there are no instances in which State legislation dictates number of members. As show, the number of members varies significantly across the committees and commissions.

Schedule/Next Activities:

A call for participation will be advertised in the coming week seeking citizen volunteers for the following commissions and committees: civil service commission, community forestry commission, design review board, environmental technical advisory committee, harbor commission, non-motorized transportation advisory committee, planning commission and utility advisory committee. In order to adopt uniform membership numbers, staff will bring back legislation to amend the necessary ordinances and resolutions.

RECOMMENDED ACTION

Motion:

I move that the City Council authorize the staff to bring back legislation amending the number of members established for various committees and commissions.

CITY OF BAINBRIDGE ISLAND
CIVIL SERVICE COMMISSION

Responsible Department: Executive

Established By: RCW 41.12, Ordinance No. 2011-20 (BIMC 2.28)

Purpose: The civil service commission was created by and functions under the authority of the Revised Code of Washington (RCW) and the Bainbridge Island Municipal Code. By law, the Commission is limited to those civil service personnel matters involving public safety department employees.

The commission is charged with ensuring hiring examination processes are open and competitive at entry and promotional levels. The commission adopts rules and regulations for the police department's civil service employees. The commission also handles entry level and promotional examinations, appeals regarding such testing and appeals involving employee discipline.

Scope of Work: The civil service commission shall:

1. Make rules for operation of the civil service system that are consistent with state law.
2. Provide for, develop and hold competitive tests to determine relative qualifications of candidates and, as result of the testing process, prepare eligibility lists.
3. Certify to the appointing authority the name (or names) of the individual(s) ranked highest on the eligibility list.
4. Hear and determine appeals or complaints.

Number of Positions: Five members.

Length of Term: Set by ordinance. A person shall be considered eligible for appointment to the commission if he or she is a citizen of the United States, a resident of the city, and an elector of Kitsap County. The term of office of such civil service commission shall be four years, except that the first five members of the commission shall be appointed for different terms, as follows: three to serve for a period of four years and two to serve for a period of two years. Members shall be appointed by the mayor and confirmed by the city council. The commission shall select from among its members a chairperson for a one-year term. In the event any civil service commissioner resigns or becomes disqualified or is removed for cause under a process adopted by city council resolution, another commissioner shall be appointed to take his place for the unexpired portion of the term.

DRAFT

Position	Current Term Ending (expired*)	Proposed Term Ending (upon expiration of current term)
1 (2-years)	December 31, 2013	June 30
2 (2-years)	December 31, 2013	June 30
3 (4-years)	December 31, 2015	June 30
4 (4-years) – Vacant	December 31, 2015	June 30
5 (4-years)	December 31, 2015	June 30

Terms of Office: July 1 through June 30.

Meetings: Second Thursday of the month, 4 pm, City Hall.

Advertisements: A call for participation will be done annually in April (to fill expired terms) and October (to fill mid-term vacancies). This will avoid the need to advertise multiple times throughout the year.

DRAFT

CITY OF BAINBRIDGE ISLAND
COMMUNITY FORESTRY COMMISSION

Responsible Department: Planning and Community Development

Established By: Resolution No. 2003-26

Purpose: The community forestry commission addresses strengthening policies for tree protection and management, provides advice and guidance in integrating forest protection measures.

Scope of Work: The community forestry commission shall:

1. Develop and implement a comprehensive community forestry management plan that recommends policies and regulations to preserve urban forests in the City;
2. Serve as an advisory board to the ~~mayor and~~ city council on urban forests in the City;
3. Provide a public forum for discussion of issues and ideas related to urban forestry;
4. Coordinate work with other city programs, local agencies and community groups with an interest in forest resource management;
5. Recommend to the city council sources of revenue to support urban forestry activities and to support the management and enhancement of the city forestry resources;
6. Report annually to the city council on the state of the city's forest resources.

Number of Positions: ~~Nine~~ At least five and not more than seven members.

Length of Term: Set by resolution. The commission shall be appointed by the mayor and confirmed by the city council. The commission shall serve without compensation. Members shall serve for a period of three years and shall be residents of the city. ~~The mayor shall also appoint annually, one member of the community forestry commission to serve as chairperson for a one-year term.~~ The commission shall select from among its members a chairperson for a one-year term.

Position	Current Term Ending (expired*)	Proposed Term Ending (upon expiration of current term)
1 (3-years)	March 31, 2011*	June 30
2 (3-years)	July 31, 2013	June 30
3 (3-years) – Vacant		June 30
4 (3-years) – Vacant		June 30
5 (3-years) – Vacant		June 30
6 (3-year) – Vacant		
7 (3-year) – Vacant		
~~8 (3year)~~		
~~9 (3-year)~~		

DRAFT

Terms of Office: July 1 through June 30.

Meetings: As needed.

Advertisements: A call for participation will be done annually in April (to fill expired terms) and October (to fill mid-term vacancies). This will avoid the need to advertise multiple times throughout the year.

DRAFT

CITY OF BAINBRIDGE ISLAND
DESIGN REVIEW BOARD

Responsible Department: Planning and Community Development

Established By: Ordinance No. 2011-02 (BIMC 2.14.040)

Purpose: The design review board is composed of citizen volunteers with expertise in the areas of design and construction of development projects. The board advises the planning commission and the Department of Planning and Community Development on commercial and mixed-use land use applications, and makes recommendations to the commission and the city council on changes, amendments and/or additions to the design guidelines.

Scope of Work: The design review board shall have the following duties and responsibilities:

1. Serve in an advisory capacity to the director, hearing examiner, and planning commission, as applicable, regarding site plan and design reviews and conditional use permits pursuant to BIMC 2.16.040, 2.16.050, and 2.16.110 that are subject to city-adopted design guidelines. Applications related to single-family residences such as family day care homes, minor/major home occupations, and single-family residential height variations are exempt from design review board consideration. In addition, applications related to utility facilities and to outdoor recreation facilities are exempt from design review board consideration.

2. Review and make recommendations to the planning commission and the city council on changes, amendments and/or additions to the design guidelines.

3. Serve in an advisory and review capacity to housing design demonstration project applications pursuant to BIMC 2.16.020.Q, including those design demonstration project applications involving land subdivision.

4. Such other duties and responsibilities as may be provided by resolution or ordinance of the city council.

Number of Positions: ~~Seven~~ At least five and not more than seven members.

DRAFT

Length of Term: Set by ordinance. The design review board shall be appointed by the mayor and confirmed by the city council. Board membership shall include at least one representative with expertise in the following disciplines and/or groups: landscape architecture; urban design; public art committee or local artist; developers; at-large community member; and at least two architects. The members of the design review board shall not be officers or employees of the city. The members of the board shall serve without compensation. The terms for appointed members shall be three years. Terms are to be staggered, with no more than three positions expiring in any given year. The board shall annually select one member to serve as chair for a one-year term.

Position	**Current Term Ending** (expired*)	**Proposed Term Ending** (upon expiration of current term)
1 (3-years)	June 30, 2013	June 30
2 (3-years)	May 31, 2014	June 30
3 (3-years)	June 30, 2013	June 30
4 (3-years)	May 31, 2015	June 30
5 (3-years)	May 31, 2014	June 30
6 (3-years)	September 30, 2015	June 30
7 (3-years)	September 30, 2015	June 30

Terms of Office: July 1 through June 30.

Meetings: As needed on first and third Monday of every month, 2 pm, Council Conference Room, City Hall (unless otherwise noted).

Advertisements: A call for participation will be done annually in April (to fill expired terms) and October (to fill mid-term vacancies). This will avoid the need to advertise multiple times throughout the year.

DRAFT

CITY OF BAINBRIDGE ISLAND
ENVIRONMENTAL TECHNICAL ADVISORY COMMITTEE

Responsible Department: Planning and Community Development

Established By: Resolution No. 2009-27

Purpose: The environmental technical advisory (ETAC) provides technical and scientific advice to the city on environmental management issues and projects, including the Critical Areas Ordinance Update, Shoreline Management Update and Bainbridge Island Nearshore Assessment. The ETAC also provides peer review where the consideration of Best Available Science is required under the Growth Management Act.

Scope of Work: ETAC shall have the following duties and responsibilities:

1. Serve as a technical advisory committee to the city council, city manager and planning department staff on environmental management issues;

2. Provide technical recommendations on habitat management plans pursuant to Section 16.20.060 of the Bainbridge Island Municipal Code;

3. Provide technical recommendations on environmental management standards for the City of Bainbridge Island Shoreline Management Master Program and Critical Areas Ordinance;

4. Provide technical environmental review of policies and regulations proposed for the City of Bainbridge Island Shoreline Management Master Program and Critical Areas Ordinance;

5. Conduct all items related to the Critical Areas Ordinance consistent with the best available science sections (WAC 365-195-900 through 365-195-925) of the procedural criteria of the Growth Management Act

6. Conduct all items related to the Shoreline Management Master Program consistent with the scientific and technical standards section (WAC 173-26-201(2)(a) of the procedural criteria of the Shoreline Management Act.

Number of Positions: ~~Seven to Nine.~~ At least five and not more than seven members.

DRAFT

Length of Term: Set by resolution. The committee should include members with expertise in wildlife management, fisheries management, geology, wetlands management and/or hydrology. The committee members shall be appointed by the Mayor, confirmed by the city council, and shall serve without compensation. The core committee members shall serve for a term of three years. ~~from the date of their appointment~~. ~~The current approved members shall be assigned staggered terms of one year, two years and three years with the longest serving members being assigned the shortest terms.~~ The commission shall select from among its members a chairperson for a one-year term. There shall be no limitation on members being reappointed for additional terms.

The committee shall develop a pool of qualified experts in the various aspects of environmental science set forth above and shall consult with these experts on issues related to their field of expertise. This pool of experts is to be used for consultation only and will not be compensated or considered a voting member of the committee.

Position	**Current Term Ending** (expired*)	**Proposed Term Ending** (upon expiration of current term)
1 (3-years)	July 31, 2014	June 30
2 (3-years)	July 31, 2014	June 30
3 (3-years)	November 30, 2014	June 30
4 (3-years)	July 31, 2014	June 30
5 (3-years)	November 30, 2014	June 30
6 (3-years)	July 31, 2014	June 30
7 (3-years)	March 31, 2013*	June 30
~~8 (3-years)~~	~~March 31, 2013*~~	~~June 30~~
~~9 (3-years) – Vacant~~	~~_____~~	~~June 30~~

Terms of Office: July 1 through June 30.

Meetings: Second and fourth Thursday of each month, 7 p.m., City Hall.

Advertisements: A call for participation will be done annually in April (to fill expired terms) and October (to fill mid-term vacancies). This will avoid the need to advertise multiple times throughout the year.

DRAFT

CITY OF BAINBRIDGE ISLAND
ETHICS BOARD

Responsible Department: Executive

Established By: Ordinance No. 2005-31, Resolution No. 2011-13

Purpose: The ethics board was created to help ensure that City government adheres to the highest standards of public service for elected officials and promotes an understanding of ethical principles and standards for all those involved with the City, and the general public.

Scope of Work:

The ethics board's duties include the following:

1. Training elected officials and members of City Committees and Commissions covered by the Ethics Program;
2. Working with City Administration so that major contractors and employees are familiar with the Ethics Program and other applicable city documents regarding ethical behavior;
3. Providing responses to complaints and requests for waivers and advisory opinions regarding the Ethics Program.

Number of Positions: Five members.

Length of Term: Set by resolution. Terms of appointment include:

1. Board members shall be appointed to terms of three years; however, the first two members nominated by the Mayor and confirmed by the City Council shall initially serve one-year terms to achieve staggered ending dates;
2. If a member is appointed to fill an unexpired term, that member's term shall end at the same time as the term of the person being replaced;
3. Each member shall continue to serve until a successor has been appointed, unless the member is removed or resigns;
4. The commission shall select from among its members a chairperson for a one-year term.

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Position	Current Term Ending (expired*)	Proposed Term Ending (upon expiration of current term)
1 (3-years)	December 31, 2014	June 30
2 (3-years)	April 30, 2014	June 30
3 (3-years)	December 31, 2014	June 30
4 (3-years)	April 30, 2014	June 30
5 (3-years)	December 31, 2014	June 30

Terms of Office: July 1 through June 30.

Meetings: Third Monday of every month, 6:30 – 8:00 pm, Waterfront Park Community Center.

Advertisements: A call for participation will be done annually in April (to fill expired terms) and October (to fill mid-term vacancies). This will avoid the need to advertise multiple times throughout the year.

DRAFT

CITY OF BAINBRIDGE ISLAND
HARBOR COMMISSION

Responsible Department: Police

Established By: Ordinance Nos. 99-71 (BIMC 2.46)

Purpose: The harbor commission is designated as the official body of the city empowered to act on all matters pertaining to the harbors and waters of the city consistent with the provisions of the municipal code and other direction by the city council.

Scope of Work: As the city's designated agency, the harbor commission shall:

1. Implement the policies of the harbor management plan through measures which include, but are not limited to, recommendation of ordinances, regulations, and other means;

2. Seek ways to implement the goals and policies of the harbor management plan through public education and community outreach;

3. Develop and recommend new harbor management policies as needed;

4. Coordinate its work with local, state and federal agencies;

5. Recommend to the city council sources of revenue to support the harbor commission's activities and to support the management and enhancement of city waters and water dependent and related uses;

6. Such other duties and responsibilities as may be assigned by the city council;

7. Report annually to the city council on the progress of the implementation of the harbor management plan and the general state of the harbors and waters of the city. This report shall be delivered by the chairperson of the harbor commission. ~~The city council shall review the performance of the harbor commission after three years and evaluate its benefit to the community.~~

Number of Positions: Seven.

DRAFT

Length of Term: Set by ordinance. Members are appointed by the mayor and confirmed by the city council. ~~The mayor shall also appoint annually one member of the harbor commission to serve as chairperson for a one-year term.~~ The commission shall select from among its members a chairperson for a one-year term. Members shall serve for a period of three years and shall be residents of the city. The initial members shall be appointed for staggered terms. If a vacancy in the harbor commission is created prior to the expiration of any member's term, that vacancy shall be filled by a person appointed by the mayor and confirmed by the city council. A person appointed to fill a vacancy created under this section shall serve the remainder of the unexpired term.

Position	**Current Term Ending** (expired*)	**Proposed Term Ending** (upon expiration of current term)
1 (3-years)	February 28, 2013*	June 30
2 (3-years)	February 28, 2013*	June 30
3 (3-years) – Vacant	February 28, 2013*	June 30
4 (3-years)	September 30, 2014	June 30
5 (3-years)	September 30, 2014	June 30
6 (3-years)	February 28, 2015	June 30
7 (3-years) – Vacant	February 28, 2015	June 30

Terms of Office: July 1 through June 30.

Meetings: Fourth Tuesday of every month, 5 pm, Waterfront Park Community Center (unless otherwise noticed)

Advertisements: A call for participation will be done annually in April (to fill expired terms) and October (to fill mid-term vacancies). This will avoid the need to advertise multiple times throughout the year.

DRAFT

CITY OF BAINBRIDGE ISLAND
HISTORIC PRESERVATION COMMISSION

Responsible Department: Planning and Community Development

Established By: Ordinance No. 2011-02 (BIMC 18.24)

Purpose: The city council assigns to the historic preservation commission the responsibility to provide the process and standards for identifying, evaluating and protecting historic resources within the city, and for preserving and rehabilitating eligible historic properties within the city for future generations through a special valuation tax incentive in order to:

1. Safeguard the heritage represented by those buildings, objects, sites and structures that reflect significant elements of the city's history;
2. Foster civic and neighborhood pride in the beauty and accomplishments of the past;
3. Stabilize or improve the aesthetic and economic vitality and values of such buildings, objects, site and structures;
4. Assist, encourage and provide incentives to private owners for the preservation, restoration, redevelopment and use of historic buildings, object, sites and structures;
5. Promote and facilitate the early identification and resolution of conflicts between preservation of historic resources and alternative land uses; and
6. Conserve valuable material and energy resources by ongoing use and maintenance of the existing built environment.

Scope of Work: The commission shall:

1. Establish, maintain and periodically update a local historic inventory, which inventory shall be maintained in a form compatible with the state inventory, and may cooperate with, and advise the city council as requested on contracting with, the Bainbridge Island Historical Society or others, in connection with the establishment and maintenance of the inventory;

2. Establish and maintain the local register of historic places, as provided in BIMC 18.24.030;

3. Review nominations to the local register and designate properties for listing on the register, in accordance with BIMC 18.24.030;

4. Participate in the review process for nominations to the National Register of properties within the city's boundaries, in accordance with the procedures established by the SHPO;

5. Review proposals to construct or reconstruct upon, change the use of, alter, restore, remodel, repair, move or demolish properties on the local register as provided in BIMC 18.24.040;

DRAFT

6. Conduct all commission meetings in compliance with Chapter 42.30 RCW;

7. Provide resources and advocacy for historic preservation consistent with comprehensive plan policy HP 1.2, which may include but are not limited to:

   a. Participation in or promotion of public educational programs;

   b. Fostering historic preservation through recognition of excellence in restoration of historic buildings, structures or sites;

   c. Advising the city council or the planning commission as requested on matters of city history and historic preservation or actions affecting the historic resources of the city;

   d. Maintaining information on federal or state historic preservation programs, funding sources or incentives.

8. Serve as the local review board for the special valuation of historic property, and in that capacity, determine and monitor the eligibility of historic property for special valuation in accordance with BIMC 18.24.060.

Number of Positions: ~~Seven~~ At least five and not more than seven members.

1. The commission shall be appointed by the mayor and approved by the city council. The commission shall include at least three members who have experience in identifying, evaluating and protecting historic resources and who are selected from among the disciplines of history, architecture, landscape architecture, architectural history, historic preservation, planning, cultural anthropology, archaeology, biology, geography, cultural geography, American studies, law, and real estate, referred to as the "professional positions." An action taken by the commission shall not be invalid due to the temporary vacancy of any or all of the professional positions, unless the certification agreement between the city and the State Historic Preservation Office (SHPO) provides otherwise.

2. All members of the commission must have a demonstrated interest and competence in historic preservation and possess qualities of impartiality and broad judgment.

3. All members of the commission shall serve without compensation.

4. In making appointments to the commission, the mayor may consider names submitted from any source; provided, that the mayor shall notify the Bainbridge Island Historical Society and other appropriate community organizations of any vacancies on the commission, so that these organizations may submit the names of qualified individuals for consideration along with names from any other source. The mayor also shall publish notice of such vacancies and the procedure for submitting nominations.

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5. The commission shall select from among its members a chairperson ~~and such other officers as may be necessary to conduct the commission's business.~~

Length of Term: Set by ordinance. ~~The initial appointment of members to the commission shall be as follows: three members shall be appointed for two years; two members shall be appointed for three years; and two members shall be appointed for four years. Thereafter, a~~Appointments shall be made for three-year terms. The commission shall select from among its members a chairperson for a one-year term. Vacancies to the commission shall be filled by the mayor and approved by the city council for the unexpected term of that position.

Position	**Current Term Ending** (expired*)	**Proposed Term Ending** (upon expiration of current term)
1 (3-years)	April 30, 2013*	June 30
2 (3-years)	April 30, 2015	June 30
3 (3-years)	April 30, 2015	June 30
4 (3-years)	April 30, 2015	June 30
5 (3-years)	August 31, 2014	June 30
6 (3-years)	April 30, 2015	June 30
7 (3-years)	August 31, 2014	June 30

Terms of Office: July 1 through June 30.

Meetings: Second Monday of every month, 2 p.m, City Hall.

Advertisements: A call for participation will be done annually in April (to fill expired terms) and October (to fill mid-term vacancies). This will avoid the need to advertise multiple times throughout the year.

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CITY OF BAINBRIDGE ISLAND
NON-MOTORIZED TRANSPORTATION ADVISORY COMMITTEE

Responsible Department: Public Works

Established By: Resolution No. 2010-34

Purpose: To work with neighborhood groups and city staff to implement the Non-Motorized Transportation Plan and advocate for non-motorized transportation facilities, including the funding for such facilities and promotional or educational programs encouraging non-motorized transportation.

Scope of Work: The goal of non-motorized transportation advisory committee (NMTAC) is to advocate for and ensure implementation of the Non-Motorized Transportation Plan, including but not limited to the recognition and integration of the federal, state and local emphasis on active recreation, the reduction of greenhouse gas emissions and the linkage of communities through regional connectivity.

Coordination efforts by the NMTAC will include, but not be limited to: 1) review of proposed non-motorized projects, including receiving and incorporating input from the public; 2) project review for local and regional connectivity and design standards; and 3) providing general guidance and recommendations to the city manager, city council, planning commission and city staff regarding non-motorized facilities.

Implementation activities by NMTAC will include, but not be limited to, assisting the City in review and delivery of proposed non-motorized projects. NMTAC will assist the City in soliciting public comment on proposed facility designs and routes and will provide the public works and planning departments with the input received. At the time the City identifies a non-motorized facilities project, NMTAC will encourage neighborhood residents, facility users and the larger community to become involved in the design process.

Number of Positions: ~~From nine to eleven members.~~ At least five but not more than seven voting members. In addition, the Bainbridge Island Metropolitan Park and Recreation District (BIMPRD) and the Bainbridge Island School District (BISD) have expressed a desire to provide liaisons to the committee. Liaisons will be non-voting members and may have elected officials and/or staff members selected by BIMPRD and BISD, respectfully.

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Length of Term: Set by resolution. Each voting member will be appointed by the Mayor to ~~either~~ a ~~two (2) – or~~ a three (3)-year term. ~~Committee members may be appointed to one additional term~~. Appointments are subject to council confirmation. The NMTAC will annually elect a chair and vice-chair ~~no later than September 30 of each year~~.

Position	**Current Term Ending** (expired*)	**Proposed Term Ending** (upon expiration of current term)
1 (3-year)	September 8, 2013	June 30
2 (3-year)	September 8, 2013	June 30
3 (3-year)	September 8, 2013	June 30
4 (3-year)	June 30, 2015	June 30
5 (3-year)	January 31, 2016	June 30
6 (3-year)	January 31, 2016	June 30
7 (~~2-or~~ 3-year) – Vacant		June 30
~~8 (2-or 3-year) – Vacant~~		
~~9 (2-or 3-year) – Vacant~~		
~~10 (2-or 3-year) – Vacant~~		
~~11 (2-or 3-year) – Vacant~~		

Terms of Office: July 1 through June 30.

Meetings: First Monday of each month, 6 p.m., Island Terrace Apartments, Community Room, 825 High School Road NE (unless otherwise noticed).

Advertisements: All advisory positions will be done annually in April (to fill expired terms) and October (to fill mid-term vacancies). This will avoid the need to advertise multiple times throughout the year.

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CITY OF BAINBRIDGE ISLAND
PLANNING COMMISSION

Responsible Department: Planning and Community Development

Established By: Ordinance No. 2011-02 (BIMC 2.14.020)

Purpose: The planning commission ~~is responsible to the mayor,~~ serves as an advisory body to the ~~mayor and~~ city council, and provides recommendations to the director of planning, the hearing examiner and/or the city council. The commission's role can be to consider legislative, as well as quasi-judicial matters, depending upon the action before it. Pursuant to Chapter 35A.63 RCW, the commission has primary responsibility for preparing, reviewing and updating the comprehensive plan.

Scope of Work: Pursuant to the provisions of Chapter 35A.63 RCW, ~~there is established within the city a~~ the planning commission that shall have the following duties and responsibilities:

1. Participate in the preparation and review of the comprehensive plan for the city;

2. Review and make recommendations on all applications for amendments to the comprehensive plan, official zoning map and official zoning ordinance of the city pursuant to Table 2.16.010-1;

3. Such other advisory duties as may be assigned to it by the city council or the mayor, or as specified in the Bainbridge Island Municipal Code **(**BIMC);

4. The title "planning commission" is substituted for the title "planning agency" in all city ordinances and other documents approved prior to the effective date of the ordinance codified in ~~this chapter~~ the BIMC.

5. Create the planning commission agenda per director recommendation.

Number of Positions: Seven

Length of Term: Set by ordinance. The commission shall be appointed by the mayor and confirmed by the city council. All seven members of the commission shall be residents of the city. The commission shall reflect the diverse perspectives, work experiences and backgrounds represented in the community. Each commissioner shall endeavor to understand and agree to uphold the city's adopted comprehensive plan. All members shall serve without compensation for three-year terms. Terms are to be staggered, with no more than three positions expiring in any given year. The commission shall select from among its members a chairperson for a one-year term.

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Position	Current Term Ending (expired*)	Proposed Term Ending (upon expiration of current term)
1 (3-years)	January 31, 2014	June 30
2 (3-years)	January 31, 2014	June 30
3 (3-years)	January 31, 2015	June 30
4 (3-years)	January 31, 2015	June 30
5 (3-years)	January 31, 2015	June 30
6 (3-years)	December 31, 2015	June 30
7 (3-years) – Vacant	December 31, 2015	June 30

Terms of Office: July 1 through June 30.

Meetings: Second and fourth Thursday of each month, 7 p.m., City Hall.

Advertisements: A call for participation will be done annually in April (to fill expired terms) and October (to fill mid-term vacancies). This will avoid the need to advertise multiple times throughout the year.

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CITY OF BAINBRIDGE ISLAND
ROAD ENDS COMMITTEE

Responsible Departments: Planning and Community Development and Public Works Department

Established By: Resolution Nos. 92-35, 96-44, 99-36

Purpose: The road ends committee is responsibility for implementing recommendations for the appropriate utilization of road ends.

Scope of Work: The committee shall oversee the prioritized list of recommended projects and plans for each road end site. The committee shall promote and coordinate opportunities to develop individual sites as appropriate circumstances occur. Further, the committee will prioritize recommendations and will undertake coordination of actions to insure successful and timely completion of projects within the resources available to the city.

1. The committee will make recommendations for the action plans for road ends to the public works department and the ~~City Administrator~~ City Manager;

2. The ~~City Administrator~~ City Manager or his/her designee will service as advisor to the committee to insure that all recommendations comply with plans and regulations; ~~of concerned jurisdictions;~~

3. The committee will make efforts to enlist individuals, neighborhood members, and community organizations to assist with the implementation of the approved plan as adopted by the council;

4. The Committee will report to the City Council at least annually on its activities.

Number of Positions: ~~Seven~~ A minimum of five and no more than seven members.

Length of Term: Set by resolution. Current members may be re-appointed for a three-year term, may be re-appointed for a three-year term, or may be replaced if unable or unwilling to continue. *Terms are to be staggered, with no more than three positions expiring in any given year.* The committee shall select from among its members a chairperson for a one-year term.

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Position	**Current Term Ending** (expired*)	**Proposed Term Ending** (upon expiration of current term)
1 (3-years)	June 30, 2016	_____
2 (3-years)	June 30, 2016	_____
3 (3-years)	June 30, 2016	_____
4 (3-years)	June 30, 2016	_____
5 (3-years)	June 30, 2016	_____
6 (3-years)	June 30, 2016	_____
7 (3-years)	June 30, 2016	_____

Terms of Office: July 1 through June 30.

Meetings: Second Monday of every month, 2 p.m, City Hall

Advertisements: All advisory positions will be done annually in April (to fill expired terms) and October (to fill mid-term vacancies). This will avoid the need to advertise multiple times throughout the year.

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CITY OF BAINBRIDGE ISLAND
UTILITY ADVISORY COMMITTEE

Responsible Department: Finance Department and Public Works Department

Established By: Ordinance No. 2010-27 (BIMC 2.33)

Purpose: The committee shall act in an advisory capacity to the city council with respect to issues relevant to the operation and management policies of the city's water, sanitary sewer, and other utilities.

Scope of Work: In its advisory capacity, the committee shall:

1. Consult with and make recommendations to the city council regarding such utility-related matters as the city council or the committee deems appropriate;

2. Give advisory recommendations to the city council on matters relating to the city's water, sanitary sewer, and storm water utility policy and operation;

3. Consult with and make recommendations to the city council regarding utility rates, rate structures and other charges made to water, sanitary sewer, and storm water utility customers;

4. Consult with and make recommendations to the city council, give advisory recommendations to the city council relative to the planning for, financing, operation and maintenance of water, sanitary sewer, and storm water utility capital facilities;

5. Keep the city council regularly informed of activities of the committee in a timely manner.

Number of Positions: A minimum of ~~seven~~ five and no more than ~~nine~~ seven members.

Length of Term: Set by ordinance as follows:

1. The committee shall be appointed by the mayor and confirmed by vote of the city council. The members shall not be officers or employees of the city and shall be residents of the city. Additionally, at least one member of the city council shall serve as an ex officio, nonvoting member of the committee.

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2. The members of the committee shall serve without compensation ~~and shall initially be appointed for staggered terms as follows: two of the original members shall be appointed and confirmed for one-year terms, two of the original committee members shall be appointed and confirmed for two-year terms, and three members shall be appointed for three-year terms.~~ The terms for ~~all subsequent annually appointed~~ members shall be three years.

3. A member may be re-appointed, and shall hold office until his or her successor has been appointed and has qualified. Members may be removed by the mayor upon consent of the city council.

~~The mayor shall make the initial appointment of one voting member of the committee to serve as chairperson for a one-year term. The committee shall make the initial appointment of a vice-chairperson.~~ The committee shall select from among its members a chairperson and vice-chair for a one-year term.

Position	**Current Term Ending** (expired*)	**Proposed Term Ending** (upon expiration of current term)
1 (3-years)	May 31, 2014	June 30
2 (3-years)	June 30, 2015	June 30
3 (3-years)	June 30, 2013	June 30
4 (3-years)	June 30, 2015	June 30
5 (3-years)	June 30, 2013	June 30
6 (3-years) – Vacant	May 31, 2014	June 30
7 (3-years) – Vacant		
~~8 (3-years) – Vacant~~		
~~9 (3-years) – Vacant~~		

Terms of Office: July 1 through June 30.

Meetings: Second and fourth Thursday of each month, 7 p.m., City Hall.

Advertisements: All advisory positions will be done annually in April (to fill expired terms) and October (to fill mid-term vacancies). This will avoid the need to advertise multiple times throughout the year.

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CITY OF BAINBRIDGE ISLAND
CITY COUNCIL AGENDA BILL

PROCESS INFORMATION	
Subject: Resolution 2013-10: Shoreline Master Program Update	Date: May 15, 2013
Agenda Item: Council Discussion	Bill No.: 13-068
Proposed By: Kathy Cook, Planning	Referral(s): None

BUDGET INFORMATION		
Department	Fund: General	Munis Contract #
Expenditure Req:	Budgeted? ☐ Yes ☐ No	Budget Amend. Req? ☐ Yes ☐ No

REFERRALS/REVIEW		
Public Hearing: May 8, 2013	Recommendation: Schedule Council Discussion for May 15 2013	
City Manager ☒ Yes ☐ No ☐ N/A	Legal ☒ Yes ☐ No ☐ N/A	Finance ☐ Yes ☐ No ☒ N/A

DESCRIPTION/SUMMARY

Action Item:

Consider public comment provided at the Public Hearing conducted on May 8, 2013, and discuss possible amendments to the draft Public Hearing SMP Update document, including revisions recommended in the Internal Consistency Analysis (BORK Consulting, May 2013) and in the attached material from staff. Consider approval of Resolution 2013-10, authorizing the City to forward the SMP Update to the Department of Ecology.

Background:

The City Council conducted a Public Hearing on the City's draft Shoreline Master Program Update on May 8, 2013. The Public Hearing draft reflected revisions made to the document since the Planning Commission forwarded their recommendations to the City Council on April 12, 2012, including changes recommended by the City Council over the course of eleven study sessions, changes recommended by staff to improve consistency, and typographical and grammatical corrections recommended by staff.

The City Council scheduled follow-up discussion and deliberations on the draft SMP Update for May 15, 2013.

When the City Council completes its review of the SMP Update, the City must forward the approved Shoreline Master Program Update and supporting documentation to the Department of Ecology for review and comment prior the City's formal adoption of the Shoreline Master Program Update. Resolution 2013-10 has been developed for this purpose and has been reviewed by the City Attorney.

RECOMMENDED

Motion: I move that the City Council approve Resolution 2013-10, authorizing the Planning Director to forward the approved Shoreline Master Program Update and all supporting documentation required to accompany the Shoreline Master Program Update pursuant to WAC 173-26-110 to the Washington State Department of Ecology for formal review and approval in accordance with WAC 173-26-120.

City of Bainbridge Island
PLANNING & COMMUNITY DEVELOPMENT

MEMORANDUM

TO: City Council
City Manager Doug Schulze

FROM: Kathy Cook, Planning Director
Ryan Ericson, Associate Planner

DATE: May 10, 2013

RE: Shoreline Master Program Update
City Council Meeting, May 15, 2013

Background
The City Council conducted a Public Hearing on the City's draft Shoreline Master Program (SMP) Update on May 8, 2013. The Public Hearing draft reflected revisions made to the document since the Planning Commission forwarded their recommendations to the City Council on April 12, 2012, including changes recommended by the City Council over the course of eleven study sessions, changes recommended by staff to improve internal consistency and/or consistency with the BIMC, and typographical and grammatical corrections recommended by staff.

The City Council has scheduled follow-up discussion and deliberations on the draft SMP Update for May 15, 2013. In addition to changes to the draft document that are necessitated by the internal consistency analysis described below, staff anticipates that the Council may consider additional changes to the document. The following material is provided to facilitate the Council's discussion.

Internal Consistency Analysis, BERK Consulting, May 2013
In April 2013, the Washington State Department of Ecology (DOE) informed the City that an additional $30,000 was available for the City's DOE grant in support of the SMP Update. This grant amendment increases the grant by to a new total of $240,000 and was approved by the City Council on May 1, 2013. The additional funds are to be used to assist the City in the local adoption process.

As part of the May 1st Council discussion, staff proposed that part of the additional grant funds be used to conduct an internal consistency analysis of the draft Update document, as previously recommended by Councilmember David Ward. After the grant amendment was approved, the City entered into a professional services agreement with BERK Consulting to perform this analysis. The scope of work addressed the following:

- Parallel Construction: For example, each policy has an implementing regulation.
- Coordination of Standards: For example, there is appropriate cross-referencing to other sections of the proposed document, number agreement where standards should be

identical, and consistency among standards (one standard does not preclude another standard).

- Clarity: The update language is clear where there are specific standards, or there are criteria for interpretation or implementation of a regulation.

BERK Consulting submitted the consistency analysis to the City on May 8, 2013, and it is included as Attachment A. Many of the revisions are straightforward grammatical and organizational improvements, and the consultant has shown these in strike-out/underline. In other instances, the consultant has identified where revisions are recommended for administrative or policy consistency, or areas where clarification is needed from staff. The consultant highlighted these with "comment balloons" in the right margin, and staff has added additional comment (in ***bold, italic*** text) to clarify the purpose of the revision and whether additional staff review is needed.

Staff recommends that the revisions identified in the consistency analysis be incorporated into the final SMP Update document that is forwarded to the Department of Ecology.

Review of City Council Motions

Staff has compiled all of the City Council motions made to date (Attachment B) and compared them to the draft Update document to ensure that the motions are accurately reflected. In some cases, staff is recommending that the amendatory language be modified to more clearly meet the intent of the Council's motion. Staff has prepared a matrix (Attachment C) that identifies the specific Council motion and proposes alternative implementing language that staff feels is clearer. The matrix also includes one revision proposed by staff in response to public comment at the May 8 Public Hearing, to clarify that a 25% expansion of a building configuration within the Shoreline Buffer may occur only once. Staff is requesting that the Council confirm the proposed language at the May 15 meeting.

Resolution 2013-10 and the Adoption Process

When the City Council completes its review of the SMP Update, the City must file a Letter of Intent to Adopt (RCW 90-58-090) with the Department of Ecology (DOE). Resolution 2013-10 has been developed for this purpose and has been reviewed by the City Attorney.

Once the Department of Ecology deems the City's submittal to be complete, DOE will hold a 30-day comment period and one Public Hearing. The City is then responsible for responding to all public comment, and making any revisions required by DOE. Once DOE has reviewed and given final approval to the City's SMP Update, the City Council adopts the regulations by ordinance.

Please feel free to contact us if you have questions or would like more information.

RESOLUTION NO. 2013-10

A RESOLUTION of the City Council of Bainbridge Island, Washington, approving the City of Bainbridge Island Shoreline Master Program Update and related amendments and directing staff to forward the draft to the Department of Ecology for state review and approval pursuant to WAC 173-26-110 and WAC 173-26-120.

WHEREAS, the Washington Shoreline Management Act (RCW 90.58, referred to herein as "SMA"), recognizes that shorelines are among the most valuable and fragile resources of the state, and that state and local government must establish a coordinated planning program to address the types and effects of development occurring along shorelines of state-wide significance; and

WHEREAS, pursuant to the SMA, the City of Bainbridge Island adopted a Shoreline Master Program (Ordinance No. 96-38) in 1996; and

WHEREAS, the SMA and WAC 173-26 require that the City of Bainbridge Island prepare and adopt amendments to the City's Shoreline Master Program that are based on state laws and rules and tailored to the specific jurisdiction to address emerging shoreline issues and revisions of the state guidelines set forth in WAC 173-26; and

WHEREAS, through four public meetings during March and April, 2010, the City developed a Public Participation Plan with the community to review and update the City's Shoreline Master Program, and the City Council adopted the participation plan on May 12, 2010; and

WHEREAS, there was extensive public participation with respect to updating the City's Shoreline Master Program, including but not limited to the following: holding public forums and open houses, meeting with property owners and forming citizen involvement committees to review and recommend amendments to the designations, policies and regulations of the Shoreline Master Program consistent with the Shoreline Management Act (RCW 90.58; WAC 173-26) through a succession of 43 public meetings from September 2010 through August 2011; and

WHEREAS, the Planning Commission reviewed the citizen committees' recommendations on amendments to the designations, policies and regulations of the Shoreline Master Program and held seventeen topic-based study sessions and other meetings on the Shoreline Master Program Update, from July 2011 through April 2012; and

WHEREAS, on March 2, 2012, a Determination of Non-Significance consistent with the State Environmental Policy Act (RCW 43.21C) was published, and no person filed an appeal; and

WHEREAS, on March 29, 2012, the Planning Commission held a public hearing on the Shoreline Master Program Update consistent with WAC 173-26-100, at which time members of the public had the opportunity to present testimony and other evidence in favor of or against the proposed amendment; and

WHEREAS, on April 12, 2012, the Planning Commission considered public testimony and other evidence submitted regarding the proposed Shoreline Master Program Update and recommended approval finding the proposed amendments consistent with the Shoreline Management Act (RCW 90.58; WAC 173-26); and

WHEREAS, from May, 2012 through April 2013 the City Council reviewed the Planning Commission's recommendation relating to the Shoreline Master Program Update and associated amendments and held eleven (11) study sessions on May 22, 2012, June 20, 2012, July 2 and 18, 2012, August 1 and 15, 2012, September 5, 2012, January 16, 2013, February 6, 2013, March 13, 2013, and April 10, 2013; and

WHEREAS, on May 8, 2013, the City Council held a duly noticed public hearing in accordance with WAC 173-26-100, and at which time members of the public had the opportunity to present testimony and other evidence in favor of or against the proposed amendments; and

WHEREAS, on May XX, 2013, the City Council considered public testimony and other evidence submitted regarding the proposed Shoreline Master Program Update; and

WHEREAS, on XXX XX, 2013, the City Council, after giving full consideration of all public testimony and other evidence submitted regarding the Shoreline Master Program Update, recommended approval finding the proposed amendments consistent with the Shoreline Management Act (RCW 90.58; WAC 173-26); and

WHEREAS, in accordance with WAC 173-26-100 and RCW 36.70A.106, a Notice of Intent was transmitted to the Washington State Department of Commerce; and

WHEREAS, the Notice of Intent to Adopt will be filed with the Washington State Department of Ecology as required by RCW 90.58.090; and

WHEREAS, the purpose of this resolution is to provide the approval necessary to forward the proposed Shoreline Master Program Update to the Washington State Department of Ecology for review and comment prior the City's formal adoption of the Shoreline Master Program Update in accordance with WAC 173-26-110, now, therefore,

THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND DOES RESOLVE AS FOLLOWS:

Section 1. The City of Bainbridge Island City Council intends to adopt the Shoreline Master Program Update, attached as Exhibit 1, including revisions to other related plans and codes as attached, and incorporated herein by this reference.

Section 2. In support of this resolution, the City Council hereby concludes the following with regard to the Shoreline Master Program Update approved by this resolution:

A. Implementation of the Shoreline Master Program Update will result in "no net loss" of shoreline ecological functions relative to the established baseline and may ultimately produce an improvement in shoreline ecological functions through incentive-based restoration; and
B. The Shoreline Master Program Update is consistent with and meets the State Shoreline Master Program Guidelines established under Chapter 173-26WAC; and
C. The Shoreline Master Program Update is consistent with and implements the Shoreline Management Act (Chapter 90.58 RCW) and the Growth Management Act (Chapter 36.70A RCW); and
D. The Shoreline Master Program Update is consistent with the Bainbridge Island Comprehensive Plan; and
E. The Shoreline Master Program Update is internally consistent; and
F. Based upon an analysis prepared by the Interim City Attorney and presented under attorney-client privilege, the Shoreline Master Program Update will not constitute an unconstitutional taking of private property in violation of RCW 36.70A.020(9), RCW 36.70A.370, and the Washington State Attorney General's "Advisory Memorandum and Recommended Process for Evaluating Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property."

Section 3. The Director of Planning and Community Development is authorized to forward the approved Shoreline Master Program Update and all supporting documentation required to accompany the Shoreline Master Program update pursuant to WAC 173-26-110 to the Washington State Department of Ecology for formal review and approval in accordance with WAC 173-26-120.

PASSED by the City Council this _____ day of _____, 2013.

APPROVED by the Mayor this _____ day of _____, 2013.

By: _____
Steven Bonkowski, Mayor

ATTEST/AUTHENTICATE:

By: _____
Rosalind D. Lassoff
City Clerk

FILED WITH THE CITY CLERK: May 10, 2013
PASSED BY THE CITY COUNCIL:
RESOLUTION NO. 2013-10

City of Bainbridge Island Shoreline Master Program

The Bainbridge Island Shoreline Master Program was prepared under the guidance of citizen Shoreline Work Groups who met regularly with the City and the project facilitator during Master Program development. The City would like to thank the citizen work groups; Bainbridge Island Planning Commission; Bainbridge Island City Council; Katharine Cook, Planning Director; Libby Hudson, Long Range Planning Manager; Ryan Ericson, Associate Planner; Theresa Rice, Department Secretary; and all other citizen and group participants for their assistance in the completion of this project. Original art was prepared by Steve Kennel, who retains all copyrights to that work. Front cover by John Owen.

Shoreline New and Existing Development Work Group

John Anderson	Mark Dawson*	Greg Hepp
Andy Mueller*	Charles Schmid*	Ken Sethney*
Al Solonsky		

Shoreline Setback and Vegetation Conservation Work Group

Kathleen Dwyer	Jeanne Huber	Lisa Macchio*
J. Mack Pearl*	Alice Tawresey*	Gary Tripp
Elise Wright		

Shoreline Modification Work Group

John Barutt*	John Bomben*	Wane Daley*
Stephen Ekholm	Marcia Lagerloef	David McCaughey
Eric Rehm	Bruce Taft	

*Also Served on the Task Force

Planning Commission

Michael Lewars, Chair	Martin Minkoff, Vice-Chair	Martha Droge
Don Fisher	Maradel K. Gale	J. Mack Pearl
Michael Wangen		

City Council

Ann Blair	Sarah Blossom	Steve Bonkowski
Kirsten Hytopoulos	Debbi Lester	Bob Scales
David Ward		

Questions regarding this Master Program should be directed to:

City of Bainbridge Island
280 Madison Avenue North, Bainbridge Island, WA 98110
(206) 842-2552

Table of Contents

1.0 INTRODUCTION.....5

1.1 Shoreline Master Program Introduction.....5

1.2 Requirements of the Shoreline Management Act.....5

1.3 Bainbridge Island's Shoreline Master Program (SMP) 10

1.4 Restoration.....14

1.5 Master Goal.....15

2.0 SHORELINE INVENTORY AND CHARACTERIZATION.....16

2.1 Summary.....16

3.0 SHORELINE DESIGNATION POLICIES AND REGULATIONS.....16

3.1 General.....17

3.2 Upland Designations.....18
- 3.2.1 Urban.....18
- 3.2.2 Shoreline Residential.....19
- 3.2.3 Shoreline Residential Conservancy.....20
- 3.2.4 Island Conservancy.....22
- 3.2.5 Natural Designation.....23

3.3 Aquatic Designations.....25
- 3.3.1 Aquatic.....25
- 3.3.2 Priority Aquatic.....26

3.4 Designation Strategy.....30

4.0 GENERAL (ISLAND-WIDE) POLICIES AND REGULATIONS.....31

Master Program Summary Matrices (Tables 4-1; 4-; 4-2) 32

4.1 General—Environmental Quality and Conservation....65
4.1.1 Shorelines of State-wide Significance....65
4.1.2 Environmental Impacts....65
4.1.3 Vegetation Management....65
4.1.4 Land Modification....100
4.1.5 Critical Areas.... 101
4.1.6 Water Quality and Stormwater Management....106
4.1.7 Flood Hazard Management....110
4.1.8 Shoreline Restoration and Enhancement....113

4.2 General Use....117
4.2.1 Nonconforming Development....117
4.2.2 Cultural Resources....117
4.2.3 Parking....128
4.2.4 Public Access – Visual and Physical....131
4.2.5 Signs....137
4.2.6 Transportation Facilities....138
4.2.7 Utilities (Primary and Accessory)....141

5.0 SPECIFIC SHORELINE USE AND DEVELOPMENT POLICIES AND REGULATIONS....148

5.1 Agriculture....148

5.2 Aquaculture....148

5.3 Boating Facilities....155

5.4 Commercial Development....164

5.5 Forest Practices....167

5.6 Industrial Development....169

5.7 Mining....172

5.8 Recreational Development....173

5.9 Residential Development....178

6.0 SHORELINE MODIFICATION POLICIES AND REGULATIONS....185

6.1 General Shoreline Modification Provisions.....185

6.2 Shoreline Stabilization.....187

6.3 Overwater Structures.....197

6.4 Dredging and Dredge Material Disposal.....209

6.5 Fill 213

7.0 Violations, Enforcement, and Penalties..... 217

8.0 Definitions.....220

Administration

Moved to Title 2 of the Bainbridge Island Municipal Code.

APPENDICES

Appendix A. Designation Map.....

Appendix B. Critical Areas.....

Appendix C. Buffer Recommendation Memorandum.....

Appendix D. Single-Family Residential Mitigation Manual.....

Appendix E. Harbor Structure Limit Line Map.....

1.0 Introduction

1.1 Shoreline Master Program Introduction

This Shoreline Master Program (SMP) establishes regulations and policies for protection and development of Bainbridge Island's shoreline areas. The regulations in the SMP state specific legal requirements which future development must follow. The regulations in the SMP are part of the City's development regulations. The policies in the SMP state the underlying objectives the regulations are intended to accomplish. The policies are a component of the City's Comprehensive Plan and 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.

Comment [LG1]: Parallel Construction: Recommended to match the statement about policies being part of the Comp Plan. Likewise, RCW 36.70A.480 says regulations are part of the city's development regulations. And the SMP says it below as well.
ADMINISTRATIVE CONSISTENCY

1.1.1 Purpose and Intent

The Shoreline Master Program is intended to implement the Shoreline Management Act of 1971 (Chapter 90.58 Revised Code of Washington) 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's shorelines;
- Ensuring, at minimum, no net loss of shoreline ecological functions and ecosystem-wide processes;
- Planning for the restoration of shorelines that have been impaired or degraded in the past and in a manner that 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.

1.2 Requirements of the Shoreline Management Act

In June 1971, the Washington State Legislature approved a comprehensive regulatory program for shorelines of the state 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 (Chapter 90.58 RCW). 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 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 the ~~Shoreline Master Program~~SMP) 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~~SMPs, reviews substantial development permits, and approves shoreline Conditional Use permits and Variances. The ~~master program~~SMP 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~~SMP. By law, the City is responsible for the following:

1. Preparation of a ~~"Shoreline Master Program"~~SMP in accordance with the policies and requirements of the Act and the State Master Program Approval/Amendment Procedures and Master Program ~~Shoreline~~ Guidelines (the "Guidelines" or "Shoreline Master Program Guidelines"; Chapter 173-26 WAC). The purpose of a ~~Shoreline Master Program~~SMP 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~~SMPs 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.
4. Administration of a shoreline permit system to further the goals and policies of both the Act and the local ~~master program~~SMP 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)(iii)(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 the foundation for development of a system that classifies the shoreline into distinct shoreline "environments" These environments, or

Comment [LG2]: SMP acronym defined in 1.1. SMA or Act are the abbreviations defined above as well for the Shoreline Management Act. Just define it once per chapter ***ADMINISTRATIVE CONSISTENCY***.

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designations, provide the framework for implementing shoreline policies and regulatory measures.

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~~SMP 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~~SMP and subsequent shoreline development permits and approvals and ensure compliance with the policies and provisions of the ~~SMA~~Act.

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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.

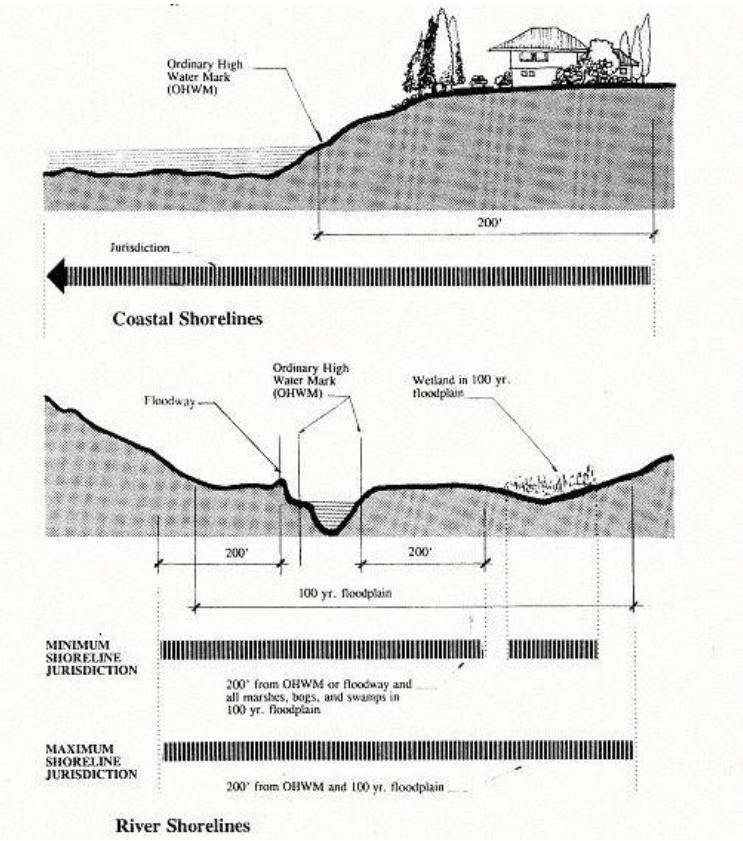

Figure 1-1 Shoreline Jurisdiction

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, shoreland, 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 Development of the City's Shoreline Master Program

The City of Bainbridge Island adopted a ~~Shoreline Master Program~~SMP in 1996 after annexation of the entire Island occurred in March 1991. Prior to annexation, Bainbridge Island's shorelines were managed under the Kitsap County ~~Shoreline Master Program~~SMP and the City of Winslow ~~Shoreline Master Program~~SMP. The goals and policies in the ~~Shoreline Master Program~~ SMP are an element of the City's Comprehensive Plan. All other portions of the SMP, including the use of regulations, are 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~~SMP. 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."

1.2.4 Public Involvement

Public participation strategies were used in developing the ~~Shoreline Master Program~~SMP adopted in 1996, and updating the ~~Program~~ SMP in 2012.

For the 1996 SMP, the City convened a citizen committee that worked from 1991-1993 to develop the first ~~shoreline master program~~SMP for the City of Bainbridge Island. In addition, approximately 45 citizen volunteers participated in a shoreline survey. The C~~e~~ity used a variety of tools for public outreach, and conducted several public meetings, special topic meetings, and public hearings.

In updating this ~~Program~~SMP, 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 composed of two members from the City Council and two members from the Planning Commission also helped guide the public participation process.

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
- Formed Ad Hoc Committee

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

- Setup ~~Shoreline Master Program~~SMP 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 the legal requirements of updating the SMP.

At the Shoreline Education series, experts in the field presented information related to the ~~program~~ SMP U~~u~~pdate 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 Project Officer and primary 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, principle 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. 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 recommendations 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 considered the Planning Commission recommendations conducting eleven (11) study sessions from May 2012 to April 2013, and holding a public hearing on ~~05/08/~~May 8, 2013. The Council approved the amendments on TBD and forwarded the program to the

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Department for review on TBD. After holding a public hearing on the draft, the Department of Ecology approved the amended program on TBD.

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1.3 Bainbridge Island's Shoreline Master Program (SMP)

1.3.1 Bainbridge Island's Shorelines

Bainbridge Island has approximately 53 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, boatyard repair, a boatyard, numerous marinas and restaurants, a waterfront park, a Superfund site, condominiums, detached homes, and a live-aboard community. Most of the ~~waterfront on~~ Bainbridge Island's shorelines ~~has~~have been developed with single-family residences, from small summer cabins to large mansions. Their locations range from below ordinary high water to high water cliffs nearly 200 feet above the water. At the north end of the island is a large sand spit called Point Monroe, while at the south end is Restoration Point, composed of raised bedrock located on the Seattle fault.

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Bainbridge Island's shorelines exhibit many uses and geologic characteristics. The shoreline is home for about 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's 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~~ 090 in ~~2011~~2012. Until 2008 with the national economic decline, the Island grew at a fairly steady rate of approximately 300 people 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 update of the SMP. The program must strike a balance between imposing regulatory powers for the benefit of 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 of these values.

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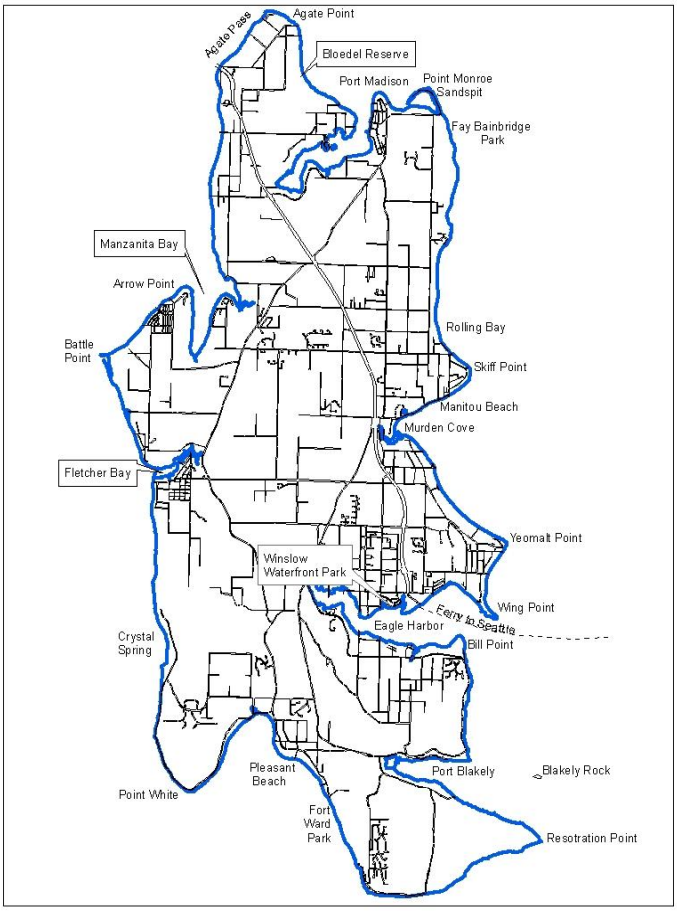

Figure 1-2 Map of Bainbridge Island

1.3.2 Title

This document shall be known as the Bainbridge Island Shoreline Master Program ("the Shoreline Master Program," "Master Program," ~~or~~ "the Program", or the "SMP").

1.3.3 Adoption Authority

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Comment [LG3]: Whereas in earlier parts of the document SMP is regularly used, this section allows a lot more choices. Therefore I didn't standardize everywhere going forward, except within the same paragraph. For example, if within the same paragraph three different ways of referencing the SMP were used, I tried to make it just one type of reference. ***ADMINISTRATIVE CONSISTENCY***

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

Comment [LG4]: Seem appropriate to use full title.

1.3.4 Relationship to Other Plans and Regulations

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

1. In addition to compliance with the provisions of the Shoreline Management Act of 1971 (also called "the Act"; RCW 90.58) and the State Master Program Approval/Amendment Procedures and Master Program Shoreline Guidelines (the "Guidelines" or "Shoreline Master Program Guidelines"; WAC 173-26);~~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 Shoreline Master Program~~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 (Chapter 43.21C RCW and Chapter 197-11 WAC), Chapter 173-27 WAC Shoreline Management Permit and Enforcement Procedures, 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 of 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 P~~p~~rogram.
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

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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 Shoreline Master Program are allowed to continue, and may be maintained, repaired, and remodeled if destroyed or damaged by natural causes as provided in Section 4.2.1 Nonconforming Uses, ~~Existing Development, and~~ Nonconforming Lots, and Existing Development. 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 and ecosystem-wide processes as provided in Section 4.1.2, Environmental Impacts. 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 Shoreline Master Program~~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 P~~p~~rogram 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 (~~§~~RCW 90.58.030) and supplementing provisions of the Washington Administrative Code (~~§~~WAC 173-27-040).

3. Developments 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.

4. 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.

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~~.

1.3.6 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. Approved shoreline restoration projects that cause a landward shift in the ordinary high water mark may be relieved from the standards of this Program pursuant to RCW 90.58.580.

Comment [LG5]: Trying to standardize references to SMP within the same paragraph. ***ADMINISTRATIVE CONSISTENCY***

Comment [LG6]: Already addressed in 1.3.4 #4above. ***ADMINISTRATIVE CONSISTENCY***

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4. The "policies" in this Master Program provide broad guidance and direction and will be used by the City in applying the "regulations."

1.3.7 Bainbridge Island Shoreline Master Program Administrative Procedures

As described in the adopted ordinance **TBD**, with the exception of specific enforcement procedures, the general administrative sections of Shoreline Master Program as listed below are included in Title 2 of the Bainbridge Island Municipal Code. 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 (WAC's). 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, Code Enforcement, 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~~.~~
8. Enforcement

1.4 Restoration Planning

To achieve island-wide improvements in ecological functions and ecosystem-wide processes 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 over time by restoring shoreline ecological functions and processes over time. The Restoration Plan is linked to the goals and policies of Section 4.1.8, Shoreline Restoration and Enhancement, and is intended to be accomplished through voluntary and incentive-based public and private programs that restore and enhance shoreline areas identified and prioritized

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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:

1. Identification of degraded areas and opportunities for restoration.
2. Identification of development that is adversely impacting shorelines.
3. Opportunities for protection and conservation.
4. Identification of programmatic restoration strategies.
5. A summary of ongoing and proposed restoration projects.
6. A summary of completed restoration projects.

1.5 Master Goal

The City's shorelines are among the most valuable 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 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. 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, results in no net loss of shoreline ecological functions, and achieves a net ecosystem improvement over time.

2.0 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 model 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 spread-sheet 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 qualitative categories to potential impacts for the nine controlling factors identified in the nearshore conceptual model.

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The model divides the shoreline into 201 reaches, which are then grouped into nine (9) management units. The controlling factor score for each 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's 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 shore types (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 Shoreline Designation Policies and Regulations

3.1 General

The Master Program establishes seven shoreline designations based on a combination of existing shoreline features and conditions and types of existing and potential future use. When applied to geographic areas of the island, these designations form an overlay for addressing shoreline considerations to the City's land use regulations. Uses which are consistent with a particular designation 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 designation at the proposed site. Table 4.1, Shoreline Use and Modification Activity Matrix, provides a summary of uses in relation to the various shoreline designations. Legally existing uses and activities which are incompatible with their shoreline designation are subject to provisions for nonconforming shoreline uses and structures. (See Section 4.2.1, Nonconforming Uses, Non-Conforming Lots, and Existing Development)

Shoreline Designation Map

The official Bainbridge Island Shoreline Designation 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 designations.

Designation Boundaries

Where the shoreline jurisdiction or designation is uncertain, the official shoreline designation map shall be used to determine boundary location. If the conflict cannot be resolved using the shoreline 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 Designation Map, distances shall be determined by the scale of the map.
5. If there is no designation on the map, then the Shoreline Residential Conservancy designation applies.

Where existing physical or cultural features are at variance with those shown on the Shoreline 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.

Comment [LG7]: Chapter 3 policies are written most often as subject-verb so we kept to that pattern. However, Chapters 4-6 most often had policies written with an active verb at the beginning – in Chapter 4-6 we standardized to an active verb beginning.
SYNTAX

3.2 Upland Designations

3.2.1 Urban

3.2.1.1 Purpose

The purpose of Urban 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 ecosystem-wide processes, 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, landslide hazard areas, and/or other sensitive areas; and must meet one or more of the following criteria:

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

3.2.1.3 Management Policies

1. Priority should be given to the following uses in order of preference: water-dependent, water-related, and water-enjoyment 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 and ecosystem-wide processes.
2. ~~Assure n~~New development applications should demonstrate they will not result in a net loss of shoreline ecological functions and ecosystem-wide processes.
3. ~~Establish e~~Environmental remediation and restoration priorities should be established 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.
5. Full utilization of existing urban areas should be achieved before additional areas are designated Urban.
6. 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

Comment [LG8]: Matching construction of other policies ***SYNTAX***

Comment [LG9]: Matching construction of other policies ***SYNTAX***

water in the Urban designation should be encouraged and implemented, where feasible.

7. To protect shoreline character and promote compatible development within the Urban designation, aesthetic considerations should be actively promoted by mechanisms such as sign control regulations, appropriate development siting, screening and architectural standards, flexible lot design process, and through the maintenance of Shoreline Buffer and Site Specific Vegetation Management Areas.
8. In order to make maximum use of the available shoreline resource and to accommodate future water-dependent uses, redevelopment and restoration for a net ecosystem improvement of degraded urban shoreline areas should be encouraged.
9. Developments within the Urban designation should be compatible with uses and activities in adjacent designations, including Aquatic and Priority Aquatic.

3.2.2 Shoreline Residential

3.2.2.1 Purpose

The purpose of Shoreline Residential is to provide for residential development and appurtenant structures, appropriate public access and recreational use, which are consistent with the Shoreline Management Act, while protecting existing natural resources, ecological functions and ecosystem-wide process, and restoring ecological functions in previously degraded areas.

3.2.2.2 Designation Criteria

Areas to be designated Shoreline Residential should be presently zoned, platted or developed for residential use, and should meet one or more of the following criteria:

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

3.2.2.3 Management Policies

1. Development and new uses should assure no net loss of shoreline ecological function by ~~establishing~~compliance with:
    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.

Comment [LG10]: The SMP establishes the standards in A to D. Development and new uses must comply. ***ADMINISTRATIVE CONSISTENCY***

2. New development should be permitted only in those shoreline areas that are capable of supporting the proposed use in a manner which protects or enhances the shoreline environment, and reflects the character of the surrounding area such as providing open space and maintaining shoreline vegetation buffers.
3. Public access to shorelines should be required for multi-family residences, apartments, and subdivisions. Common access for single-family residential short subdivisions should be encouraged and should be required where feasible.
4. Recreational developments should provide shoreline areas for community or public open space and public access to shorelines.
5. Access, utilities and public services should be available and adequate to serve existing needs and planned future development.
6. Developments within the Shoreline Residential designation should be compatible with uses and activities in adjacent designations, including Aquatic and Priority Aquatic.
7. ~~Encourage r~~Restoration of shoreline ecological functions and ecosystem-wide processes should be encouraged through non regulatory programs.

Comment [LG11]: This was the only policy in the list that started with a verb. ***SYNTAX***

3.2.3 Shoreline Residential Conservancy

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 and processes of open space, floodplains or other flood prone areas, 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.

3.2.3.2 Designation Criteria

Areas to be designated Shoreline Residential Conservancy should include 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 and processes; 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. Sediment sources for littoral cell (Feeder Bluffs).
        ii. Flood-prone areas.
        iii. Geo-hydraulic shoreforms (e.g., accretion beaches, barrier beaches, and sand spits).

iv. Wetlands and estuaries

v. Areas important to the maintenance of surface water level groundwater flow, and water quality.

vi. Biodiversity maintenance.

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

c. Areas with valuable historic or cultural features.

3.2.3.3 Management Policies

1. New residential and other development that preserves the natural character of the area, maintains shoreline vegetation buffers and/or promotes preservation of open space, floodplains or sensitive lands, either directly or over the long-term, should be the principal uses. Development that enhances or results in restoration of ecological functions and ecosystem-wide processes 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 ecosystem-wide process, including measures that provide the following:
    a. Minimum frontage width, setbacks, and shoreline buffers;
    b. Lot coverage limitations;
    c. Shoreline modification standards; and
    d. Protective measures for vegetation conservation, critical areas and water quality.
3. Water-oriented uses should be given priority over nonwater-oriented uses. For shoreline areas adjacent to navigable waters, water-dependent uses should be given highest priority.
4. Public access, common access and public recreation objectives should be implemented as required whenever feasible and significant ecological impacts can be mitigated.
5. High intensity development should be prohibited and commercial uses should be limited to those that are water-oriented and ~~are~~ intended to be accessory to residential uses, consistent with zoning regulations ~~that are limited to water-oriented uses~~.
6. Recreational developments should provide shoreline areas for community or public open space and public access to shorelines.

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Comment [LG12]: Repetitive and a bit awkward. ***SYNTAX***

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3.2.4 Island Conservancy

3.2.4.1 Purpose

The purpose of Island Conservancy 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 and ecosystem-wide processes of open space, floodplains or other flood prone areas, and other sensitive lands, and manage valuable historic and cultural resources where they exist.

3.2.4.2 Designation Criteria

Areas to be designated Island Conservancy should include the following criteria:

1. Areas that are in public ownership such as open space or parks or in private ownership which are voluntarily designated and one of the following:
    a. Areas that are appropriate and planned for recreational or cultural development that is compatible with maintaining or restoring ecological functions and processes; or
    b. Areas that are suitable for water-oriented recreational or cultural uses, but not generally suitable for intensive uses due to the potential impacts these uses may have on the existing shoreline characteristics.
    c. 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.
2. Areas with extensive or unique historic or cultural resources.
3. Areas where intensive development or use would interfere with natural processes and result in significant damage to other resources.

3.2.4.2 Management Policies

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 principal uses. Uses that enhance or result in restoration of ecological functions and ecosystem-wide processes 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 environments.
2. When required by this Pprogram or other land use covenants, 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" should be limited to those which sustain the shoreline area's physical and biological resources and uses of a nonpermanent nature,

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except those preferred uses in 3.2.4.2(4) below, that do not substantially degrade ecological functions or natural character of the shoreline area.

4. Water- recreation facilities that do not deplete the resource over time, such as boating facilities, recreational fishing, wildlife viewing trails, and swimming beaches, are preferred uses, provided shoreline resources are conserved over time and significant adverse cumulative impacts to the shoreline are mitigated.
5. Commercial and industrial uses are not permitted except that low intensity, water-oriented commercial uses may be permitted in limited instances where sites possess shoreline conditions and available 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 6.2, Shoreline Stabilization) and mitigation is applied, consistent with WAC 173-26-231, Shoreline Modifications. 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 and ecosystem-wide processes are protected. Such shoreline modification should be consistent with planning provisions for the restoration of shoreline ecological functions and processes.

3.2.5 Natural

3.2.5.1 Purpose

The purpose of the Natural designation is to protect those shoreline areas where the majority of natural ecological functions and/or shoreline ecosystem-wide 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 or have potential for restoration.

3.2.5.2 Designation Criteria

Areas to be designated Natural shall meet the following criteria:

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

i. 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. A seasonal area for concentration of native animals, fish, or fowl such as a migration route, breeding site, rearing ground, or spawning site.

b. Areas of Scientific and Educational Value.

i. Areas considered to best represent basic ecosystems and geologic types that are of particular scientific and educational interest.

ii. Areas which best represent undisturbed natural areas.

iii. Areas with established histories of scientific research.

c. Areas of Scenic and Recreational Value

i. Those areas having an outstanding or unique scenic feature in their natural state.

ii. Areas having a high value for wilderness experience.

iii. Areas which in their natural state have a high value for low intensity recreational use.

d. Areas with Restoration Potential.

i. Areas which have been degraded, but which have a high potential of being successfully restored to a natural or near natural condition, or are capable of natural regeneration if left undisturbed.

3.2.5.3 **Management Policies**

1. Any use that would substantially degrade the ecological functions and ecosystem-wide processes 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.

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

3. Physical alterations, including new development or "significant removal of vegetation", should only be considered when: a) they serve to protect a significant, unique, or highly valued feature which might otherwise be degraded or destroyed; and b) when alterations would not result in a net loss of shoreline ecological functions and ecosystem-wide processes~~,~~ ; and c) alterations would not further degrade other shoreline values; and d) ~~or the~~ vegetation removal would not reduce the capability of vegetation to perform normal ecological functions and processes.

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

5. A single active use area should be allowed with appropriate compensatory mitigation to accommodate cultural events and passive recreational uses near the log pond at Blakely Harbor Park.

Comment [LG13]: Very dense paragraph. Hard to follow without breaks. *SYNTAX*

3.3 Aquatic Designations

3.3.1 Aquatic

3.3.1.1 Purpose

The purpose of the Aquatic 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. The Aquatic designation may allow either multiple water-dependent uses or specific dominant water-dependent uses. It is intended to promote 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 waterward of the ~~ordinary high water mark (OHWM)~~OHWM which have not been designated Priority Aquatic.

2. All wetlands associated to the above which have not been designated priority aquatic.

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3.3.1.3 Management Policies

1. 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 the impacts are mitigated to assure no net loss of ecological functions and ecosystem-wide processes. Compatibility between upland and aquatic uses should be confirmed.

2. 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.

3. Diverse public access opportunities should be encouraged and developed and should be compatible with the existing shoreline and aquatic uses.
4. 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 i~~Intensive shellfish aquaculture is prohibited.
5. Multiple use of over-water facilities or tidelands is preferred over a single industry use. In appropriate areas, fishing and water recreation should be protected from competing uses.
6. All developments and uses on navigable waters, tidelands or bedlands should be located to avoid and designed to minimize interference with navigation.
7. Development and uses on navigable waters, tidelands or bedlands should be located to avoid and designed to minimize impacts to public views.
8. Development and uses on navigable waters, tidelands or bedlands should be designed and located 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. Uses ~~to~~ that accommodate deep draft vessels and/or require placement of fill, if allowed, should not occur in areas requiring extensive initial or maintenance dredging or if significant adverse environmental impacts cannot be mitigated.
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 irrevocable damage to the environment and no net loss of ecological functions and ecosystem-wide processes.
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 useable condition consistent with the provisions of this P~~p~~rogram.
12. Restoration or enhancement of aquatic resources and adjacent uplands is encouraged.

Comment [LG14]: Match construction of remaining paragraph. ***SYNTAX***

3.3.2 Priority Aquatic

3.3.2.1 Purpose

The purpose of the Priority Aquatic designation is 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 exist in a relatively natural state, 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 types. Tidal lagoons and sensitive portions of tidal inlets will require protection in terms of water salinity and quality, sediment quality and quantity, native vegetation on adjacent shorelines, and remaining areas of native salt-tolerant vegetation. Other types, such as aquatic vegetation, have similar requirements. The Priority Aquatic designation requires additional restrictions than 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 in order to recognize the level of development adjacent to the Priority Aquatic and provide an appropriate level protection for the critical habitat. Those areas previously designated Aquatic Conservancy as the adoption date XXX XX, 2013 of this SMP, shall be designated Priority Aquatic Category A. New proposed areas shall be designated as follows:

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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 state resource agencies 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 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 within three years by a qualified professional verifying that the map is in error. The report will be the responsibility of the party requesting the map change. The City may require a third party review at the applicant's expense. If areas are determined to be appropriate for designation, an amendment to this Pprogram 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 Type 1: Embayment: Barrier Estuary, Barrier lLagoons, or Closed Lagoon and Marshes

The upland boundary of Type 1 Priority Aquatic shall be the ~~ordinary high water mark (OHWM)~~OHWM. There are two barrier lagoons currently identified on the Island; "Point Monroe Lagoon" and "Battle Point Lagoon"; two closed lagoons and marshes "Wing Point Lagoon" and "Tolo Lagoon"; and one barrier estuary "Fletcher Bay".

3.3.2.4 Type2: Salt marshes and mud flats in Open Coastal Inlets

Embayments and related intertidal areas subject to the daily influence of tides where they support salt-tolerant vegetation and/or exposed mudflats. Open coastal inlets areas should

be designated Priority Aquatic if they meet either Criterion I or II below. Only those areas designated will be subject to~~-~~ the Priority Aquatic management policies and regulations.

This type of Priority Aquatic 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 then (6) feed deep at the MLLW~~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 types of Priority Aquatic 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 OHWM ~~ordinary high water (OHWM)~~ and MLLW~~mean lower low water (MLLW)~~ whose sediments are at least thirty (30) percent muds.

3.3.2.5 Type 3: Marine Vegetation

Areas waterward of the MLLW~~mean lower low water (MLLW)~~ that support a sustainable community 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 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 under Type 3:

1. Delineation of proposed area, including aerial extent and bathymetric contours.
2. Inventory of submerged aquatic vegetation. Use percent coverage for macro algae and 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.

The City shall keep a record and review data annually to determine whether sites are appropriate for nomination under Type 3. 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 Type 4 Other areas

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

3.3.2.7 Priority Aquatic Category A Management Policies

1. The City should develop a program that identifies critical saltwater habitat appropriate for greater protection under the provisions of the Priority Aquatic designation. The program 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 and ecosystem-wide processes 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 and processes.
3. Public use and access should be permitted for scientific, cultural, educational, and recreational purposes if such use is compatible with the purposes of this designation and 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 should be compatible with and not compromise the integrity of the Priority Aquatic designation.
6. Protection of shoreline vegetation should be established in all adjacent upland designations to protect the ecological functions, ecosystem-wide processes and characteristics of the Priority Aquatic designation. (See Section 4.1.5, Critical Areas.)
7. A management study of each area should be conducted with appropriate agencies and residents to determine possible refinements to the adopted types, changes in the boundaries of the designated areas, and/or inclusion of additional management strategies.
8. Restoration of enhancement of aquatic resources and adjacent uplands is encouraged.

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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 and ecosystem-wide processes 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, cultural, educational purposes;
   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 on the area 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, ecosystem-wide processes 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 Island Conservancy, Shoreline Residential and Shoreline Residential Conservancy Designation Strategy

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In general, shoreline designations criteria are based on the existing use, characteristics of the shoreline environment, and modified by the expected land use. To ensure consistent application of shoreline residential designation criteria a framework 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. The following rules apply:

1. For properties zoned single family residential, the default shoreline designation is Shoreline Residential.
2. Properties within the Winslow Master Plan area will be designated Shoreline Residential to accommodate the comprehensive plan policy of focusing new residential development into the plan's service area.
3. If less than ten parcels or 1,000 linear feet exist between Shoreline Residential Conservancy designations, then the properties between the two designations will also be designated Shoreline Residential Conservancy to avoid fragmented management of ecological functions and ecosystem-wide processes.
4. 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.
5. All publicly owned open space or park properties shall be designed Island Conservancy.

6. All publicly owned saltwater road ends shall be designated Island Conservancy.

4.0 General (Island-wide) Policies and Regulations

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.

4.0.1 Regulations - General

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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.
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" in Table 4-1 shall not be eligible for consideration as a Shoreline Variance or Shoreline Conditional Use Permit.
4. Uses, modification activities, and conditions that are not "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. BIMC Title 18 Zoning or its successor also apply to shoreline parcels.
7. Where provisions of this Master Program or other provision in BIMC conflict, the more restrictive provisions shall apply unless specifically stated otherwise.
8. 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.
9. An increase in the dimensional height standard (Table 3) for essential public facilities shall be reviewed through a Shoreline Conditional Use. Submittal requirements are in Section 4.1.2.9(2).

EXPLANATION OF TABLE 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 designation. Permitted uses are subject to all other applicable regulations of this Program, including the use-specific standards.
    - "C" in a cell indicates that, in the respective designation, 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 Program or in a conditional use approval, conditional uses are subject to all other applicable regulations of this Code, including the use-specific standards.
    - An "A" in a cell indicated that the use is permitted as an accessory use to a permitted use or to an approved conditional use in the same designation. 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.
    - A "CA" in a cell indicated 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" indicated that the use is prohibited in the respective designation. The use may be allowed outside the shoreline jurisdiction, see Title 18 Zoning.
    - The column headed "Use Specific Standards" identifies a subsection within BIMC 16.12 that imposes additional standards with which the use must comply. The use specific standard may limit the "P" or "C" designation to certain areas.

Master Program Summary Matrices

Table 4-1. Shoreline Use and Modification Activity Matrix

Table 4-1 Shoreline Use and Modification Activity Matrix

"P" = Permitted Use "X" = Prohibited Use "A" = Accessory Use

"C" = Conditional Use "#" = Same as Upland Property "CA" – Conditional Accessory Use

SHORELINE USE	UPLAND DESIGNATION					AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic		
							A	B	
Natural Resource Management									
Agriculture	X	X	X	X	X	X	X	X	
Aquaculture, Intensive	X	X	X	C	C	#	X	X	
Aquaculture, Community Shellfish Garden	X	C	C	C	C	#	X	X	
Aquaculture, Shellfish Garden	X	P	P	P	P	#	P[1]	#	
Flood Hazard Management [7]	X	C	C	C	C	#	X	X	
Stormwater Management [7]	X	P	P	P	P	#	X	X	
Forest Practices	X	X	C	C	C	X	X	X	

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Comment [LG15]: I merged Aquatic designation to cover regular Aquatic – otherwise the prior format showed regular aquatic as an "upland" designation. ***ADMINISTRATIVE CONSISTENCY***

Table 4-1 Shoreline Use and Modification Activity Matrix

"P" = Permitted Use "X" = Prohibited Use "A" = Accessory Use

"C" = Conditional Use "#" = Same as Upland Property "CA" – Conditional Accessory Use

SHORELINE USE	UPLAND DESIGNATION					AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic A	Priority Aquatic B	
Shoreline Restoration & Beach Nourishment / Mitigation	P	P	P	P	P	P	P	P	
Commercial Development									
Boating Facilities	X	C [8]	X	C [9]	P	#	X	X	
Nonwater-Oriented	X	X[8]	X	X	C[17]	X	X	X	
Water-Dependent	X	X	X	C	P	#	X	X	
Water-Related or Enjoyment	X	X	X	C	P	X	X	X	
Educational and Community Facilities									
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									
Club	X	C	C	C	P	X	X	X	
Commercial Amusement	X	X	C	C	P	X	X	X	

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Comment [LG15]: I merged Aquatic designation to cover regular Aquatic – otherwise the prior format showed regular aquatic as an "upland" designation. ***ADMINISTRATIVE CONSISTENCY***

Comment [LG16]: How is this different than "Beach Nourishment" mitigation under shoreline/aquatic modification? Also in that other row Beach nourishment is shown as "C" in Natural rather than "P" here. And aquatic is shown in that other row as # rather than "P" here

STAFF REVISION NEEDED TO ADDRESS POLICY CONSISTENCY

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Table 4-1 Shoreline Use and Modification Activity Matrix

"P" = Permitted Use | "X" = Prohibited Use | "A" = Accessory Use

"C" = Conditional Use | "#" = Same as Upland Property | "CA" – Conditional Accessory Use

SHORELINE USE	UPLAND DESIGNATION					AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic		
							A	B	
Cultural and Entertainment Facilities –continued-									
Cultural Facility	X	C	C	C	P	X	X	X	
Entertainment Facility	X	~~C~~X	C	C	P	X	X	X	
Industrial									
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	
Water-Dependent	X	X	X	X	P	#	X	X	
Water-Related	X	X	X	X	C	#	X	X	
Water Enjoyment	X	X	X	X	X	X	X	X	
Overwater Structures									
Boatlift	X	X	P	P	P	#	X	#	

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Comment [LG15]: I merged Aquatic designation to cover regular Aquatic – otherwise the prior format showed regular aquatic as an "upland" designation. ***ADMINISTRATIVE CONSISTENCY***

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Table 4-1 Shoreline Use and Modification Activity Matrix

"P" = Permitted Use "X" = Prohibited Use "A" = Accessory Use

"C" = Conditional Use "#" = Same as Upland Property "CA" – Conditional Accessory Use

SHORELINE USE	UPLAND DESIGNATION					AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic		
							A	B	
Marine Railway	X	X	P	P	P	#	X	X	
Marine Railway, Retractable [12]	X	P	P	P	P	#	X	C	
Mooring Buoys	X	P	P	P	P	#	X	X	
Piers and Docks	X	C [16]	P	P	P	#	X	P	
Recreational Floats	X	X	X	P	P	#	X	X	
Recreational Development									
Golf Courses	X	C	X	C	C	X	X	X	
Nonwater-Oriented	X	X	X	C	C	X	X	X	
Recreation, Active [19]	X	C [16]	C	C	P	#	X	X	
Recreation, Passive	P	P	P	P	P	#	P[14]	P[14]	
Event: Recreation, Culture, Education									
Water-Oriented	X	P	P	P	P	#	X	X	

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Table 4-1 Shoreline Use and Modification Activity Matrix

"P" = Permitted Use "X" = Prohibited Use "A" = Accessory Use

"C" = Conditional Use "#" = Same as Upland Property "CA" – Conditional Accessory Use

SHORELINE USE	UPLAND DESIGNATION					AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic A	Priority Aquatic B	
Residential									
Accessory Dwelling Unit	X	C	C	C	C [19]	X	X	X	
Subdivision	C	P	P	P	P	#	#	#	
Multi-family	X	X	X	P	P	X	X	X	
Single-family	X	C	P	P	P	X	X	X	
Shoreline/Aquatic Modification [5] [7]									
Beach Nourishment (Mitigation)	C	P	P	P	P	#	#	#	
Beach Enhancement (non-restoration) [6]	C [12]	C [12]	C [12]	C [12]	C [12]	#	X#	X#	
Breakwaters	X	X	X	X	X	X	X	X	
Dredging	X	X	X	X	X	C	X	C	6.4

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Comment [LG15]: I merged Aquatic designation to cover regular Aquatic – otherwise the prior format showed regular aquatic as an "upland" designation. ***ADMINISTRATIVE CONSISTENCY***

Comment [LG17]: See prior comments on "Shoreline Restoration & Beach Nourishment / Mitigation" - shown differently than this row in Natural and Aquatic environments. ***STAFF REVISION NEEDED TO ADDRESS POLICY CONSISTENCY***

Comment [LG18]: Does this # symbol make sense if prohibited? ***TYPOGRAPHICAL ERROR***

Comment [LG19]: Does this # symbol make sense if prohibited? ***TYPOGRAPHICAL ERROR***

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Table 4-1 Shoreline Use and Modification Activity Matrix

"P" = Permitted Use | "X" = Prohibited Use | "A" = Accessory Use

"C" = Conditional Use | "#" = Same as Upland Property | "CA" – Conditional Accessory Use

SHORELINE USE	UPLAND DESIGNATION					AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic A	Priority Aquatic B	
Drift Sill	X	X	X	X	X	P	P	P	4.1.8
Landfill	C	C	C	C	C	#	X	X	
Fill	X	C	X	X	C	#	X	X	
Repair of Shoreline Stabilization	X	P	P	P	P	#	#	#	
New or Replacement Shoreline Stabilization, Hard [4]									
New Bulkheads	X	X~~C~~	P	P[19]	P	#	X	X	
Replacement Bulkheads	X	X	P	P	P	#	#	#	
Gabions	X	X	X	X	X	X	X	X	
Weirs, Groins (rock or concrete)	X	X	X	X	X	X	X	X	
Jetties	X	X	X	X	X	X	X	X	
Levees/Dikes	X	X	X	X	X	X	X	X	

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Table 4-1 Shoreline Use and Modification Activity Matrix

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SHORELINE USE	UPLAND DESIGNATION					AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic		
							A	B	
Retaining Walls and Bluff Walls	X	C	C	C	C	X	X	X	
Revetments	X	X	X [2]	X [2]	X [2]	#	X	X	
Seawalls	X	X	X	X	X	X	X	X	
Hybrid	X	P	P	P	P	#	#	#	
New or Replacement Shoreline Stabilization Non-Structural and Soft									
Non-Structural Stabilization, Soft-treatment	X	P	P	P	P	#	#	#	
Transportation									
Roads and Other Facilities									
Existing Road repair	X	P	P	P	P	X	X	X	

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Table 4-1 Shoreline Use and Modification Activity Matrix

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SHORELINE USE	UPLAND DESIGNATION					AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic		
							A	B	
New Arterials	X	X	X	X	X	X	X	X	
New Highways	X	X	X	X	X	X	X	X	
New Secondary Roads	X	X	X	X	X	X	X	X	
Trails	P	P	P	P	P	#	#	#	
Float Plane Facilities and Services	X	X	X	X	C	#	X	X	
Heliports	X	X	X	X	X	X	X	X	
Additional Bridge to Bainbridge Island	X	X	X	X	X	X	X	X	
Parking (primary)	X	X	X	X	X	X	X	X	
Public Access Facilities									
Public Ferry Terminal Facilities and Services	X	X	X	X	C [10]	#	X	X	
Railroads	X	X	X	X	X	X	X	X	

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Comment [LG20]: Called secondary arterials in the Transportation regulations – which is preferred usage? ***STAFF CLARIFICATION NEEDED***

Comment [LG21]: Listed under public access – remove here? Or there? ***STAFF CLARIFICATION NEEDED***

Comment [LG22]: Add a table note that allows parking as a primary use on road ends or scenic vistas per Section 4.2.3.3(3). ***STAFF CLARIFICATION NEEDED***

Comment [LG23]: Add a row allowing parking as an accessory use per 4.2.3.4(1)? The accessory structures, general section implies buildings – not sure about uses like accessory parking. ***STAFF CLARIFICATION NEEDED***

Comment [LG24]: Section 4.2.6 says: Publicly-owned ferry terminals and services, except over-water facilities, are allowed as a permitted use in the Urban designation and in the adjacent aquatic environment. New over-water facilities in conjunction with a permitted ferry terminal are a conditional use in the Urban designation and in the adjacent aquatic environment and are prohibited in all other environments. ***STAFF CLARIFICATION NEEDED***

Table 4-1 Shoreline Use and Modification Activity Matrix

"P" = Permitted Use "X" = Prohibited Use "A" = Accessory Use

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SHORELINE USE	UPLAND DESIGNATION					AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic		
							A	B	
Trails	P	P	P	P	P	#	#	#	
Utilities & Telecommunication									
Utilities (primary)	X	X	C [11]	C [11]	C [11]	#	X	X	
Signs									
Primary	X	X	X	X	X	P	X	X	
Accessory Structures									
All Uses									
Potable Water Wells	X	A	A	A	A	X	X	X	
Signs	X[20]	X[20]	P	P	P	P	X[20]	X[20]	
Tram	X	A	A	A	A	#	X	X	
Underground Utilities	X	X	CA	CA	CA	#	X	X	

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Comment [LG15]: I merged Aquatic designation to cover regular Aquatic – otherwise the prior format showed regular aquatic as an "upland" designation. ***ADMINISTRATIVE CONSISTENCY***

Comment [LG25]: Add a row for accessory? Ensure footnote 11 matches the list of prohibited facilities in 4.2.7? ***STAFF CLARIFICATION NEEDED***

Table 4-1 Shoreline Use and Modification Activity Matrix

"P" = Permitted Use | "X" = Prohibited Use | "A" = Accessory Use

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SHORELINE USE	UPLAND DESIGNATION					AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic A	Priority Aquatic B	
Residential									
Upland appurtenant Structures	X	CA	A	A	A	X#	X	X	
Commercial									
Upland appurtenant structures that support a water-dependent use [13]	X	X	X	CA	A	#	X	X	
Upland appurtenant structures that support a water related or water enjoyment use [13]	X	X	X	CA	A	X	X	X	
Upland appurtenant structures that support a non-water oriented use [13]	X	X[8]	X	X	C[17]	X	X	X	
Industrial									
Upland appurtenant structures that support a water-dependent use [13]	X	X	X	X	A	#	X	X	

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Comment [LG15]: I merged Aquatic designation to cover regular Aquatic – otherwise the prior format showed regular aquatic as an "upland" designation. *ADMINISTRATIVE CONSISTENCY*

Comment [LG26]: Does this note make sense if prohibited? *STAFF CLARIFICATION NEEDED*

Table 4-1 Shoreline Use and Modification Activity Matrix

"P" = Permitted Use "X" = Prohibited Use "A" = Accessory Use

"C" = Conditional Use "#" = Same as Upland Property "CA" – Conditional Accessory Use

SHORELINE USE	UPLAND DESIGNATION					AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic		
							A	B	
Upland appurtenant structures that support a water related [13]	X	X	X	X	CA	#	X	X	
Upland appurtenant structures that support a water enjoyment use [13]	X	X	X	X	X	X	X	X	
Upland appurtenant structures that support a non-water oriented use [13]	X	X	X	X	X	X	X	X	
Public Park/Recreational Development									
Public pathways to the shoreline	A	A	A	A	A	#	#	#	
Public Stairway	A	A	A	A	A	#	#	#	
Access Roads	X	A	A	A	A	X	X	X	

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SHORELINE USE	UPLAND DESIGNATION					AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic		
							A	B	
Upland appurtenant structures that support ~~t~~ a water-oriented Active recreational use	X~~A~~	A	CA	CA	A	#	X	X#	
Upland appurtenant structures that support a water oriented passive recreational use	A	A	A	A	A	#	A[14]	A[14]	
Upland appurtenant structures that support a non-water oriented use	X	X	X	X	X	X	X	X	

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Table 4-1 Shoreline Use and Modification Activity Matrix

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SHORELINE USE	UPLAND DESIGNATION					AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic		
							A	B	

[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 Cconditional Uuse Ppermit, but may require an SSDP.
[11] Permitted as a conditional use if no feasible alternative exists.
[12] If upland of Priority Aquatic designation, then the use is ~~not allowed~~prohibited.
[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)
[16] Except in Waterfront Park a dock is permitted with a SSDP.
[17] Mixed-use Commercial/Industrial only.
[18] Day use only.
[19] Prohibited or restricted in the Point Monroe District.
[20] Allowed for Public Park, Interpretive, Information, Ddirection or Ddedication. Temporary signs are allowed in accordance with Section 4.2.5 Signs

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Comment [LG15]: I merged Aquatic designation to cover regular Aquatic – otherwise the prior format showed regular aquatic as an "upland" designation. ***ADMINISTRATIVE CONSISTENCY***

Comment [LG27]: Section 4.2.6 says: Publicly-owned ferry terminals and services, except over-water facilities, are allowed as a permitted use in the Urban designation and in the adjacent aquatic environment. New over-water facilities in conjunction with a permitted ferry terminal are a conditional use in the Urban designation and in the adjacent aquatic environment and are prohibited in all other environments.

What happens when an existing facility wants to expand – it's not new and not repair/maintenance per note 10. The language above would imply permitted. Fix note 10 to match Section 4.2.6? ***STAFF CLARIFICATION NEEDED***

Comment [LG28]: Reference prohibited items in 4.2.7? ***STAFF CLARIFICATION NEEDED***

Comment [LG29]: Is CUP more appropriate here than variance?

Comment [LG30]: What does this mean? Should it just say prohibited? ***STAFF CLARIFICATION NEEDED***

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

SHORELINE USE	UPLAND DESIGNATION					AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic A	Priority Aquatic B	
Natural Resource Management									
Aquaculture									
Setbacks									
Water-dependent	X	0’	0’	0’	0’	DOES NOT APPLY TO DEVELOPMENT BELOW OHWM			
Water-related	X	25’	25’	25’	25’				
Nonwater-oriented	X	150’	115’	100’	100’				
Height Limit									
Overwater Structures						3'	X	3'	
Accessory use on overwater structures						3'	X	3'	

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

SHORELINE USE	UPLAND DESIGNATION					AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic		
							A	B	
Overwater Structure Predator Control						6'	X	6'	
Upland	X	30'	30'	30'	30'				
Aquaculture, Noncommercial for Recovery of Native Population									
Setbacks									
Water-dependent	X	0'	0'	0'	0'	DOES NOT APPLY TO DEVELOPMENT BELOW OHWM			
Water-related	X	25'	25'	25'	25'				
Nonwater-oriented	X	150'	115'	100'	100'				
Height Limit									
Overwater	DOES NOT APPLY TO UPLAND DEVELOPMENT					3'	X	3'	
Upland	X	30'	30'	30'	30'				
Commercial Development									

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

SHORELINE USE	UPLAND DESIGNATION					AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic		
							A	B	
Boating Facilities									
Setbacks									
Accessory Structures	X	X	X	50’	30’				
Water-dependent	X	X	X	0’	0’				
Dry Moorage	X	X	100’	100’	100’				
Height Limit									
Dry moorage	X	X	20’	20’	30’				
Buildings	X	X	20’	20’	30’				
Nonwater-Oriented									
Setbacks									

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

SHORELINE USE	UPLAND DESIGNATION					AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic		
							A	B	
	X	X	X	200[2]	200'[2]				
Height Limit									
	X	X	X	30'	30'				
Water-Dependent									
Setback									
	X	X	X	0'	0'				
Height Limit									
	X	X	X	30'	30'				
Water-Related and Enjoyment									
Setback									
	X	X	X	50'[1]	30'				

Comment [LG31]: Where are notes for this table? I couldn't find them. ***STAFF CLARIFICATION NEEDED***

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

SHORELINE USE	UPLAND DESIGNATION					AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic A	Priority Aquatic B	
Height Limit									
	X	50'[1]	X	30'	30'				
Educational and Community Facilities									
Educational Facility									
Setbacks									
Water-dependent	X	X	0'	0'	0'				
Water-related	X	X	50'[1]	30'[1]	30'[1]				
Nonwater-oriented	X	X	115'[1]	30'[1]	30'[1]				
Height Limit									
Upland	X	X	30'	30'	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

SHORELINE USE	UPLAND DESIGNATION					AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic		
							A	B	
Governmental Facility									
Setbacks									
Water-dependent	X	X	0’	0’	0’				
Water-related	X	X	50’[1]	30’[1]	30’[1]				
Nonwater-oriented	X	X	115’	75’	30’				
Height Limit									
Upland	30’	30’	30’	30’	30’				
Religious Facility									
OHWM Setback									
Water-dependent	X	0’	0’	0’	0’				
Water-related	X	50’[1]	50’[1]	30’[1]	30’				
Nonwater-oriented	X	150’	115’	75’	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

SHORELINE USE	UPLAND DESIGNATION					AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic		
							A	B	
Height Limit									
Upland	X	30’	30’	30’	30’				
Cultural and Entertainment Facilities									
Club									
Setbacks									
Water-dependent	0’	0’	0’	0’	0’				
Water-related	100’	50’[1]	50’[1]	30’[1]	30’				
Nonwater-oriented	100’	150’	115’	75’	30’				
Height Limit									
Upland	30’	30’	30’	30’	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

SHORELINE USE	UPLAND DESIGNATION					AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic		
							A	B	
Commercial Amusement									
Setbacks									
Water-dependent	X	X	0’	0’	0’				
Water-related	X	X	50’[1]	30’[1]	30’				
Nonwater-oriented	X	X	150’	75’	30’				
Height Limit									
Upland	X	X	30’	30’	30’				
Cultural Facility									
Setbacks									
Water-dependent	0’	0’	0’	0’	0’				
Water-related	100’	50’[1]	50’[1]	30’[1]	20’				
Nonwater-oriented	100’	150’	115’	75’	20’				

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

SHORELINE USE	UPLAND DESIGNATION					AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic		
							A	B	
Height Limit									
Upland	30’	30’	30’	30’	30’				
Entertainment Facility									
Setbacks									
Water-dependent	X	0’	0’	0’	0’				
Water-related	X	100’[1]	100’[1]	50’[1]	30’				
Nonwater-oriented	X	150’	115’	75’	30’				
Height Limit									
Upland	X	30’	30’	30’	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

SHORELINE USE	UPLAND DESIGNATION					AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic		
							A	B	
Industrial									
Water-Dependent									
Setbacks									
	X	X	X	X	0''				
Height Limit									
Upland	N/A	N/A	N/A	N/A	30'				
Water-Related									
Setbacks									
	N/A	N/A	N/A	N/A	100'				
Height Limit									
Upland	N/A	N/A	N/A	N/A	30'				
Overwater Structures									

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

SHORELINE USE	UPLAND DESIGNATION						AQUATIC DESIGNATION		Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic		
							A	B	
Marine Railway									
Setbacks									
	X	X	BIMC 16.12.X.X						
Height Limit									
Upland	X	X	BIMC 16.12.X.X						
Marine Railway, Retractable [12]									
Setbacks									
	X	BIMC 16.12.X.X							
Height Limit									
Upland	X	BIMC 16.12.X.X							

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

SHORELINE USE	UPLAND DESIGNATION						AQUATIC DESIGNATION		Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic		
							A	B	
Mooring Buoys									
Setbacks									
From Overwater Structures	100’						X	X	
Piers and Docks									
Setbacks From Property Lines									
	10’						BIMC 16.12.X.X		
Recreational Floats									
Setbacks									
	100’						X	X	
Recreational Development									
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

SHORELINE USE	UPLAND DESIGNATION						AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic			
							A		B	
Upland	X	20’	20’	20’	30’					
Nonwater-oriented										
Setbacks										
	200’	200’	200’		200’	100’				
Park, Active Recreation										
Setbacks										
Water-Dependent Primary Structure	X	[2]	[2]		[2]	[2]	[2]	[2]	[2]	
Car/RV Camp Site	X	100’	100’		100’	50’				
Golf Course	X	100’	100’		100’	100’				
Play-structure	X	100’	100’		100’	50’				

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

SHORELINE USE	UPLAND DESIGNATION						AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic			
							A		B	
Playfields or other Intensive use areas	X	150’	150’		100’	100’				
Height										
Upland	X	20’	20’		20’	20’				
Park, Passive Recreation										
Setbacks										
Water-Dependent Primary Structure	X	[2]	[2]		[2]	[2]	[2]	[2]		
Picnic Area and Related	X	75’[1]	75’[1]		75’[1]	30’[1]				
Kayak/Hiking and Related Camp Site	X	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

Additional Use restrictions for BIMC Titles 17 and 18 may apply

SHORELINE USE	UPLAND DESIGNATION						AQUATIC DESIGNATION		Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic		
							A	B	
Accessory Use									
Setbacks									
Access Roads	X	75'[1][3]	75'[1][3]		75'[1]	50'[1][3]			
Parking	X	100'[1]	100'[1]		100'	50'			
Events, Recreation; Education; Culture									
Setbacks									
Water-Dependent	X	0'	0'		0'	0'			
Water-related/Enjoyment	X	50'[1]	50'[1]		50'[1]	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

SHORELINE USE	UPLAND DESIGNATION						AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic			
							A		B	
Residential										
Flex lot Subdivision										
Setbacks										
SUBJECT TO 30% SIDE YARD SETBACK, SHORELINE SETBACK AND ZONING AND SUBDIVISION REQUIREMENTS										
Height Limit										
Upland	X	30’	30’		30’	30’				
Multi-family										
Setbacks										
UBJECT TO 30% SIDE YARD SETBACK, SHORELINE SETBACK AND ZONING REQUIREMENTS AND BIMC Title 18										
Height Limit										
Upland	X	X	30’		30’	30’				
Single-family										

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

SHORELINE USE	UPLAND DESIGNATION						AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic			
							A		B	
Setbacks										
SUBJECT TO 30% SIDE YARD SETBACK, SHORELINE SETBACK AND ZONING REQUIREMENTS										
Height Limit										
Upland	X	30’	30’		30’	30’				
Shoreline/Aquatic Modification [5] [7]										
Utilities & Telecommunication										
Utilities (primary)										
Primary Structure	X	200'	200'		200'	200'				
Accessory Use	X	100'	100'	N/A	100'	100'				
Telecommunication Accessory Use	X	100'	100'	N/A	100'	100'				

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

SHORELINE USE	UPLAND DESIGNATION						AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic			
							A		B	
Height										
Distribution Poles	X	X	30'[1][5]	N/A	30'[1][5]	30'[1][5]				
Buildings, storage Tanks, Accessory Uses	X	X	30'[1][4]	N/A	30'[1][4]	30'[1][4]				

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

SHORELINE USE	UPLAND DESIGNATION						AQUATIC DESIGNATION		Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic		
							A	B	
Accessory Structures									
Architectural Elements									
Setback									
	SUBJECT TO SETBACK REQUIREMENTS OF PRIMARY STRUCTURE								
Height									
	TOTAL HEIGHT OF ARCHITECTURAL ELEMENT AND PRIMARY STRUCTURE SHALL NOT TOTAL MORE THAN 35'.								
Residential									
Primary Appurtenant Structures and Non-habitable Structures (boat house, deck, patio, stairway)									
Setbacks									

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

SHORELINE USE	UPLAND DESIGNATION					AQUATIC DESIGNATION			Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic		
							A	B	
	SUBJECT TO 30% SIDE YARD SETBACK, SHORELINE SPECIFIC USE SETBACK AND ZONING REQUIREMENTS					SAME AS SPECIFIC USE SETBACK	X	#	
Height									
Boat house, shed, well house, etc.	X	12’	12’	12’	12’	SHORELINE SPECIFIC USE SETBACK	X	X	
Commercial/Industrial									
Primary appurtenant structures that either support public access or are necessary to support a water-dependent use [13]									
Setbacks									
	SAME AS SPECIFIC USE						X	#	

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

SHORELINE USE	UPLAND DESIGNATION						AQUATIC DESIGNATION		Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic		
							A	B	
Public Park									
Primary appurtenant structures that either support public access or are necessary to support a water-dependent recreational									
Setbacks									
	15’	75’	75’	75’	50’				
Event, Recreation; Culture; Education									
Setbacks									
	N/A	75’[1]	75’[1]		75’[1]				
Parking	N/A	100’[1][3]	100’[1[3]]		100’[3]				

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

SHORELINE USE	UPLAND DESIGNATION						AQUATIC DESIGNATION		Use Specific Standards
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban	Aquatic	Priority Aquatic		
							A	B	

Table 4-3 16.xx.xxx Shoreline Buffer Standards Table

Additional Use restrictions for BIMC Titles 17 and 18 may apply

SHORELINE USE	UPLAND DESIGNATION				
	Natural	Island Conservancy	Shoreline Residential Conservancy	Shoreline Residential	Urban
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					

Table 4-3 16.xx.xxx Shoreline Buffer Standards Table

Additional Use restrictions for BIMC Titles 17 and 18 may apply

SHORELINE USE	UPLAND DESIGNATION				
	Natural	**Island Conservancy**	**Shoreline Residential Conservancy**	**Shoreline Residential**	**Urban**
Category A: Low bank lots with 65% Canopy Area in Zone 1, OR spit/barrier/backshore, marsh lagoon, or rocky shores. Category B: Low bank with less than 65% Canopy Area in Zone 1, or lots with a depth < 200' or High Bluff. *Geomorphic Class (i.e. low bank, High Bluff) shall be determined by Battelle 2004 Nearshore Characterization and Inventory.*					
Developed lots					
Category A	200'	150''	115'	75'	30'
Category B	200'	100'[1]	75'[1]	50'[1]	30 [1]
Undeveloped lots					
	N/A	150'	150'	75/150'[2]	30'

1. For High bluff 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.

Comment [LG32]: Seem like for high bluff it would always be 50 feet from bluff – should standard read 30/50 [1] ?
STAFF CLARIFICATION NEEDED

4.1 Environmental Quality and Conservation

Comment [LG33]: Note some sections have goals and others do not. (For example, 4.1.1, 4.1.4, and 4.1.7 do not). *STAFF CLARIFICATION NEEDED*

4.1.1 Shorelines of State-wide Significance

4.1.1.1 Purpose

The Shoreline Management Act of 1971 designated certain shoreline areas as shoreline 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 waterward from the line of extreme low tide are shorelines of state-wide significance. [RCW 90.58.030(2)(f)(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, 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 designation and use regulations to minimize damage to the ecology and environment of the shoreline as a result of man-made intrusions on the 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 shoreline of state-wide significance for future generations and restrict or prohibit development that would irreversibly damage shoreline resources.

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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 Environmental Impacts

4.1.2.1 Applicability

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 shoreline environment. The preferred mitigation sequence (avoid, minimize, rectify, reduce, or compensate for the environmental impact) shall follow that listed in WAC 173-26-201(2)(e). See definition of "Mitigation" listed in this Master Program, in Section 8.0, Definitions.

In approving shoreline development, the City shall ensure that shoreline development, use, and/or activities will result in no net loss of ecological functions and ecosystem-wide processes necessary to sustain shoreline resources, including loss that may result from the cumulative impacts of similar developments over time 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 adjustments to proposed project dimensions, intensity of use, and screening, as deemed appropriate. If impacts cannot be avoided through design

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modifications, the City shall require compensatory mitigation commensurate with the project's adverse impacts.

4.1.2.2 Goal

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

4.1.2.3 Policies

1. Ensure all shoreline uses, activities and developments are designed and located in a manner that prevents or mitigates adverse impacts to shoreline ecological functions 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:

    a. Effects on ecological functions and ecosystem-wide processes, including temporal loss of functions; and

    b. Effects that occur on-site and effects that may occur off-site; and

    ~~-~~c. Direct and indirect effects and long-term effects of the project; and

    d. 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

    e. 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 development, use and activities, including preferred uses, and uses that are exempt from a shoreline substantial permit ~~r~~, shall be located, designed, constructed, and maintained in a manner that protects ecological functions and ecosystem-wide processes~~,~~ All proposed shoreline development, uses and activities shall:

    a. Utilize the required mitigation sequence of Section 4.1.2.6, Regulations – Mitigation; and

Comment [LG34]: Match the format of other policies to start with action verb ***SYNTAX***

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b. Utilize effective erosion and scour control methods during project construction and operation; and

c. Minimize adverse impacts to critical salt water habitat, fish and wildlife conservation areas, and/or other ecological functions and ecosystem-wide processes, such as those provided by shoreline vegetation; and

d. Minimize interference with beneficial natural shoreline processes, such as water circulation, sand and gravel transport movement, erosion, and accretion; and

e. Avoid hazards to public health and safety; and

f. Minimize the need for shoreline stabilization measures and flood protection in the future; and may require a geotechnical analysis to ensure that the proposed activity meets this regulation (See Section 6.2, Shoreline Stabilization); and

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g. Result in no net loss of ecological functions and processes 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 development, use or activity, regardless of whether a permit is required the following shall apply:

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

      i. Meet provisions in subsection 1 above; 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 modification, the Administrator shall require compensatory mitigation, pursuant to regulations in Sections 4.1.2.5, Regulations – Revegetation Standards, and 4.1.2.6, Regulations – Mitigation; 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 compensatory mitigation, it shall be sufficient reason for the Administrator to deny a permit.

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3. To assure that development activities contribute to meeting the no net loss provisions pursuant to subsection 1 and 2 above, an applicant is required to submit a site-specific analysis of potential impacts and a mitigation plan that includes compensatory mitigation measures when determined necessary as a result of the analysis. The site-specific analysis shall be prepared in accordance with Section 4.1.2.9, Submittal Requirements – Site-Specific Impact Analysis and Mitigation Plan.

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4. To mitigate anticipated impacts and meet the no net loss standards in subsection 1 and 2 above, an applicant for a single family residential development or accessory structures may choose to use the Standard Residential Mitigation Manual in Appendix D in lieu of a

site-specific impact analysis and mitigation plan. ~~–~~If an applicant uses the Single Family Residential Mitigation Manual, compensatory mitigation requirements provided in the manual shall be included in the project submittal.

4.1.2.5 Regulations – Revegetation Standards

1. Vegetation replanting is required for all development, uses or activities within the 200-foot shoreline jurisdiction that either alter~~s~~ existing native vegetation or any vegetation in the required Shoreline Buffer or Vegetation Management Areas, 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 information shall be submitted for approval prior to vegetation disturbance as part of a project proposal or clearing permit pursuant to BIMC 15.18, Land Clearing:
    a. Residential, Industrial and Commercial Development.
        i. Vegetation disturbance of 200 square feet or less requires submittal of an annotated list of proposed plants and their spacing specifications and location.
        ii. Vegetation disturbance ~~-~~greater than 200 square feet requires that the planting plan shall be completed by a qualified professional.

    b. Public Park and City Maintained Areas.
        i. Vegetation disturbance of 2,500 square feet or less requires submittal of an annotated list of proposed plants and their spacing specifications and location.
        ii. Vegetation disturbance greater than 2,500 square feet requires that the planting plan shall be completed by a qualified professional.

2. For vegetation mitigation in the Shoreline Buffer or Site-specific Vegetation Management Areas, all new plantings shall meet the provisions in Section 4.1.3.5(5), except for the Point Monroe District which shall meet special provisions in subsection 6,
3. If the Shoreline Buffer is altered or reduced pursuant to provisions of Section 4.1.3, Vegetation Management or Section 4.2.1, Nonconforming Uses, Non-Conforming Lots, and Existing Development, the following shall occur in Zone 1:
    a. Retain existing native vegetation; and
    b. Plant the entire area of Zone 1. Obtain 65% vegetation canopy coverage within 10 years.
4. When vegetation mitigation is required for new upland development, uses, or activities 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 shall be located in the following sequence, except for the Point Monroe District which shall meet special provisions in subsection 6,
    a. Within Zone 1, plant vegetation ~~-~~to obtain a minimum of 65% native vegetation canopy coverage;

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b. In Zone 2, plant to increase canopy coverage, in a manner that promotes contiguous native vegetation or in areas nearest the shoreline;

c. In the Shoreline Buffer, plant in a manner that promotes a contiguous native vegetated corridor that connects to the shoreline;

d. Outside of the Shoreline Buffer, plant in a manner that promotes a contiguous native 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, plant to meet the standard of subsection a.

5. When mitigation is required for shoreline stabilization projects due to site disturbance, the required planting plan shall also include the following, unless an alternative planting plan is approved by the Administrator:

   a. Replant 75% of the shoreline area located along the upland edge of the shoreline stabilization structure to a minimum depth of ten (10) feet, unless demonstrated to be infeasible to the Administrator;

      i. The depth may be reduced to five (5) feet to allow for landscape design variation, provided that the total square footage of the area planted equals the required 75% of the shoreline;

   b. Planting plans shall meet provisions in Section 4.1.3.5(5), and shade bearing plants shall be provided at suitable-fish spawning sites; and

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

6. Special Mitigation Provisions for Point Monroe District. When vegetation mitigation is required for new development, uses, or activities in the Point Monroe District, the mitigation plan shall include new vegetation communities appropriate for barrier spit, dune grass, and salt marsh that shall be installed within the spit-specific vegetation management area (SVMA) as defined in Section 4.1.3.5(8), thirty (30) foot setback between the OHWM and the primary structure, or where area is available on the site.

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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;

   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 compensatory mitigation is necessary to offset impacts, 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 and processes. 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.

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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 the Single-family Residential Mitigation Manual is being used for single-family residential development and accessory structures 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

d. The mitigation activity shall be monitored and maintained to ensure that it achieves its intended functions and values, pursuant to Section 4.1.2.7, 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 the restoration permit application; and

b. The City can confirm via site inspection, photographs, 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; and to ensure no net loss, the mitigation shall replace the functions as quickly as possible following the impact.

4.1.2.7 Regulations – Surety

1. The applicant/property owner shall provide assurance 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 notice on title, conservation easement, or similar mechanism as approved by the City Attorney.
2. Except for projects undertaken by public entities, performance and/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 depositor upon completion of the mitigation activity and any required monitoring.

4.1.2.8 Regulations – Monitoring and Maintenance

1. When mitigation is required, a periodic monitoring program shall be included as a component of the required mitigation plan. To ensure the success of the required mitigation, monitoring shall occur for a minimum duration of five years from the date of the completed development. The monitoring plan may also require that periodic maintenance measures be included as recommended by a qualified professional. The duration of monitoring may be extended if the project performance standards set forth in the approved mitigation plan fail to be accomplished, or, due to project complexity, the approved mitigation plan requires a longer period of monitoring.
2. Monitoring programs may be forwarded for review and comment to state and/or federal resource agencies and affected tribes with jurisdiction.
3. Monitoring programs shall meet the requirements established in Monitoring Requirements, Appendix B, ~~16.20.110~~B-6(C)(2)(e).
4. All new and replacement shoreline stabilization projects shall complete and submit a minimum five-year monitoring and maintenance program that addresses the shoreline stabilization mitigation measures, and shall at a minimum include:
    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, which includes any monitoring or maintenance recommendations of the qualified professional.

Comment [LG35]: Verify. I reviewed the PC version of Appendix B.

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 demonstrate how the standards of Section 4.1.2.6, Regulations – Mitigation, are met, and 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 documenting the project's impacts and their effect on the ecological functions and processes, (including lost time when functions are not being performed) necessary to support existing and future shoreline resources and demonstrating how the identified impacts are mitigated as required by the provisions of Section 4.1.2.6;
        i. For single-family residential proposals utilizing the alternative to a site-specific analysis as provided in Section 4.1.2.4(4), proposed development impacts and required compensatory mitigation measures must be identified, as specified in the Single Family Residential Mitigation Manual, Appendix D of this program;
    c. An assessment and description of any federal, state, or local special management recommendations which have been developed for wetlands, streams, 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. When a mitigation plan is required, the following shall be included:
        i. 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;
        ii. A contingency plan or adaptive management plan if the mitigation fails to meet established success criteria; and
    h. Any additional information is necessary to determine the impacts of a proposal and mitigation of the impacts.

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2. If proposed essential public facilities will exceed the building height limitations of the shoreline jurisdiction, the applicant shall submit a view analysis that demonstrates the following:
    a. Plan view and elevation drawings that clearly demonstrate that the proposed increased structure height will not obstruct views of the water for a substantial number of residences.

4.1.3 Vegetation Management

4.1.3.1 Applicability

Vegetation management is required for protection and conservation 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 within the shoreline jurisdiction. Vegetation management activities will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.4, Land Modification; Section 4.1.5, Critical Areas; ~~Appendix B;~~ Section 4.1.6, Water Quality and Stormwater Management; Appendix B; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

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

The Vegetation Management provisions apply to all shoreline development, and regulated uses and activities, including those that do not require a shoreline permit. Similar to other master program provisions, vegetation standards do not apply retroactively to existing uses and structures unless changes or alterations are proposed. Standards for vegetation management are established using current scientific and technical information pursuant to WAC 173-26-221(5)(b) and173-26-201(2)(a), and are based on the use category, shoreline characterization and the designation. Standards are provided in Section 4.0, and Tables 4-2 and 4-3.

4.1.3.2 Goal

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

4.1.3.3 Policies

1. Maintain existing shoreline vegetation to protect ecological functions and/or processes from adverse impacts of uses, activities and developments within the shoreline jurisdiction.
2. Emphasize the use of native vegetation species to maintain the ecological functions and/or processes and mitigate the direct, indirect, and/or cumulative impacts of shoreline development, uses and activities.
3. Provide flexible dimensional standards for buffers and setbacks that are based on performance standards designed to protect ecological functions and ecosystem-wide

processes, including considering alternatives to planting native vegetation species if it can be demonstrated that the equivalent ecological functions can be provided.

4. Use monitoring programs to ensure the protection of shoreline ecological functions and ecosystem-wide processes, particularly when non-native vegetation species are used as an alternative to native vegetation.
5. Encourage the restoration or enhancement of shoreline vegetation through incentive programs.
6. Establish buffers immediately upland of OHWM for each shoreline designation, recognizing the pattern of development, shoreline ecological functions and ecosystem-wide processes, and using current science and technical information, as described in WAC 173-26-201(2)(a). In establishing buffers, consideration should be given to the land use patterns to minimize the number of existing structures that would not conform to buffer dimensional standards.
7. At the time of a proposal, allow site-specific dimensional standards for vegetation management areas for shoreline development, use or activity. Dimensional s~~S~~tandards must protect shoreline ecological functions and ecosystem-wide processes.
8. Implement a public education program emphasizing the importance of shoreline vegetation management.
9. Allow s~~S~~elective vegetation clearing for views ~~should be allowed~~ for new development and to maintain views from existing residences when slope stability and ecological functions and ecosystem-wide processes 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 dune communities, sand spits, barrier beaches, barrier estuaries or barrier lagoons.

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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. Existing buffers and setbacks that have been established through previously approved subdivisions and indicated on the face of an approved plat shall be recognized and adhered to.
3. The following shall be exempt from the provisions of Section 4.1.3.
   a. Maintenance trimming of vegetation that has a main stem or supporting structure which is less than three (3) inches in diameter; except that tree topping or other vegetation removal is not exempt.
   b. Buffer enhancement through the removal of noxious or invasive weeds, provided the following are met:

i. The vegetation removal is based on consultation with the Kitsap County Noxious Weed Board or the species being removed are on the Washington State Noxious Weed List (WAC 16-750, or its successor); and

ii. The vegetation removal is conducted in a manner consistent with best management practices (BMP); and

iii. Replanting occurs in the disturbed area in accordance with Section 4.1.2.5, Revegetation Standards.

c. Removal of hazard trees, as defined in Appendix B, where a report by an arborist or other qualified professional demonstrates to the satisfaction of the Administrator that trimming is not sufficient to address the hazard provided:

i. Mitigation is provided in accordance with Section 4.1.2, Environmental Impacts, including:

A. Requiring that the downed tree be retained on the site to provide or enhance wildlife or marine habitat; and/or

B. When possible, require that the hazard tree be topped for safety and remain as a wildlife snag; or

ii. When a hazard tree is located in a geologically hazardous area, the applicant shall submit a Bluff Management Plan pursuant to Section 4.1.5, Critical Areas. The hazard tree may be removed prior to the approval of the plan if it is necessary to protect life and property.

d. Commercial forest practices and the 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 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, and shall be limited to the minimum necessary to accommodate an approved use.

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 and processes, Section 4.1.2, Environmental Impacts.

2. Vegetation clearing, or grading, may not be undertaken within the shoreline jurisdiction without prior review and approval by the Administrator, unless otherwise exempt under Section 4.1.3.4, Regulations – Exceptions, or as provided in subsection 7 below, with an approved Standard Operation Procedure (SOP) manual. Clearing and grading may be subject to Section 4.1.4, Land Modification.

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3. Two alternative methods may be used to meet the goals and policies of the Vegetation Management Section, as provided below, except the Point Monroe District shall meet the special provisions provided in subsection 9:

    a. Site-Specific Vegetation Management Areas

        i. As an alternative to the Shoreline Buffer dimensions provided in subsection b, below, 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 plan demonstrates the following:

            A. The proposed development is for a residential use.

            B The site-specific proposal assures there is no net loss of the property's specific shoreline ecological functions and associated ecosystem-wide processes pursuant to Section 4.1.2, Impact Analysis and No Net Loss; and

            C. The site-specific proposal uses the scientific and technical information* compiled to support the Shoreline Buffer standards of Section 4.1.3.5(3)(b), and/or other appropriate technical information which, as determined by a qualified professional, demonstrates how the proposal protects ecological functions and processes and how it meets the goals and policies of this Section.

        ii. The Habitat Management Plan shall be reviewed by the Administrator in accordance with provisions in Appendix B. The Administrator may approve, approve with conditions, or deny the request. The Administrator shall have the Habitat Management Plan reviewed by an independent third party, the cost of which will be borne by the applicant.

        iii. If the Site-specific Vegetation Management Area is approved, prior to permit issuance~~,~~ the applicant shall record with the County Auditor a notice on title, or other similar document subject to the approval of the Administrator.

    *Footnote: Scientific and technical information supporting the Shoreline Buffer standards is provided in the following documents available at the City of Bainbridge Island's Department of Planning and Community Development: *Documentation of Marine Shoreline Buffer Recommendation Discussions*, Memorandum, 2011, Herrera Environmental; *Addendum to Summary of Science*, 2011, Herrera Environmental; *Bainbridge Island Current and Historic Coastal Geomorphic/Feeder Bluff Mapping*, 2010, Coastal Geologic Services, Inc.; *Best Available Science*, 2003, Battelle; *Bainbridge Island Nearshore Habitat Characterization and Assessment*, 2004 Battelle.

    b. <u>As an alternative to a Site-specific Vegetation Management Area, a</u> Shoreline Buffer shall be maintained immediately landward of the OHWM and managed

according to provisions of this section. The Shoreline Buffer shall meet the location and design standards of Section 4.1.3.6, Regulations – Shoreline Buffer – Location and Design Standard. The Shoreline Buffer shall be composed of two zones:

i. Zone 1, an inner protective buffer area located immediately abutting the OHWM; and

ii. Zone 2, the remaining portion of the Shoreline Buffer located immediately abutting Zone 1.

4. The Shoreline Buffer or Site-specific Vegetation Management Area shall be maintained in a predominantly natural, undisturbed and vegetated condition. Unless specifically allowed by this program, the following standards shall apply:

   a. All existing native groundcover, shrubs and significant trees located within the Shoreline Buffer or Site-specific Vegetation Management Area shall be retained;

   b. All activities shall be performed in compliance with the applicable standards contained in the Vegetation Management Section, unless the applicant demonstrates that alternate measures or procedures are equal or superior in accomplishing the purpose and intent of the Vegetation Management Section, including no net loss of ecological functions and ecosystem-wide processes.

5. New 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 (6), shall be:

   a. Native species using a native plant-community approach of multi-storied, diverse plant species that are native to the Central Puget Lowland marine riparian zone.

   b. Other plant species may be approved that are similar to the associated native species in diversity, type, density, wildlife habitat value, water quality characteristics, and slope stabilizing qualities, excluding noxious/invasive species 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.

6. Significant trees located outside the Shoreline Buffer or Site-specific Vegetation Management Area but within the shoreline jurisdiction, shall be retained unless allowed to be removed under the exceptions or other provisions of this program provided:

   a. The Administrator may require alterations of a site plan in order to retain significant trees outside the Shoreline Buffer or Vegetation Management Area. This may include minor adjustments to the location of building footprints, the location of driveways and access ways, or the location of walkways, easements or utilities.

7. Vegetation clearing and maintenance activities, except those which are part of new construction, are allowed consistent with an approved ~~Standard Operation Procedure (~~SOP~~)~~ manual for vegetation maintenance and management of public parks, public trails,

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public rights-of-way or easements, publicly-owned property, and/or other areas normally maintained by the City. A shoreline substantial development permit may be required for the SOP manual. The SOP manual shall include the following prescriptive elements:

a. Procedures for maintaining vegetation on shoreline properties, shoreline trails or shoreline rights-of-way and easements, including procedures for noxious weed removal;

b. Procedures for maintaining vegetation in Critical Areas, Shoreline Buffers, or Site-specific Vegetation Management Areas, or other sensitive land areas, including areas with cultural resources;

c. Procedures for mitigation and vegetation replanting including appropriate species list; and

d. Procedures for review and approval of allowed activities occurring under the scope of the SOP, including procedures for documenting activities.

8. Minor vegetation removal outside the shoreline buffer or site-specific vegetation management area on a developed property not associated with new construction may be allowed, as provided in this program with an approved clearing permit provided:

   a. The Administrator may grant approval of minor vegetation clearing if it meets the provisions of this Program and the following:

      i. The minor vegetation clearing allowed within a three (3) year period will include an area no greater than 200 square feet in area and/or no more than 3 non-significant trees per 20,000 square feet up to a maximum of six (6) trees; and
      ii. Native vegetation will not be removed from the Shoreline Buffer or Vegetation Management Area; and
      iii All applicable standards of an approved Vegetation Management Plan are met; and
      iv. The replanting is performed pursuant to Section 4.1.2.5, Revegetation Standards; and
      v. A Bluff Management Plan is provided pursuant to Section 4.1.5, Critical Areas for any vegetation alteration in a geologically hazardous area.

   b. Proposed clearing must meet the provisions of Sections 4.1.2, Environmental Impacts and 4.1.4, Land Modification.

9. **Special Provisions for Point Monroe District**. Shoreline Buffers or Site-specific Vegetation management Areas are not required for properties located in the Point Monroe District; the following specific vegetation provisions shall apply:
   a. All properties in the Point Monroe District shall retain existing native vegetation and shall be subject to a Point Monroe vegetation management area (PVMA).
   b. The PVMA shall include areas that are:
      i. Within thirty (30) feet of the OHWM and within the required side yard and the salt marsh fringe; and
      ii. Outside any designated development area as approved pursuant to Section 5.9.6(2).

c. The PVMA shall be managed and maintained in vegetation communities appropriate to dune, sand spit, barrier beach, barrier estuary, or barrier lagoon, including salt marsh.

d. Developed properties shall retain existing native vegetation (including dune grass and salt marsh plant communities) in those areas that are not developed with legally established impervious surfaces.

e. Any new development or alterations and expansion of existing development shall assess impacts to existing vegetation and meet the no net loss standard pursuant to Section 4.1.2, Environmental Impacts.

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4.1.3.6 Regulations – Shoreline Buffer – Location and Design Standard

1. The total depth of the Shoreline Buffer is based on the shoreline designation and the physical and most predominant geomorphic characteristics of the property. The depth of the Shoreline Buffer will be determined by the Administrator according to criteria below.

    a. Property-specific physical and geomorphic 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 native tree and shrub vegetation cover is at least 65% of the area of Shoreline Buffer Zone 1.

        ii. Shoreline Buffer Category B: The property is shallow (200 feet in depth or less, as measured landward), or located on a high bluff, or does not meet any of the characteristics of Category A.

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    b. Shoreline Buffer standard depth in Table 4-3

    c. As determined by the Administrator, buffers do not 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 shoreline jurisdiction.

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 Shoreline Buffer consists of two zones. 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) a minimum of 30 feet, or to the limit of existing native vegetation whichever is greater. The native vegetation limit is determined through a site-specific analysis of existing conditions, and in no case shall Zone 1 be greater than the depth of the Shoreline Buffer.

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

4. 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 area may be planted in a combination of grass lawns and approved structures provided:

      i. Significant native trees are not removed to establish such use, or

      ii. The buffer has been reduced through view provisions of Section 4.1.3.11.

   c. The remaining two-thirds (2/3) of Zone 2 shall be maintained in a native vegetative state.

   d. Planted areas in which fertilizers might be applied shall be located as far landward of Zone 1, as feasible.

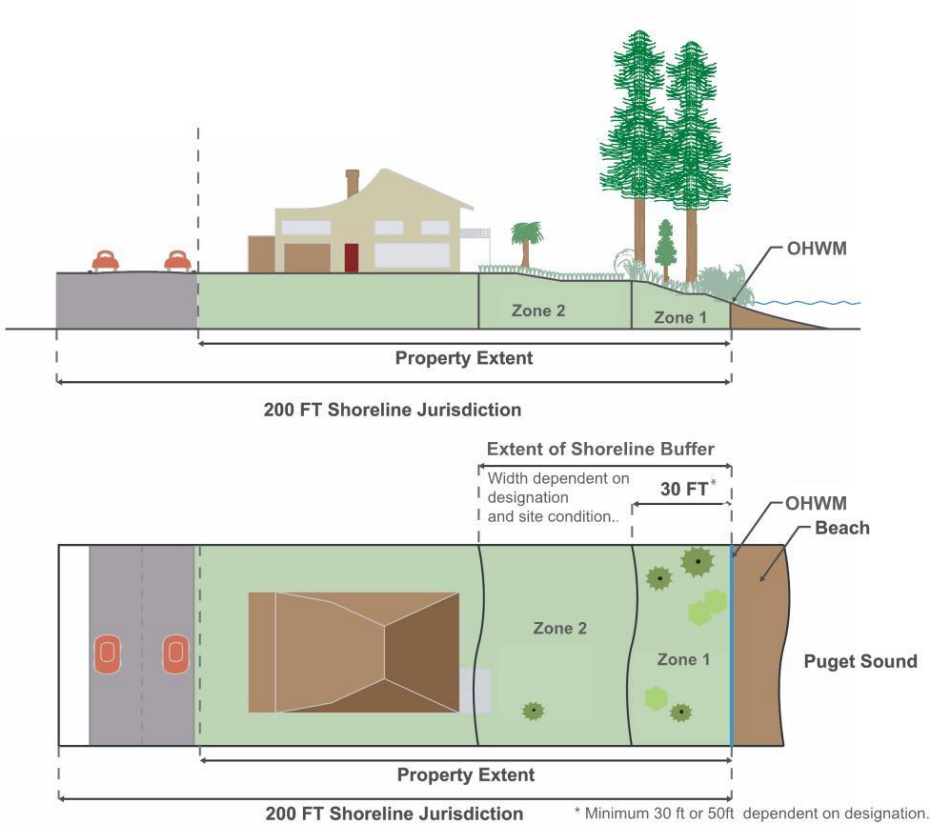

Figure 4-1 Dual Shoreline Buffer

4.1.3.7 ~~–~~Regulations – General Vegetation Alterations in Shoreline Buffers or Site-specific Vegetation Management Areas

1. The following activities are allowed within the Shoreline Buffer and Site-specific Vegetation Management Area with an approved clearing permit. Such activities shall meet the standards of Section 4.1.4, Land Modification.

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

        i. All pruning shall meet the American National Standard 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; and

        iv. Pruning shall retain branches that overhang the water.

    b. Vegetation Removal Related to Construction. ~~——~~Tree or vegetation removal within the Shoreline Buffer or Site-Specific Vegetation Management Area that is associated with new construction may be allowed, but must retain significant trees and shall meet the requirements of Section 4.1.2, Environmental Impacts, including replanting provisions.

    c. Vegetation Removal Related to Public Facility Maintenance. Tree or vegetation removal within the Shoreline Buffer or Site-specific Vegetation Management Area that is associated with 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 approved by the Administrator if no significant trees are removed, the requirements of Section 4.1.2, Environmental Impacts are met, and the maintenance is measures meet the goals and policies of Section 4.1.3, Vegetation Management, or as approved in a ~~Standard Operations Procedure (SOP)~~ SOP manual as provided in Section 4.1.3.5(7). 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.

    d. 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; and

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e. Other Approved Development in the Shoreline Buffer or Site-specific Vegetation Management Area.

i. Potable water wells; and

ii. Approved shoreline stabilization;

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 with the County Auditor prior to permit issuance, subject to the approval of the Administrator.

b. If the required depth of a Shoreline Buffer for a single-family residential property is reduced in accordance with the Shoreline Structure Setback provisions of Section 4.1.3.11 or other reductions allowed through this Program, Zone 1 must be restored in accordance with provisions of Section 4.1.2.5.

4.1.3.8 –Vegetation Alterations Standards – Residential Development

Minor clearing, grading or construction may be allowed within the Shoreline Buffer or Site-specific Vegetation Management Plan for a residential development with approval of the Administrator pursuant to Section 4.1.3.7(1)(a), and only for the following activities as prescribed below and pursuant to Section 4.1.4, Land Modification:

1. Maintenance of existing residential landscaping is allowed subject to Sections 4.1.3.5(8) and 4.1.3.7. 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 4.1.3, Vegetation Management, and the intent of providing native vegetation to maintain ecological functions and processes.

2. One (1) hand installed pervious trail to the shoreline not more than four (4) feet in width, which may include hand installed steps, and shall be designed to minimize environmental impacts. No significant trees shall be removed. The trail may be wider when required for handicapped or public access. For single-family residential development vegetation trimming is limited to two (2) feet on either side of the trail.

3. Non-habitable structures appurtenant 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 – Category A designation.

a. For Site-specific Vegetation Management Areas, the total square footage of all buildings or structures must not exceed 300 square feet in area.

b. For Shoreline Buffer areas, 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.

c. For Shoreline Buffer areas, only 10% of the total allowed square footage or 300 square feet, whichever is less, can be located in Zone 1, except when upland of

Priority Aquatic B, the total allowable square footage is 5% of Zone 1 or 150 square feet, whichever is less.

d. All structures must be designed to not significantly impact views from adjoining property primary buildings.

e. All structures must meet the following standards:

i. Only water-related structures are allowed within 30 feet of the OHWM or in Zone 1, including a boathouse, permeable deck, boat storage, or staircase.

ii. Shall not exceed 12 feet in height above existing grade.

iii. Stairways shall not exceed 250 square feet and are not included in the total square footage allocations prescribed in subsections a through c above. Stairways shall conform to the standards of the International Residential Building Code as adopted in BIMC Chapter 15.04. Larger stairways serving a single-family residence may only be allowed through approval of a Shoreline Variance.

A. As an alternative to a staircase larger than 250 square feet and to reduce environmental impacts, a tram may be allowed without a variance.

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

4. View Maintenance – Single-family Residential Only. Shoreline residential use and development shall use all feasible techniques to maximize retention of existing native shoreline vegetation within the Shoreline Buffer and the Site-specific Vegetation Management Area.

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

i. 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 similar to that 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 area; and

ii. Existing significant native trees are not removed within the Shoreline Jurisdiction, unless exempt; and

iii. In no instance, including accounting for other approved alterations as provided in Section 4.1.3, shall vegetation removal exceed twenty (20) percent of the required Shoreline Buffer area or Site-specific Vegetation Management Area or reduce the vegetation canopy coverage to less than 65% in the Shoreline Buffer or Vegetation Management Area.

A. Vegetation removal occurring adjacent to the shoreline shall also be limited to fifteen (15) linear feet of the water frontage; and

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iv. 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

v. 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), including the no net loss and/or revegetation standards in Section 4.1.2.

b. The Administrator my 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:

i. Slope stability;

ii. Habitat value;

iii. Health of surrounding vegetation;

iv. Risk of wind damage to surrounding vegetation;

v. Nearby surface or ground water; or

vi. Water quality of a nearby water body.

4.1.3.9 Vegetation Alteration Standards – Commercial and Industrial Development in Shoreline Buffers

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 4.1.3.7(1)(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.

4.1.3.10 Vegetation Alteration Standards – Public Park Development in Shoreline Buffers

Minor clearing, grading, or construction may be allowed within the Shoreline Buffer for a public park development with approval of the Administrator consistent with the following or pursuant to Section 4.1.3.7:

1. Vegetation clearing and maintenance is allowed in accordance with an approved ~~Standard Operation Procedure (~~SOP~~)~~ manual that meets Section 5.1.3.5(7) and the standards of this Program.

2. Maintenance of existing public trails, provided the vegetation trimming is limited to four (4) feet on either side of the trail and no significant trees are removed.
3. Alterations that are Included in a Park Development or Concept Plan. Minor clearing, grading, or construction for which the size and extent of proposed disturbed areas located within the Shoreline Buffer have been determined as part of a park development plan or concept park plan, with due consideration of the intended park use; and provided all proposed disturbance areas meet the no net loss standards pursuant to in accordance with Section 4.1.2. Environmental Impacts; and provided_appropriate permits are obtained, including those pursuant to Section 4.1.4, Land Modification;
4. Alterations that are not part of a Park Development or Concept Plan. The following minor clearing, grading, or construction activities may be allowed without an approved park development plan or conceptual park plan:
    a. 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. New public pathways or trails to the shoreline provided it is demonstrated that the size and extent of the public pathways has been determined with due consideration of the intended park use.
    c. Structures.
        i. Primary appurtenant structures to a public park and recreational use that either support public access or are necessary to support a water-dependent recreation use shall be allowed within the Shoreline Buffer when a need for the shoreline location is demonstrated, except that all structures are prohibited in Zone1 when upland of a 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. The total square footage of all buildings or structures must not exceed 6,000 square feet or 10% of the Shoreline Buffer area, whichever is less.
            A. Only 10% of the total allowed square footage or 1,000 square feet, whichever is less, can be located in Zone 1.
        iii. All structures must be designated to not significantly impact views from adjoining property primary buildings.
        iv. All structures must meet the following standards:
            A. 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, recreational furniture, signs, pervious trails, and staircases are not included in the maximum square footage allocations prescribed in subsection 4.c.ii, above;

B. 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;

C. 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.; and

D. Boat ramps and other boating facilities may be allowed pursuant to Section 5.4, Boating Facilities.

4.1.3.11 –Regulations – Shoreline Structure Setback View Requirement

1. To protect existing predominate shoreline views and accommodate shoreline views for a new single-family primary residential structure or addition to a primary residential 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, except in the Point Monroe District.

    a. Setbacks for the purpose 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 of a primary residential structure in a different location on an adjoining lot.

    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. Applicants may submit detailed information regarding how property constraints impact the predominate shoreline views from either the subject property's proposed primary residential structure or adjoining properties' primary residential structure(s).

2. The Shoreline Buffer on the subject property may be reduced below the depth requirements identified in Table 4-3 to allow a new primary residential structure to be located within Zone 2 provided the conditions in Section 4.1.3.7(2) are met. Mitigation of proposed residential development 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 Sshoreline Vvariance 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 adjoining primary residential structure to the point at which the subject property's Shoreline Buffer boundary intersects the subject property's opposite property line. (See Figure 4.1.a below).

        ii. If the adjoining 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 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, then 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.b, below)

        ii. If one of the adjoining primary residences is 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 point of 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 boundary to the same intersection point on the subject property's opposite property line. (See Figure 4.1.c. below)

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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 residence 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(c) ii, 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 at which the subject property's Shoreline Buffer boundary intersects the subject property's opposite property line. (See Figure 5-1(a), below).

b. Primary Structures 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 5-1(b), below).

c. Primary Structures Located on Both Adjoining Properties, Outside the Shoreline 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 5-1(c), below).

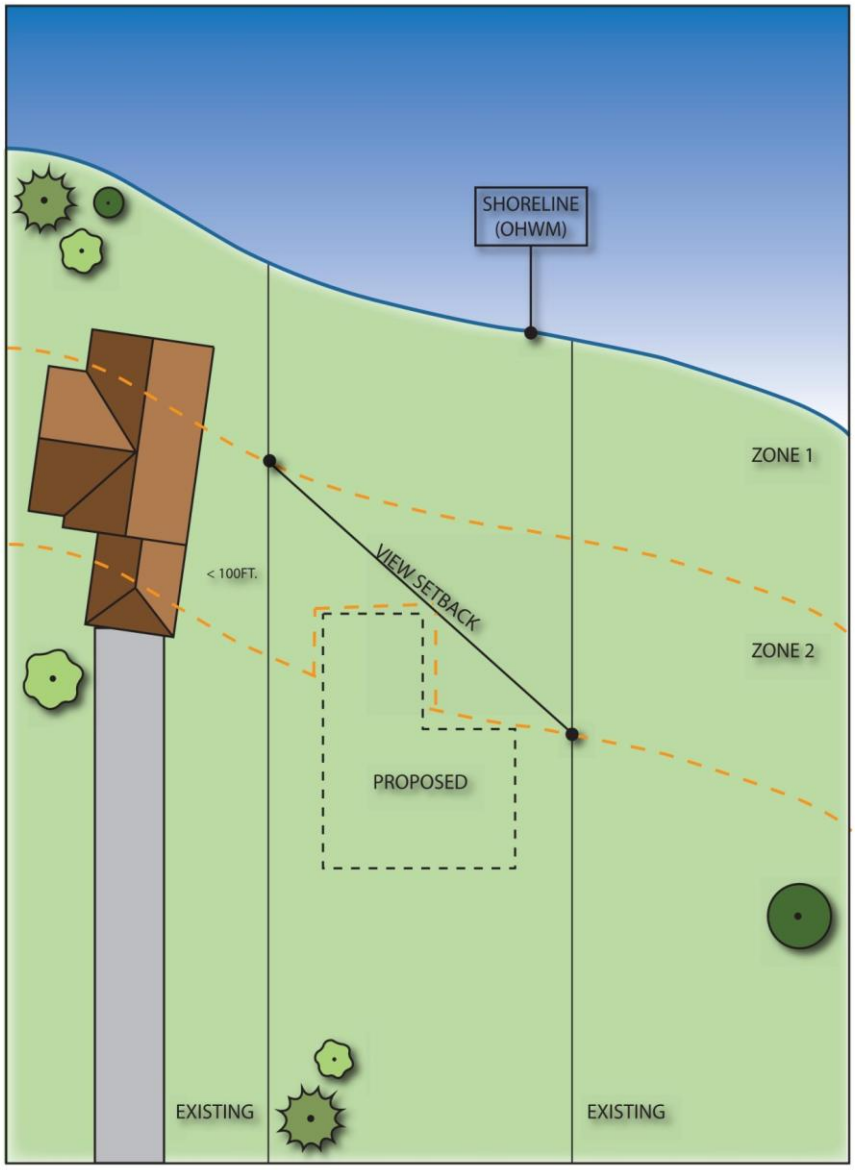
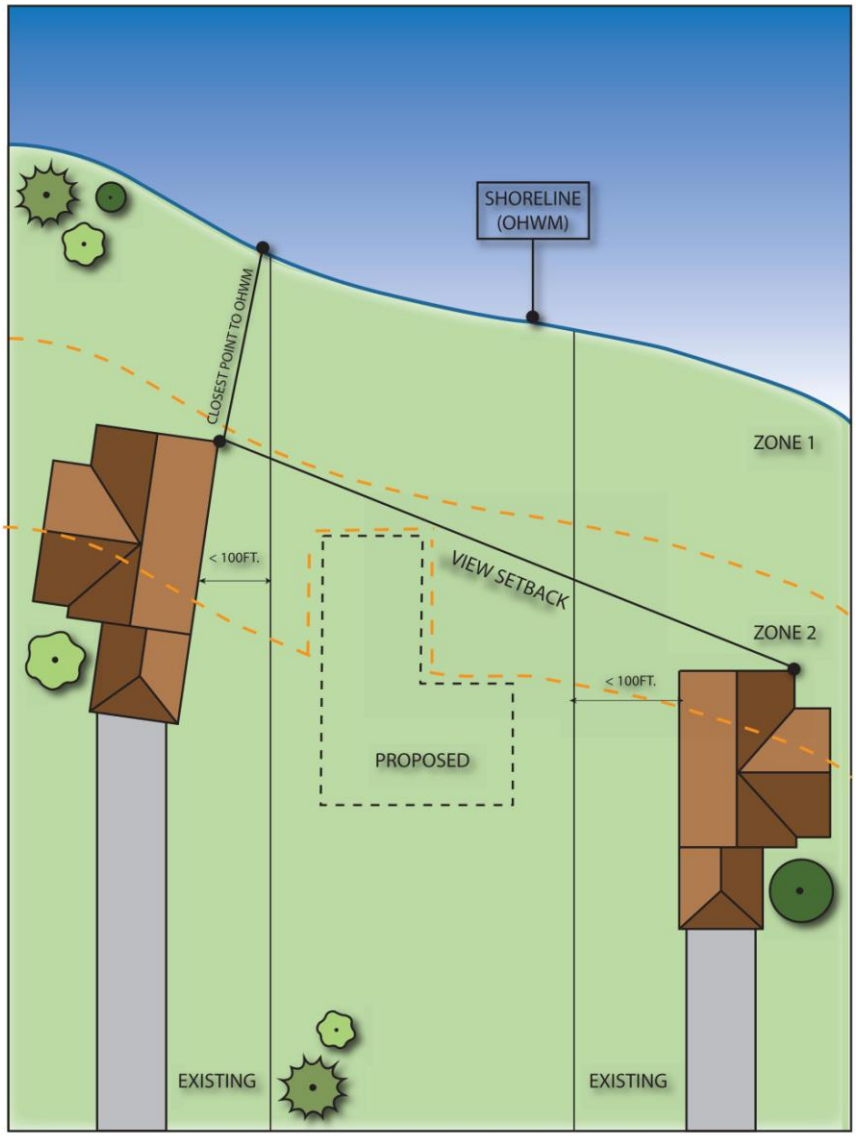


Figure 4-1(a) ii


SHORELINE
(OHWM)
CLOSEST POINT TO OHWM
ZONE 1
< 100FT.
VIEW SETBACK
ZONE 2
< 100FT.
PROPOSED
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EXISTING

Figure 4-1(b) i

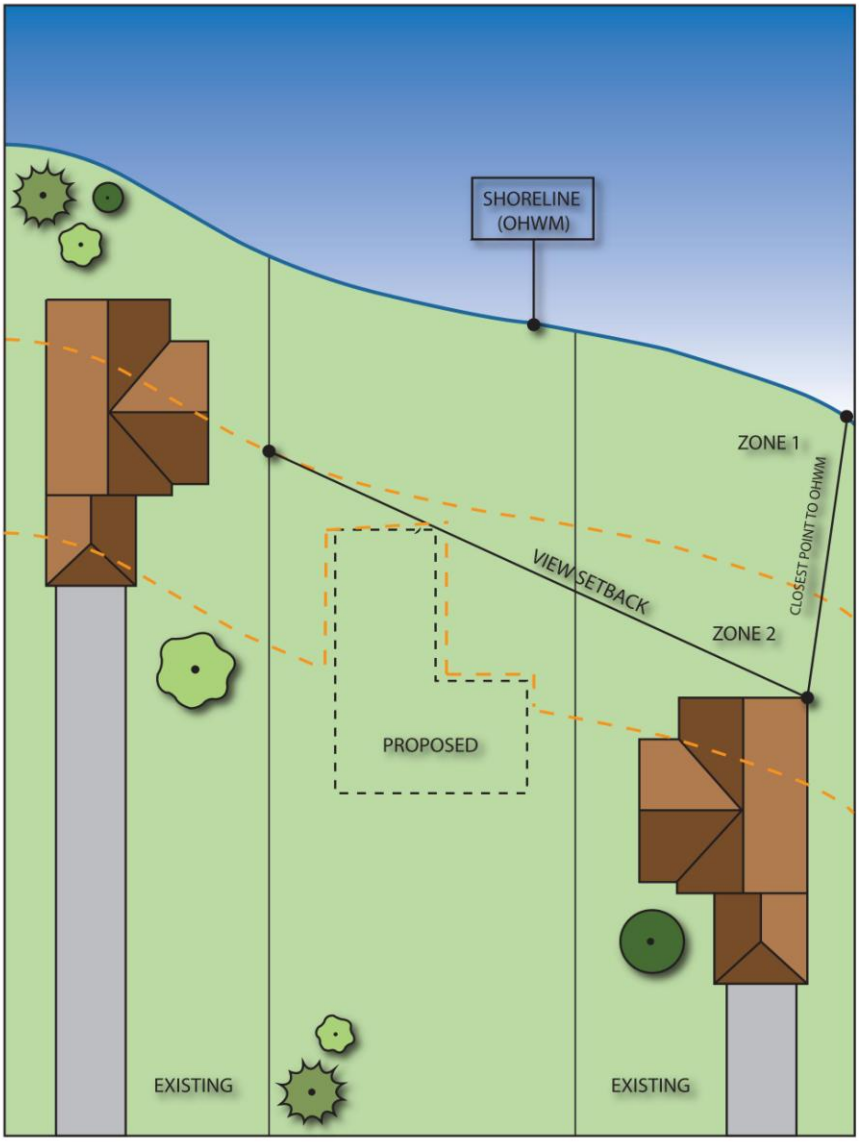


Figure 4-1(b) ii

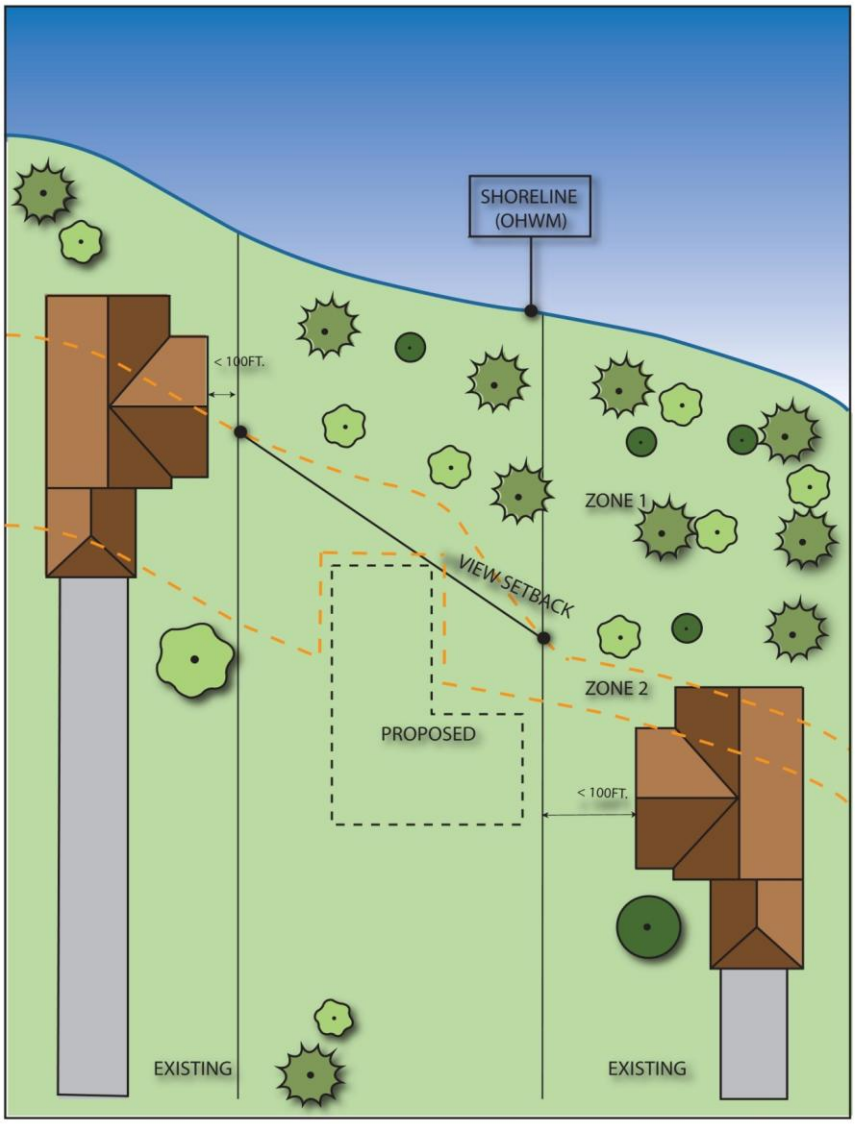


Figure 4-1(b) iii

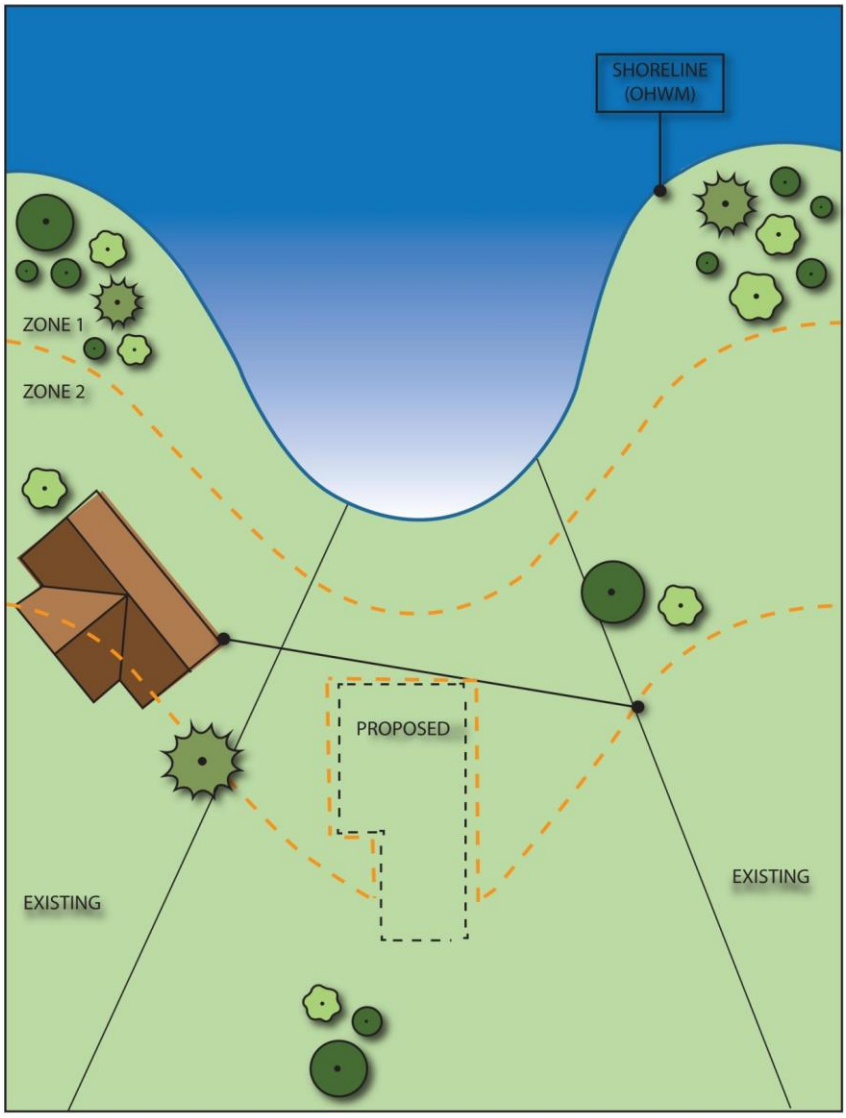


Figure 4-1(c) i

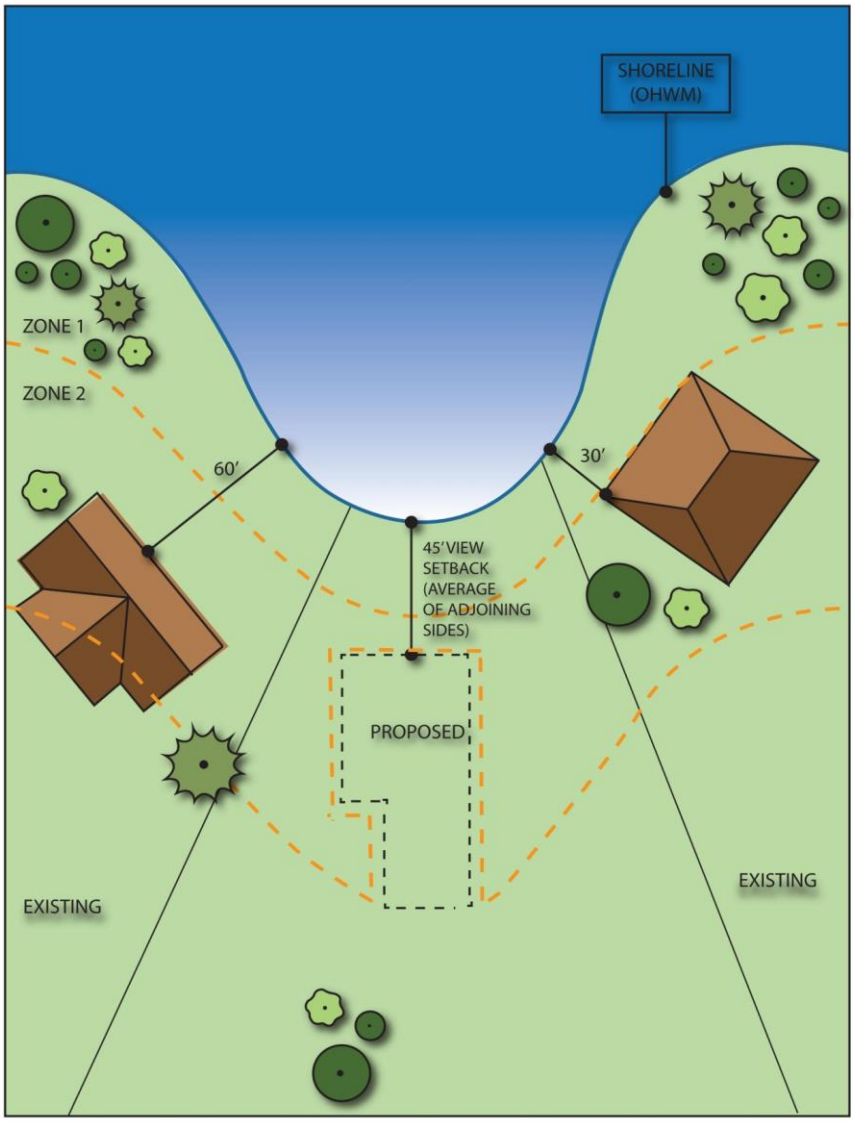


Figure 4-1(c) ii

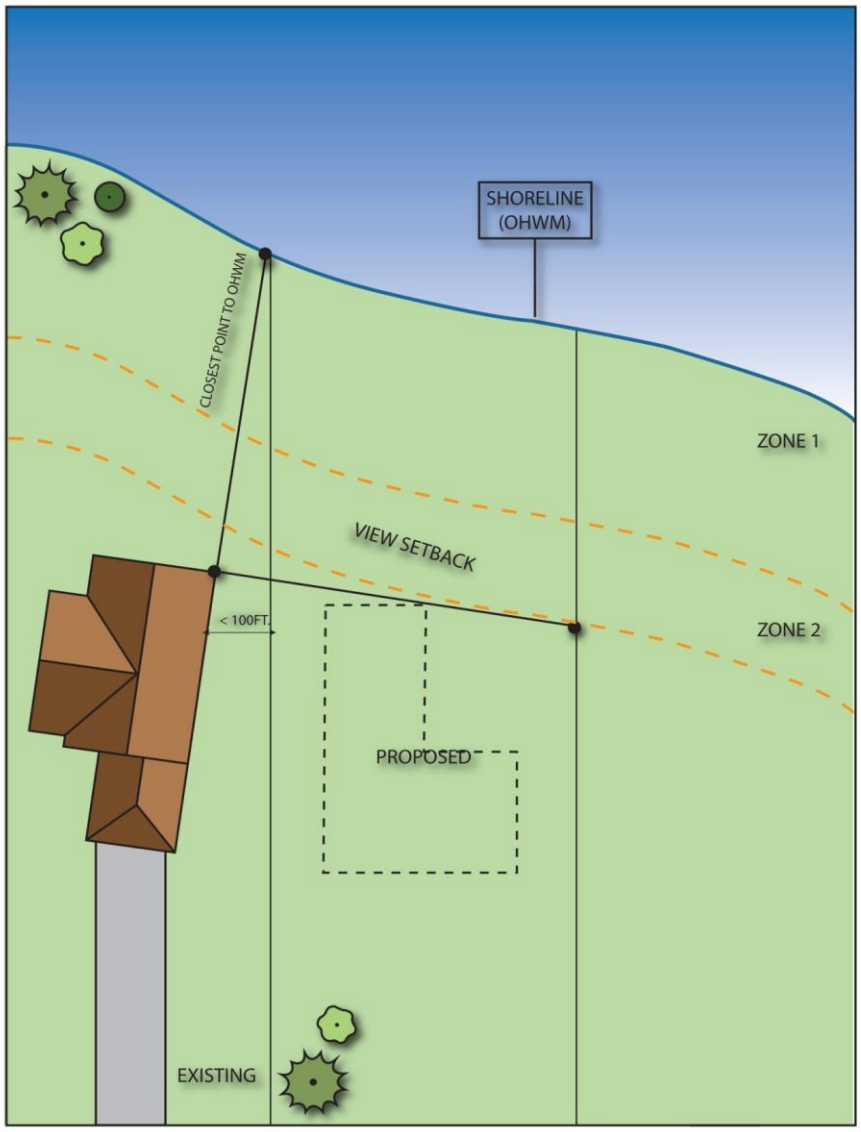
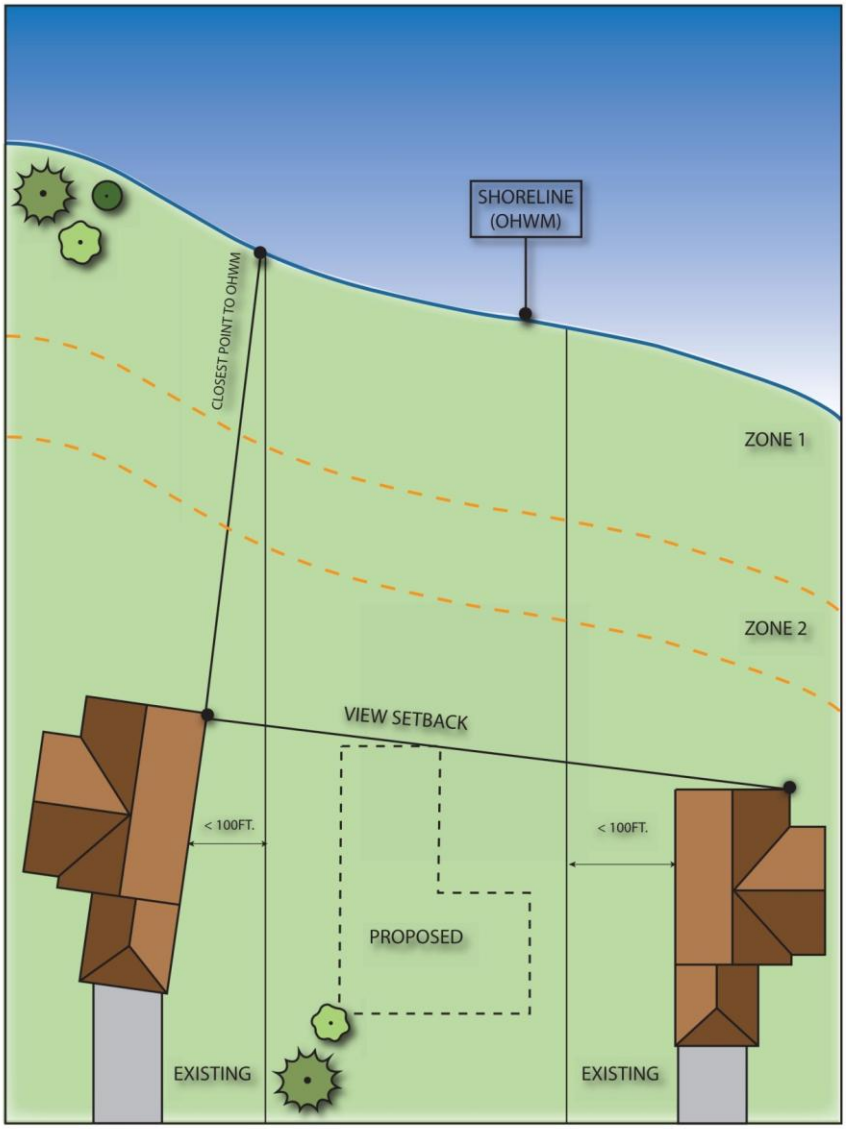

SHORELINE
(OHWM)
CLOSEST POINT TO OHWM
ZONE 1
VIEW SETBACK
< 100FT.
ZONE 2
PROPOSED
EXISTING

Figure 5-1(a)


SHORELINE
(OHWM)
CLOSEST POINT TO OHWM
ZONE 1
ZONE 2
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PROPOSED
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EXISTING

Figure 5-1 b

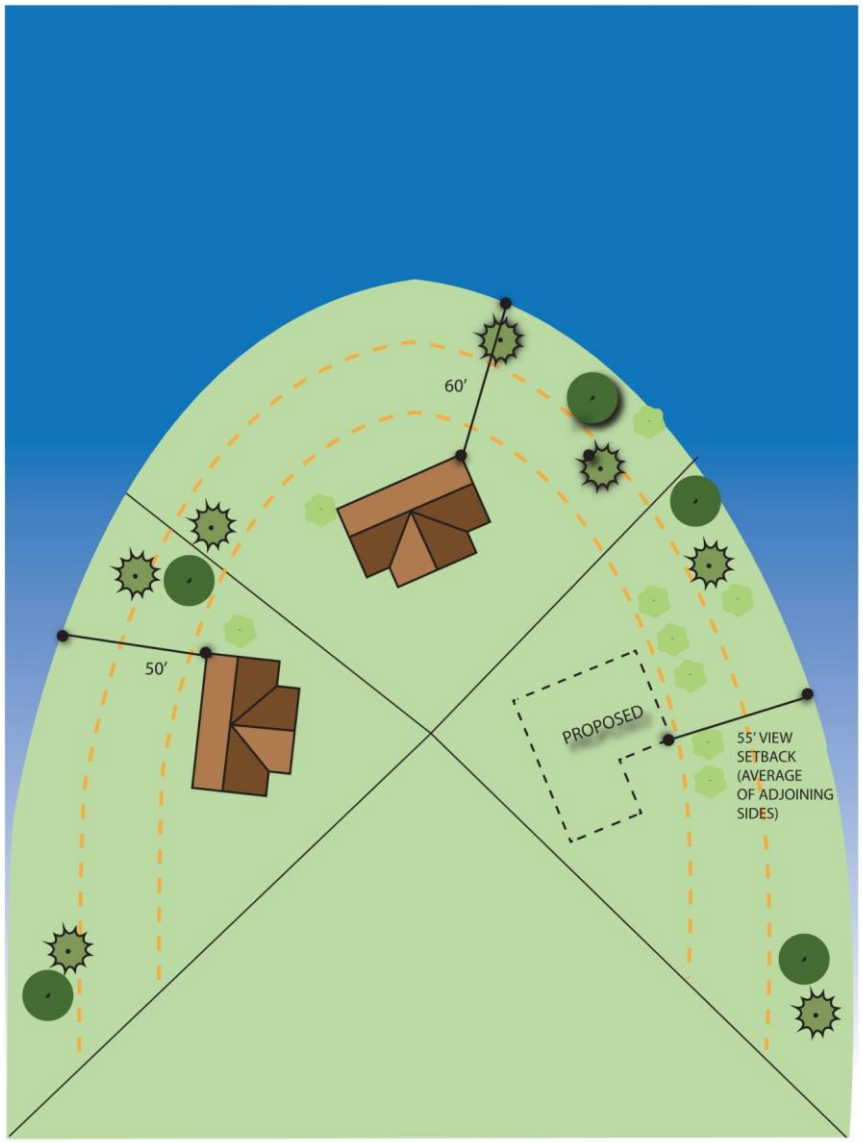

Figure 5-1 c

4.1.4 Land Modification

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. Shoreline development and land modification activities will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, General (Island Wide) Policies and Regulations; Section 4.1.5, Critical Areas; ~~Appendix B;~~ Section 4.1.6, Water Quality and Stormwater Management; Section 4.1.3, Vegetation Management; Appendix B; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

4.1.4.2 –Policies

1. Allow alteration of the natural landscape only in association with existing legal uses or new permitted or allowed shoreline use/or development. Prohibit speculative clearing, grading, or vegetation removal.
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 minimum extent necessary to accommodate the proposed use, and should be designed and located to protect shoreline ecological functions and ecosystem-wide processes.
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.
4. For clearing and grading proposals, provide a clearing and grading plan addressing vegetation 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.
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 and ecosystem-wide processes can be considered.

4.1.4.3 –Regulations – Prohibited

1. All clearing and/or grading not associated with an approved development, use or activity, unless specifically provided for in this program.

4.1.4.4 –Regulations - General

1. Clearing and/or grading within shoreline jurisdiction shall require an approved clearing or grading permit in association with an existing legal use or a new permitted or allowed shoreline use or development. Such activities shall meet the mitigation and revegetation

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Comment [LG37]: To be consistent with Policy 1 above.

~~requirements~~ provisions in Section 4.1.2, Environmental Impacts and Section 4.1.3, Vegetation Management.

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2. Upon completion of development, use or activity, the remaining cleared areas shall be replanted within the first applicable planting season.

3.~~2.~~ All vegetation that is intended to be retained but may likely be disturbed by the clearing and grading activity shall be protected in accordance with the standards of BIMC Chapter 18.15.010, Landscaping, Screening, and Tree Retention, Protection and Replacement.

4.~~3.~~ Land alteration (clearing, grading, and filling) shall be limited to the minimum extent necessary for the proposed development, use or activity. All land alteration must meet the standards of BIMC Chapter 15.20 Surface and Storm Water Management.

4.1.5 Critical Areas

4.1.5.1 ~~–~~Applicability

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 plains or other flood prone areas within the shoreline jurisdiction. 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 a shoreline permit, must conform to these provisions. Shoreline development and activities associated with critical areas will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, , General (Island-wide) Policies and Regulations; Section 4.1.6, Water Quality and Stormwater Management; Section 4.1.3, Vegetation Management; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

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

1. Protect shoreline resource areas, including but not limited to~~,~~ critical areas~~, fish and wildlife habitat conservation areas and critical saltwater habitats~~, including:

   a. Critical Aquifer Recharge Areas

   b. Fish and Wildlife Habitat Conservation Areas

   c. Frequently Flooded Areas

   d. Geologically Hazardous Areas

Comment [LG38]: The text of #1 overlaps part of but not all of the critical areas listed in Section 8.0. ***ADMINISTRATIVE CONSISTENCY***

e. Wetlands

f. Critical Saltwater and Freshwater Habitat Areas

g. Critical Habitat.

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. Locate, design, construction, and manage a~~A~~ll shoreline uses and activities ~~should be located, designed, constructed and managed~~ in ways that assure no net loss of shoreline ecological functions and ecosystem-wide processes, and protect critical saltwater habitat, including fish and wildlife habitat conservation areas.

4. Locate and design shoreline uses, activities, and/or development to avoid risks to people and property. See also Section 3.0, Shoreline Designation Policies and Regulations, for additional provisions.

5. Ensure that proposed shoreline uses, activities and/or development proposed adjacent to critical areas or their buffers, will not adversely impact shoreline ecological functions and/or ecosystem-wide process or critical areas, fish and wildlife habitat conservation areas and critical saltwater habitat.

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 critical 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.

Comment [LG39]: Start with active verb like other policies ***SYNTAX***

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 development proposed on property with marine bluffs, steep slopes, erosion hazard areas and/or landslide hazard areas, a geotechnical report shall be required to assess potential hazards and propose measures to mitigate such hazards consistent with the requirements of this Master Program and attached appendices.

Comment [LG40]: Do we want to add a general regulation about "assure no net loss of shoreline ecological functions and ecosystem-wide processes" per Policy 3 and Policy 5 above or is the application of Appendix B plus the other regulations below the way to assure that?
STAFF CLARIFICATION NEEDED

Comment [LG41]: A cross reference to Section 4.1.2 regarding avoiding impacts and monitoring would help implement Policy 7 above.
STAFF CLARIFICATION NEEDED

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:

a. The applicant can show that all of the following criteria can be met:

i. The use preferences of Section 4.1.1 shall be utilized for uses in Shorelines of State-wide Significance; and

ii. 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, as demonstrated through an alternatives analysis. The analysis should include in part, shoreline bathymetry, shoreline features at the site, and substrate composition;

iii. It can be demonstrated that the project is consistent with the state's interest in resource protection and species recovery; and

iv. Impacts to critical saltwater habitat functions and processes are mitigated to result in equal or better ecological function; or

b. The proposal is for private, non-commercial, residential docks for single use, community, or joint-use, which may be authorized, provided that:

i. Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible; and

ii. The project, including any required mitigation, will result in no net loss of ecological functions and processes associated with critical saltwater habitat.

c. New or expanded overwater structures shall be located the greater or most protective of:

i. A horizontal distance of 25 feet from the outside edge of the structure to native aquatic vegetation attached to or rooted in substrate;

ii. A horizontal distance equal to the maximum distance shade will be cast by the structure and vessel;

iii. A 4-foot vertical distance from eelgrass or relevant submerged aquatic vegetation;

iv. A distance the diameter of the turning circle, if the structure is to be utilized for motorized vessels. The turning circle is defined as 3.5 times the length of the longest vessel to use the structure.

v. Alternative measures that demonstrate no net loss of ecological functions.

d. For sites adjacent to sand lance and surf smelt spawning areas, all in-water work that has the potential to increase suspended sediments in the spawning area during the spawning period shall require a buffer of at least 2 feet vertical separation from the tidal elevation of the spawning bed, or a buffer of 180 feet horizontal distance from the lower edge of the spawning habitat zone. In-water work should occur during an outgoing tide when the water line is below the lower edge of a surf smelt/sand lance spawning habitat zone (5-6' MLLW)

2. Aquatic herbicide treatments, mechanical removal of vegetation or ~~and~~ aquatic pesticide treatments shall not be used on critical saltwater habitats, except for approved habitat restoration or enhancement measures that meet the provisions of Section 4.1.6, Water Quality and Stormwater Management.

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3. Sand, gravel or other materials shall not be added or removed from critical saltwater habitat, unless approved as part of a 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 saltwater habitats or areas where outfall or discharge will adversely affect critical saltwater habitat, unless the applicant can show that all of the following can be met:
    a. There is no feasible alternative location for the outfall or pipe; and
    b. The outfall or pipe is placed below the surface of the beach or bed of the water body; and
    c. The discharge point(s) on the outfall or discharge pipe is located so the discharges, including nutrients and flow, do not adversely affect critical saltwater habitats; and
    d. For public sewage outfalls:
        i. The outfall discharges waterward of the intertidal zone.
        ii. The disturbed area will be revegetated with native vegetation.
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 the dispersal is less impacting to the shoreline environment.
6. For activities adjacent to fish and wildlife habitat conservation areas the maximum prescribed buffer shall apply. These buffers can be modified on a case-by-case basis through a habitat management plan, 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 in Appendix B, the Habitat Management Plan shall:

        i. Describe actions that will be implemented to ensure that buffer areas provide ecological functions and processes equivalent to a dense native plant-community to the extent possible given the area that is feasibly available; and

        ii. Demonstrate that no net loss of ecological functions and processes in critical saltwater habitat and other critical areas will occur, as specified 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 development shall conduct an inventory of site and adjacent beach sections to assess the presence of critical saltwater habitat and/or functions and processes. The inventory shall occur prior to construction and the methods and extent of the inventory shall be consistent with accepted research methodology. New studies shall be required only when existing information is out dated or does not exist.

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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 as set forth in the shoreline-specific Critical Areas Regulations contained in Section B-~~3~~ 9 of Appendix B of this Master Program.
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, Special Reports and Determination of Buffers, and 4.1.5.9, Regulations – Bluff Drainage, 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. In terms of this regulation, "adjacent" means development 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 State specialty license in engineering geology as specified in RCW 18.220, Geologists. 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. Development may be allowed as specified 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) may be allowed, provided that environmental impacts are mitigated and the development can be shown to be safe; and
    c. Minor development permitted in the Shoreline Buffer and Site-specific Vegetation Management Area 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 unstabilized feeder bluffs.

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Comment [LG42]: Based on the PC version April 2012, B-1 consists of definitions including of flood hazard areas. Please check cross reference since I do not have the latest Appendix B. Should there be a reference to Chapter 15.16 BIMC, Flood Damage Prevention if not in Appendix B?
STAFF CLARIFICATION NEEDED

Comment [LG43]: Based on the PC version April 2012, B-3 consists of prescriptive buffer variations and B-9 consists of geo hazard regulations. Please check cross reference since I do not have the latest Appendix B.
STAFF CLARIFICATION NEEDED

Comment [LG44]: I don't see a section B-3.5 in Appendix B looking at the PC version from April 2012. Please verify.
STAFF CLARIFICATION NEEDED

4. All alterations to the vegetation within a geological hazardous area shall provide 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 B-9, Geologically Hazardous Areas 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 a 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 increase at the base of the bluff and provided that physical access along the shoreline is not degraded. Furthermore, conditions may be applied to mitigate the aesthetic impacts of the proposed 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 of Appendix B, 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), and noting of any water features and other critical areas and their related buffers in the proximity of the proposed development.

2. Wetlands will be delineated using the Regional Supplement to the Army 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. Such a prohibition is deemed a violation of constitutional or statutory limitations on regulations of private property; or

Comment [LG45]: I don't see a section B-4.7 in Appendix B looking at the PC version from April 2012. I see section B-10. Please verify. ***STAFF CLARIFICATION NEEDED***

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Comment [LG46]: Appendix B, B-10 (B) says "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" – does the language about the regional supplement to the USACE manual need to appear in Appendix B? ***STAFF CLARIFICATION NEEDED***

b. The proponent can conclusively demonstrate to the satisfaction of the Administrator that the impacts are unavoidable.

4. In either case of subsection 3.a or 3.b, above, the proponent shall provide mitigation to achieve no net loss of wetland functions and values, according to an approved mitigation plan prepared consistent with this Master Program, including Section B-~~4~~-6 of Appendix B, shoreline-specific Critical Areas Regulations.

Comment [LG47]: Habitat management plan in Appendix B-4 mitigation plan in B-6. Please verify. ***STAFF CLARIFICATION NEEDED***

4.1.6 Water Quality and Stormwater Management

4.1.6.1 ~~–~~Principles

Water quality is affected in numerous ways by human activity. Impervious surfaces that accompanies development increases surface water runoff, which causes scouring and erosion of stream banks. Erosion increases suspended solid levels and a greater amount of stormwater carries heavy metals, household wastes, and excess nutrients into the waters of the state. 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 stormwater quantity that would result in a net loss of shoreline ecological functions and processes, 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 stormwater quantity, including public health, stormwater discharge standards. The regulations that are most protective of ecological functions and processes 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 shorelines 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. Shoreline development and activities will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.5, Critical Areas; ~~Appendix B;~~ Section 4.1.3, Vegetation Management; Appendix B; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

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 to be located, designated, constructed, and maintained to avoid or minimize adverse impacts to water quality, 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 ecosystem-wide processes by avoiding and minimizing adverse impacts to water quality through shoreline vegetation management and stormwater management.
3. Use effective public education programs, site planning and best management practices to avoid or minimize the need for chemical fertilizers, pesticides, herbicides, and fungicides that could contaminate surface or ground water or cause adverse effects of shoreline ecological functions and ecosystem-wide processes.
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.

4.1.6.5 Prohibited

1. Wood that is treated with creosote, copper chromium arsenic (CCA) or pentachlorophenol (PCP) in or above shoreline water bodies, unless otherwise approved in Section 6.3, Overwater Structures.
2. Use of pesticides within a Shoreline Buffer and Site-specific Vegetation Management Areas, except as follows:
    a. All shoreline developments and activities shall comply with the following standards in the application of pesticides or herbicides.
        i. As part of an integrated pest management plan which is administered by a qualified professional to control rodents.
        ii. 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.

4.1.6.6 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, shore properties, and features are not adversely affected, and through compliance with the standards established in the City's adopted Stormwater Management Manual in BIMC 15.20.
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.

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3. Low impact development techniques shall be considered and implemented consistent with the City's adopted Low Impact Development Manual cited in BIMC 15.20.050.C 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. Devices to keep the pipe stationary and set off bank; and
        iii. An 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, shall require adequate secondary containment and an emergency spill response plan in place when appropriate. 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 (BMP's) 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, Surface and Storm Water Management, or administrative conditions.
7. To avoid water quality degradation by malfunctioning or failing septic systems located within shoreline jurisdiction, on-site sewage systems shall be located landward of any new residence or business or if determined to be infeasible, 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 located 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 materials that may come in contact with surface water or stormwater 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. To avoid discharge of pollution, decking material or other structural components shall be approved by applicable state agencies for contact with water.

Comment [LG48]: I don't see BIMC 15.26 in the Online Code: http://www.codepublishing.com/wa/bainbridgeisland/ Maybe it's been adopted recently? ***STAFF CLARIFICATION NEEDED***

10. As a condition of permit approval, the Administrator may apply the following conditions to protect water quality:

    a. Shoreline uses and activities shall apply Best Management Practices (BMP's) 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.

    b. All types of BMPs shall be regularly maintained to continue to function as intended, according to the BIMC 15.21, Storm Water Facilities Maintenance Program. Such measures may include, but are not limited to:

        i. Vegetated shoreline buffers and setbacks.

        ii. Low Impact Development techniques for infiltration (rain gardens, pervious surfaces).

        iii. Methods described in the City's adopted Stormwater Manual (catch basins or settling ponds, oil interceptor drains, grassy swales).

        iv. 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.

        v. 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.

11. The use of fertilizer is allowed within the Shoreline Buffer and Site-specific Vegetation Management Area when measures are taken to protect the waters of the state.

    a. Minimize or prevent the runoff of chemical laden into adjacent water bodies.

    b. The direct runoff of fertilizer chemicals into adjacent water bodies is prohibited.

    c. Application of fertilizer shall utilize ~~best management practices (~~BMPs~~)~~ outlined in the City's adopted Stormwater Management Manual.

4.1.7 Flood Hazard Management

4.1.7.1 Applicability

These provisions apply to primary flood hazard 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. Shoreline development and activities will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.5, Critical Areas; ~~Appendix B;~~ Section 4.1.6, Water Quality and Stormwater Management; Section 4.1.3, Vegetation Management; Appendix B; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

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Comment [LG49]: I don't see BIMC 15.26 in the Online Code: http://www.codepublishing.com/wa/bainbridgeisland/
Maybe it's been adopted recently?
STAFF CLARIFICATION NEEDED

4.1.7.2 ~~–~~Policies

1. Base f~~F~~lood hazard management planning ~~should be based~~ on applicable watershed management plans, critical area ordinances, and other comprehensive planning efforts. Coordinate flood hazard management among affected property owners and public agencies by considering the system-wide impacts of individual projects, cumulative impacts of individual projects, and ensuring that flood hazard protection measures do not result in a net loss of ecological function.
2. Allow r~~R~~emoval 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 that no net loss of ecological functions and ecosystem-wide processes will result. Removal must be part of a comprehensive flood management solution.
3. Ensure f~~F~~lood hazard management works ~~should be~~are located, designed, constructed, and maintained to provide:
    a. Protection of shoreline ecological functions and ecosystem-wide processes 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. Give p~~P~~reference ~~is given~~ to non-structural methods over structural flood control methods wherever 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.

4.1.7.3 Prohibited

1. ~~-~~Flood control works are prohibited on estuary or embayment shores, on point and channel bars, and in salmon spawning areas, except for the purpose of fish or wildlife habitat enhancement or restoration or as approved for a foundation for redevelopment of a legally established primary residential structure in the Point Monroe District.
2. 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.

4.1.7.4 Regulations – General

1. Flood hazard management shall be a conditional use in the Shoreline Residential Conservancy, Island Conservancy, Shoreline Residential, Urban and Aquatic

Comment [LG50]: Start with active verb like other policy sections ***SYNTAX***

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Comment [LG51]: Flood hazard management or flood control works or structures do not appear Table 4-1 as a use/modification – consider adding it. ***STAFF CLARIFICATION NEEDED***

designations and prohibited in the Natural and Priority Aquatic designations, except in the Point Monroe District.

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; and
    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; and
        iv. Predicted impact upon 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 revegetate the site following construction.
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 Damage Prevention and the City Comprehensive Plan; and
    c. Non-structural flood hazard reduction measures are infeasible; and

Comment [LG52]: Flood hazard management or flood control works or structures do not appear Table 4-1 as a use/modification – consider adding it. ***STAFF CLARIFICATION NEEDED***

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 to protect public bridges and roads; and
    c. Placed landward of associated wetlands and designated habitat conservation areas, except for structures with a primary purpose of improving ecological functions and processes; 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 and Federal Emergency Management Agency (FEMA) requirements for National Flood Insurance Program (NFIP) communities pertaining to flood prone areas. Conditions of the hydraulic project approval permit (HPA) issued by Washington State Department of Fish and Wildlife shall be incorporated into permits issued for flood protection.
7. 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.
8. 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 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, bioengineered solutions or other soft-treatment measures.

Comment [LG53]: Capture on use table 4-1?

e. Apply development restrictions.

4.1.8 Shoreline Restoration and Enhancement

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4.1.8.1 ~~–~~Applicability

This section provides for restoration and enhancement of ecologically impaired areas or 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 and ecosystem-wide processes within shoreline upland, beach and/or aquatic areas measured below the ordinary high water mark (OHWM). Shoreline restoration activities will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.5, Critical Areas; ~~Appendix B;~~ Section 4.1.6, Water Quality and Stormwater; Section 4.1.3, Vegetation Management; Appendix B; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

4.1.8.2 ~~–~~Goal

Over time, create net ecosystem-wide improvement in the shoreline environment by improving impaired shoreline ecological functions and ecosystem-wide processes that 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 i~~Improve shoreline ecological functions and ecosystem-wide processes through restoration and enhancement actions ~~and should be~~ designed using principles of landscape and conservation ecology with the primary goal being to restore and/or enhance physical and biological ecosystem-wide processes that create and sustain shoreline habitat structures and functions.

Comment [LG54]: Active verb start like other policies. *SYNTAX*

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 ecosystem-wide processes.
3. Target restoration and enhancement actions to improve habitat requirement 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 of recovery plan is available.
4. Integrate restoration and enhancement with other natural resources management efforts such as Puget Sound Salmon recovery planning, West Sound Watershed planning and Water Resource Inventory Area(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 ecosystem-wide processes and to protect habitat for fish, wildlife and plants.
9. Avoid adverse impacts to existing critical saltwater habitat areas, fish and wildlife habitat conservation areas, water quality and flood holding capacities.
10. Restore or enhance ~~a~~ Island shorelines in conjunction with shoreline stabilization, recreational enhancement, and aquatic habitat creation or restoration~~, and should not be utilized to create~~. Do not allow creation of new land area along the shoreline below the OHWM ~~or~~ to raise the elevation to create dry upland areas.
11. Encourage supplementary beach nourishment where existing shoreline stabilization has the potential to decrease existing beach materials at or down-drift from the project site and should be coordinated with an Island-wide shoreline restoration plan.
12. Promote s~~S~~horeline stabilization ~~should~~ that incorporates beach restoration or enhancement in accordance with the restoration provisions of this M~~m~~aster P~~p~~rogram.

4.1.8.4 ~~–~~Objectives

Comment [LG55]: Other sections do not seem to have a specific objectives section apart from policies (some policies have objectives such as 4.1.8.6.1(2)(c). Does the City want to say what will be done with objectives versus policies versus regs? Are these used for monitoring?
STAFF CLARIFICATION NEEDED

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 ecosystem-wide 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 and 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 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.

Comment [LG56]: See comments on Table 4-1.

4.1.8.6 Beach Nourishment and Enhancement

4.1.8.6.1 Policies

1. All beach enhancement projects should ensure that aquatic habitat, existing water quality levels and flood-holding capacities are maintained.
2. Beach restoration/enhancement utilizing self-sustaining 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; and
   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 access to the shoreline.
3. Supplementary beach nourishment should be encouraged where existing shoreline stabilization is likely to increase impoverishment of existing beach material at or down drift from the project site.

4.1.8.6.2 Regulations – Prohibited

1. Dikes, levees, jetties, groins, gabions and breakwaters, are prohibited. Drift sills for enhancement or restoration projects may be allowed.
2. Beach nourishment is prohibited unless part of an approved mitigation plan or restoration project within spawning, nesting, or breeding habitat and/or where littoral drift of the enhancement materials enhances shoreline and does not

Comment [LG57]: Not listed in Table 4-1 – consider adding to an existing row under shoreline stabilization category?
STAFF CLARIFICATION NEEDED

adversely affects shoreline ecological functions and shoreline ecosystem-wide processes or adjacent properties.

4.1.8.6.3 Regulations – General

1. Mitigation/enhancement/restoration proposal design alternatives shall include the best available technology.
2. Mitigation/enhancement/restoration proposals shall not:
   a. Detrimentally interrupt littoral drift, or redirect waves, current or sediments to other shorelines;
   b. 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 permitted beach restoration program;
   c. Extend waterward more than the minimum amount necessary to achieve the desired stabilization;
   d. Result in contours sufficiently steep to impede easy pedestrian passage, or to trap drifting sediments;
   e. Create additional dry land mass; or
   f. Disturb 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. Beach Restoration Construction Standards:
   a. The size and/or mix of new material to be added to a beach shall be as similar as possible to the undisturbed bluff sediment and Washington Department of Fish and Wildlife approved material (i.e. "Fish mix, or smaller grain size). The material shall not predominately consist of grain size similar to clay or silt.
   b. 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 environments and shall be undertaken only for restoration, enhancement and maintenance of natural resources, or to enhance public access to the shoreline. Beach enhancement is prohibited if undertaken upland of Priority Aquatic designation.

Comment [LG58]: Match Table 4-1 note 12.

4.2 General Use

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4.2.1 Nonconforming Uses, Non-Conforming Lots, and Existing Development

4.2.1.1 Applicability

This section applies to shoreline uses and/or structures that were lawfully established or constructed 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.

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 structures and uses that do not conform to this P~~p~~rogram 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

Comment [LG59]: This section has normal subject-verb construction rather than active verb construction in other sections of the SMP. I left it alone because it seemed the "shalls" and "mays" were important.

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 and be repaired and maintained.
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 processes, and mitigation is provided.

5. Once discontinued, re-establishment of nonconforming uses located in the shoreline jurisdiction shall be restricted.

Comment [LG60]: Or prohibited?
STAFF CLARIFICATION NEEDED

6. 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. Lawfully constructed structures that are destroyed by fire, explosion, flood, or other casualty may be restored or replaced without increasing or expanding the nonconformity, and are encouraged to decrease nonconformity. 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 within two years of the date of destruction.
8. Provisions for reconstruction of a lawfully constructed residential house shall allow certain expansions of the existing 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 existing 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 and developments and/or existing buildings and structures 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, General Shoreline Modification Provisions, and ~~Shoreline Stabilization~~ Section 6.2, Shoreline Stabilization.
2. A complete application for any reconstruction under this section must be submitted 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. A one (1) year extension 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 by the adoption of an applicable amendment hereto 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 existing 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 are met.

4.2.1.6 **Regulations – Existing Development**

4.2.1.6.1 General Provisions – Nonconforming Structures

1. Existing structures may be maintained, repaired, renovated, or remodeled provided all the following is met:
    a. Changes to the structure that would alter or increase the nonconformity are not permitted;
        i. Any vertical or horizontal extension of a wall must meet the provisions of this program.
        ii. Adding to the footprint of an existing structure is permitted as long as the addition meets the requirements of this program.
    b. There is no further encroachment into the buffers unless allowed by this program or through an approved variance;
    c. Renovations or remodels are entirely contained within the building;

d. If moved, the structure shall be made to conform to regulations of this program.

2. If an existing primary structure is damaged or destroyed by fire, explosion, earthquake, flooding or other casualty, it may be reconstructed to the bulk dimension existing immediately prior to the catastrophic event, provided the use is conforming or meets the provisions of Section 4.2.1.4, Regulations-General, and 4.2.1.5, Regulations – Nonconforming Uses, 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 stabilization for the life of the new structure.

   c. The replacement structure meets geologically hazard provision for existing development in Section 4.1.5, Regulations – Nonconforming Uses, and Appendix B.

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

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

2. Reconstruction of existing commercial structures and buildings intentionally demolished or destroyed in any other manner than described in Section 4.2.1.6.1(2), shall be in conformance with all standards of the Program.

4.2.1.6.3 Nonconforming Structures – Residential Single-Family: Primary Structures

1. If an existing primary residential structure is damaged or destroyed as described in Section 4.2.1.6.1(2), the existing primary residential structure configuration may be altered or expanded pursuant to subsections 4.2.1.6.3(2-54).

2. An existing primary residential structure may be altered or expanded to the extent allowed by this Program, provided:

   a. 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;

   b. Any vertical expansion must meet height requirements of this Program;

   c Remnant foundation and/or impervious surfaces located within the Shoreline Buffer shall be removed;

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

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Comment [LG61]: There is no subsection 5 below. ***STAFF CLARIFICATION NEEDED***

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

f. 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. Permitted expansion of an existing 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. Increases in structure footprint outside of the Shoreline Buffer shall be allowed, even if all or a portion of the existing 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.

4.2.1.6.4 Existing Structures – Multifamily Residential: Primary Structures

1. If an existing primary multifamily residential structure is damaged or destroyed by fire, explosion, earthquake, flooding or other casualty, it may be reconstructed to the bulk dimension 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 replacement structure meets geologically hazard provision for existing development in Section 4.1.5, Critical Areas, and Appendix B.

2. An existing primary multifamily residential structure or portion thereof may be reconstructed, altered, or expanded, including the footprint and/or the height increased, to the extent allowed by this Program, if the following are met:

   a. Public access is provided pursuant to Section 4.2.4.6, Regulations – Public Access Design and Location Standards; and

   b. Mitigation of the shoreline buffer is provided to meet no net loss, as detailed in Section 4.1.2, Environmental Impacts, including revegetation standards in Section 4.1.2.5(3).

4.2.1.6.5 Existing Structures – Residential: Accessory Structures

1. If an existing residential accessory structure is damaged, destroyed or intentionally demolished, the reconstruction shall be in conformance with all standards of the Program, except:

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a. An existing essential single family residential accessory structure may be reconstructed as follows:

i. Replacement structure is the same ~~size, location or~~ bulk dimension as the existing structure.

ii. Replacement structure may be located within Zone 2 provided mitigation occurs in accordance with 4.1.2.5, Regulations – Revegetation Standards.

iii. Attached decks essential to a single family residence may be replaced in the same location.

v. 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.

Comment [LG62]: Already shown as stricken text in base text.

4.2.1.7 Regulations – Encumbered and Nonconforming Lots

1. Single-family development and redevelopment, except in the Point Monroe District, that is proposed on a legal nonconforming lot located in the shoreline jurisdiction or proposed for a shoreline property that is significantly encumbered by shoreline or critical area buffers, may be allowed without a shoreline variance when the following criteria are met:

a. A lot contains 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; or

b. A lot that does not meet the requirement of subsection 1.a above, shall meet the landslide hazard provisions of Section 4.1.5, Critical Areas, and Appendix B and provide the maximum buffer dimension feasible for shoreline and other critical areas, while also providing a building area not to exceed 2,500 square feet with maximum lot coverage of 1,200 square feet. The building area shall be located on the portion of the lot farthest from the required Shoreline Buffer; provided that consideration shall be given to view impacts. All single-family residential development approved under this section shall meet the shoreline structure view setback provisions in Section 4.1.3.11, Regulations – Shoreline Structure Setback View Requirement; and

c. The area between the structure and the shoreline and/or critical area shall comply with revegetation standards in Section 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. Such facilities shall not be located closer than 75ft to OHWM; and shall be subject to regulations of Section 4.1.5, Critical Areas.

4.2.1.8 Regulations – Nonconforming Public Facilities & Transportation

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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 no other alternative is feasible and 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 processes.

4.2.1.8 Regulations - Existing Residential and Commercial: Aquatic Structures and Accessory Aquatic Structures

1. Existing docks floats, and buoys may be repaired and replaced in the same foot print and shall comply with this Program's requirements for materials and standards, to the extent practicable.
   a. Except that as an administrative conditional use, an existing dock may be modified, reoriented or altered within the same general location to be more consistent with the provisions of this Program.

Comment [LG63]: Call out on Table 4-1 in the Overwater Structures section?
STAFF CLARIFICATION NEEDED

2. Except for docks and floats, ~~all~~ repair and replacement up to 50% of the footprint of any existing 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 to the extent practicable. If the structure is composed of several components, then the 50% shall be calculated independently for each component.

Comment [LG64]: "all" stricken on the base clean copy.

3. The replacement shall meet Section 4.1.2, Environmental Impacts, including the mitigation sequencing standards of Section 4.1.2.6, Regulations-Mitigation, to meet the standard of no net loss of shoreline ecological functions and/or processes. Shoreline stabilization shall also meet the alternative analysis provision of Section 6.2.8(1).

4.2.2 Cultural Resources

4.2.2.1 ~~–~~Applicability

The following provisions apply to cultural, archaeological and historic resources that are either recorded by 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 (archaeological excavation and removal permit) as well as the provisions of this ~~chapter~~Master Program. Shoreline development and activities associated with cultural resources will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.5, Critical Areas; ~~Appendix B;~~ Section 4.1.6, Water Quality and Stormwater Management; Section 4.1.3, Vegetation Management; Appendix B; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

4.2.2.2 ~~–~~Policies

1. Due to the limited and irreplaceable nature of the resource(s), prevent the destruction of or damage to, any site having historical, cultural, scientific or educational value as identified by the appropriate authorities, including affected Indian tribes, and the Washington State ~~Office~~ Department of Archaeology and Historic Preservation.
2. Ensure that public or private uses and activities are compatible with any site having historic, prehistoric, cultural, scientific or educational purpose 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.

Comment [LG65]: Suggest deleting. MPD has to be consistent with COBI SMP. There was no implementing regulation below – the MPD would be treated like any applicant below.
STAFF CLARIFICATION NEEDED

4.2.2.3 ~~–~~Regulations - General

1. New or expanded shoreline use and development, including preferred uses, restoration projects and uses exempt from permit requirements shall:
   a. Preserve and protect cultural resources that are recorded by the Washington State Department of Archaeology and Historic Preservation or 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 cultural resources; and
   c. Comply with all state and federal regulations pertaining to archaeological sites.
2. Significant cultural 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 importance. Unless waived by the applicant, or if a different federal or state law supersedes this SMP, tThe City may postpone development activities a maximum of 90 days to allow for the:

a. Development of a Cultural Resource Management Plan and/or retrieval and preservation of significant artifacts.

b. Investigation of public acquisition potential, including:

i. Consulting with Historic Preservation Commission on grant opportunities; and

ii. Informing City Council of opportunity.

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.

Comment [LG66]: Just a suggestion for clarity of implementation. *ADMINISTRATIVE CONSISTENCY*

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; and

c. Registries:

i. National Register of Historic Places

ii. Washington Heritage Register

iii. Heritage Barn Register

2. The following shall be required of the City when permits or statements of exemptions are issued in areas known to contain, or to have a significant probability of containing cultural resources:

a. The Washington State Department of Archaeology and Historic Preservation and affected tribes shall be notified of the proposed activity, including timing, location, scope, and resources affected; and

b. The applicant shall provide a Cultural Resource Site Assessment and a Cultural Resource Management Plan, for review and approval pursuant to subsection 3, below; and

c. Costs for the Cultural Resource Site Assessment and Cultural Resource Management Plan are the responsibility of the applicant.; and

d. The applicant shall identify areas and fence off known or suspected archaeological middens and areas of cultural significance according to the

Cultural Resource Management Plan, prior to site development or proposed activities~~; and~~.

3. If a Cultural Resource Assessment identifies significant cultural resources, the applicant shall be required to submit a Cultural Resource Management Plan (CRMP) which shall include:
   a. An analysis of actions to be taken by the property owner, applicant, 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 cultural resource; and
   c. A description of the cultural resources affected by the proposal; and
   d. An assessment of the cultural resource and an analysis of the potential adverse impacts as a result of the activity; and
   e. Measures recommended to prevent adverse impacts or to address review comments from the City, Washington State Department of Archaeology and Historic Preservation, and affected tribes;
   f. Measures recommended for mitigation; and
   ~~i~~g. Measures for identification and education. Interpretive signs, plaques, or other interpretive and educational measures of historical and archaeological features shall be provided, unless the identification of the location of the cultural resource is protected by state or federal laws. (See Applicability for laws governing Archaeological sites.)

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Comment [LG67]: This was a subset of "f" but didn't seem related. ***ADMINISTRATIVE CONSISTENCY***

4. If archaeological resources are inadvertently uncovered during construction or other activities, the property owner(s) shall immediately stop work and comply with the provisions of S~~s~~ubsection 2, and the following:
   a. The applicants(s) must first receive permission from the State Office of Archaeology and Historic Preservation and the City, prior to further site disturbance (RCW 27.53.060 or its successor).
5. Identified historical or archaeological resources shall be considered during project planning for all park, open space, public access and projects with access to such areas. Projects shall be designed and managed to give maximum protection to retain cultural resources and surrounding environment.
6. The project may be exempt from shoreline permit requirements 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. When such a waiver is provided, the City shall notify the Washington State Department of Ecology, the State Attorney General's Office~~,~~ and the Washington State Department of Archaeology and~~State~~ Historic Preservation ~~Office~~.

4.2.2.5 ~~–~~Submittal Requirements

1. When Ceultural Resource Site Aassessments or CRMPsmanagement plans are required pursuant to this section, the following shall be submitted prior to issuance of building or other development permits, or statements of exemptions:
    a. A Ceultural Rresource Ssite Aassessment that assesses the presence or absence of significant historic or archaeological resources; and
    b. A cultural Resource Management Plan (CRMP).
2. Cultural Resource Site Aassessments and CRMP's 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 to 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.

4.2.3 Parking

4.2.3.1 –Applicability

The following should apply only to parking that is accessory to a permitted shoreline use. Additional parking regulations in the BIMC Title 18, Zoning, may also apply. Shoreline development and activities will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.5, Critical Areas; Appendix B; Section 4.1.6, Water Quality and Stormwater Management; Section 4.1.3, Vegetation Management; Appendix B; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

4.2.3.2 –Policies

1. Allow pParking should that directly serves a shoreline use and be that is 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; and encourage parking facilities for non-motorized transportation.
2. Ensure pParking facilities should beare 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).

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4.2.3.3 –Regulations – Prohibited Uses

1. Parking as a principal use is prohibited within the shoreline jurisdiction.

2. Parking shall be prohibited over water except at the publicly-owned ferry terminal in the Urban designation.
3. 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.

Comment [LG68]: Include this as a note to "Parking (primary)" on Table 4-1?
STAFF CLARIFICATION NEEDED

4.2.3.4 Regulations – General

1. Parking in the shoreline jurisdiction shall directly serve a shoreline use and shall require a conditional use permit in the Natural designation.

Comment [LG69]: Clarify on Use Matrix.
STAFF CLARIFICATION NEEDED

2. Parking supporting specific land use activities within the shoreline jurisdiction is subject to the requirements and standards set forth in BIMC 18.15.020, in addition to the specific use regulations of this section.
3. Parking shall be prohibited over water except at the publicly-owned ferry terminal in the Urban designation.
4. Parking areas shall serve multiple facilities unless shown to the satisfaction of the 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 and 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 stormwater treatment, such as use of pervious materials, shall be considered where appropriate in order to minimize impacts of runoff and/or the need for stormwater treatment.
3. Security lighting associated with parking facilities shall be beamed, hooded, or directed so as to not cause a 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 BIMC, Title 18, Zoning.
5. Parking facilities shall be designed and landscaped to minimize adverse impacts to adjacent shorelines and properties. Landscaping shall be designed and installed pursuant to BIMC 18.15.010(F), Parking Lot Landscaping, and shall provide 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 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 other vehicles.

6. 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.

4.2.3.6 Regulations – Use Specific Parking and Circulation

1. See Table 4-1, Shoreline Use and Table 4-2, Shoreline Setback, 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 native vegetation buffer and setback at least one-hundred (100) feet, unless demonstrated to the satisfaction of the Administrator not to be feasible.
2. To the maximum extent possible, marinas and accessory uses shall share parking facilities, giving preference to marina use.
3. 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

4. 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 areas shall follow (c) and (d) below.

c. 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 discouraged and appropriate signage shall be provided.

6. Roads between marinas and arterial routes shall be satisfactory to the City for marina access including:

a. All-weather surfacing;

b. Width;

c. Safety;

d. Alignment;

e. Sign distance;

f. Grade; and

g. 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 measuring 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. Road ends shall contain a minimum number of two parking stalls, if feasible, which shall be designed pursuant to BIMC 18.15.020.

2. 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 Public Access – Visual and Physical

4.2.4.1 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.

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 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. Public access provisions must be consistent with the Non-motorized Transportation Plan, a component of the Transportation Element of the Comprehensive Plan. Shoreline development and activities will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.5, Critical Areas; ~~Appendix B;~~ Section 4.1.6, Water Quality and Stormwater Management; Appendix B; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

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 ADA access 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.
2. Locate, design, manage and maintain public access in a manner that protects shoreline ecological functions and ecosystem-wide 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 public access to the water via road rights-of-way ("road ends") and public utility corridors and easements (where possible), with a goal of providing comparable access in all neighborhoods.
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 waterward of all buildings in all commercial and all Urban designation.
6. The Winslow Waterfront Trail should be completed and protected through acquisition, easement dedication, or other appropriate means.
7. Require public access, both visual and physical, as a condition of approval for 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. Public access should be designed to avoid or minimize adverse impacts to the shoreline environment; to minimize impacts to private property and individual privacy; to distinguish between public and private property; and to ensure public safety.
9. City-owned shorelines should be reserved for water-dependent or public recreational uses, or maintained as open space.
10. Shoreline and water views from public upland areas should be preserved and enhanced where it would not risk environmental damage. However, vegetation alteration or removal to achieve a filtered view should not be excessive.

4.2.4.5 **Regulations - General**

1. New development increasing demand for public access and/or reducing existing access by blocking or discouraging its use, shall incorporate provisions for visual and/or physical public access into any shoreline development that meets one or more of the following tests:
    a. Is located in the Urban designation;
    b. Includes commercial, industrial or any nonresidential uses located in any shoreline designations;

c. Includes residential development and/or residential land division that provides five or more dwelling units or building lots located in any shoreline environments; 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 regulation (1), above. The determination shall include:

   a. Project-specific expected impacts;

   b. Specific reasoning for determination of need for public access requirements;

   c. How the suitable public access options are related to the specific project.

3. Public access will not apply as prescribed in regulation (1) above, if the determination does not demonstrate the 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. Environmental impacts 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, 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 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

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shoreline with the retention of existing shoreline vegetation so as not to adversely impact the ecological functions and processes of existing shoreline vegetation.

a. The public's physical shoreline access is a priority over maintenance of adjacent shoreline properties shoreline views.

b. Where a development or use will interfere with an existing public access, the development or use shall apply mitigation sequencing principles and provide public access in proportion to the impact.

c. Public upland properties may preserve and enhance public shoreline views through limited vegetation pruning and/or vegetation removal to achieve a filtered view as described in the filtered screen landscaping provisions of BIMC 18.15.010, ~~filtered screen,~~ provided that it is demonstrated to the satisfaction of the Administrator that such visual enhancement measures

i. Do not adversely impact the environment, including the ecological functions of shoreline vegetation; and

ii. Meet the standards of Section 4.1.3, Vegetation Management of this Master Program.

6. The public's visual and physical access provided by shoreline road 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.

7. Publicly owned shoreline properties shall be reserved for public water-dependent uses, public recreational uses, or public open space.

4.2.4.6 Regulations – Public Access Design and Location Standards

1. Public access shall consist of a dedication of land, easement, and/or a physical improvement such as a walkway, trail, bikeway, corridor, viewpoint, park, deck, observation tower, pier, boat launching ramp, dock or pier area, or other area serving as a means of view and/or physical approach to public waters and may include interpretive centers and displays.

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 relive 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 water's edge where appropriate. Fencing may be provided

Comment [LG70]: This is not the title of the section. It is very long: **Landscaping, screening, and tree retention, protection and replacement *SYNTAX***

temporarily to control damage to plants and other sensitive ecological features and permanently where appropriate. Trails should 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 water's 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 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. Vista parking facilities shall include a significant public view and provide recreational opportunities such as picnic tables or viewing benches.

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. Development with public access requirements 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 conditions of approval, 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 conditions of approval 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].

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Comment [LG71]: This doesn't seem quite on point regarding recording – the section references approval or disapproval.
Do you mean RCW 58.17.170 instead?
STAFF CLARIFICATION NEEDED

c. The standard state-approved logo or other approved sign(s) that indicate the public's rights of access and hours of access shall be constructed, installed, and maintained in conspicuous locations at public access sites. In accordance with regulation 4.2.4.6(3)(a) above, ~~signs~~ the City may control or restrict public access as a condition of permit approval.

Comment [LG72]: Please verify
STAFF CLARIFICATION NEEDED

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 primarily through BIMC 15.08, Sign Code. The following provisions 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 provisions do not apply to publicly owned signs where the purpose is to provide information regarding safety, direction, directions, and the like. Shoreline development and activities will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.5, Critical Areas; ~~Appendix B;~~ Section 4.1.6, Water Quality and Stormwater Management; Section 4.1.3, Vegetation Management; Appendix B; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

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 Bainbridge Island Municipal Code, Chapter 15.08, Sign Code, 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 as approved as part of 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-standing 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 electric 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
    f. Temporary directional signs to public or quasi-public events if removed within ten (10) days following the event and permitted in accordance with BIMC Chapter 15.08.15.

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Comment [LG73]: There is no such section – Do you mean 15.08.100.C?
STAFF CLARIFICATION NEEDED

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 the 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.

Comment [LG74]: This relates to Vacation of roads abutting bodies of water prohibited unless for public purposes or industrial use.

The RCW reference seemed out of place.
STAFF CLARIFICATION NEEDED

4.2.6 Transportation Facilities

4.2.6.1 Applicability

Transportation facilities are also subject to Section 4.0, General (Island-wide) Policies and Regulations, including Tables 4-1 through 4-3; Section 3.0, Shoreline Designation Policies and Regulations; Section 4.1.5, Critical Areas and Appendix B; Section 4.1.6, Water Quality and Stormwater Management; Section 6.0, Shoreline Modification Policies and Regulations; Section 6.4, Dredging and Dredge Material Disposal; and Section 6.5, Fill. Construction and

maintenance activities related to transportation facilities may require a Vegetation Management Plan and/or a Stormwater Pollution Prevention Plan (SWPP) pursuant to BIMC Chapter 15.20, Surface and Storm Water Management, and Master Program Sections 4.1.3, Vegetation Management, and 4.1.6, Water Quality and Stormwater Management. Transportation facility development and activities will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts and may also be reviewed under BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

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 and ecosystem-wide processes or adversely impact existing or planned water-dependent uses.
2. In planning for new transportation systems, give priority ~~should be given~~ to transportation modes favoring multimodal systems. New roads and bridges should not be allowed, except access roads (including driveways) or when a bridge provides the least adverse impact to ecological functions and ecosystem-wide process.
3. Encourage trail and bicycle systems 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~~acquire them for water-dependent use or public access.
5. Encourage joint use of transportation and utility rights-of-way within shoreline jurisdiction for roads and utilities.
6. Encourage state highway and public street modifications that promote stream restoration or mitigate existing environmental damage.
7. Encourage the completion of the Eagle Harbor Waterfront Trail.
8. Locate nonwater-oriented and water-related transportation facilities outside the shoreline jurisdiction.
9. Promote public views from roads and encourage projects to incorporate ADA compliant shoreline access opportunities.
10. Allow reconstruction of p~~P~~ublic 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 ~~would not cause~~avoids a net loss of shoreline ecological functions and ecosystem-wide processes.

4.2.6.3 –Regulations – Prohibited

1. The following transportation facilities are prohibited:

Comment [LG75]: Start with active verb like the rest of the policies. ***SYNTAX***

Comment [LG76]: Active verb construction ***SYNTAX***

a. New highways, arterials, secondary arterials, railroad facilities, and heliports;

b. Additional bridges over Puget Sound waters to and from Bainbridge Island;

c. In the Priority Aquatic designation all transportation facilities, except trails; and

d. New transportation facilities in front of feeder bluffs, over driftways or on accretion shoreforms.

2. Fills 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, Fill.

3. Herbicides for roadside brush control on city roads in the shoreline jurisdiction, except when a city-approved integrated pest management plan is implemented. See Section 4.1.6, Water Quality and Stormwater Management.

4.2.6.4 Regulations – General

1. Pervious trails shall be permitted in upland shoreline designations.
2. Publicly-owned ferry terminals and services, except over-water facilities, are allowed as a permitted use in the Urban designation and in the adjacent aquatic environment. New over-water facilities in conjunction with a permitted ferry terminal are a conditional use in the Urban designation and in the adjacent aquatic environment and are prohibited in all other environments.
3. Float plane facilities and services are a conditional use in the Urban designation.
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.
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. Expansion of the existing corridor shall meet the provisions of Section 4.1.3, Environmental Impacts.
6. Shoreline road ends may not be vacated except in compliance with RCW 35.79.035 or its successor and RCW 35.79.035 or its successor.
7. Transportation facilities including, but not limited to, ferry terminals, and/or float plane terminals shall meet the height and setback standards in Table 4-2.

4.2.6.5 Regulation – Design, Construction and Maintenance

Comment [LG77]: Use matrix says secondary roads – which is correct, secondary arterials or secondary roads?
STAFF CLARIFICATION NEEDED

Comment [LG78]: Add as a note on the use matrix?
STAFF CLARIFICATION NEEDED

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Comment [LG79]: Says CUP for new facilities on Use Matrix Table 4-1. Existing facilities can repair/maintain. What happens with an expansion of an existing one?
STAFF CLARIFICATION NEEDED

Comment [LG80]: Is this phrase on Table 4-1? Does it need to be added?
STAFF CLARIFICATION NEEDED

Comment [LG81]: To match 4.2.4.5

4.2.6.5.1 Construction and Maintenance

1. Waste material 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.

2. No machinery shall be operated within or along a stream bed, marine shoreline, lake, wetland or pond except in compliance with a hydraulics permit approval (HPA) issued by the Washington State Department of Fish and Wildlife. If an HPA is not required, operation of machinery may be approved by the Administrator.

3. Existing roads corridors shall be adequately maintained with site-appropriate 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.

4.2.6.5.2 Road Design

1. Transportation facilities shall employ low impact development techniques according to the provisions of Section 4.1.6, Water Quality and Stormwater Management.

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 15.20, Surface and Storm Water Management, and shall not impede the migration of anadromous fish.

5. The use of hard shoreline stabilization in transportation facility design shall be employed only when it is demonstrated to the Administrator that alternatives are impracticable or infeasible.

4.2.7 Utilities (Primary and Accessory)

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 principal use, such as water, sewer or gas line to a residence, are "accessory

utilities" and shall be considered a part of the principal use. Shoreline development and activities will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.5, Critical Areas; ~~Appendix B;~~ Section 4.1.6, Water Quality and Stormwater Management; Section 4.1.3, Vegetation Management; Section 6.0, Shoreline Modification Policies and Regulations; Appendix B; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

4.2.7.2 ~~–~~Policies – Primary Utility

1. Design and locate u~~U~~tility facilities ~~should be designed and located~~ to assure no net loss of shoreline ecological functions and ecosystem-wide processes, 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. Ensure u~~U~~tilities ~~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. Do not allow u~~U~~tility production and processing facilities, such as power plants, sewage treatment plants, and solid waste disposal activities and facilities, or parts of those facilities, that are nonwater-oriented ~~shall not be allowed~~ in shoreline areas unless it can be demonstrated that no other feasible option is available.
4. Do not allow n~~N~~ew utilities ~~should not be allowed~~ where shoreline stabilization is required.
5. Ensure u~~U~~tilities and utility corridors locations ~~should~~ do not obstruct or otherwise affect scenic views. Whenever feasible, such facilities should be placed underground or alongside or under bridges.
6. Locate t~~T~~ransmission 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 such facilities demonstrate no net loss of shoreline ecological function. Communication towers shall be prohibited in the shoreline area.
7. Discourage d~~D~~evelopment 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 and ecosystem-wide processes, ~~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 and ecosystem-wide processes 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:

a. Located 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 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 ecosystem-wide processes, and minimizes conflicts with existing or planned land uses.

4.2.7.4 Regulations - Prohibited

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1. The following uses associated with utilities shall be prohibited within shoreline jurisdiction:

Comment [LG82]: None of these are called out on the table – only Utilities (primary) ***STAFF CLARIFICATION NEEDED***

   a. New solid waste disposal sites and facilities;

   b. Primary 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.

   e. Land filling in shoreline jurisdiction for utility or utility line development purposes is prohibited.

4.2.7.5 Regulations - General

1. Primary utilities may be allowed as a conditional use in the Shoreline Residential Conservancy, Shoreline Residential, Urban, and Aquatic designations. They are prohibited in Natural, Island Conservancy and Priority Aquatic designations.

2. Utility development shall comply with required setbacks. (See Section 3.0, Shoreline Designation Policies and Regulations and Table 4-2.) 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 or flood protection works.

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 parallel corridors in all shoreline areas. Proposals for new corridors or water crossings must fully substantiate the infeasibility of existing routes.

b. Be completely buried under the stream bed in all in-stream crossings except for appropriate water or sewage treatment plant intake pipes or outfalls.

c. Cross areas of shoreline jurisdiction by the shortest, most direct route feasible, unless such route would cause significant environmental damage.

d. Be designed to minimize impacts to scenic shoreline views and located where major facilities must be placed in a shoreline area.

7. 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 vegetation areas shall be replanted according to the provisions of Section 4.1.3, Vegetation Management. Other disturbed areas shall be replanted with native or other approved species. Replanted areas shall be regularly maintained until established.

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 outside shoreline jurisdiction, except waterlines serving shoreline uses or 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 and processes or adverse impacts upon shoreline resources, values, natural features, or other uses. Construction and maintenance activities shall follow best management practices and meet provisions of Section 4.1.6, Water Quality and Stormwater Management.

3. Desalinization facilities shall be located consistent with critical area regulations and buffers in Appendix B, 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 outside 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~~ Application materials 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 to be 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 and processes.
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, except lines serving shoreline uses or 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 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 rights-of-way or easements are within 150 feet and also are parallel to 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 nonwater-dependent shall be located outside 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, or aesthetic resource.

4.2.7.6.6 Fire Protection Facilities

1. 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.

4.2.7.6.7 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.

4.2.7.6.8 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%) in Urban, and thirty-five percent (35%) in Shoreline Residential and Shoreline Residential Conservancy.

Comment [LG83]: Add to table 4-2?
STAFF CLARIFICATION NEEDED

4.2.7.7 Regulations – Accessory Utility Location and Design

1. Accessory utility must be subordinate to principal use, such as utilities serving a residential use, and shall meet BIMC 18.09, Use Regulations, in addition to the provisions below.

a. Temporary storage of solid waste in suitable receptacles is permitted as an accessory use to a primary permitted use, or for litter control.

b. 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 when the on-site sewage system has reached the end of its useful life.

c. On-site sewage systems shall be located on the landward side of any new residence or business or in a location approved by the Administrator and designed to meet all applicable water quality, utility, and health standards.

Comment [LG84]: This is a more specific reference to the zoning code (18.09). Since we have a general performance standard that everything must be consistent with the zoning code, do we need such a specific reference?
STAFF CLARIFICATION NEEDED

4.2.7.8 Submittal Requirements – Primary Utility

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

a. Description of the proposed facilities;

b. Plans for traffic and noise control during construction and operation;

c. 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;

d. An analysis of alternatives shall require 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;

e. Documentation that the proposed facilities comply with critical area regulations in Appendix B;

f. Documentation of how the location, design, and use achieves no net loss of shoreline ecological functions and processes, 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;

g. 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~~ documentation in itself may not satisfy Cultural Site Assessment requirements of Cultural Resource Management Plan~~.~~; See Section 4.2.2, Cultural Resources, for specific thresholds and requirements for documentation; and

Comment [LG85]: Proposed for clarity.

h. 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 and processes.

5.0 SPECIFIC SHORELINE USE AND DEVELOPMENT POLICIES AND REGULATIONS

Introduction

This section contains policies and regulations for the following shoreline uses: agriculture, aquaculture, boating facilities, commercial development, ~~forestry~~forest practices, industrial development~~y~~, mining, ~~multifamily subdivisions~~residential, ~~overwater structures,~~ recreational development, and residential development. 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, General (Island-wide) Policies and Regulations and Section 6.0, Shoreline Modification ~~Activity~~ Policies and Regulations 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.

Comment [AS86]: Not in the overall sections ***ADMINISTRATIVE CONSISTENCY***

Comment [LG87]: Covered in 6.0

5.1 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 is prohibited in the shoreline jurisdiction.

5.2 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 in this program. Aquaculture activities are not considered dredging nor subject to the regulations found in Section 6.4, Dredging and Dredge Material Disposal. Aquaculture activities will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.5, Critical Areas; ~~Appendix B;~~ Section 4.1.6, Water Quality and Stormwater Management; and Appendix B,~~.~~ when applicable. Other portions of this Program may also apply.

5.2.2 Policies

1. Recognize that w~~W~~hen 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 (WDFW), 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.
2. Allow e~~E~~xperimental 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 that affect existing experimental monitoring programs.
3. Limit aquaculture, including intensive shellfish aquaculture to activities that do not create adverse impacts to ecological functions and ecosystem-wide process. 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.
4. Prohibit i~~I~~ntensive aquaculture ~~should be prohibited~~ where such development or activity would:
   a. Result in any significant adverse environmental impacts that cannot be eliminated or adequately mitigated through enforceable conditions of approval; or
   b. Results in the spreading of dise~~s~~ase, the introduction of non-native species, or impacts to shoreline aesthetic qualities; or
   c~~b~~. Result in impacts to other existing and approved land and water uses which 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

Comment [LG88]: Start with active verb like most other sections in SMP
SYNTAX

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Comment [LG89]: To make parallel with regs.

This policy is specific and so close to the reg, but is missing this set of topics.
ADMINISTRATIVE CONSISTENCY

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de. Result in impacts to -where water quality, temperature, oxygen content, current, and salinity restrictions make the area unsuitable for the type(s) of aquaculture under consideration.

5. Prohibit Community Shellfish Gardens should be prohibited where such development or activity would:
   a. Result in any significant adverse environmental impacts or aesthetic impact that cannot be eliminated or adequately mitigated through enforceable conditions of approval; or
   b. 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; and/or
   c. ~~In areas~~Be unsuitable ~~where~~ due to water quality, temperature, oxygen content, current, and salinity restrictions ~~make the area unsuitable~~ for the type(s) of aquaculture under consideration.
6. Ensure Shellfish Gardens ~~should~~ consider aesthetic impacts as part of the site design process.
7. Give p~~P~~reference ~~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.
8. Ensure installation of net-pens, raft cultures or surface embedded structures do not cause cumulative environmental impacts and aesthetic impacts, or interfere with navigation.

5.2.3 Regulations - Prohibited

1. Aquaculture in the Natural and Priority Aquatic designations, except as provided in Section 5.2.4 (1), below.
2. Aquaculture, except individual Shellfish Gardens 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 is prohibited in areas listed in (a) above except the use may be allowed 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 environment with which the proposed aquacultural 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 do not have ~~little natural the~~ potential to support native populations of the type(s) of aquaculture under consideration.

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 seeding/culturing may be permitted when conducted for native population recovery in accordance with government/Tribal approved plan.

   c. Pesticides, herbicides, antibiotics, vaccines, growth stimulants, anti-fouling agents, or other chemical applications for aquacultural operations only if prior approval is obtained from all appropriate state and federal agencies, including, 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.

5. Mechanical and/or hydraulic 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.

5.2.4 Regulations - General

1. Aquaculture may be allowed as a conditional use in Shoreline Residential, Urban, and adjacent Aquatic designations except in the Priority Aquatic designation, and as provided below:

   a. Community Shellfish Gardens may be allowed as a conditional use in the Island Conservancy, Shoreline Residential Conservancy, Shoreline Residential, and Urban designations and in adjacent Aquatic designations except Priority Aquatic (unless as part of an approved restoration project).

   b. Individual Shellfish Gardens may be allowed in the Island Conservancy, Shoreline Residential Conservancy Shoreline Residential, Urban and Aquatic designations, except in Priority Aquatic A (unless as part of an approved restoration project).

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 or processes;
    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. Shellfish Gardens shall minimize adverse aesthetic impacts and be restricted in the areas described in Section 5.2.3(2)(b)(c) and (d).
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 denial of that use.

5.2.5 Regulations – Design Standards

1. F~~f~~loating and submerged aquaculture structures shall be located to minimize interference with navigable waters and the public's use of the water and shoreline. 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.
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 vegetated buffer zone along the affected streamway as prescribed Appendix B, 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 be the minimum necessary to deter targeted predators and shall not exceed 6 feet in height, as measured from water surface.
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 Administrator if the applicant

can demonstrate to the satisfaction of the Administrator 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 aquacultural for personal consumption, shall be marked with owners contact information to provide identification after storm disturbance.

7. Floating aquaculture facilities may 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, as determined by the Administrator.

Comment [AS90]: ? Can't find study to confirm. ***STAFF CLARIFICATION NEEDED***

8. For aquacultural projects using over-water structures, storage of necessary tools and apparatus waterward 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 waterward 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. Except as provided in Section 5.2.6(6), aquacultural developments approved on an experimental basis shall not exceed five (5) acres in area, except anchorage for floating systems, and five (5) years in duration, provided that the City may issue a new permit to continue an experimental project as many times as is deemed necessary and appropriate.

Comment [AS91]: This is not the right reference. Not sure what the right one is. ***STAFF CLARIFICATION NEEDED***

10. Shellfish Gardens for personal consumption are 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 is accordance with best management practices and shall not significantly alter the tidal bed; and
    c. The area used for cultivation is 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. Operational monitoring may be required if and to the extent that is necessary to determine, ensure, or confirm ~~confirm~~ compliance with predicted or required performance, including periodic benthic analysis or noise pollution in accordance with BIMC Chapter 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.

3. 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. Aquaculture 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 [BIMC Chapter 8.16].

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, 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. 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.

5.2.7 Submittal Requirements

1. Applicants shall include in their applications all information needed to conduct thorough evaluations of their aquaculture proposals, including the items listed in BIMC Section 2.16.020(H), ~~General Application Submittal~~Land Use Review Procedures; General Provisions; Application, and the following submittal requirements. The a~~A~~dministrator may waive some or all of the following based on specific project requirements:

    a. Shellfish Gardens must only meet BIMC Section 2.16.020(H), ~~General Application Submittal~~Land Use review Procedures; General Provisions; Application;

    b. Species to be reared;

    c. Aquaculture method(s);

    d. Anticipated use of any feed, antibiotics, or other substances and their predicted impacts. List all pesticides, herbicides, antibiotics, vaccines, growth stimulants, anti-fouling agents, or other chemicals that the applicant anticipates using;

    e. Manpower/employment necessary for the project;

    f. Harvest and processing location, method, and timing;

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~~;

j. Method of disposal of processing waste to control noxious odors and prevent releasing material in to the environment;

k. Methods of predator control, if any;

l. Use of lights, noise-generating equipment, and traffic patterns associated with the project that will occur during regular operation of the facility (including marine and terrestrial transportation) and the potential impacts on surrounding uses;

m. Documentation of meeting noise standards of BIMC Chapter 16.16, light regulations and/or other pertinent information deemed necessary by the City; and

5.3 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 8.0, 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 4.0, General (Island-wide) Policies and Regulations, including the standards in Table 4-1 through 4-3, Section 3.0, Shoreline Designation Policies and Regulations~~s~~, and Section 6.3, Overwater Structures. Boating facilities development will be reviewed under the "no net loss" provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.1.3, Vegetation Management; Section 4.1.5, Critical Areas~~; Appendix B~~; Section 4.1.6, Water Quality and Stormwater Management; Appendix B; and BIMC Chapter 15.18, Land Clearing, when applicable. ~~–~~Other portions of this Program 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 the respective provisions in this section. (Examples might include commercial, industrial, or transportation facilities.)

Regulations governing boating activities in the bays and harbors of Bainbridge Island are contained in BIMC Chapters 12.24, Waterfront Park and Other City Harbors, and 12.40, Watercraft and Floating Homes, and may also apply. See Section 6.3.7.~~7~~9 and 8~~10~~, 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.

Comment [AS92]: ? Cite federal law
STAFF CLARIFICATION NEEDED

Comment [LG93]: Cite federal law
STAFF CLARIFICATION NEEDED

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.

5.3.3 Policies

Comment [LG94]: Start with active verb consistently ***SYNTAX***

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;
   c. Mudflats or intertidal habitats with vascular plants;
   d. Areas with which priority species have a primary association;
   e. Areas which have been identified as hazardous due to storm tides, high winds, or flooding; and
   f. 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.
3. Design, locate, construct, and maintain boating facilities to:
   a. Avoid adverse proximity impacts such as noise, light and glare; and
   b. 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~~.~~;
   c. Assure vegetation screening should be utilized to reduce visual impacts of associated parking and storage

4. Consider regional as well as local needs when determining the location of marinas and boat launches. Identify potential sites near high-use or potentially high-use areas.
5. Minimize d~~D~~isplacement of limited shoreline resources ~~should be minimized~~ by considering:
    a. Expanding existing marinas over adding new marina sites;
    b. Developing marinas and launch ramps over developing individual docking facilities for private, noncommercial pleasure craft; and
    c. Utilizing launching ramps and water-dependent dry storage or other new technologies over year-round wet-moorage.
6. Enusre t~~T~~he location and design of boating facilities ~~should~~ does not unduly obstruct navigable waters, and ~~should~~ avoids adverse effects to recreational opportunities or the use and enjoyment of the water or beach of adjoining properties.
7. Design, locate and construct new marina facilities 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 methods of foreshore marinas 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. These should be conveniently available to all users of marina facilities.
10. Prohibit floating homes. Allow houseboats and live-aboard vessels only in those limited circumstances where their environmental and use impacts can be substantially avoided, minimized, or mitigated.
11. Ensure t~~T~~ransient moorage ~~should be~~is made available, with most of this need being met through use of short-term vacancies.
12. Work with the City Harbor Commission to establish regulations governing a uniform speed code, harbor safety, and harbor navigation through amendments to the municipal code.

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5.3.4 Regulations - Prohibited

1. Boating facilities 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.
4. 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 and allowed as a conditional use in the Shoreline Residential designation.
   b. Boating facilities in the Aquatic designation are allowed as permitted in the adjacent upland designation pursuant to Table 4-2.
   c. One (1) public open water moorage and anchorage area shall be a permitted in the Aquatic designation located in Eagle Harbor.
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 a 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 boater education addressing boater impacts on water quality and other shoreline resources, and boater safety and requirements for boater use of sewage pump-outs to their marina users.
4. Live-aboard vessels, including houseboats, shall be permitted only in marinas. No more than 10% of the surface area of a marina or 10% 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]

Comment [LG95]: This is left hanging – is someone supposed to show compliance?
STAFF CLARIFICATION NEEDED

Comment [AS96]: This WAC refers to Residential uses on state-owned aquatic lands. Is there a need to reference 332-30-139 Marinas and Moorages?
STAFF CLARIFICATION NEEDED

5.3.6 Regulations - Location

1. When new marina sites are considered, sufficient evidence must be presented to show there is a regional demand and 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. Location 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 shall be allowed only on stable shoreline areas where water depth is adequate to eliminate or minimize the need for channel dredging (for construction or

maintenance), soil disposal, filling, beach enhancement, and other harbor and channel maintenance activities.

4. Marinas shall be located only in areas where there is adequate water mixing and flushing and shall be designed so as not to reduce or negatively influence flushing characteristics.
5. Boating facilities shall not require fixed breakwaters.
6. Marinas shall be clearly separated from beaches commonly used for swimming and shall provided signage and provide protection measures to insure the safety of swimmers.
7. Marinas shall not be located at or along:
    a. Significant littoral drift cells, including resource material areas, such as feeder bluffs and accretion beaches, barrier beaches, points, sand spits and hooks; or
    b. Wetlands, marshes, bogs, swamps and lagoons; or
    c. Mud flats and salt marshes; or
    d. Fish and shellfish spawning and rearing areas.
8. Marinas shall not extend waterward farther than the following limits:
    a. The Construction Limit Line or the Harbor Structure Limit Line as depicted in Appendix E; except the public open water moorage and anchorage areas shall be allowed waterward of the Construction Limit Line.
    b. Where no limit line is depicted, not more than two hundred (200) feet beyond extreme low tide, the 18 MLLW depth contour, or the line of navigation whichever is closer to the shore. 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]

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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. 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;
    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

Section 18.15.010, Development Standards and Guidelines; Landscaping, Screening, and Tree Retention, Protection, and Replacement; and

f. Include public restrooms, accessory parking or other recreational uses according to the scale of the facility.

3. 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. Long-term parking and dry moorage and all other storage areas shall be set back at a distance of one-hundred (100) feet from the OHWM.

4. Public access, both visual and physical, such as viewpoints or walkways, 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.

5. Innovative construction techniques and construction methods 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.

5.3.8 Regulations - Utilities

1. All marinas shall have accessible boat sewage disposal systems or other pump-out services available on site. 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.

   a. Marinas with fewer than ten (10) slips shall provide one (1) toilet and hand washing facility

   b. Marinas with ten (10) to one hundred (100) 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 at least one restroom or portable toilet; required number may increase based on projected level of service.
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 are and be accessible twenty-four (24) hours a day.
2. Commercial fish or shellfish processing discharge or discarding of unused bait, scrapfish, or viscera shall ~~not~~ be prohibited.
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 or owner 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:
    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 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 occupancy, and existing marinas shall comply with the following within one (1) year from adoption of this program:

Comment [AS97]: Check this.
STAFF CLARIFICATION NEEDED

a. Marinas which dispense fuel shall have adequate facilities and establish posted operational procedures for fuel handling and storage 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:

   i. Life rings, hooks, ropes and ladders, or equivalent, on the end of fingers; and/or

   ii. One ladder (per side) either every one hundred (100) linear feet of the dock, or every six (6) slips whichever is greater. This regulation does not apply to a float which is less than one hundred (100) feet from a shoreline; or

   iii. At least one ladder to serve a float with six (6) or more slips and is one hundred (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 cells, including resource material areas such as feeder bluffs and accretion beaches, points, spits and hooks; except for a public launch as provided for in section 5.3.10.2~~1~~(2).

   b. Wetlands, marshes, bogs, swamps, and lagoons;

   c. Mud flats and salt marshes; and

   d. Fish spawning and rearing areas and commercial or recreational shellfish areas.

5.3.10.2~~1~~ Regulations – Design and Location

Comment [LG98]: Check internal cross references. ***STAFF CLARIFICATION NEEDED***

1. Launch ramps shall be:
    a. Located on stable shorelines where water depths are adequate to eliminate or minimize the need for:
        i. Oo~~o~~ffshore or foreshore channel construction dredging; or
        ii. M~~m~~aintenance dredging; or
        iii. S~~s~~poil disposal; or
        iv. F~~f~~illing; or
        v. B~~b~~each enhancement; or
        vi. O~~o~~ther harbor and channel maintenance activities.
    b. Located in areas where there is adequate water mixing and flushing; and
    c. 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 grading is not required. When grading is permitted it must not adversely affect ecological functions and ecosystem-wide processes. Accessory facilities shall be located out of critical areas.
3. Public boat launches may be allowed on stable banks where current deflectors or other stabilization structures will not be necessary.
4. Boat launches shall not be permitted where the upland ~~slope~~ within twenty-five (25) feet of the OHWM has a slope that exceeds twenty-five ~~(25)~~ percent (25%) grade and/or where substantial cutting, grading, filing, 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 saltwater habitat.
8. Marine railways for boat launching shall be located the minimum distance necessary above existing grade to minimize impact on littoral drift and navigation 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.

5.3.11 Submittal Requirements

1. In addition to the general submittal requirements specified in BIMC Section 2.16.020(H), Land Use Review Procedures; General Provisions; Application, the Administrator shall require the following information in its review of Boating Facility

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

a. Existing natural shoreline and backshore features and uses and bathymetric contours (One (1)~~1~~ foot increments);

b. Geo-hydraulic processes and flushing characteristics, volume, rates, and frequencies;

c. Biological resources and habitat areas located within and adjacent to the project area;

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, and

i. Documentation of meeting noise and light regulations;

j. Management and operations including accommodation of live-aboard vessels, provisions for the prevention and control of fuel spillage, and restrictions related to disposal of wastes and toxic materials.

5.4 Commercial Development

5.4.1 Applicability

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. Commercial development and related shoreline modification activities, such as piers, docks, and bulkheads, will be reviewed under the no net loss provision of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 3.0, Shoreline Designation Policies and Regulations~~s~~, including the standards in Tables 4-1 through 4-3. Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.3, Vegetation Management; Section 4.1.4, Land Modification; Section 4.1.5, Critical Areas; ~~Appendix B;~~ Section 4.1.6, Water Quality and Stormwater Management; Section 6.0, Shoreline Modification Policies and Regulations~~s~~; Appendix B; ~~-~~and BIMC Chapter 15.18, Land Clearing, as applicable. Other portions of this Program may also apply.

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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. Encourage

restoration of impaired ecological functions and ecosystem-wide process as mitigation for commercial development.

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 be given to water-dependent uses, over water-related and water-enjoyment uses.
3. Discourage non-water-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. Prohibit commercial developments over water unless the use is water-dependent and requires overwater development.
5. Locate new commercial development in shoreline areas with existing, compatible commercial uses and in a manner that will promote infill.
6. Provide physical or visual access to the shoreline as part of all new commercial development. –Existing development should be required to provide public access amenities when building improvements are proposed. Incentives should be provided for commercial use proposals to include additional public amenities
7. Ensure c~~C~~ommercial development ~~should be~~is aesthetically and acoustically compatible with the surrounding areas.
8. View protection, both to the water and from the water, should be considered in the design and review of commercial development.

Comment [LG99]: Match active verb format
SYNTAX

5.4.3 Prohibited

1. Nonwater-oriented commercial uses, except as provided in Section 5.4.4.
2. Commercial uses shall be prohibited in shoreline designations except as allowed in Section 5.4.4, below.

Comment [AS100]: Redundant?

5.4.4 Regulations- General

1. Commercial uses should be located on shorelines with existing compatible commercial uses and regulated in the shoreline designations as follows:
   a. Water-oriented commercial use and development shall be permitted in the Urban designation, and may be allowed under a conditional use permit in the Shoreline Residential designation.
   b. Water-dependent commercial development that requires an over-water location may be permitted in the Aquatic designation when permitted in the upland environment.
   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 subordinate to a more dominant water-oriented commercial, residential or recreational use contained in the same development, and which also provides significant public benefit amenities such as public open space or recreation, public access, or shoreline restoration.

iii. The requirements of this section shall not apply to those nonwater-oriented commercial uses located on a site physically separated from the shoreline where access to the land/water interface is precluded.

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 pursuant to Section 4.1.2, Environmental Impacts.

4. New commercial development and redevelopment shall provide public access in conformance with the Public Access requirements of Section 4.2.4.

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 on a case-by-case basis in accordance with the provisions of Section 4.2.4, Public Access – Visual and Physical.

   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 and processes that approximate the functions provided by the site in natural conditions.

   c. The requirements in regulation (a) and (b) may be modified when:

      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 and processes. 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 nonwater-oriented use shall be based on current site conditions.

5.4.5 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, Shoreline Designations Policies and Regulations, Section 4.1.6, Water Quality and Stormwater Management, and ~~Shoreline Setback~~Dimensional Standards Table 4-2.)
   b. Water-dependent commercial development shall be designated and operated to promote joint-use of overwater and accessory facilities such as:
      i. Piers;
      ii. Docks;
      iii. Storage;
      iv. Restrooms; and
      v. Parking.
   c. When demonstrated, to the satisfaction of the Administrator, not to be feasible the requirements of Section 5.45.54 (1)(a) and -(b) may be reduced in scope or waived.

5.4.6 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 consideration 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, the 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 WAC Title 222 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 4.1.4, Land Modification. Forest Practices are subject to Section 3.0, Shoreline Designation Policies and Regulations~~s~~, Section 4.0, General (Island-wide) Policies and Regulations, and Section 6.0, Shoreline Modification Policies and Regulations of this Program. Forest Practices and related activities will be reviewed under the "no net loss" provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.1.3, Vegetation Management; Section 4.1.5, Critical Areas; ~~Appendix B;~~ Section 4.1.6, Water Quality and Stormwater Management; Appendix B; and BIMC Chapter 15.18, Land Clearing, and BIMC Chapter 16.22, Vegetation Management, when applicable. Other portions of this Program may also apply.

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5.5.2 Policies

Comment [LG101]: Active verb use ***SYNTAX***

1. ~~The City should r~~Rely on the Forest Practices Act and rules implementing the act and the Forest and Fish Report as adequate management of commercial operations within the shoreline jurisdiction.
2. Ensure t~~T~~imber harvesting ~~should be~~is conducted in a manner that does not cause adverse impacts to shoreline ecological functions or ecosystem-wide processes and avoids impacts to navigation, recreation, and public access.
3. Limit t~~T~~imber harvesting in all shoreline areas ~~should be limited~~ to selective cutting which protects the shoreline as a scenic value. Shorelines having outstanding scenic or habitat qualities should be left in a substantially natural condition.
4. Accomplish r~~R~~evegetation in shorelines ~~should be accomplished~~ as quickly as possible in accordance with the provisions of the Forest Practices Act. For provisions applying to forest conversion (Class IV Permits regulated under the Forest Practices Act and locally), see Section 4.1.3.4, Vegetation Management; Regulations – Exceptions of this Program.

Comment [AS102]: This section (4.1.3.4 only mentions the Class IV special permit, not the general permit that is referenced in the regulations below) ***STAFF CLARIFICATION NEEDED***

5.5.3 Regulations - General

1. Under the authority of planning and zoning granted to the city under RCW 76.09.240, the city of Bainbridge Island considers all forested areas within its jurisdiction as "lands with a likelihood of future conversion" from forest use as defined under WAC 222-16-060.
2. 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 provisions in the Shoreline Master Program and shall be subject to any permit requirements associated with the non-forestry use.
    a. Timber harvesting shall not be permitted until local plat approval or other applicable land use authorization has been given, and any required shoreline permits have been issued for the land division(s) or intended use(s).
3. 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.
4. Timber harvesting and forest practices conducted under a Class II, III, or IV Special permit from the 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 of structures to hazard trees.
5. Site preparation by burning and scarification piles shall be prohibited within shoreline jurisdiction.
6. 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 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~~ii~~) or its successor].
7. Commercial timber cutting within the shoreline jurisdiction shall be by selective ~~cutting~~ harvest and shall not exceed thirty ~~(30)~~ percent (30%) of the merchantable trees in any ten-year period as required by WAC 222-30-110.

5.6 Industrial Development

5.6.1 Applicability

Industrial development, uses and activities that are identified as separate uses but associated with industrial development or use, are subject to the following provisions; Examples include transportation facilities, utilities, dredging, landfill, piers and docks, and bulkheads. Industrial development will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, Section 3.0, Shoreline Designation Policies and Regulations~~s~~, and may also be reviewed under Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.3,

Vegetation Management; Section 4.1.5, Critical Areas; ~~Appendix B;~~ Section 4.1.6, Water Quality and Stormwater Management; Section 6.0 Shoreline Modification Policies and Regulations; Appendix B; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

5.6.2 Policies

1. Review new industrial proposals with consideration of regional and state-wide needs for industrial facilities, as well as in allocating shorelines for such development. Coordinate with port districts, adjacent counties and cities and the state in order to minimize new industrial development that 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 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 in waterfront industrial areas.
4. Design and locate industrial development to avoid or minimize adverse impacts to ecological functions and ecosystem-wide processes.
5. Require new industrial development to provide physical and/or visual access to shorelines and visual access to facilities whenever possible, 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 industrial sites should be limited to water-oriented uses, and should 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 nonwater-oriented uses unless the use is located in a mixed-use development containing a public use benefit such as open space or recreation use, and includes a water-oriented commercial use.

5.6.3 Regulations – Prohibited

1. Storage and/or disposal of industrial wastes within shoreline jurisdiction.
2. Log storage in water.

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3. Nonwater-oriented industrial development.

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5.6.4 Regulations - General

1. Water-dependent industry shall be permitted in the Urban designation, and those portions of the Aquatic designation which are waterward of the Urban designation, and shall be prohibited in all other designations. ~~–~~Water-related industry shall be a conditional use in the Urban designation and prohibited in all other designations. Nonwater-oriented industry shall be prohibited in all 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 ecosystem-wide 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 development 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. New industrial development shall be compatible with existing adjacent uses of the shoreline designation in which it is located.
5. Proposed industrial development shall:
    a. Be located to maximize the use of legally established, existing industrial facilities; and
    b. Be located in areas where environmental cleanup and restoration can be accomplished; and
    c. Avoid duplication of pier and dock facilities 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 Shoreline Buffer or Shoreline Vegetation Management Area. (See ~~Section 4.1.3, Vegetation Management~~ and Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.3 Vegetation Management; and~~,~~ Tables 4-1 through 4-3, for dimensions.)
7. Accessory industrial development which does not require a 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 or Vegetation Management Area as

established in Section 4.0, General (Island-wide) Policies and Regulations and Table 4-3.

8. New industrial development that includes offshore facilities, floating docks and deep-water port expansion, shall be permitted 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.
9. At new or expanded port and/or industrial developments the best available facilities practices and procedures, as specified by state and local agencies, 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 that 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, Shoreline Designation Policies and Regu~~a~~lations; Section 4.1.6, Water Quality and Stormwater Management~~;~~, ~~Section 3.0, Shoreline Designations,~~ and Table~~s~~ 4-1 through 4-3.)
    b. Industrial facilities shall be designed and operated to promote joint use of over-water and accessory facilities, whenever practicable, such as:
        i. Piers
        ii. Docks
        iii. Storage
        iv. Restrooms; and
        v. Parking.
    c. Consistent with provisions in Section 4.2.4, Public Access – Visual and Physical, ports and/or water-dependent industry shall provide public access to the shoreline.
    d. Documentation of noise standards of BIMC 16.16.

Comment [AS103]: Documentation of meeting noise standards? ***STAFF CLARIFICATION NEEDED***

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~~ BIMC~~,~~ Section 18.15.040.

5.6.6 Regulations – Ship and Boat Building and Repair Yards

1. Boatyards and mobile services shall employ best management practices (BMPs) concerning the various services and activities performed and to address potential 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*".

5.7 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 and meet "no net loss" provisions of Section 4.1.2, Environmental Impacts.

5.8 Recreational Development

5.8.1 Applicability

These provisions apply to recreational 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~~ will be reviewed under the "no net loss" provisions of ~~Section 4.1.2, Environmental Impacts;~~ Section 3.0, Shoreline Designation Policies and Regulations~~s~~, Section 4.0, General (Island-wide) Policies and Regulations; Tables 4-1 through 4-3;~~,~~ Section 4.1.2, Environmental Impacts; and may also be reviewed under Section 4.1.3, Vegetation Management; Section 4.1.5, Critical Areas; ~~Appendix B;~~ Section 4.1.6, Water Quality and Stormwater Management; Section 6.0, Shoreline Modification~~s~~ Policies and Regulations; Appendix B; and BIMC Chapter 15.18, Land Clearing, when applicable. BIMC Chapter 16.16 Noise Impacts and BIMC ~~Chapter~~ Section 18.15.040 Lighting Impacts, Other portions of this Program may also apply.

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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 and ecosystem-wide processes are not adversely impacted.

5.8.3 Policies

1. Recognize p~~P~~ublic recreation on public lands ~~is~~ as a preferred use of the shoreline. Water-dependent recreational uses, such as swimming, boating and fishing, are priority uses and should be encouraged.
2. Encourage the coordination of local, state, and federal recreation planning to mutually satisfy recreational needs. Shoreline recreational developments should be consistent with all adopted park, recreation, and open space plans.
3. Encourage a variety of compatible recreational experiences and activities to satisfy diverse recreational needs. The location and design of shoreline recreational development 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. Identify shoreline areas with potential for recreation or public access. Acquire identified areas through lease, purchase, or easement, and incorporate these areas into the public park and open space system.
5. Where feasible, link shoreline parks, recreation areas, and public access points as linear systems, such as hiking paths, bicycle paths, easements, and/or scenic drives.
6. Locate, design and operate recreational development to facilitate appropriate use of shoreline resources while also conserving those resources by minimizing adverse

impacts to ecological functions and ecosystem-wide processes. Design recreational development to preserve, enhance or create scenic shoreline views and vistas.

7. Where appropriate, passive recreational uses may be permitted in floodplain areas.
8. Encourage the use of shoreline road-ends and publicly-owned lands for public shoreline access and promote the development of shoreline recreational opportunities in~~at~~ suitable areas.
9. Limit or prohibit s~~S~~horeline use of off-road recreational vehicle or recreational water equipment, such as jet skis and wake boards, ~~should be limited or prohibited~~ where needed to protect the ecological functions or ecosystem-wide processes of the shoreline or protect sensitive wildlife habitat areas.
10. Ensure a~~A~~ll 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 s~~S~~creening (through native vegetation or shoreline buffers) of such development from adjacent private property.
11. Ensure t~~T~~rails and pathways on landslide hazard areas ~~should be~~are located, designed, and maintained to protect bank stability.
12. Protect and restore publicly~~-~~-owned natural resource areas located within the shoreline area and include public access and public use as appropriate for the particular resource area.
13. 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.
14. Use best management practices and low impact development technologies in the construction, maintenance or renovation of recreational grounds or facilities of public shoreline parks.
15. Incorporate opportunities for educational and interpretive information regarding shoreline ecological functions and ecosystem-wide processes in the design and operation of public recreation facilities and other amenities such as nature trails.

5.8.4 Regulations – Prohibited

1. Motorized vehicular access on all beaches and spits, except at approved boat launching facilities (Section 5.3, Boating Facilities).
2. Golf courses in the Natural designations.
3. Golf course fairways which cross streams.

4. 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.
5. The use of jet skis and similar recreational equipment shall be prohibited in the Priority Aquatic Categories A and B designations.

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5.8.5 Regulations - General

1. Water-oriented recreational development is a priority use of~~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. Active water-oriented recreational uses shall be consistent with the shoreline designation in which it is being proposed and shall be permitted in the Island Conservancy, Shoreline Residential Conservancy, Shoreline Residential, Urban, and Aquatic designation.
    b. Recreational 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 designation, except public trails and public stairways are permitted as a shoreline substantial development or shoreline exemption, when designed to minimize adverse environmental impacts in accordance with Section 4.1.2, Environmental Impacts.
    c. Active recreational development shall be allowed in the Priority Aquatic Category B designation and prohibited in the Priority Aquatic Category A designation; however, vessels shall be allowed Category B 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 and/or 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 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 have 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 non-water-related recreation facilities shall be located upland.
    a. Within the Natural Designation a single active use area shall be allowed with appropriate compensatory mitigation to accommodate water oriented and non-

water oriented cultural events and water related passive recreational uses near the log pond at Blakely Harbor Park, as shown in Appendix E.

4. Recreational development on the shoreline shall provide physical or visual public access consistent with this Program, and Section 4.2.4, Public Access – Visual and Physical.
5. Recreational development on the shoreline shall protect existing shoreline vegetation consistent with this Program, and Section 4.1.3, Vegetation Management.
6. 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].
7. Recreational development is required to comply with local and regional recreation plans and link to linear open space, recreational, or scenic systems as provided in the State Comprehensive Outdoor Recreation Planning ~~Document~~ (SCORP) document, Bainbridge Island Metropolitan Park and Recreation District Comprehensive Park, Recreation, and Open Space Plan, the City of Bainbridge Island's Winslow Master Plan, and the City of Bainbridge Island's Non-M~~m~~otorized Transportation Plan.
8. The 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 Section 5.8.7(1), ~~–~~Regulation-Operations (1), below.

Comment [AS104]: Need Appendix E to check this. *STAFF CLARIFICATION NEEDED*

Comment [AS105]: This WAC doesn't exist. Need to find the correct statute. *STAFF CLARIFICATION NEEDED*

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5.8.6 Regulations – Design and Location

1. Recreational development shall be located, designed and constructed to maintain, enhance, or restore scenic views, aesthetic values, and public access, as appropriate. Through the site planning and permit review process, the City may adjust and/or prescribe project dimensions or 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, and shall provide facilities for non-motorized access to the shoreline, such as bicycle and/or pedestrian paths, as prescribed in the City's Non-Motorized Transportation Plan.
3. Shoreline trails and pathways shall be located, designed, constructed and maintained to protect bank stability.
4. All permanent active recreational structures and facilities shall be located outside officially mapped floodplains and floodways. Passive recreation structures, such as picnic tables, benches, viewing platforms may be allowed provided mitigation is provided.

5. Substantial accessory use facilities, such as restrooms, recreation halls and gymnasiums, commercial services, across roads and parking areas, shall be set back from the OHWM according to T~~t~~able 4-2. These areas may be linked to the shoreline by walkways.
6. Trails utilized for motorized vehicles, including golf carts, 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 vegetation shall be limited to the minimum necessary for recreational development areas and pursuant to Section 4.1.3, Vegetation Management.
8. Recreational buildings or structures shall not be built over water, except as provided in Section 5.3, Boating Facilities, and Section 6.0, Shoreline Modification Policies and Regulations~~s~~.
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 provided that the 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 the use of screening, native vegetation, fences, 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 processes, 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. Operation of motorized vehicles, including utility and maintenance vehicles, shall only be allowed in designated areas specifically designed for vehicular use.
2. The use of jet skis and similar recreational equipment shall be restricted in critical saltwater habitat areas.
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. Recreational fires in commercial uses, public parks and common areas shall only be allowed in accordance with Fire Code regulations in Title 20.12, Burning Restrictions, 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 on 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, and Urban designations.

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 Shoreline Substantial Development Permit (SSDP) be obtained from the local government (WAC 173-27-040) or its successor), it 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, Zoning, and this Master Program, will be reviewed under the "no net loss" provisions of ~~Section 4.1.2, Environmental Impacts;~~ Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.2, Environmental Impacts; and may also be reviewed under Section 4.1.3, Vegetation Management; Section 4.1.4, Land Modification; Section 4.1.5, Critical Areas; ~~Appendix B;~~ Section 4.1.6, Water Quality and Stormwater; ~~and~~ Section 4.2.4, Public Access, 4.2.7 Utilities Primary; Appendix B; and Accessory. Other portions of this Program may also apply.

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. Consider sSingle-family residential use ~~is~~ as 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. Locate rResidential development ~~should be located~~ where there are suitable provisions for utilities, circulation and access, and ~~should be~~require development to be designed to:
   a. Maintain or improve shoreline ecological functions and ecosystem-wide 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. Ensure tThe overall density of development, location of structures and access, lot coverage, and height ~~should be~~is consistent with Bainbridge Island Comprehensive Plan goals and policies, the provisions of ~~the Zoning Code,~~ BIMC Title 18, Zoning, and this Program~~; and~~. Development should be appropriate to the physical capabilities and characteristics of the site.
4. Restrict the dDevelopment of 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.
5. When waterfront properties are divided, ensure common access to the water ~~should be~~is provided to all resulting lots.
6. Prohibit nNew residential development and accessory uses ~~should be prohibited~~ from locating in critical areas including critical saltwater habitat, wetlands, ~~marshes, bogs, swamps, mud flats,~~ steep or unstable slopes, floodways, ~~fish and wildlife habitat,~~ migratory routes ~~and spawning areas,~~ and marine vegetation areas.
7. Ensure eExisting legally established overwater residences ~~should~~ do not increase intensity of use.
8. Configure nNew residential land subdivisions within the shoreline ~~shall be configured~~ to:
   a. Prevent the loss of shoreline ecological functions and ecosystem-wide processes at full build-out of the subdivision;

Comment [LG106]: Specific habitat words were stricken in base document

b. Reduce the impacts to shoreline processes by preventing the need for new shoreline stabilization or flood hazard reduction measures;

c. Maintain waterfront areas for the common use of all property owners within the development, and,

d. If creating more than four lots, ~~to~~ provide public access to the shoreline,~~;~~ and minimize individual docks and promote community docks.

9. Ensure n~~N~~ew multi-family residential development ~~shall~~ provides public access to the shoreline.

10. Promote r~~R~~esidential development ~~should~~ that includes 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 ecosystem-wide 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, use non-regulatory methods ~~should be used~~ when possible to protect, enhance, and restore shoreline ecological functions and ecosystem-wide processes and other shoreline resources. Such methods may include voluntary alternatives to address impacts to shoreline ecological functions and ecosystem-wide 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 residential development, including floating homes.

2. New land subdivision that would require shoreline stabilization ~~is prohibited~~ [WAC 173-26-231(3)(a)(iii)(A)].

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3. Increase in intensity, including height or bulk, for any existing legally established overwater residence, or for those portions of a residence that are located over the water.

4. New accessory dwelling units in the Point Monroe District.

5.9.5 Regulations - General

1. Residential development shall be permitted in the Shoreline Residential, Shoreline Residential Conservancy, and Urban designations; ~~and~~ shall be conditional uses in the Island Conservancy and Urban designations~~;~~, and shall be prohibited in the Natural, Aquatic, and Priority Aquatic 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 and Urban designations~~,~~ and prohibited in the Point Monroe District, Natural designation, and Island Conservancy designation.

4. Land subdivision, consistent with BIMC Title 17, is permitted in the Shoreline Residential, Shoreline Residential Conservancy, and Urban designations, and shall be allowed as a conditional use in the Natural and Island Conservancy designations.

5. Residential development shall meet setback and height standards in Table 4-2 and dimensional provisions of ~~the Zoning Code,~~ BIMC Title 18, Zoning.

6. Residential development shall meet all provisions of the Section 4.1.2, Environmental~~Ecological~~ Impacts, such that the development results in "no net loss" to shoreline ~~ecological~~ environmental functions and processes.

7. The buffer dimensional requirements in Table 4-1 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, or for new development proposed for the Point Monroe District, which shall meet vegetation requirements of Section 4.1.3.5(9), Vegetation Management; Special Provisions for Point Monroe District. Residential development shall retain and protect existing native vegetation, or restore and enhance native vegetation according to the Vegetation Management and Land Modification provisions of Sections 4.1.3 and Section 4.1.4.

8. Side setbacks, except in the Urban designation and the Point Monroe District, shall total at least thirty ~~(30)~~ percent (30%) of the lot width. Side setback requirement for the Point Monroe District shall total at least fifteen ~~(15)~~ percent (15%) of the lot width. These yards shall remain free of buildings and impervious surfaces as described below.

    a. Building. The minimum side setback shall be that established by ~~the Zoning Code (~~BIMC Title 18, Zoning~~)~~. Setbacks for each accessory building shall conform to the side setbacks required of, or established by, the primary building ~~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'). Approved Shoreline Stabilization measures may be installed within the side setbacks.

    b. Impervious Surfaces. No more than a total of two hundred (200) square feet of impervious surface is allowed in the side yard setback outside of the Shoreline Standard Buffer, Site-specific Vegetation Management Area or Point Monroe Vegetation Management Area.

    c. Average Lot Width Measurement. In determining allowed setback for this subsection, lot width shall be measured as depicted BIMC Chapter 18.12, Dimensional Standards.

9. All residential development shall meet BIMC Chapter 15.20, Surface and Storm Water Management, and Section 4.1.6, Water Quality and Stormwater Management of this Program.

10. Home occupations meeting the criteria of BIMC Title 18 shall be considered a residential use.

5.9.6 Regulations – Primary Residential Design and Location

1. Residential Development, except in the Point Monroe District (5.9.6 (2)) below, ~~-~~shall follow the provision for Shoreline Exemptions pursuant to the Shoreline Master Program Administrative Section, BIMC Section 2.16.165, and shall:

    a. Be 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; Regulations – Subdivisions ~~and~~ and Section 4.1.7, Flood ~~H~~hazard Management.

    b. Be ~~lo~~located and designed to protect existing ecological function in accordance with Section 4.1.2, Environmental Impacts, and Section 4.1.3, Vegetation Management, and use low impact development techniques of Section 4.1.6.~~5~~(3) to:

        i. Minimize area of disturbance as provided in Section 4.1.4, Land Modification; and

        ii. Minimize soil compaction; and

        iii. Infiltrate stormwater runoff when the site is suitable for infiltration.

    c. Provide a stormwater conveyance that is designed according to the provisions of Section 4.1.6, Water Quality and Stormwater Management.

    d. Be located to protect existing views from primary structures on adjacent properties.

        i. Primary Structures shall meet the provisions for structure setback line as provided in Section 4.1.3, Vegetation Management, and shall follow the provisions for Shoreline Exemption permit in the Shoreline Master Program Administration Section of 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. Providing vegetation screening in a landscape plan approved by the Administrator and~~,~~ developed in accordance with requirements in Section 4.1.3,~~-~~Vegetation Management, and BIMC Section 18.15.010, Development Standards and Guidelines; Landscaping, Screening and Tree Retention, Protection, and Replacement.~~, or~~

        ii. Providing an open space setback recorded on plat or title; or

        iii. Fencing or other means.

2. **Special Provisions for Point Monroe District** – Primary and Accessory Structures. Residential development within the Point Monroe District shall follow the provisions for Shoreline Exemption permit in BIMC 16.12 Part VII, ~~the~~ Shoreline Master Program Administration ~~Section~~, ~~BIMC Section 2.1.6.165,~~ and shall meet provisions of subsection 5.9.6(1)(a)-(c)&(e) and the following:

   a. Each lot is permitted a development area that is intended to accommodate the primary residence, garage, accessory structure, parking and driveway that does not exceed fifty percent (50%) of the upland lot area, up to a maximum development area of fourteen hundred (1400) square feet. On-site septic systems may be located outside of this development area.

   b. All new primary structures shall be located a minimum of thirty ~~(30)~~ feet (30') from the ~~Ordinary High Water Mark (~~OHWM~~)~~.

   c. Stabilization and flood protection works may be allowed provided the need is demonstrated as specified in Section 6.2.8.1 or 6.2.8.2, Shoreline Stabilization, and 4.1.7, Flood Hazard Management.

   d. Overwater structures may be allowed pursuant to Sections 4.1.2, Environmental Impacts and 6.3.4, in Overwater Structures.

5.9.7 Regulations – Accessory Design and Location

1. Except in the Point Monroe District, accessory uses and structures proposed within the Shoreline Buffer or site-specific vegetation management areas shall meet the standards of Section 4.1.3, Vegetation Management.

   a. Accessory structures allowed in the Shoreline Buffer in Table 4-1 shall follow the provision for a Shoreline Exemption in the Shoreline Master Program Administration, BIMC Section 2.16.165.

2. Accessory structures, except approved docks or stabilization, shall be located a minimum of fifteen ~~(15)~~ feet (15') from the ~~Ordinary High Water Mark (~~OHWM~~)~~.

5.9.8 Regulations – Residential Subdivisions (Single-Family and Multifamily, including ADU)

1. Subdivision of properties in water designations, Aquatic and Priority Aquatic, shall be regulated the same as the adjacent upland.
2. Land subdivision shall be designed to assure future development will not require shoreline stabilization for one hundred (100) years from date of submittal as demonstrated by a geotechnical report.
3. All new subdivisions shall provide for vegetation management to mitigate cumulative impacts of intensification of use and open space to assure establishment and

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continuation of a vegetation community pursuant to Section 4.1.3, Vegetation Management.

4. Accessory dwelling units are conditional uses for all lots wholly or partially within the shoreline jurisdiction.
5. New subdivisions or all multifamily 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 subdivisions or all multifamily residential development of less than four (4) lots and shall provide a common physical or visual access for the benefit of all residents or property owners in the development, which also meets the provisions 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 4.2.4, Public Access – Visual and Physical, and the following criteria:
    a. Subdivisions within the shoreline jurisdiction 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, unless 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 Overwater

1. Live-aboard vessels, shall be allowed only at marinas or in the public open water marina in Eagle Harbor in accordance with Section 5.3, Boating Facilities.
2. All subdivisions shall record a prohibition on new single use private docks on the face of the plat. Shared moorage with less than 6 slips shall meet provisions for community docks in Section 5.3, Boating Facilities. Shared moorage with six (6) or more slips shall meet provisions in Section 5.3

3. An existing overwater primary residential use may continue, and the structure may be repaired, maintained and remodeled in accordance with Section 4.2.1, Nonconforming Uses, ~~Existing Development and~~ Nonconforming Lots, and Existing Development but the use may not be intensified and the overwater structure may not be enlarged or expanded over water.
4. The upland portion of an existing primary residential structure that is partially located over water may be repaired, maintained, remodeled or expanded to the extent allowed by this program and in accordance with Section 4.2.1.6.3, Existing Development, Special Provisions for Point Monroe District.

Comment [AS107]: This is not the correct section (this section is Noncoforming structures --- residential single family: primary structures). Cannot find the correct reference. ***STAFF CLARIFICATION NEEDED***

6.0 SHORELINE MODIFICATION POLICIES AND REGULATIONS

6.1 General Shoreline Modification Provisions

6.1.1 Applicability

Shoreline modifications are generally related to construction of a physical element such as residential development, a dike, bulkhead, dredged basin, pier or fill, but they can include other actions such as clearing, grading, application of chemicals, or 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).

The provisions in this section apply to all shoreline modifications within the shoreline jurisdiction. They also apply to projects in which the chief intent is to protect the shoreline of a particular property for which the permit applies such as shoreline stabilization, flood control projects, and flood control programs. Shoreline modification proposals will be reviewed under the "no net loss" provisions of Section 4.1.2, Environmental Impacts; Section 4.0, General (Island-wide) Policies and Regulations; and may also be reviewed under Section 4.1.3, Vegetation Management; Section 4.1.5, Critical Areas; ~~Appendix B;~~ Section 4.1.6, Water Quality and Stormwater Management; ~~Section 4.1.5, Critical Areas; Appendix B; Section 4.1.6, Water Quality and Stormwater Management;~~ Section 4.1.7, Flood Hazard Management;~~:~~ Appendix B; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

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 function.

6.1.3 Policies

1. Allow structural shoreline modifications only where it is demonstrated to be necessary to support or protect an allowed primary structure and primary appurtenances, or a legally existing principal 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.
3. Allow only shoreline modifications that are appropriate to the specific type of shoreline and environmental conditions for which they are proposed.
4. Give preference to those types of shoreline modifications that have a lesser impact on ecological functions and ecosystem-wide processes. Require mitigation of identified impacts resulting from shoreline modifications.

5. Plan for the enhancement of impaired ecological functions and ecosystem-wide processes 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
6. Avoid and reduce significant ecological impacts according to the mitigation sequence in Section 4.1.2.6.
7. Ensure s~~S~~horeline modification projects ~~should~~ provide for long-term multiple use and shoreline public access, where appropriate.
8. Ensure n~~N~~atural 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~~are left undisturbed except in cases of an approved beach stabilization project.

6.1.4 Regulations – Prohibited Uses

1. Shoreline modifications in or adjacent to wetlands (located in both the upland and the shoreline jurisdiction) and in salmon and trout spawning areas, except for fish or wildlife habitat enhancement.
2. Beach enhancement 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. 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, except 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.
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 as allowed in Section 4.1.5.7, Regulations – Geologically Hazardous Areas or Appendix B, and located or designed to prevent the need for shoreline stabilization for the life of the development or one hundred (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 applications for new, replacement and repair modification activities shall examine and implement alternatives as specified in their specific use sections.
7. All applications for new, replacement and repair modification activities shall be designed, located, sized, and constructed to assure no net loss of ecological functions and processes pursuant to Section 4.1.2, Environmental Impacts.
8. Shoreline stabilization shall be designed in a manner that minimizes:
    a. Scouring of the beach at the toe of the structure; and
    b. Erosion of the waterward beach; and
    c. Impact to adjacent properties; and
    d. The need for mitigation measures.
9. Upon project completion, all disturbed shoreline areas shall be restored and replanted pursuant to Section 4.1.2.5, Regulations – Revegetation Standards.
10. Publicly financed or subsidized works should provide for long-term multiple use and public pedestrian shoreline access.

6.2 Shoreline Stabilization

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, providing useful space at the shore, or for access to docks and piers. The impacts of hardening on 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, groundwater 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 or beach enhancement. Generally, the harder the construction measure the greater the impact on shoreline processes, such as sediment transport, geomorphology, and biological functions.

The range of non-structural and structural measures varying 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. 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. 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 8.0, Definitions. Even when exempt from the shoreline substantial development process, however, these structures must comply with all applicable Master Program regulations. A statement of exemption, shoreline conditional use, or shoreline substantial development permit must be obtained from the City before commencing construction of any shoreline stabilization . All proposed shoreline stabilization will be reviewed under the "no net loss" provisions of Section 4.1.2, Environmental Impacts; Section 4.0, General (Island-wide) Policies and Regulations; Section 4.2.1 Non-Conforming Development; Section 6.1, Shoreline Modification and may

also be reviewed under Section 4.1.3, Vegetation Management; Section 4.1.5, Critical Areas; ~~Appendix B;~~ Section 4.1.6, Water Quality and Stormwater Management; Appendix B; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.~~y.~~

6.2.3 Policies

1. Discourage shoreline stabilization, particularly "hard" structural stabilization, through application of appropriate shoreline designations, development standards, and public education.
2. Design, locate, size and construct new, repaired 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.
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. Permit s~~S~~tructural shoreline stabilization ~~should be permitted~~ only when it has been demonstrated that shoreline stabilization is necessary for the protection of existing legally established primary structures, principal 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 environment.
5. Allow e~~E~~xisting "hard" shoreline stabilization structures ~~may~~ to be replaced if there is a demonstrated need to protect the principal use or primary structure from erosion and the replacement structure is designed, located, sized and constructed to assure no net loss of ecological functions and ecosystem-wide processes.
6. ~~Preference is given~~Give preference to those types of shoreline stabilization that have a lesser impact on ecological functions and ecosystem-wide processes. To protect ecological functions and ecosystem-wide processes, 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, 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. Select m~~M~~aterials used for construction of shoreline stabilization ~~should be selected~~ for long term durability, ease of maintenance and compatibility with local shore features, including aesthetic values and flexibility for future uses.
8. Ensure that publically financed or subsidized shoreline stabilization measures do not restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions or ecosystem-wide processes. Where feasible, incorporate ecological restoration and public access improvements into the project.
9. Avoid s~~S~~horeline stabilization that is~~should not be~~ constructed waterward of feeder bluffs.
10. Encourage neighboring property owners within an entire drift cell or shoreline reach~~h~~ to coordinate planning and development of shoreline stabilization or other solutions to avoid erosion of down-drift properties and to address ecological and geo-hydraulic processes, sediment conveyance, and beach management.
11. Where feasible, remove any failing, harmful, unnecessary or ineffective structures ~~should be removed~~ and restore shoreline ecological functions and ecosystem-wide processes ~~should be restored~~ consistent with the priorities of an ecosystem-wide restoration plan, and replace~~d~~ structures using shoreline stabilization measures that result in less impact to ecological functions and ecosystem-wide processes.
12. Encourage non-structural stabilization using non-regulatory methods to protect, enhance and restore shoreline ecological functions and ecosystem-wide processes, and other shoreline resources. Non-regulatory methods should include incentive programs to utilize low impact development techniques and encourage habitat/resource planning, voluntary enhancement and restoration projects, or programs that provide technical assistance and education to shoreline property owners.
13. Promote s~~S~~horeline stabilization ~~should~~ that incorporates beach restoration or enhancement in accordance with the restoration provisions of Section 4.1.8, Shoreline Restoration and ~~Beach~~ Enhancement, and this Program.

6.2.4 Regulations – Prohibited

1. Gabions, groins, vertical, concave, and flat (hard) faced structures not including near-vertical rock riprap bulkheads in shoreline stabilization construction.
2. Revetments for any purpose unless 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; unless it is proposed in conjunction with an approved commercial or industrial water-dependent use or public use.
4. Shoreline stabilization proposed on shores where valuable geo-hydraulic or biological processes are sensitive to interference or critical to shoreline conservation, such as: feeder bluffs; barrier estuaries, barrier lagoons, wetlands; or accretion shore forms such as sand spits, hooks, bars, or barrier beaches. Except that stabilization proposals to protect a primary single-family residence, primary appurtenance or primary public or

transportation facilities, may be allowed on feeder bluffs and spits provide provisions of this Program are met.

5. The use of hard structural stabilization or the hard portions of hybrid stabilizationon intended to protect a vacant platted lot or to protect a developed lot where a primary structure or primary appurtenance 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. All shoreline stabilization proposals shall meet applicable provision of Section 6.1, Shoreline Modifications, and assurance of no net loss of ecological functions and processes, Section 4.1.2, Environmental Impacts.

2. Soft-treatment stabilization shall be used to the maximum extent feasible.

3. New or replacement shoreline stabilization measures are a conditional use for the following:
   a. Proposed shoreline stabilization is adjacent to a feeder bluff.
   b. The nearest adjacent existing shoreline stabilization is greater than one hundred (100) feet of the subject property.

6.2.6 Regulations – Location and Design of Shoreline Stabilization

1. Shoreline stabilization shall not be approved in any known or probable 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. On all shorelines, hard structural stabilization or hard portions of hybrid stabilization 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 high bluffs where no other shoreline stabilization structures are adjoining, hard structural stabilization or hard portions of hybrid stabilization shall be as close to OHWM as feasible to accommodate the design of the shoreline stabilization. However, a revetment footing may extend waterward only the minimum extent necessary to dissipate wave energy.
   b. Shoreline stabilization shall connect flush with existing stabilization on adjoining properties, except when the action will create dry land, in which case the location requirements of the above shall apply.

c. Soft-treatment stabilization may be permitted waterward of the OHWM if the stabilization measures provide restoration of shoreline ecological functions and processes.

3. Hard structural stabilization, including hard portions of hybrid stabilization, shall be limited to the areas of the site where the stabilization is demonstrated to be necessary, according to Section 6.2, Shoreline Stabilization.

   a. When allowed on feeder bluffs, hard structural stabilization, including hard portions of hybrid stabilization shall be located landward of the OHWM.

   b. Hard structural stabilization, including hard portions of hybrid stabilization located in a shoreline area that does not include a feeder bluff, shall be constructed landward of the ordinary high water mark and shall follow the natural contours of the shoreline; unless it is demonstrated to the satisfaction of the Administrator to be infeasible to locate the entire hard structural stabilization landward.

4. Replacement stabilization structures may be constructed in the same location if placement landward of OWHM is infeasible as demonstrated to the satisfaction of the Administrator.

5. Shoreline stabilization shall be designed to allow the passage of surface or ground water without causing ponding or saturation of retained soil materials ~~als.~~ and meet the following ~~ng~~ design criteria: ~~a:~~

   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. Provide adequate toe protection to ensure future mitigation or hard structural stabilization measures are not required.

6. Revetments shall be sited and designed consistent with appropriate engineering principles. Professional, geologic, site studies or design shall be required.

7. When a hard structure is required at a public access site, provision for safe access to the water shall be incorporated into the design for stabilization.

8. Stairs or other permitted upland structures may attach to existing hard structural stabilization, but shall not extend waterward, unless it is demonstrated to the satisfaction of the Administrator to be infeasible to locate the entire stairway landward.

9. Overwater structures may attach to existing hard structural stabilization.

10. Hard shoreline stabilization construction shall utilize stable, non-erosion prone, homogeneous materials such as concrete, wood, rock riprap, or other suitable materials which will accomplish the stabilization needs with the maximum preservation of natural shoreline characteristics. See Section 4.1.6, Water Quality and Stormwater Management for additional provisions related to material.

6.2.6.1 Regulations – Location Specific for Replacement of Hard Structural Stabilization

1. Replacement of hard structural stabilization shall not encroach waterward of the OHWM or waterward of the existing shoreline stabilization measure unless the primary structure requiring protection 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 Shoreline Stabilization

1. The ~~City~~ Administrator shall allow repair or maintenance of soft-treatment stabilization.
2. Repair of existing structural stabilization shall be allowed as follows:
   a. Existing shoreline stabilization which no longer adequately serves its intended purpose shall be considered a replacement.
   b. Damaged structural stabilization may be repaired up to fifty percent (50%) of the linear length within a Five (5) year period. Repair area that exceeds fifty percent (50%) shall be considered a replacement. Stabilization repair applications shall consider cumulative approvals of each successive application within a five year period
   c. Stabilization repairs may require mitigation pursuant to Section 4.1.2, Environmental Impacts.

6.2.8 Regulations – New or Replacement Shoreline Stabilization

1. When evaluating the need for new, expanded or replacement ~~structural~~ stabilization measures, the applicant shall provide an analysis from a qualified professional that examines and implements preferred alternatives in the following sequence:
   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 relocate structures to a feasible location 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. An analysis for these alternatives shall be submitted with each replacement or new stabilization application.

3. Point Monroe District properties shall also meet provisions in Section 6.2.8.3, Specific Regulations for Point Monroe District.

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 it may be 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; and
    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, (b) above, in the absence of hard structural stabilization; 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 (10') or less from the OHWM; or
        ii. An existing primary single-family residence located within ten ~~(10)~~ feet (10') or less from the top of a high bluff (less than fifteen feet (>15') ~~ft~~); or
        iii. An existing primary single-family residence located with the Point Monroe District may use the *Spit Science Summary – Point Monroe*, Herrera Environmental, 2012, to substitute for a site-specific geotechnical report.
    d. The replacement structure is designed, located, sized and constructed to assure no net loss of ecological functions and processes; and
    e. Hard structural shoreline stabilization, including hard partitions of hybrid stabilization, is limited to the 'zone of impact' for protecting a primary structure and its primary appurtenances. See Section 8.0 for 'zone of impact' definition.~~;~~
2. When a geotechnical report confirms a need to prevent potential loss of or 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 soft-treatment stabilization or hybrid structural measures.

6.2.8.2 Specific Regulations: New Shoreline Stabilization

1. The City may approve new or enlarged structural stabilization measures to protect non-water-dependant 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.
   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 (10') or less from the OHWM; or
      ii. An existing primary single-family residential structure located within ten ~~(10)~~ feet (10') or less from the top of a high bluff (less than fifteen feet (>15 ')~~ft~~)~~;~~ (top of bluff as defined in Appendix B).
   c. The new or expanded structure is designed, located, sized and constructed to assure no net loss of ecological functions and/or processes; and
   d. Hard structural shoreline stabilization, including hard portions of hybrid stabilization, is limited to the 'zone of impact' for protecting a primary structure and/or its primary appurtenances. ~~See Section 8.0 'zone of impact' definition;~~
2. Where a geotechnical report confirms a need to prevent potential loss of or damage to a residential primary structure, but the need is not as immediate as three (3) years, the report may be used to justify more immediate authorization to protect against erosion using soft-treatment structural measures.

6.2.8.3 Specific Regulations for the Point Monroe District

1. New foundations and redevelopment of existing foundations that impede the natural over-wash process with the Federal Emergency Management Administration (FEMA) flood zone are considered flood protection works and shall meet provisions in Section 5.9, Residential Development.

2. New hard shoreline stabilization measures are prohibited in Area I, II, and IV of the Point Monroe District, as depicted in the Point Monroe District Map in Appendix E.

3. An administrative conditional use permit shall be required for hybrid structural stabilization within Area III of the Point Monroe District, as depicted in the Point Monroe District Map, Appendix E.

Comment [AS108]: Need to confirm this against Appendix E. ***STAFF CLARIFICATION NEEDED***

Comment [AS109]: Need to confirm this against Appendix E. ***STAFF CLARIFICATION NEEDED***

6.2.9 Regulations – Subdivisions

1. Land subdivision shall be designed to assure future development will not require shoreline stabilization for the next ~~the next~~ one hundred (100) years from date of building permit approval as demonstrated by a geotechnical report.

6.2.10 Submittal Requirements for Shoreline Stabilization Project Applications

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. Applications for repair of existing stabilization will be required to submit only the first six (6) items. The Administrator may waive some or all of the following based on specific project requirements:
   a. Purpose of the project including a calculation that demonstrates the amount proposed to be repaired and past amounts repaired and a summary of replacement and/or repair materials proposed; 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~~)~~, including an indication of the amount of area proposed to be repaired; 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. A description of any waste and debris disposal sites for materials generated during construction; and
   f. For repair of shoreline stabilization, the design recommendations for minimizing impacts and ensuring the new construction, replaced or repaired stabilization measure is designed, located, sized and constructed to assure no net loss of ecological functions and processes; and
   g. Examination and implementation of alternatives in the order of preference as described in Section 6.2.8, ~~New and Replacement Stabilization~~Specific Regulations: replacement of Existing Structural Stabilization, including a description of cost, mitigation cost, maintenance needs and success in protecting the primary structure; and
   h. Existing shoreline stabilization within the reach of the proposed project; and
   i. Any outreach efforts to coordinate with property owners within the shoreline reach to address an ecosystem-wide restoration plan; and
   j. A description of any waste and debris disposal sites for materials generated during construction; and

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k. A discussion of the cause of shoreline erosion including assessment of ~~looking at~~ ecosystem-wide processes occurring both waterward and landward of the OHWM and an analysis of on-site and/or adjacent upland drainage.

l. Impact analysis and mitigation report as specified by Section 4.1.2, Environmental Impacts; and

m. Geotechnical report including the estimated rate of erosion and eminent danger within the time threshold as provided in Section 6.2 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 cell; and

   iii. Maintenance, Monitoring and Planting Plan as required by Section 4.1.2, Environmental Impacts.

6.3 Overwater Structures

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 5.0, Specific Shoreline Use and Development Policies and Regulations. Single use, c~~C~~ommunity, or joint-use docks which provide moorage for six (6) or more vessels also must comply with the provisions of Section 5.3, Boating Facilities.

Pursuant to RCW 90.58.030(3)(e)(vii), or its successor, and WAC 173-27-040(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. ~~–~~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 to tie up watercraft. Overwater structure activities will be reviewed under the "no net loss" provisions of Section 4.1.2, Environmental Impacts and Section 4.0, General (Island-wide) Policies and Regulations; and may also be reviewed under Section 4.1.5, Critical Areas; ~~Appendix B;~~ Section 4.1.6, Water Quality and Stormwater Management, and Appendix B, when applicable. Other portions of this Program may also apply.

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 functions and ecosystem-wide processes. 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 over the addition of new facilities. Joint-use facilities are preferred over new, single-use piers, docks and floats.
2. Mooring buoys are preferred to either piers or docks. Locate and design buoy installation to avoid or minimize adverse impacts on ecological functions and ecosystem-wide processes.
3. Locate and design piers, floats, and docks to avoid and minimize possible adverse impacts on ecological functions and ecosystem-wide processes, including fish and wildlife habitat, and impacts to ecosystem-wide shoreline processes such as littoral drift and sand movement. 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 physical limitations exist, such as shallow, sloping tidelands bottoms; areas of frequent high wind, wave, or current exposure; high littoral drift areas; or landslide-prone areas 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 length & 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 distance between piles to avoid adverse impacts to salt water critical habitat.
    d. Designed, constructed, and maintained to provide a reasonable level of safety to users.

Comment [LG110]: Tried to think of how to start with active verb and retain meaning but couldn't figure it out.

4. Encourage p~~P~~roponents of commercial pier, float, and dock projects ~~are encouraged~~ to provide for public docking, launching, or 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 materials in pier and dock construction. Chemical wood treatments, such as creosote or pentachlorophenol are prohibited on all new structures or repair projects. Plastics and other non-biodegradable materials may be used, however, precautions should be taken to ensure their containment as provided in Section 4.1.6, Water Quality and Stormwater Management.
7. Implement an education program for boat owners and operators on best management practices for use of boat and overwater structure maintenance products.
8. Limit the development of new docks and piers in harbors and encourage public docks and private community docks, except that in Blakely Harbor:
    a. New docks shall be prohibited between Restoration Point and the most eastern point along the north shore of Blakely Harbor; except
        i. Two community docks should be allowed, one along each the north and south shores, provided that all residents along each shore are provided a non-extinguishable option to access the community dock located along their respective shore; and
        ii. One small public dock and/or pier for the mooring of dinghies and loading or unloading of vessels should be allowed for daytime use.

6.3.4 Regulations - Prohibited

1. Overwater structures in the Priority Aquatic designations and adjacent to the Natural designation except:
    a. New individual, community or joint-use residential docks or piers are permitted in the Priority Aquatic B designation, only in areas where pickleweed (Salicornia europeae~~sp~~) does not exist.
    b. Two mooring buoys per parcel are allowed for public access when upland property is owned by a public entity.
2. Overwater Structures at locations where critical physical limitations exist, such as shallow sloping tidelands; 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 located outside of harbors and/or feeder bluffs, except when specifically allowed in Section 4.2.4, Public Access – Visual and Physical, or Section 5.3, Boating Facilities.

3. Development of new docks and piers 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 Point" or "Jasmine Point"), except as provided in this section.
4. New docks and piers within Murden Cove as shown on the Shoreline Designation Map.
5. New boat houses and/or 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 National Pollution Discharge Elimination System (NPDES) permit from the 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 non-portable storage in fixed tanks.

6.3.5 Regulations - General

1. Except for the provisions contained in this chapter, new piers and docks shall be a permitted use in the Urban, Shoreline Residential, and Aquatic designations, and shall be a conditional use in the Shoreline Residential Conservancy and Island Conservancy designations.
2. Mooring buoys are a preferred use, ~~d~~ over docks, where feasible.
3. Piers and docks 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 including critical saltwater habitat.
4. If a bulkhead-like base is proposed for a fixed pier or dock the base shall be built landward of the ordinary high water mark or protective berg and is considered shoreline stabilization and must meet provisions of Section 6.2 Shoreline Stabilization.
5. Structures on piers and docks shall be strictly limited in size to avoid impacting shoreline views.
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.
7. Lighting shall:
    a. Satisfy the provisions of BIMC 18.15.040; ~~and~~
    b. Be the minimum necessary, or as required by the Coast Guard, to locate the dock at night; and
    c. Should minimize glare.

8. Mitigation requirements of Section 4.1.2, Environmental Impacts, may be met through mitigation standards for the United States Army Corps of Engineers (USACE) permit process.

9. New docks and piers shall be allowed only for water-dependent uses or public access. As used here, a dock associated with a single-family residence is a water-dependent use and may be permitted, provided that it is designed and intended as a facility for access to watercraft and otherwise complies with the provisions of the Act and this Program.

10. Piers and dock construction shall adhere to Fish Window provisions found in WAC 220-1102 by the Washington Department of Fish and Wildlife

6.3.6 Regulations – 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 may be 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.

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- USACE~~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 terminals, must be spaced at least twenty~~20~~ feet (20') apart (lengthwise along the structure) unless the length of structure itself is less than twenty~~20~~ feet (20'). If the structure itself is less than twenty~~20~~ feet (20') 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 fourty~~40~~ feet (40') 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.

e. Piles, floats, or other components in direct contact with water shall not be treated or coated with biocides such as paint or pentachlorophenol. In saltwater areas characterized by 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.

f. Piling employed in piers or any other structure shall have a minimum vertical clearance of 18 inches above extreme high water.

6.3.7.2 Pier Regulations

1. Principle: In the Puget Sound, the intertidal and sub-tidal 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 reason 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 four (4) feet for single use or six (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 thirty percent (30%) must be installed on all new or replacement piers that are four to six feet (4-6') ~~feet~~ wide. For example, this can be achieved by installing grating with sixty percent (60%) open area on at least fifty percent (50%) of the pier or by grating a larger percentage of the pier with grating with openings of less than sixty percent (60%). Site conditions may require pier to be one hundred (100%) or fully grated.

c. For all sections of the pier that span upper a intertidal areas with obligate vegetation, that pier section shall be fully grated with grating having sixty percent (60%) open area.

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 the negative impacts outweigh the benefits. Finally, to prevent damage to the substrate, benthic invertebrate communities and vegetation, floats should not rest on substrate 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 eight (8) feet and the float length must not exceed thirty feet (30') ~~feet~~. Functional grating must be installed on at least fifty percent (50%) of the surface area of the float.

   b. For a joint-use structure, the float width must not exceed eight (8) feet and the float length must not exceed sixty feet (60') ~~feet~~. Functional grating must be installed on at least fifty percent (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/high water/ordinary high water line at a City approved location. City authorization may be required if the float will be stored within City 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 piling 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 six (6) feet in width and ten (10) feet in length.

6.3.7.3.1 Float Stop Regulations

1. Principle: Floats need to be above the substrate, the preferred and least impacting option is to suspend the float above the substrate by installing float stops 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 one~~1~~ foot (1') 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, then up to four 10 inch diameter stub pilings can be installed instead, except an additional two may be installed for joint-use floats.

    d. Float feet attached to the float may be considered an option only under these circumstances:

        i. In coarse substrate, D252 of 25mm 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 4mm or larger for a grain size sample taken from the upper one foot of the 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 four (4) pilings (not including stub piling), ~~or~~ helical screws, or "duckbill" anchors can be installed to hold the float in place.

        ii. For a joint-use float, a maximum of eight (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 Administrator concurs with this rationale, an approved anchor of another type (i.e., concrete block) may be permitted.

Comment [AS111]: ? *STAFF CLARIFICATION NEEDED*

Comment [AS112]: ? *STAFF CLARIFICATION NEEDED*

6.3.7.4 Regulations – Residential 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 Administrator 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 six (6) or more vessels are considered a marina and must meet regulations in Section 5.3, Boating Facilities.
2. Proposals for community or joint-use 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 (2) 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 day time use 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; 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, Boating Facilities, Section 5.4, Commercial Development, and Section 5.6 Industrial Development.)

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. Commercial or industrial piers or docks 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 Constriction Limit Line;

c. Elsewhere, the distance necessary to obtain a depth of four feet (4'.~~5~~) ~~feet~~ of water as measured at extreme low tide at the landward limit of the moorage slip.

3. 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.

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 (Joint, Community and Individual) Piers and Docks

1. New subdivisions and short subdivisions with shoreline frontage shall be required to provide community docks rather than individual, private docks.

2. Size.

   a. Maximum width of a pier or dock shall be the minimum necessary to accomplish moorage for the intended boating use. (See 6.3.7.1 Regulations – Specific, above, for additional restrictions.); and

   b. The length shall not extend beyond the average length of adjacent docks, within five hundred feet (500') ~~feet~~ of the proposed location or the distance necessary to obtain a depth of nine feet (-9'.~~0~~) ~~feet~~ of water as measured at mean lower-low water (MLLW) 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 and in no case shall piers and their associated ramps and floats extend greater than 15% of the perpendicular shore-to-shore distance across a water body, except where a navigational study has been submitted for County review and approval; and

   c. In Eagle Harbor, a pier or dock shall not extend beyond the Construction Limit Line; and

   d. A pier or dock shall not extend beyond the Harbor Structure Limit line shown in Appendix E.

3. Side-yard Setbacks.

   a. Docks, piers and floats shall be set back a minimum of ten feet (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 of the permit.

4. Community docks and piers shall include no more than one (1) moorage space per dwelling unit or lot.

6.3.7.7 Regulations – General Mooring Buoys and Recreational Floats

1. Mooring buoys and recreational swim floats use shall be permitted in the Aquatic environment offshore from Island Conservancy, Shoreline Residential, Shoreline Residential Conservancy, and Urban designations.
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. However, properties that contain at least two hundred (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) or its successor], Properties where the waterfront lot is owned in community, may be permitted, additional mooring buoys with the total not more than one (1) per one hundred (100) linear feet of shoreline ownership.
4. Mooring buoys for commercial vessels adjacent to commercial or industrial zones are a Shoreline conditional use. One buoy is allowed per ownership.
5. A contractor doing waterfront work involving floating equipment may have one (1) temporary mooring buoy provided it is the responsibility of the contractor to ensure that all necessary permits are obtained from all agencies with jurisdiction.

6.3.7.8 Regulations – Location, Design and Construction Standards Mooring Buoys and Recreational Floats

1. In order to protect shellfish beds, new moorings buoys shall not be permitted where density will exceed one buoy per one hundred (100) linear feet.
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 the Department of Natural Resources. [WAC 332-30-12(1)(ii) or its successor].
4. Buoys shall lie between the waterfront property side lot lines extended beyond the shoreline, except those on state waters. ~~of the state~~ Buoys shall not swing across the extended side lot lines. Where the configuration of the waterfront lot precludes these requirements, authorization from the affected adjacent waterfront property owners must be obtained. This provision shall not apply to buoys for public open water moorage and anchorage areas.
5. Mooring buoys shall be installed at least sixty (60) feet from other permitted piers, docks, or floats.
6. Buoys shall be located:

Comment [AS113]: This is not the correct WAC. Need to find correct reference.
STAFF CLARIFICATION NEEDED

a. At a minimum depth of nine~~9~~ feet (9') MLLW with a standard single mid line float; the minimum depth may be reduced with an alternate system approved by the Administrator; and

b. Landward of the Construction Limit Line in Eagle Harbor; ~~and~~

c. Landward of the Harbor Structure Limit Line shown in Appendix E; ~~and~~

d. Elsewhere not more than two hundred ~~(200)~~ feet (200') beyond extreme low tide, the -18 feet MLLW depth contour, or the line of navigation, whichever is 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 332-30-148(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.

7. Recreational floats shall be located as close to shore as possible. and no farther waterward than the following limits:

   a. In Eagle Harbor, the C~~c~~onstruction L~~l~~imit L~~l~~ine; or

   b. Elsewhere, the distance necessary to obtain a depth of four ~~(4)~~ feet (4') 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 (1') above the water's surface and shall have reflectors for night visibility.

9. Recreational floats shall not exceed eight ~~(8)~~ feet (8') by ~~(8)~~ feet (8').

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, see Section 6.3.7.3.1, Float Stop Regulations.

6.3.8 Submittal Requirements Piers, Docks, Floats and Buoys

In addition to the general submittal requirements for all applications specified in BIMC Section 2.16.020(H), proposals for piers or docks floats and buoys shall include, at a minimum, the following information. The Administrator may waive some or all of the following based on specific project requirements.

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 within two years of project construction and conducted as described in the ~~WDFW~~ Washington Department of Fish and Wildlife guidelines for Eelgrass and Macro Algae surveys;

4. A scaled drawing that indicates the proposed location of: piers, floats, docks, and float storage location, if applicable, relative to the following:
    a. property lines; and
    b. OHWM; and
    c. The line of navigation, the construction limit line or the harbor structure limit line, as applicable; and
    d. Provide contours at two-foot (2') interval for a twenty-five feet (25') ~~feet~~ distance to the right, left, and end of proposed structure, as measured from projects center line;
5. Survey of littoral boundary lines;
6. Location, width, height, and length of piers or docks on adjacent properties within five hundred feet (500') ~~feet~~ of proposed structure;
7. Agreements, if any, for cooperative use; and
8. Method of removing piling, if applicable.

6.4 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 ~~land~~fill policies and regulations of this program. Pursuant to WAC 173-27-040 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 letter of exemption, shoreline conditional use permit or variance.

All actions are required to comply with the Shoreline Management Act and all provisions of the Master Program. Department of Ecology and US Army Corps of Engineers notifications of dredging proposals will be reviewed by the City to determine whether the activity is exempt from the requirements for a substantial development permit and to ensure compliance with regulations of the Act and the Master Program.

Dredging activities will be reviewed under the "no net loss" provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.3, Vegetation Management; Section 4.1.4, Land Modification; Section 4.1.5, Critical Areas; ~~Appendix B;~~ Section 4.1.6, Water Quality and Stormwater Management; ~~and~~ Section 6.5 Fill; and Appendix B,~~,~~ when applicable. Other portions of this Program may also apply.

6.4.2 Goal

Minimize dredging and dredge material disposal within the shoreline jurisdiction.

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 ecology and natural resources of both the area to be dredged and the disposal site.
2. Prohibit d~~D~~redging 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. Plan and conduct d~~D~~redging 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.
    b. Maintenance dredging of established navigation channels should be restricted to maintaining previously dredged and/or existing authorized location, depth, and width.

6.4.4 Regulations – Prohibited

1. New dredging activity is prohibited in the following:
    a. In environmentally sensitive habitats (e.g., stream mouth estuaries, wetlands) except by shoreline conditional use permit.
    b. Along net-positive drift cells 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 of 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.

g. On or in archaeological sites

2. Dredging shall be prohibited in the Priority Aquatic Category A designation.

6.4.5 Regulations - General

1. Dredging is a conditional use in the Aquatic designation if permitted in the upland designation and shall be for the restoration, enhancement, or maintenance of natural resources and navigational channels or for publically-owned ferry terminals. 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 measures to protect public safety and prevent adverse impacts on other approved shoreline uses;
   d. Taken 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 a qualified professional, to be minimally or nonpolluting; and
   k. Revegetate land disposal sites with native vegetation species and other approved plants shall be required according to Section 4.1.2.5, Regulations – Revegetation Standards.

6.4.6 Regulations – Specific Dredging

1. Dredging, when allowed in Section 6.4.5, Regulations – General, shall 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 (MTCA) or Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA);

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.

2. New development shall be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.

3. Maintenance dredge options shall occur in the same location, depth, and width as previously ~~p~~ permitted.

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~~

   c. To nourish beaches that are starved for sediment; or

   d. To remediate contaminated sediments.

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

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 processes; and

i. Description of conformance with no net loss standard for ecological functions and processes, including impact avoidance and minimization measures consistent with mitigation sequencing principals, and a description of any necessary mitigation.

2. Yearly status reports shall be prepared and submitted by the dredge disposal permittee to the Administrator 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.

6.5 Fill

6.5.1 Applicability

Fill ~~is~~ is the placement of soil, sand, rock, gravel, existing sediment, or other material (excluding solid waste) along the shoreline below the OHWM, or on wetland or upland of the OHWM. Fill activities shall only be allowed as part of an approved shoreline use and/or development activity and shall be subject to the requirements of the principal use/development. Speculative ~~land~~fill activity is prohibited. Any fill activity conducted within shoreline jurisdiction must comply with the following policies and regulations. Beach enhancement or beach nourishment as defined in the Shoreline Master Program shall not be considered ~~land~~fill. Excavation waterward of the ordinary high water mark is regulated under Section 6.4, Dredging and Dredge Material Disposal. Fill activities will be reviewed under the "no net loss" provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.1.4, Land Modification; Section 4.1.5, Critical Areas; ~~Appendix B; and~~ Section 4.1.6, Water Quality and Stormwater Management; and Appendix B, when applicable. Other portions of this Program may also apply.

Comment [LG114]: This section goes back and forth with "fill" and "landfill" may want to double check that the appropriate term is used. We used tracks where the base document showed that landfill was changed to fill, but didn't go through and interpret otherwise.
STAFF CLARIFICATION NEEDED

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6.5.2 Policies

1. Allow f~~F~~ill waterward of the OHWM ~~should be allowed~~ only when necessary to facilitate commercial or industrial 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 is a conditional use.
2. Permit l~~L~~andfill landward of OHWM ~~should be permitted~~ when necessary to support permitted uses, and when significant impacts can be avoided or mitigated.
3. Limit f~~F~~ills ~~must be limited~~ to the minimum extent necessary to accommodate an approved shoreline use or development and ~~should be~~ ensure fills are 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 ecosystem-wide processes.
4. Ensure t~~T~~he evaluation of fill projects ~~must~~ addresses the following factors:
    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. Navigation restriction.
5. Ensure f~~F~~ill projects ~~must be~~are designed to avoid or eliminate erosion and sedimentation impacts, both during initial landfill activities and over time.

6.5.3 Prohibited

1. Speculative ~~land~~fill activity.
2. Fill that will result in significant adverse impacts that cannot be avoided or mitigated.
3. Fill- in the Priority Aquatic designations.

6.5.4 Regulations - General

1. Fill is allowed as a conditional use as follows:
    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. 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 OHWM shall be necessary for:
    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.
    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.
3. Pile or pier supports shall be utilized whenever feasible in preference to fills. Fills for approved road development in floodways or wetlands shall be permitted only if the pile or pier supports are demonstrated to be infeasible.

6.5.5 Regulations – Location, Design and Construction

1. When allowed in 6.5.4, above, 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~~
    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 stabilization to protect materials placed unless it is part of an approved shoreline restoration project and shoreline 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 fills are permitted, the fill 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 fills reduce public access, compensatory public access shall be provided as part of the development project.
4. Fill proposals shall be designed, constructed, and maintained to prevent, minimize, and control all material movement, erosion, and sedimentation from the affected area. Perimeters of permitted ~~land~~fill 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 Dredging and Dredge Disposal)
6. The timing of any fill 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 fill permits shall include the following. –The Administrator may waive some or all of the following based on specific project requirements.
   a. Proposed use of the fill 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 fill material and physical, chemical, and biological characteristics of the fill material as required by the Administrator;
   e. Method of placement and compaction;
   f. Location of fill relative to natural and/or existing drainage patterns;
   g. A description and map of fill location, perimeter and depth relative to the OHWM;
   h Perimeter erosion control or stabilization means; and
   i. Type of surfacing and runoff control devices.
   j. Surface and stormwater management p~~P~~lans as required by BIMC Chapter 15.20
   k. Traffic Route

7.0 VIOLATIONS, ENFORCEMENT, AND PENALTIES

7.1 General

The Administrator and the Department of Ecology are authorized to adopt such rules as are necessary and appropriate to carry out the provisions of the Shoreline Management Act (RCW 90.58.200) and Chapter 173-27, Part II, WAC. The act calls for a cooperative program between local government and the state. It provides for a variety of means of enforcement, including civil and criminal penalties, orders to cease and desist, orders to take corrective action, and permit rescission. The following should be used in addition to other mechanisms available to the in accordance with WAC 173-27-240 through WAC 173-27-300, or its successor. The and/or the Department of Ecology shall have the authority to serve upon a person a cease and desist order if an activity being undertaken on shorelines of the state is in violation of chapter 90.58 RCW or the this Master Program, in accordance with WAC 173-27-270, or its successor.

When joint-enforcement actions between the state and the city are under taken, the provisions in RCW 90.58.210-230 and WAC 173-27-240-300 shall apply.

7.2 Regulations

7.2.1 Site Investigations

The Administrator is authorized to make site inspections and take such actions as are necessary to enforce this Master Program in accordance with BIMC Chapters 1.16, Right of Entry for Inspection, and 1.26, Code Enforcement.

7.2.2 Violations -- General

It is unlawful for any person to initiate or maintain, or cause to be initiated or maintained, the use, construction, placement, removal, alteration, or demolition of any structure, land, vegetation or property within the city contrary to the provisions of this Master Program.

7.2.3 Violations -- Specific

It is unlawful for any person to:

1. Initiate or maintain, or cause to be initiated or maintained, the use, construction, placement, removal, alteration, or demolition of any structure, land, vegetation or property within the city without first obtaining permits or authorizations required by this Master Program, or in a manner that violates the terms or conditions of such permits or authorizations.
2. Misrepresent any material fact in any application, plans or other information submitted to obtain permits or authorizations under this Master Program.
3. Remove or deface any sign, notice, complaint, or order required by or posted in accordance with this Master Program.

7.2.4 Stop Work Order

The city shall have the authority to issue a stop work order to cease all development work, and order restoration, rehabilitation, or replacement measures, including applicable sureties, at the owner's or other responsible party's expense to compensate for the use, construction, placement, removal, alteration, or demolition of any structure, land, vegetation or property within the city contrary to the provisions of this Master Program.

7.2.5 After the Fact Permit Fee

After the fact application fees shall be triple the ~~normal~~ amount established by City Ceouncil resolution.

7.2.6 Violation Mitigation/Restoration Plan

Any Mitigation/Restoration Plan (Plan) required by the City after disturbance has occurred shall meet the provisions in Sections 4.1.2, Environmental Impact; 4.1.5 Critical Ares including Appendix B; and 6.0, Shoreline Modification Policies and Regulations, and provide an analysis of lost functions over the period of violation. All development work shall remain stopped until a Plan is approved by the Administrator. The Plan must be prepared at the expense of the violator, and submitted by the owner or other responsible party for approval by the Administrator. Such a Plan shall be prepared by a qualified professional using the best available science. The Administrator may, at the violator's expense, seek expert advice, including an independent third party review, in determining the adequacy of the Plan. Inadequate plans shall be returned to the applicant or violator for revision and re-submittal. Failure to submit a Plan shall be unlawful. Failure to implement the approved Plan shall be a criminal misdemeanor.

7.2.7 Civil Infraction

Except as provided in subsection 7.2.8, Misdemeanor, conduct made unlawful by the city under this Master Program shall constitute a civil infraction and is subject to enforcement and fines as provided in BIMC 1.26.035. A civil infraction under this section shall be processed in the manner set forth in BIMC Chapter 1.26, Code Enforcement.

7.2.8 Misdemeanor

Any person who again violates this Master Program within 12 months after having been found by the Bainbridge Island Municipal Court to be in violation of this Program, commits a misdemeanor and any person who is convicted of that violation shall be punished as provided in BIMC 1.24.010.A.

7.2.9 Civil Penalty

In addition to any civil infraction fine, criminal penalty, and/ or other available sanction or remedial procedure, any person engaging in conduct made unlawful by this Program shall be subject to a cumulative civil penalty in the amount of $1,000 per day for each violation from the date set for compliance until the date of compliance. Any such civil penalty shall be collected in accordance with BIMC 1.26.090. Any person, party, firm, corporation, or other legal entity that knowingly and willfully refuses to complete a required restoration pursuant to Section 7.2.6, Violation Mitigation/Restoration Plan, shall be guilty of a misdemeanor punishable by not more than 30 days in jail and/or not more than a $1,000 fine and provide

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shoreline restoration, in accordance with provision of this program, at a rate of 200% times the impacted area.

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7.2.10 Additional Remedies

In addition to any other remedy provided by this chapter or under the Bainbridge Island Municipal Code, the City may initiate injunction or abatement proceedings or any other appropriate action in courts against any person who violates or fails to comply with any provision of this Master Program to prevent, enjoin, abate, and/or terminate violations of this Master Program and/or to restore a condition that existed prior to the violation. In any such proceeding, the person violating and/or failing to comply with any provisions of this Master Program shall be liable for the costs and reasonable attorneys' fees incurred by the city in bringing, maintaining and/or prosecuting such action.

7.2.11 Conflicts

In the event and to the extent the language of this section conflicts with language of the codes and/or appendices adopted by reference in this Master Program, the language of this section shall prevail over the language it conflicts with in any said code and/or appendix.

7.2.12 Financial Surety Procedure

After reviewing any application or exemption for a shoreline development, the Administrator may require the posting of a financial surety to ensure continued compliance with any conditions imposed, including the construction of improvements, the adherence to city standards, and/or maintenance, repair or replacement of such improvements in accordance with Section 4.1.2.7, Bonding. The financial surety shall be in a form acceptable to the city attorney. In the event a condition occurs warranting the use of financial surety, the ~~appropriate~~ Administrator may act under such financial surety or may perform the work required at city expense, which expense shall be a lien against the property, enforceable as would be a judgment thereon.

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8.0 DEFINITIONS

Abutting –Bordering or touching, such as by sharing a common lot line. Lots that are separated by a street or right-of-way are not abutting.

Accessory Structure or Building – 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 BIMC Section 18.09.030(-I)(-14)(-c). 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.

Accessory Development – Any development incidental to and subordinate to a principal ~~primary~~ use of a shoreline site and located on adjacent thereto.

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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 – The growth, expansion, build up, or deposit of material associated with a natural fluid flow process.

Accretion Beach – A place where sediment, usually sand, falls out or accumulates, causing the beach to widen. These sinks are usually, but not always, at the terminal end of littoral drift cell.

Accretion Shoreform – The growth of a beach by the addition of material transported by wind and/or water. A shoreline with a relatively stable berg 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 shoreforms includes shoreline features such as barrier beaches, accretion beaches, points, sand spits, hooks, and tombolos.

Act – The Shoreline Management Act of 1971, Chapter 90.58 RCW, or its successor [WAC 173-26-020(1), or its successor].

Activity – Human activity associated with the use of land or resources.

Adjacent –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).

Adjoining – ~~means i~~Immediately abutting or separated only by a street right-of-way.

Administrator – Director of the Department of Planning and Community Development, or designee, charged with responsibility for administering the Shoreline Master Program.

Anthropogenic – Landscape alteration relating to, or from human development, use, action or activity.

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.

Agricultural Land – Land primarily devoted to agricultural operations.

Agriculture Operations – Any facility or activity for the production for production for commercial or family use purposes of dairy, apiary, livestock, camelids, ratites, 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. Agriculture operations include upland fish farms which are self-contained, meaning they do not connect with waters of the state such as: natural or channelized stream, tributary, wetland, or marine water body.

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 freshwater, spend most of their life cycle in saltwater, and return to freshwater to reproduce.

Applicant – An individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency, or the state or local governmental unit, however designated [RCW 90.58.030(1)(d) 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 perimeter of a wetland. 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].

Appurtenance, Primary – A structure or development connected to a single-family residence and considered essential to the principal residential use when protecting the appurtenant structure from danger from active shoreline erosion. An attached garage or one detached garage and a septic drainfield are 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 free swimming 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 aquacultural uses and Shellfish Gardens (individual and community), but excludes fish farms that are complexly contained in upland areas.

Aquaculture, Intensive – Large scale cultivation of shellfish, or cultivation of fish and/or other aquatic animals or plants, or use of embedment structures, or mechanical extraction methods, including the harvesting and incidental preparation of these products for human use and consumption. Activities include the hatching, cultivating, planting, feeding, raising and harvesting or 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 does not include the harvest of wild stock geoduck and free swimming fish, or gathering of free swimming fish and shellfish for non-commercial purposes.

Aquaculture, Community Shellfish Garden – The cultivation, harvesting, and incidental preparation of shellfish for human use and consumption for a community-based shellfish farm. The area of the shellfish farm is one thousand (1000) square feet or less. To qualify as a community Shellfish Garden, the operation must include residents of Bainbridge Island, and may consist of volunteers or paid membership.

Aquaculture, Individual 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 fifty (50) years old and which have potential to provide new information in the fields of history and archaeology. 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 value, 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 in history or prehistory.

Archaeologist, Professional – A person who meets the minimum qualifications of the secretary of the interior's standards for a professional archaeologist [WAC 27.53.030, or its successor] and the following: 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.

Architectural Element – Aesthetic components of a primary building or structure that accents the overall design of the structure. A chimney may be considered an architectural element.

Associated Wetlands – Wetlands that are in proximity to tidal water, 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 water body, 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 one hundred (100) ~~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 173-27-030(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, which is normally wetted only by storm tides. A backshore may take the form of a more or less narrow storm berg (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 waterward boundary.

Backshore Marina – See Marina

Barrier Beach – A linear ridge of sand or gravel extending above high tide, built by wave action and sediment deposition seaward of the original coast line; includes a variety of depositional coastal landforms.

Barrier Estuary – estuary isolated from open bodies of water by a barrier, with tidal exchange occurring through a narrow entrance channel. Usually but not always associated with a significant fresh water source.

Barrier Lagoon – barrier built lagoons that lack significant freshwater source, only coincidentally associated with streams of significant upland catchment areas. See Lagoon and Tidal Lagoon.

Bathymetry – Depth of a water body relative to sea level, may include underwater features and shapes.

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 berg, which is normally exposed to the swash of waves and generally composed of gravel, although it can contain sand or boulders.

Beach Enhancement – The alteration of terrestrial, tidal shorelines or submerged shorelines for the purposes of habitat improvement, creation, recreational enhancement, or soft-treatment stabilization. The materials used depend upon the intended use. The following are examples of materials which may be used in enhancement projects:

a) Various grades of clean sand or pea gravel to create a beach for recreational purposes.
b) A combination of a rock matrix and sand or other materials to restore or recreate a shore feature or an underwater aquatic environment (e.g. a reef).
c) Use of native vegetation to restore marine riparian habitat functions native vegetation.

Beach Nourishment – The process of replenishing a beach by artificial means; e.g., by delivery of selected materials excavated from elsewhere and depositing it at one or several locations in the updrift portion of a drift cell. 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 Restoration – The alteration of terrestrial and tidal shorelines or submerged shorelines for the purposes of aquatic habitat, re-establishing ecological function and ecosystem wide processes such that the ecosystem is self-sustaining.

Beach Scarp – A steep slope formed in response to the lowering of the beach profile and landward expansion of the beach face into the backshore as a result of wave erosion. A beach scrap is normally associated with a beach berg.

Bedlands – Those submerged lands below the line of extreme low water in marine waters.

Benthic Community – A grouping of benthic organisms that live in and on the bottom of the ocean floor.

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 berg at slightly different levels, separated by a scarp. A berg is also, a soft-treatment form of shoreline stabilization or 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) – Industry-established guidelines that are advised to reduce or eliminate anticipated adverse impacts to the environment from construction, development or other human activity.

BIMC – Bainbridge Island Municipal Code.

Biocide – See pesticide

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.

Biological Diversity; Biodiversity – The range of physical (habitat) and biological (species, communities) components, the ways that species interact with the physical environment, and the processes necessary to maintain these interactions through time.

Bioengineering – See Shoreline Stabilization, Bioengineered

Biophysical – Physics of biological functions and ecosystem-wide processes.

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 – A building used primarily for boat storage.

Boat Launch or Ramp – Graded slopes, slabs, pads, or planks, 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 place in the water adjacent to a dock, attached to the dock, or as stand-alone structure. A boat lift may be designed either for boats or personal watercraft. A boat lift with a canopy cover shall be considered moorage for the purposes of this Program.

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.

Boat Storage Deck – A deck used for the storage of boats.

Breakwater – Offshore structure, usually aligned parallel to shore, sometimes shore-connected, that provides protection from waves. The primary purpose is to protect harbors, moorages 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 – An area of land that is designed and designated to permanently remain vegetated in a predominantly undisturbed and natural condition and/or an area that may need to be enhanced to support ecological processes~~,~~ or ecosystem-wide functions and 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 "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 wall erected generally parallel to and located at or close to 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 waves. Bulkheads are usually constructed of hard materials and may be built of concrete, large rocks (riprap), or other materials. See also Seawall.

Canopy Area – See canopy coverage.

Canopy Coverage – The crown area of native shrubs and trees as measured from plan view.

Central Puget Lowland – The low areas between the Olympic and Cascade Mountain ranges extending from Admiralty Inlet and the Tacoma Narrows.

Channel – An open conduit for water either naturally or artificially created, but not including artificially created irrigation, return flow, or stock watering channels. [WAC 173-2214-030(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 – Clearing means the destruction or removal of vegetation or plant cover including, but not limited to, root material removal 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.

Coastal Dune – A transitional zone between the marine and the continental processes and are a part of the sand sharing system between the dune, the beach, and the offshore bars.

Coastal Landform, Depositional – See accretion shoreform.

Coastal Processes – Collective term including the action of natural forces on the shoreline, and the nearshore seabed.

Coastline – The line where terrestrial processes give way to marine processes – tidal currents, wind waves, etc.

Commercial Development – Those developments whose principal 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, 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 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 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 provisions of BIMC Section 2.16.165(H) regardless of whether or not the proposal requires a substantial development permit.

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 to protect a vessel or vessels.

Critical Aquifer Recharge Area – Areas designated by WAC 365-190-080(2) that are determined to have critical recharging effect on aquifers (i.e., maintain the quality and quantity of water) use for portable water as defined by WAC 365-196-485(1)(d).

Critical Areas – The following areas are designated as critical areas:

a. Critical Aquifer Recharge Areas
b. Fish and Wildlife Habitat Conservation Areas
c. Frequently Flooded Areas
d. Geologically Hazardous Areas
e. Wetlands
f. Critical Saltwater and Freshwater Habitat Areas
g. Critical Habitat

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,

Critical Saltwater Habitat - Critical saltwater habitats include all kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sand lance; subsistence, commercial and recreational shellfish beds; mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association -[-WAC 173-26-221(2)(c)(iii)].

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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 of 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 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 intended to lift boats or cargo.

Degrade – 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.

De Minimis – Minor or trivial impact which cannot be measured or is not quantifiable.

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 materials; 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, subject to RCW Chapter 90.58 ~~RCW~~ or its successor [RCW 90.58.030(3)~~(~~d) or its successor]. This term may include activities related to subdivisions and short subdivisions; 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 Area – the approved portion of a project site that is developed, including the building pad and all graded slopes, all structures, landscaped areas, driveway and parking areas.

Development Regulations – The controls placed on development or land uses by the 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 RCW Cehapter 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 intended to provide landing which may include a ramp, pier, and float; generally used as a landing for water-dependent recreation or moorage 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.

Downdrift – The direction of predominant alongshore sediment transport.

Dredge – To excavate or deepen a water body by removing aquatic 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.

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 contains these shore process elements: a feed source that supplies the sediments (feeder bluff or estuary), a driftway, along which the sediment can move, and 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.

Ecologically Intact – Those shoreline areas that retain the majority of their natural ~~shoreline ecological functions and~~ processes as evidenced by the shoreline configuration and the presence of vegetation or retain the ability to support vegetation. These areas may be partially developed.

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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 WAC 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".

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 carry a roadway.

Embayment - A broad term for an inlet or indentation in the coastline. In this ~~SMP~~Program, it is restricted to features partly isolated from the rest of Puget Sound by their configuration and sufficiently small to limit wave action and beach processes. Also included are wetlands or other back-barrier water bodies isolated from direct tidal influence (surface exchange). Embayments include barrier estuaries and lagoons and may include some stream mouths and the heads of small bays.

Emergency – An unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a timer 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. Where new protective structures are deemed by the Administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency, pursuant to the Master Program and RCW 90.58.030(3)(e)(iii); WAC 173-27-040(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, habitat and/or buffer to intentionally improve, increase or augment one or more functions or values of the existing area without degrading other 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.

Erosion – The wearing a way 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 the U.S. Department of Agriculture Natural Resource Conservation Service (NCRS) as having "severe" or "very severe" erosion hazards; and/or soils subject to impacts from shoreline retreat.

Estuary – A semi-enclosed coastal body of water in which fresh water and salt water mingle and affect the ~~total~~ land and water habitat. See also Pocket Estuary.

Estuary, Pocket – see Pocket Estuary

Essential Public Facility – Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities as defined in RCW 81.112.020, state and local correctional facilities, solid waste handling facilities, and inpatient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 71.09.020.[RCW 36.70A.200, or its successor]

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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 principal 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 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 be required even though the activity does not need a substantial development permit. [RCW 90.58.030(3)(e) or its successor; WAC 173-27-030(7) and WAC ~~;~~ 173-27-040, or its successor].

Extreme High Tide – The highest tide level reached in a nineteen (19) ~~19~~ -year tidal cycle.

Extreme Low Tide – The lowest line on the land reached by a receding tide [RCW 90.58.030(2)(a) 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 173-27-030(8), 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 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 constant direction and speed.

Fill – The addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area landward or waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land. See Landfill.

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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, ~~t~~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 Aquaculture Facility – Open water aquaculture facility which is consists of a mooring system and/or floats.

Floating Home – A non-vessel 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; 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 the 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 and ordinance

maps or a reasonable method that meets the objectives of the Shoreline Management Act [WAC 173-26-020(17) 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, through 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(2)(g) or its successor].

Foreshore – In general terms, the intertidal area 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: 91) site preparation and regeneration, 92) protection from insects, fire, and disease, 93) silvicultural practices such as thinning, fertilization, and release from competing vegetation, and 94) 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 BIMC Chapter 15.16~~ BIMC~~, Flood Damage Prevention.)

Functional Grating – A floor or decking material which is permeable.

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 RCW 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 modification or maintenance; grading means the physical movement or redistribution or the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.

Grassy Swale – A vegetated drainage channel that is designed to remove various pollutants from stormwater runoff through biofiltration.

Groins – This is a rigid, barrier-type structure extending on an angle waterward from the shore into the intertidal zone. Their purpose is to build or preserve an accretion shoreform or berg on their updrift side by trapping littoral drift to protect 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 under WAC 173-26~~-~~, intended to implement the policy of the Shoreline Management Act, RCW Chapter~~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

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 the 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 to 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 or 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 173-27-030(9) or its successor]. For all over-water structures, height shall be measured from ordinary high water mark.

High Bluff – An area with slope greater than 40%; height greater than fifteen ~~15~~ feet (15'), often unstable or with visible face sediment source often from backshore. This term is used to identify geomorphic classes for the 2004 Nearshore Assessment completed by Battelle for the City.

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.

Comment [AS118]: I am not sure where this came from? ***STAFF CLARIFICATION NEEDED***

Hydric Soils – 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 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 flowing methods identified by the Department of Ecology.

Infeasible – not feasible, see feasible

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 waterward from the foreshore to just beyond the breaker.

Intertidal – The substream 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).

Invasive Species – A species that is (1) non-native (or alien) to the Puget Sound or the Central Puget Lowland 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 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 riprap mound construction.

Lagoon – A shallow body of water, such as a pond or a lake, isolated from Puget Sound by a barrier beach or other narrow body of land. Lagoons may or may not have a permanent tidal connection to the sea. See also Tidal Lagoon and Barrier Lagoon

Landfill – The placement of soil, sand, rock, gravel, existing sediment or other material (excluding solid waste) in upland areas, landward of OHWM, generally 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 Chapter 16.20.030(33)~~Appendix B-1(28).

Comment [LG119]: Verify.
STAFF CLARIFICATION NEEDED

Land Use – The development or activities that occur or are allowed to occur on a particular property.

Landward – In a direction toward shoreland areas.

Launch – see boat launch

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 twenty-five hundred (2,500) linear feet of utility lines or pipes within shoreline jurisdiction.

Littoral – of or pertaining to the shore.

Littoral Cell – See Drift Cell.

Littoral Drift – The natural process of sediment movement, particularly sand and gravel along the shoreline in the nearshore zone by waves and currents (see also Drift Cell and Driftway).

Littoral Transport – see Longshore Transport

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.

Low Bank – An area with a slope often greater than fifteen percent (15%) and less than fourty percent (40%), height ~~15~~ fifteen feet (15') or less, generally narrow beach with high water line at or on the bank. Bedrock terrace considered low bank if characterized by a sand and gravel beach; backed by low scarp. This term is used to identify geomorphic classes for the 2004 Nearshore Assessment completed by Battelle for the City.

Low Impact Development (LID) – A stormwater management strategy that emphasizes conservation and use of existing natural site features integrated with distributed, small-scale stormwater controls to more closely mimic natural hydrologic patterns in residential, commercial, and industrial settings. LID employs principles such as preserving and recreating natural landscape features and minimizing impervious surfaces to create functional and appealing site drainage that treat stormwater as a resource rather than a waste product. Practices that adhere to these LID principles include bioretention facilities, rain gardens, vegetated rooftops, rainwater harvesting (rain barrels and cisterns), and permeable pavements.

Maintenance – See Normal Maintenance and Normal Repair.

Marina – A 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 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 water body to provide moorage in addition to any marinas and docks along the edge of the water body.

Marine Bluffs – see Bluff, Marine

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.

Marine Riparian Zone – The transition zone between the nearshore and terrestrial ecotones. See also Riparian Vegetation.

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 predominantly undrained hydric soil. [WAC 173-22-030(10) or its successor]. See Hydrophyte, Hydric Soil.

Marsh/Lagoon – Protected embayment often fluvial sediment sources, substrate is composed of fines, diagnostic salt marsh vegetation, lagoons may empty completely at low tide (extensive tide flats) and may have a residual basin that holds water at low tide. This term is used to identify geomorphic classes for the 2004 Nearshore Assessment completed by Battelle for the City.

Mean Higher-High Water (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 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 locate. Processing does not include the manufacture of molded or cast concrete, or asphalt products, asphalt mixing operations, or concrete batching operations.

Mitigation – Measures used to avoid, minimize or alleviate adverse impacts of development on ecological functions or ecosystem-wide processes. Mitigation must follow mitigation sequencing requirements of WAC 173-26-201(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;
    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 action 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 of 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 action 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 of 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 compensation projects and taking appropriate corrective measures when necessary.

Mitigation Plan – A detailed plan indicating actions necessary to mitigate adverse impacts of development.

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 a baseline or pre-project conditions and/or reference sites.

Mooring Buoy – A floating object anchored to the bottom of a water body that provided tie-up capabilities for vessels.

Muds – Sediments in which the size of the particles is smaller than 0.0625mm.

Mudflat – Low, unvegetated mud substrate that is flooded at high tide and uncovered at low tide.

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 waterside 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 typically found on an undeveloped marine shoreline that are indigenous to the Central Puget Lowland eco-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 a native species. Functional arrays may include forage,

floodwater restraint, hiding habitat, or other physical or biologic roles in the ecosystem, that individually or in combination correspond to those of the native species. As with natives, the role and mix of an alternative species may vary depending on the site and its surrounding ecosystem. Invasive/exotic species shall not be considered equivalent species.

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.

Not 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 ecosystem-wide processes. Each project shall be evaluated based on its ability to meet the no net loss standard commensurate with its scale and character.

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Nonconforming Development – A shoreline use or structure which was lawfully constructed or established prior the effective date of the applicable Shoreline Management Act/SMP provision, and which no longer conforms to the applicable shoreline provisions. [WAC 173-27-080(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. 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, storage facilities, 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 173-27-040(2)(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 173-27-040(2)(b), or its successor]. (See Normal Maintenance).

Normal Protective Bulkhead – See Bulkhead.

Obligate Vegetation – The sum total of macrophytic plant life that occurs in areas where the frequency (>99% of the time in wetlands) and duration of inundation or soil saturation produce permanently or periodically saturated soils of sufficient duration to exert a controlling influence on the plant species present. USACE 1987 Wetland Delineation Manual.

OHWM, Ordinary High Water Mark – That mark that will be formed 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 waterward of the breaker zone, extending in a direction waterward form 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 Coastal Inlets - These describe inlets or estuaries whose size or configuration precludes significant wave action, but where the inlet itself is not significantly enclosed by a barrier or other restriction.

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 332-30-139 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).

Overwash - The flow of marine waters and associated sediment over the top of a barrier beach, usually when storms coincide with high tides. Leads to deposition of sediment in backshore areas and the gradual shifting of a barrier beach landward.

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 platform structure or anchored device that is fixed above the water 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.

Pocket Estuary – Term used in the Puget Sound region to describe small estuaries and lagoons, partially isolated by their configuration from the main body of Puget Sound.

Point – A low profile shoreline Promontory of more or less triangular shape, the top of which extends waterward.

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.

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. Comparatively high fish or wildlife density;

b. Comparatively high fish or wildlife species diversity;

c. Fish spawning habitat;

d. Important wildlife habitat;

e. Important fish or wildlife range;

f. Important fish or wildlife movement corridor;

g. Rearing and foraging habitat;

h. Important marine mammal haul-out;

i. Refugia habitat;

j. Limited availability;

k. High vulnerability to habitat alteration;

l. Unique or dependent species; or

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. 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, or its successor), threatened (WAC 232-12-011, or its successor), or sensitive (WAC 232-12-011, or its successor). State proposed species are those fish and wildlife species that will be reviewed by the Ddepartment of Ffish and Wwildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.

b. Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or state-wide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.

c. 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. 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 platforms, decks or 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, Central – 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 16.20.020(27);

d. Wetland Specialist (BIMC 16.20.020(56);

e. Wetland Biologist (BIMC 16.20.020(57);

f. Professional Archeologist

g. Certified Arborist (BIMC 16.20)

Comment [LG120]: Reference Appendix B? ***STAFF CLARIFICATION NEEDED***

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 included 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 or 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, and/or the use of specialized equipment.

Recreational Development, Passive – activities that require a minimum of facilities such as swimming, picnicking, hiking, canoeing and fishing, and other low impact activities.

Recreational Fishing –Fishing for personal use as allowed by Personal Fishery Chapter 220-56 WAC.

a. Hand Line or Angling - shall be identical in meaning and, except as provided in WAC ~~220-56-115~~220-56-115, shall be defined as the use of not more than one line with three hooks attached to a pole held in hand while landing fish, or the use of a hand operated line without rod or reel, to which may be attached not more than three hooks. When fishing for bottom fish, "angling" and "jigging" shall be identical in meaning ~~.~~[WAC 220-56-100(17), or its successor].

b. Spear Fishing - means an effort to take fish or shellfish by impaling the fish or shellfish on a shaft, arrow or other device ~~.~~[WAC 220-56-100(29), or its successor].

c. Bow and Arrow Fishing - any method of taking, or attempting to take, fish by the use of an arrow equipped with a barbed head and a line attached, and propelled by a bow, as in the sport of archery, while the fisher is above the surface of the water~~.~~ [WAC 220-56-100(6), or its successor]

Repair – See "Normal Repair"

Residential Development – Construction or alteration, earth modification, subdivision and use of land primarily for human residence; including but not limited to 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 residentially zoned land. It also includes all modifications to land and vegetation associated with construction, preparation, or maintenance or residential structures or accessory structures.

Restoration or Ecological Restoration – To revitalize, reestablish or upgrade ecological shoreline functions 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 built structure designed to retain an earth bank from sliding or to resist the lateral pressure of soil when there is a desired change in ground elevation.

Revetment – A sloping structure built to protect a scarp, embankment, or shore against erosion by waves or currents. Usually built of riprap, with heavy armor layer, one or more filter layers of smaller rock or filter cloth, and "toe" protection. A revetment slopes shoreward and has a

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rough or jagged facing. Its sloping face absorbs wave energy and differentiates it from a bulkhead, which is a vertical structure.

Riparian – Of, pertaining to, or situated or living on the banks of a river or other body of water, including tidewater.

Riparian Management Zone – 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].

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.

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 non-earthquake 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~~ fifty feet (50') on either side.

Sensitive Areas – See Critical Areas

Sensitive Land – See Critical Areas

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 modification to setbacks and height specifically allowed by code.

Shall – A mandate; the action that 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 Area – All public and private tidelands 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 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 erosion caused by tidal action, current or waves, including but not limited to, revetments, bulkheads, sea walls, gabions.

Shoreline Designation – The categories of shorelines established by the 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 two hundred~~200~~ feet (200') 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(2)(f), or its successor; WAC 173-16-030(17), or its successor; and 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 State-wide Significance, and wetlands, jurisdictional.

Shoreline Management Act – The Shoreline Management Act of 1971, RCW 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 173-27-030(13), or its successor].

Shoreline Stabilization and Flood Protection – Structural or non-structural modifications to the existing shoreline intended 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, wake, wind, or wave action. These are generally located parallel to the shoreline at or near the OHWM. 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 Vvegetation Reinforced Soil Slopes (VRSS), which uses vegetation arranged embedded in the ground to prevent shallow mass-movements and surficial erosion.

Shoreline Stabilization, Hard structure – Shore erosion control practices using hardened structures that armor and stabilize the shoreline landward of the structure from further erosion.

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 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 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, 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 stabilization vegetation without fill, grading, or use of non-biodegradable geotextile fabric, gabions other stabilizing structures to provide temporary erosion control;

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.

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. 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. Bioengineered Shoreline Stabilization;

b. Beach Nourishment/Replenishment;

c. Vegetated Soil Stabilization Retention Methods;

d. Driftwood;

e. Coir fiber logs or other natural materials;

f. Nonstructural Shoreline Stabilization.

g. Beach Berm.

Shoreline Stabilization, Structural – Shoreline stabilization which includes a footing, foundation, or anchors. Materials are typically hardened structures which armoring the shoreline. See also Shoreline Stabilization, Hard structure and Shoreline Stabilization, Hybrid structure.

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 (RCW 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 quasi-judicial body 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; RCW 90.58.180, or its successor; and WAC 173-04-01, 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.

Shoreward – See landward

Should – A particular action is required unless there is demonstrated, compelling reason, based on policy of the Shoreline Management Act and this Program, 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 contribute 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 normal appurtenance. [WAC 173-27-040(2)(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 berg on the windward side and more gently sloping, muddy, or marshy shore on the leeward side. A curved spit is normally called a hook.

Spit/Barrier/Backshore — An area with a wide beach face and slope of less than fifteen percent (15%),distinquishable backshore. This term is used to identify geomorphic classes for the 2004 Nearshore Assessment completed by Battelle for the City.

Spur Dock – See Groin.

SSDP – Shoreline Substantial Development Permit.

Starvation – See Impoundment

Statement of Exemption or Letter 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, or its successor])).

Steep Slope – A forty percent (40%) or greater slope. See also Landslide Hazard

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 stormwater 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, catch basins, 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 173-27-030(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); 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 173-27-040, 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 173-27-090, or its successor].

Subtidal – The area of the marine environment below extreme low tide.

Sub-estuary – See Pocket Estuary

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.

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 shore feature 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 and sand berms.

Tidal Range – The difference in height between consecutive high and low water.

Tidal Water – Includes marine and estuarine water 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 water and the line of extreme low tide.

Toxic Material – Any material damaging to 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. These 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, 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).

Vascular Plant – Any plant that has a specialized conducting system consisting mostly of phloem (food-conducting tissue) and xylem (water-conducting tissue), collectively called vascular tissue. These plants have true stems, leaves, and roots, modifications of which enable species of vascular plants to survive in a variety of habitats under diverse, even extreme, environmental conditions.

Vegetative Stabilization – Planting of vegetation to retain soil and retard erosion, reduce wave action, and retain bottom material, 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, and does not interfere with normal public use of the water. [WAC 173-27-030(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-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 or the intrinsic nature of its operation. 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 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 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.

Waterward – To, toward, or continuing into the water body.

Water Quality – The physical characteristics of water within shoreline jurisdiction, including water quality, 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 stormwater 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 90.3.250 through 90.03.340.

Water-related – A use or 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. 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. 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.

Washington State Department of Ecology – See Ecology.

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, including associated wetlands. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands 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. [WAC 173-22-030(10) and (11), or their successors]

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 – 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~~ forty percent (40%), and two hundred feet (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.

ATTACHMENT B

City Council Motions on Shoreline Master Program Update

Prepared for City Council Meeting of May 15, 2013

Subject	Preliminary Approval	Approved Changes
Appurtenances	02/06/13	Will be allowed to increase height and/or be rebuilt
Aquaculture	04/10/13	Approved as proposed in packet
Boating facilities in Priority Aquatic B	07/02/12	Remove "non-motorized only" under boating – boating allowed with "no wake" and speed limit of 5 knots
Buffers	09/05/12	Approved as proposed.
Dual buffer concept	07/12/12	Approved as proposed.
Environmental impacts	07/18/12	Approved as proposed
Nonconforming – rebuilding	03/13/13	100% if not voluntarily demolished; must conform when voluntarily removed; carry over CAO provisions for next to critical slope
Nonconforming terminology	3/13/13	Replace with existing development
Overwater structures	08/01/12	Approved as proposed
Recreational development	09/05/12	Approved as proposed.
Residential designations	09/05/12	Approved as amended by Council
Site-specific vegetation management areas	08/15/12	Approved as proposed
Stabilization	08/01/12	CUP for hard bulkheads with no bulkhead within 100 feet – request to come back with minor CUP
View structure setback	07/18/12	Approved as proposed

June 13, 2012

MOTION: *I move that the City Council recommend Alternative 2 and authorize the staff to proceed in this direction. (*Alternative 2 incorporates special provisions for Point Monroe within the SMP update and would be processed as part of the current SMP update, likely extending the update into 2013.)
BONKOWSKI/WARD *– The motion carried unanimously, 7-0.*

July 2, 2012

MOTION: *I move that we eliminate "non-motorized only" under boating and say that boating is allowed with a "no wake" limited to 5 knots.*
BLAIR/HYTOPOULOS *– The motion passed 5-1 with Mayor Lester voting against.*

MOTION: *I move that we tentatively approve the two-zone approach to buffers.*
BLAIR/BLOSSOM *– The motion passed unanimously, 6-0.*

July 18, 2012

MOTION: *I move to approve the two sections [view structure setback and environmental impacts] that we heard this evening preliminarily.*
LESTER/HYTOPOULOS *– The motion carried unanimously, 7-0.*

ATTACHMENT B

City Council Motions on Shoreline Master Program Update
Prepared for City Council Meeting of May 15, 2013

August 1, 2012
MOTION: *I move that we move forward the recommendations with the change that we would continue to require a CUP for new, hard bulkheads in areas where there is not bulkheading within 100 feet.*
Hytopoulos/Blossom – The motion carried 4-2 with Councilmembers Hytopoulos, Blossom, Blair, and Scales voting in favor and Councilmembers Lester and Bonkowski voting against.

August 15, 2012
MOTION: *I move to preliminarily accept the recommendations for the residential designations.*
Lester/Hytopoulos – *The motion failed 3-3 with Councilmembers Lester, Hytopoulos, and Blair voting in favor and Councilmembers Bonkowski, Ward, and Blossom voting against.*

MOTION: *I move to preliminarily accept the new, proposed language for the site-specific vegetation management areas.*
Lester/Blair *– Motion carried unanimously, 6-0, with Councilmembers Hytopoulos, Blair, Lester, Bonkowski, Ward, and Blossom voting in favor.*

MOTION: *I move to preliminarily accept the Planning Commission's recommendations for the new shoreline restoration and enhancement, as well as the island-wide restoration plan.*
Lester/Blair *– Motion carried unanimously, 6-0, with Councilmembers Hytopoulos, Blair, Lester, Bonkowski, Ward, and Blossom voting in favor.*

September 5, 2012
MOTION: *I move that we preliminarily approve staff's recommendations on recreational-development related sections as proposed by Attachments B and C, and the proposed amendments related to the Natural designation as discussed by Council.*
Hytopoulos/Bonkowski *– Motion approved with six councilmembers in favor (Scales, Hytopoulos, Blair, Ward, and Blossom) and one recusal (Lester).*

MOTION: *I move that we preliminarily approve the remaining sections: buffer depths, uses and activities, and buffer alteration sections as previously amended during topic 1 motions.*
Lester/Hytopoulos *– Motion unanimously approved.*

MOTION: *I move that we preliminarily approve the shoreline residential and shoreline residential conservancy designations as recommended by Planning Commission and approved amendments to section 4.1.3.5 as proposed in Attachment E.*
Hytopoulos/? *– Motion carried 4 (Scales, Hytopoulos, Lester, and Blair to 3 (Bonkowski Ward, and Blossom.*

February 6, 2013
MOTION: *I move that we approve the Point Monroe District [provisions] with the addition that the overwater residences be allowed to change their roof line and add second stories up to whatever the 35 feet is as long as it does not increase the nonconformity.*
BONKOWSKI/BLAIR *– The motion was withdrawn*.
Council asked staff to bring back the amended language for discussion and consideration.

MOTION: *As a preliminary change, to change the rebuild of destroyed on other appurtenances to "yes" from "no" on the nonconforming provisions.*

BONKOWSKI/SCALES *– The motion passed 5-2 with Councilmembers Hytopoulos and Lester voting against.* 11:26:13 PM
Council asked staff to bring back a comparison with the treatment of upland properties at the March 6, 2013 study session.

March 13, 2013

MOTION: *That we address the non-conforming structure issue by using the word existing development and removing the word non-conforming.*
BLAIR/BLOSSOM

CLARIFIED MOTION: *Non-conforming structures will now become existing development.*
Motion passed 5-2 with Councilmembers Blair, Blossom, Bonkowski, Scales, and Ward voting in favor. Councilmembers Hytopoulos and Lester voting against.

MOTION: *I move that the City create a consistent rebuilt percentages for the SMP, the critical areas ordinance and the zoning code.*
SCALES/LESTER *– Motion carried unanimously 7-0.*

MOTION: *I would move that for the rebuilt it demolished voluntary that the standard be set at 75% for*
all three.
SCALES/BLAIR *– Motion was withdrawn.*

MOTION: *I move that we set for accidental destruction rebuilt a standard of 75% loss of replacement value.*
HYTOPOULOS/BLAIR *– Motion failed 3-4 with Councilmembers Blair, Hytopoulos, and Scales voting in favor. Councilmembers Bonkowski, Blossom, Lester, and Ward voted against.*

CLARIFICATION OF AN EARLIER MOTION: *That the City create goals as a policy to make rebuilt percentages for the SMP, critical areas ordinance and the zoning code consistent.*
Staff was asked to come back with specific information about how changing the percentage might affect development in the critical areas ordinance and the zoning code.

10:18:44 PM ***MOTION:*** *To rebuilt if demolished through an act of God at 100%.*
LESTER/BLAIR

RESTATED MOTION: *100% if non-voluntarily, accident or natural disaster.*
Motion passed, 6-1 with Councilmember Blair, Blossom, Bonkowski, Lester, Scales and Ward voted in favor. Councilmember Hytopoulos voting against.

MOTION: *I would move that we set the threshold for rebuilt if demolished voluntary at 0%.*
SCALES/HYTOPOULOS *– Motion passed 4-3 with Councilmember Blair, Blossom, Hytopoulos, Lester, and Scales voting in favor. Councilmembers Bonkowski, Blossom, and Ward against.*

MOTION: *I move that a similar if not literally lifting out of the CAO restriction on rebuilding adjacent to a critical slope is inserted in the SMP to take care of that gap.*
HYTOPOULOS/LESTER *– Motion carried unanimously, 7-0.*

April 10, 2013

MOTION: *I move that, with respect to docks and overwater structures and any limitations that are in there that are based on assumed engineering issues be removed.*

ATTACHMENT B

City Council Motions on Shoreline Master Program Update

Prepared for City Council Meeting of May 15, 2013

BONKOWSKI/BLOSSOM *– Motion carried 6-1 (Lester voted against)*

MOTION: *I move to reconsider the vote on engineering issues, based on the comments from Barbara Nightingale.*
BLAIR/? *– Motion carried unanimously.*

MOTION: *I move that Ryan be asked to exclude prohibitions that are engineering-based.*
BONKOSWKI/BLOSSOM *– Motion failed. [couldn't clearly tell what the vote was from the tape]*

MOTION: *I moved for preliminary approval of new language on aquaculture.*
BLAIR/LESTER – *Motion carried unanimously.*

MOTION: *I move to preliminarily approve the key provisions of the SMP draft update as presented in our materials.*
BLAIR/LESTER *- Motion carried unanimously.*

After discussion, staff was asked to add a policy that water-dependent uses are a preferred use.

MOTION: *i moved that motorized vehicles not be allowed in priority aquatic A.*
LESTER/BLAIR *– Unanimously approved*

MOTION: *I move that the designation of the Logg Pond at Blakely Harbor be changed to Island Conservancy.*
WARD/BLOSSOM *- Motion withdrawn.*

MOTION: *I move in increase the square footage of stairs [in the mitigation manual] to 250 SF.*
BLAIR/? *- Motion carried unanimously.*

MOTION: *I move to remove the provision to reduce Zone 1 by 25%.*
BLAIR/LESTER *– Motion carried 4-3.*

MOTION: *I moved to allow essential public facilities to increase height as proposed by staff.*
BLAIR/LESTER *- Motion carried unanimously.*

ATTACHMENT C

SMP Draft (Clean) Sec. #	Intent of City Council Motion	Staff's Proposed Language for Consideration on May 15
3.3.2.7	**Modify to:** Prohibit motorized vessels in Priority Aquatic A (Motion – April 10. 2013)	Add language to Section: Motorized vessels should not be allowed.
4.2.1.6.3	**No formal motion;** request that language be clarified	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, except as provided in 4.2.1.7
SMP	**Modify to:** Use the term "existing development" in place of "nonconforming structure" (Motion March 13, 2013)	Clean up of use of the term "existing development"
5.8	**Modify to:** Prohibit motorized vessels in Priority Aquatic A (Motion March 13, 2013)	Active recreational development is prohibited in the Priority Aquatic designation; however, vessels shall be allowed in Category B 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. Passive recreational development shall be allowed in the Priority Aquatic designation
6.2.5(3)	**Modify to:** Continue requiring a Conditional Use Permit for new, hard bulkheads in areas where there is not bulkheading within 100 feet. (Motion – August 1, 2012)	New or replacement shoreline stabilization measures require a minor Conditional Use Permit when the nearest adjacent existing shoreline stabilization is greater than 100 feet from the proposed shoreline stabilization on the subject property

ATTACHMENT C

SMP Draft (Clean) Sec. #	Public Comment at May 8 Council Hearing	Staff's Proposed Language for Consideration on May 15
4.2.1.6.3 (2)(a)	Need to clarify that a 25% expansion of a building configuration within the Shoreline Buffer may occur only once within the lifetime of the development.	2. An existing primary residential structure may be altered or expanded to the extent allowed by this Program, provided: a. 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 only one such expansion may occur within the lifetime of the development.

CITY OF BAINBRIDGE ISLAND
CITY COUNCIL AGENDA BILL

PROCESS INFORMATION	
Subject: Proclaiming May 19 through May 25, 2013 as "*National Public Works Week*"	Date: June 15, 2013
Agenda Item: Council Discussion	Bill No.: 13-062
Proposed By: Mayor Steven Bonkowski	Referral(s):

BUDGET INFORMATION		
Department:	Fund:	Munis Contract #
Expenditure Req:	Budgeted? ☐ Yes ☐ No	Budget Amend. Req? ☐ Yes ☐ No

REFERRALS/REVIEW		
Study Session	Recommendation:	
City Manager ☐ Yes ☐ No ☒ N/A	Legal ☐ Yes ☐ No ☒ N/A	Finance ☐ Yes ☐ No ☒ N/A

DESCRIPTION/SUMMARY

Action Item:
Consideration of a proclamation declaring May 19 through May 25, 2013 as "*National Public Works Week"*.

History:
National Public Works Week (NPWW) is a celebration of the tens of thousands of men and women in North America who provide and maintain the infrastructure and services collectively known as public works.

RECOMMENDED ACTION

Motion:
I move that the City Council authorize Mayor Steven Bonkowski to sign the proclamation declaring May 19 through May 25, 2013 as "*National Public Works Week"*.

CITY COUNCIL PROCLAMATION

WHEREAS, public works services provided in our community are an integral part of our citizens' everyday lives; and

WHEREAS, the support of an understanding and informed citizenry is vital to the efficient operation of public works systems and programs such as water, sewers, storm drainage, parks, streets and highways, public buildings, solid waste collection, and snow removal; and

WHEREAS, National Public Works Week (NPWW) is a celebration of the tens of thousands of men and women in North American who provide and maintain the infrastructure and services collectively known as public works; and

WHEREAS, the health, safety, and comfort of this community greatly depend on public works facilities and services; and

WHEREAS, the quality and effectiveness of these facilities, as well as their planning, design, and construction, is vitally dependent upon the efforts and skills of public works officials; and

WHEREAS, the efficiency of the qualified and dedicated personnel who staff public works departments is materially influenced by the public's attitude and understanding of the importance of the work these people perform;

NOW, THEREFORE, I, Steven Bonkowski, Mayor of the City of Bainbridge Island, Washington, on behalf of the City Council, do hereby proclaim May 19-25, 2013, as

NATIONAL PUBLIC WORKS WEEK

in the City of Bainbridge Island, and I invite all citizens and civic organizations to acquaint themselves with the problems involved in providing our public works services and to recognize the contributions that public works officials make every day toward our health, safety, and comfort of our community.

SIGNED this 15th day of May, 2013.

Steven Bonkowski, Mayor

CITY OF BAINBRIDGE ISLAND
CITY COUNCIL AGENDA BILL

PROCESS INFORMATION	
Subject: Proclaiming May 12-18, 2013 as "National Police Week"	Date: May 15, 2013
Agenda Item: Council Discussion	Bill No.: 13-063
Proposed By: Officer Aimee LaClaire	Referral(s):

BUDGET INFORMATION		
Department:	Fund:	Munis Contract #
Expenditure Req:	Budgeted? ☐ Yes ☐ No	Budget Amend. Req? ☐ Yes ☐ No

REFERRALS/REVIEW		
City Manager ☐ Yes ☐ No ☒ N/A	Legal ☐ Yes ☐ No ☒ N/A	Finance ☐ Yes ☐ No ☒ N/A

DESCRIPTION/SUMMARY

Action Item:

Consideration of proclamation declaring May 12-18, 2013 as "National Police Week".

History:

In 1962, President Kennedy proclaimed May 15 as National Peace Officers Memorial Day and the calendar week in which May 15 falls as National Police Week. Established by a joint resolution of Congress in 1962, National Police Week pays special recognition to those Law Enforcement Officers who have lost their lives in the line of duty for the safety and protection of others.

National Police Week 2013 will be May 12 through May 18 and is a collaborative effort of many organizations to include the National Law Enforcement Officers Memorial Fund (NLEOMF), Fraternal Order of Police (FOP), and Concerns of Police Survivors (COPS).

RECOMMENDED ACTION

Motion:

I move that the City Council authorize Mayor Steven Bonkowski to sign the proclamation declaring May 12-18, 2013 as "National Police Week".

CITY COUNCIL PROCLAMATION

WHEREAS, there are approximately 900,000 law enforcement officers serving in communities across the United States, including the dedicated members of the Bainbridge Island Police Department; and

WHEREAS, nearly 60,000 assaults against law enforcement officers are reported each year, resulting in approximately 16,000 injuries; and

WHEREAS, since the first recorded death in 1791, almost 20,000 law enforcement officers in the United States have made the ultimate sacrifice and been killed in the line of duty, including 3 members of the Kitsap County Sheriff's Department as well as local Washington State Patrol Trooper Tony Radulescu on February 23, 2012 while he was on a traffic stop in Gorst; and

WHEREAS, the names of these dedicated public servants are engraved on the walls of the National Law Enforcement Officers Memorial in Washington, D.C.; and

WHEREAS, 321 new names of fallen heroes are being added to the National Law Enforcement Officers Memorial this spring, including 120 officers killed in 2012 and 201 officers killed in previous years; and

WHEREAS, the service and sacrifice of all officers killed in the line of duty will be honored during the National Law Enforcement Officers Memorial Fund's 25th Annual Candlelight Vigil, on the evening of May 13, 2013; and

WHEREAS, the Candlelight Vigil is part of National Police Week, which takes place this year on May 12-18; and

WHEREAS, May 15 is designated as Peace Officers Memorial Day, in honor of all fallen officers and their families and U.S. flags should be flown at half staff;

NOW THEREFORE, I, Steven Bonkowski, Mayor of the City of Bainbridge Island, on behalf of the City Council, do hereby proclaim May 12-18, 2013, as

NATIONAL POLICE WEEK

and publicly salutes the service of law enforcement officers in our community and in communities across the nation.

SIGNED this 15th day of May, 2013

_____

Steven Bonkowski, Mayor