



**Agenda Planning Commission
Gig Harbor Civic Center
Thursday, July 1, 2021
5:00 P.M.**

Due to public health concerns, this meeting will be accessible to listen by using the information below:

Link to join Webinar <https://zoom.us/j/95353411299>
Call-in: (253) 215- 8782 Meeting ID: 953 5341 1299

5:00 p.m. - Call to order, roll call

Approval of Minutes: June 17, 2021



Agenda Items

- I. Shoreline Master Program – Periodic Review – Carl de Simas Presentation

Other Business

Next meeting Thursday, July 15, 2021

Adjournment



**DRAFT Minutes Planning Commission
Gig Harbor Civic Center
Thursday, June 17, 2021
5:00 P.M.**

5:06 p.m. - Call to order, roll call Commissioner Soltess, Commissioner Krawczyk, Commissioner Bennett, Commissioner Brown, Commissioner Bradbury & Chair Commissioner Hoeksema
Staff Carl deSimas, Senior Planner & Michelle Thomas, Planning Technician

Approval of Minutes: May 6, 2021  Motion

Agenda Items

- I. Nomination & Election of Officers per Bylaws [Article III Section 1](#) - Nomination for Chair Greg Hoeksema by Krawczyk/Bennett all in favor Hoeksema remains Chair
Nomination for Vice Chair for John Krawczyk by Hoeksema/Bennett all in favor Krawczyk remains Vice Chair
- II. UGA Analysis (Update)- deSimas
- III. Land-Use/Arts and Culture Comprehensive Plan Elements (Update)- deSimas

Other Business

Commissioner Brown adding agenda items to meetings
Grette update from deSimas
Art in the Shoreline status Hoeksema
Next meeting Thursday, July 1, 2021

Adjournment

Motion Krawczyk/Bennett All in Favor meeting adjourned at 6:09



TO: Planning Commission

FROM: Carl de Simas, Senior Planner
Planning Division

SUBJECT: Periodic Review – Gig Harbor Shoreline Master Program – Overview and Status

DATE: June 25, 2021

At the upcoming Planning Commission (PC) meeting on July 1, 2021 staff will continue the discussion started at the March 18, 2021 PC Meeting with a survey of the amendments proposed to the City's Shoreline Master Program per Dept. of Ecology guidance and the City's own recommended amendments.

Included in the Commission's packet for this meeting is the packet presented for the March 18th meeting, providing the foundation for this phase of the review. Staff will have a presentation prepared in PowerPoint going through each of the proposed amendments, where the amended language can be found in the SMP and what the amended language is.

At this meeting, Staff would like to discuss the schedule for completing the SMP Periodic Update. Here is a DRAFT schedule to get the discussions started:

Date	Action	Notes
July 1, 2021	PC Meeting: Review	Itemized review of all proposed amendments to date.
July 15, 2021	PC Meeting: Study Session	Study and discuss final proposed amendments and any additional proposed amendments.
July 19, 2021	SEPA Threshold Determination	14-day comment period required
August 5, 2021	PC Meeting: Optional Study Session	Staff are hoping to kick-off the UGA Analysis at this meeting; but, if PC desires,

Date	Action	Notes
		another Study Session could be included on this date.
August 5, 2021	Notice PC Public Hearing	10-day notice and public comment period required
August 19, 2021	PC Meeting: Public Hearing	If PC chooses to utilize the additional Study Session on 8/5, this meeting would be dependent upon any additionally proposed amendments.
August 27, 2021	PC Signed Recommendation	
September 13, 2021	City Council: 1 st Reading of DRAFT Ordinance	Materials due on 9/3

Should you have any questions, please contact me at 253-853-7628. Thank you.



TO: Planning Commission

FROM: Carl de Simas, Senior Planner
Planning Division

SUBJECT: Periodic Review and Public Art Amendment – Gig Harbor Shoreline Master Program – Overview and Status

DATE: March 12, 2021

At the upcoming Planning Commission meeting on March 18, 2021, staff will provide the Commission, with an overview of the purpose for the city's Shoreline Master Program (SMP) Periodic Review amendment process, a review of the draft amendments reviewed and tentatively approved by the Commission to date, and a discussion on the status of remaining draft amendments. Staff will also address the remaining key milestones in the city's review and adoption of the amendments.

In this regard, staff would note that to date the Commission has met five times to discuss the SMP periodic review and the amendments to the existing, adopted SMP proposed by staff. Those meetings occurred on November 15, 2018, February 7, 2019, March 7, 2019, April 4, 2019, and July 18, 2019. At the meetings, staff provided an overview of the SMP periodic review process and reviewed draft non-critical area and critical area amendments, respectively.

Included in the Commission's packet for this meeting is the November 8, 2018 staff memorandum that addresses the purpose of the periodic review. Also included is the Periodic Review Checklist and Summary of Periodic Review Rules prepared by the Department of Ecology (Ecology) that identifies proposed amendments to the SMP, draft non-critical area amendments (Chapters 1, 2, 6, 7, & 8) previously reviewed by the Commission at its March 7, 2019 meeting and critical area amendments (Chapter 6) reviewed at its April 4, 2019 meeting.

Remaining amendments, related to the periodic review, proposed to the SMP that require Planning Commission review will address revisions to the SMP's critical area regulations (wetlands, streams and critical fish & wildlife habitat area regulations) that will align it with separate, required amendments to the city's Flood Hazard Construction Standards Ordinance (Gig Harbor Municipal Code Chapter 18.10) that address FEMA-designated Special Flood Hazard Areas and the review of development activities within those designated areas.

Since that last time the Planning Commission reviewed and discussed the SMP Periodic Update, another amendment to the SMP has been proposed. This new amendment is relative to permitting public art on public property within the Shoreline Jurisdiction. City Staff has been discussing this amendment with the Department of Ecology (ECY) and found that other jurisdictions have made such an allowance within their master programs and that it should be tenable for the City to do so as well. In your packets, you will find application materials from the City's Public Works Department proposing such an amendment.

Finally, the City Council has approved a consultant services contract with a firm called Grette and Associates to help staff and the Commission through the final stages of the Periodic Update and the Public Art Amendment. Staff has met with Grette to discuss next steps. To begin, Grette will be reviewing the record of updates and amendments already reviewed by the Commission and ECY to ensure nothing has been missed; and, they will be reviewing the remaining amendments related to consistency with the Flood Hazard Construction Standards to determine what we will need to bring back to the Commission for review.

Should you have any questions, please contact me at 253-853-7628. Thank you.



"THE MARITIME CITY"

DEVELOPMENT SERVICES

TO: Reid Ekberg, Chair
Planning Commission

FROM: *p12* Peter Katich, Senior Planner
Planning Department

SUBJECT: Periodic Review-Gig Harbor Shoreline Master Program

DATE: November 8, 2018

The Gig Harbor Shoreline Master Program (GHSMP), was adopted by the city on November 25, 2013 and became effective on December 27, 2013. Pursuant to Washington Administrative Code (WAC) 173-26-090, the first periodic review of the master program is now required and must be completed by June 2019.

The periodic review is required at least once every 8 years on a schedule established under the Shoreline Management Act (RCW Chapter 90.58). The city's June 2019 deadline is 8 years from the original deadline established under the act for King, Pierce and Snohomish Counties, and the city's located within those counties planning under the Shoreline Management Act.

The periodic review must be accomplished through local government legislative action which requires that the Planning Commission first review the proposed amendments, and then make a recommendation to the Gig Harbor City Council for its direct action. The Planning Commission's meeting of November 15, 2018 will be the beginning of the city's review process for the update effort. The required minimum scope of review consists of:

- To assure that the master program complies with applicable law and guidelines in effect at the time of the review; and,
- To assure consistency of the master program with local government's comprehensive plan and development regulations adopted under chapter 36.70A RCW, if applicable, and other local requirements.

The review process provides a method for bringing shoreline master programs into compliance with the requirements of the act that have been added or changed since the last review and for responding to changes in guidelines adopted by the department, together with a review for consistency with amended comprehensive plans and regulations. It also provides local government with an opportunity to incorporate amendments to reflect changed circumstances, new information or improved data. The review ensures that shoreline master programs do not fall out of compliance over time through inaction.

Attached, for your review is the city's draft Periodic Review Checklist that addresses the proposed amendments identified at this time. All but the 2018 "Proposed City of Gig Harbor Amendments" are required to address state-initiated amendments to the Shoreline Management Act.

Over the nearly five years that the current master program has been in use, staff have used it to permit several complex projects along the city's shorelines and many that are less complicated. Few issues with the existing policies and regulations have been identified, and staff continues to successfully administer the program as part of the city's land use regulatory scheme.

At the November 15, 2018 meeting, staff will provide an overview of the periodic review effort, answer questions and seek the Commission's permission to proceed with the review process. Staff is currently working on a public participation plan for the effort and may have it ready for review at the meeting.

Should you have any questions, please contact me at 253-853-7616. Thank you.

SHORELINE MASTER PROGRAM PERIODIC REVIEW

Summary of the Periodic Review Rule (WAC 173-26-090)

Introduction

This document is an annotated version of Ecology's rule (WAC 173-26-090) on conducting periodic reviews of Shoreline Master Programs (SMPs) under the Shoreline Management Act (SMA). The rule was based on Department of Commerce rules that guide local governments in meeting the analogous Growth Management Act (GMA) "periodic review" requirement.

The following is a brief summary of each section of the rule.

Section 1: Locally initiated review

This brief section is from a long-standing rule that encourages local governments to review their SMPs to reflect changing local circumstances, new information or improved data. Ecology retained this section to clarify that local governments may prepare SMP amendments outside the statutorily mandated review period. The rule encourages local governments to consult guidance materials available from Ecology that may inform their reviews.

Section 2: Periodic review requirements

The second section summarizes and explains statutory requirements. The SMA requires each city and county to review, and, if necessary, revise their SMP at least once every eight years. The legislature set a staggered schedule that alternates with similar reviews under the Growth Management Act (GMA).¹

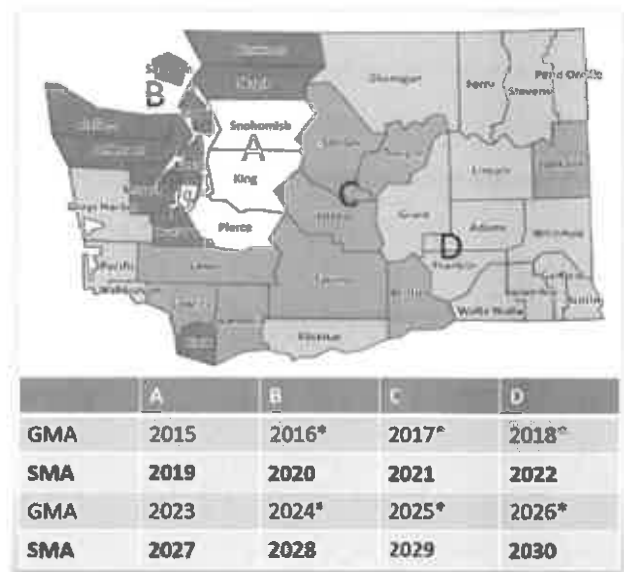


Figure 1. Periodic review schedules under the SMA and GMA.
(NOTE *For GMA reviews, the law gives an extra 2 years for smaller, slower-growing jurisdictions in groups B, C, and D.)

Figure 1 illustrates how GMA and SMA review deadlines alternate over time. For example, Column A indicates that King, Pierce and Snohomish counties and the cities within them have GMA review deadlines in 2015 and eight years later in 2023, interspersed with SMA reviews in 2019 and 2027.

The rule clarifies that local legislative action is required to complete the review, even when a local government determines no changes are needed. It also clarifies how the scope of the periodic review differs from the comprehensive updates that were conducted starting in 2005.

¹ RCW 90.58.080(4)

Summary of Periodic Review Rule (WAC 173-26-090)

Shorelands and Environmental Assistance Program, September 20, 2017

Section 3: Procedures

The third section of the rule outlines local and state procedures for conducting periodic reviews. The rule follows the GMA periodic review process, with unique steps to reflect Ecology's formal approval role (see Figure 2).

The rule requires Ecology to maintain a checklist that includes potential review elements. The checklist is used at the beginning to help determine what to review, and at the end to identify where each applicable issue is addressed in the SMP.

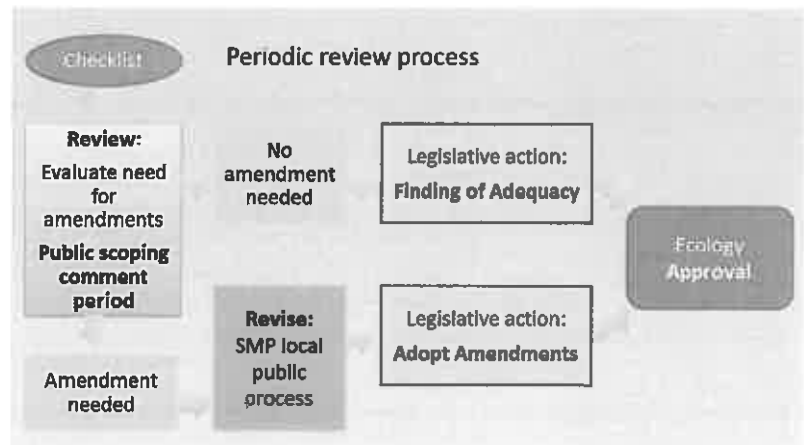


Figure 2. Schematic outline of SMP periodic review process. Ecology final approval triggers an appeal period.

The rule requires a public participation program that provides for early and continuous involvement of interested parties throughout the review process.

For jurisdictions that find no amendments are needed, the scoping could lead directly to final legislative action determining that no amendments are needed ("Finding of Adequacy"). Under the SMA, amendments to SMPs are final only after approval by Ecology. Even when it is determined locally that no amendments are necessary under the periodic review, local governments will submit their Findings of Adequacy to Ecology for review of the local determination and to ensure a definitive conclusion to the periodic review process. If in agreement, Ecology would issue a formal approval. This would provide certainty to all parties that Ecology has concurred with the local determination.

Ecology's approval triggers the appeal period. Any appeals would be of Ecology's action as well as the local government action.

Below is the complete text of Ecology's rule outlining the periodic review requirements and process. The annotation in colored boxes provides context and explanation for each section and is not part of the formally adopted rule.

WAC 173-26-090 - Locally initiated review—Periodic review—Public involvement and approval procedures.

(1) Locally initiated master program reviews

Each local government should review its shoreline master program and make amendments deemed necessary to reflect changing local circumstances, new information or improved data.

Local governments are encouraged to consult department guidance for applicable new information on emerging topics such as sea level rise.

The first sentence of §1 has been in place for decades. Ecology retained this direction to emphasize that local governments may amend their SMPs at any time to address changing circumstances, new information or improved data. Ecology's 2017 amendments suggests local governments consult Ecology guidance for information on emerging issues such as sea level rise. Addressing sea level rise is an example of the kind of work that might be most effectively tackled as part of a broader comprehensive plan initiative, rather than during a focused SMA periodic review. Note that §(3)(b)(iii) calls on local governments to consider these kinds of amendments during the mandatory periodic review. The periodic review can be considered a minimum time period to convene a public process to consider as a community whether your SMP remains relevant with changing conditions. However, these kinds of amendments can be conducted at any time.

(2) Periodic review requirements.

(a) Following the comprehensive updates required by RCW 90.58.080(2), each local government shall conduct a review of their master program at least once every eight years on a schedule established in the act. Following the review, local governments shall, if necessary, revise their master programs. This review and revision is referred to in this section as the periodic review.

§ 2 (a) starts with direct quotes from the SMA at RCW 90.58.080(4), with an additional clarification that the rule uses the term "periodic review" for the mandatory eight-year review. The term "comprehensive update" refers to the one-time updates required under RCW 90.58.080(2) with deadlines from 2005 – 2014.

(2)(b) Deadlines for periodic review.

Local governments must take action to review, and if necessary, revise their master programs according to the schedule established in RCW 90.58.080(4)(b). Deadlines for completion of periodic review are as follows:

Table WAC 173-26-090.1 Deadlines for Completion of Periodic Review

Reviews must be completed on or before June 30 of:	Affected counties and the cities and towns within:
2019/2027*	King, Pierce, Snohomish
2020/2028*	Clallam, Clark, Island, Jefferson, Kitsap, Mason, San Juan, Skagit, Thurston, Whatcom
2021/2029*	Benton, Chelan, Cowlitz, Douglas, Kittitas, Lewis, Skamania, Spokane, Yakima
2022/2030*	Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, Whitman

* And every eight years thereafter.

§ 2(b) quotes the statutory directive to review and revise if needed and presents the deadlines in a table.

The statutory requirement is to conduct a periodic review *at least* once every 8 years by June 30 of the year listed. There is no absolute direction in law or rule for how early you can adopt, but as a general guide Ecology recommends conducting periodic review within two years of the deadline. For SMA reviews in particular it will actually be beneficial if local periodic review adoptions are “spread out” around the deadline to distribute the review workload, and ensure Ecology can provide adequate help to individual jurisdictions.

Note that if a local governments simply ignores their deadlines they are potentially vulnerable to a “failure to act” claim before the Growth Management Hearings Boards (for fully planning jurisdictions), or before the Shorelines Hearings Board (for partially planning jurisdictions). Ecology also has authority to adopt SMP amendments by rule under RCW 90.58.070.

(2)(c) Taking legislative action.

(i) The periodic review must be accomplished through legislative action. Legislative action means the adoption of a resolution, motion, or ordinance following notice and a public hearing including, at a minimum, findings that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefore. Legislative findings that no revisions are needed are referred to in this section as “findings of adequacy.”

(ii) Legislative action includes two components. It includes a review of the shoreline master program and it includes the adoption of either findings of adequacy or any amendments necessary to bring the program into compliance with the requirements of the act.

(iii) Legislative actions concluding the periodic review must be followed by department approval.

§ 2(c) clarifies that statutory review must be concluded with legislative action. In other words, a local government cannot simply conduct a staff-level review, conclude no local action is needed, and be done with the review obligation. Just like under GMA reviews, the review is a formal public process concluding with elected officials taking formal action after a public hearing.

§ 2(c)(i) creates a new term – locally adopted findings that revisions to the SMP are not needed are called “Findings of Adequacy.” **§ 2(c)(ii)** clarifies that legislative action includes a formal public review and formal action, whether the review results in amendments, or simple findings of adequacy where the review reveals no changes to the SMP are needed. **§ 2(c)(iii)** clarifies Ecology approval is needed to conclude local reviews. This provides a definitive end to the local process. Note that an appeal of local periodic review amendments or local findings of adequacy would also be appeals of Ecology’s approval.

(2)(d) The required minimum scope of review.

(i) The purpose and scope of the periodic review as established by the act is:

(A) To assure that the master program complies with applicable law and guidelines in effect at the time of the review; and

(B) To assure consistency of the master program with the local government's comprehensive plan and development regulations adopted under chapter 36.70A RCW, if applicable, and other local requirements.

(ii) The review process provides the method for bringing shoreline master programs into compliance with the requirements of the act that have been added or changed since the last review and for

responding to changes in guidelines adopted by the department, together with a review for consistency with amended comprehensive plans and regulations. Local governments should also incorporate amendments to reflect changed circumstances, new information, or improved data. The review ensures that shoreline master programs do not fall out of compliance over time through inaction.

(iii) The periodic review is distinct from the comprehensive updates required by RCW 90.58.080(2). The presumption in the comprehensive update process was that all master programs needed to be revised to comply with the full suite of ecology guidelines. By contrast, the periodic review addresses changes in requirements of the act and guidelines requirements since the comprehensive update or the last periodic review, and changes for consistency with revised comprehensive plans and regulations, together with any changes deemed necessary to reflect changed circumstances, new information or improved data. There is no minimum requirement to comprehensively revise shoreline inventory and characterization reports or restoration plans.

§ 2(d)(i) and (ii) define the required scope of review consistent with the purpose set in statute.

§ 2(d)(iii) is intended to distinguish the periodic reviews from the one-time comprehensive SMP update. Comprehensive updates involved a complete review of the SMP based on Ecology's 2003 SMA rules, and included extensive inventory work to determine shoreline jurisdiction and analyze existing conditions. Periodic reviews are focused on new laws or rules that were not effect when the comprehensive update was adopted, or new information a local government finds warrants local amendments.

(3) Procedures for conducting periodic reviews.

(3)(a) Public participation program.

(i) In conducting the periodic review, the department and local governments, pursuant to RCW 90.58.130, shall make all reasonable efforts to inform, fully involve and encourage participation of all interested persons and private entities, tribes, and agencies of the federal, state or local government having interests and responsibilities relating to shorelines of the state and the local master program. Local governments may follow the public participation procedures under either the standard local process outlined in WAC 173-26-100, or the optional joint review process outlined in WAC 173-26-104.

§ 3(a)(i) clarifies that the periodic review is a public process. Even though conducting the review may lead to the conclusion no actual revisions are necessary, the direction in statute for public involvement applies.

(ii) Counties and cities shall establish and broadly disseminate to the public a public participation program identifying procedures whereby review of the shoreline master program will be considered by the local governing body consistent with RCW 36.70A.140. Such procedures shall provide for early and continuous public participation through broad dissemination of informative materials, proposals and alternatives, opportunity for written comments, public meetings after effective notice, provision for open discussion, and consideration of and response to public comments.

The public participation program should include a schedule for the periodic review and identify when legislative action on the review and update component are proposed to occur. The public participation program should also inform the public of when to comment on the scope of the review and proposed changes to the master program. Counties and cities may adjust the public participation program to best meet the intent of the participation requirement.

§ 3(a)(ii) require a public participation program for all jurisdictions, not just those fully planning under GMA. The new additions under (A) and (B) are modified from GMA rules [WAC 365-196-610(2)(a)(i) and (ii)]. The recommendation for a schedule and public scoping addresses Growth Management Hearings Board decisions – highlighting the importance of definitive notice when taking action on periodic reviews.

(3)(b) Review and analysis to determine need for revisions.

(i) Review amendments to the act and shoreline master program guidelines.

Local governments must review amendments to chapter 90.58 RCW and department guidelines that have occurred since the master program was last amended, and determine if local amendments are needed to maintain compliance. The department will maintain a checklist of legislative and rule amendments to assist local governments with this review. The department will provide technical assistance to ensure local governments address applicable changes to the act and master program guidelines.

(ii) Review relevant comprehensive plans and regulations.

Local governments must review changes to the comprehensive plan and development regulations to determine if the shoreline master program policies and regulations remain consistent with them.

WAC 173-26-191(1)(e) and 173-26-211(3) provide guidance on determining internal consistency. It is the responsibility of the local government to assure consistency between the master program and other elements of the comprehensive plan and development regulations. Local governments should document the consistency analysis to support proposed changes.

(iii) Additional review and analysis.

Local governments should consider during their periodic review whether to incorporate any amendments needed to reflect changed circumstances, new information or improved data as described under subsection (1) of this section. Local governments should consider whether the significance of the changed circumstances, new information or improved data warrants amendments.

§ 3(b) is based on the Commerce GMA periodic update rule [WAC 365-196-610(2)(b)].

§ 3(b)(i) borrows from the Commerce rule in requiring Ecology to maintain a checklist of statutory and rule amendments.

§ 3(b)(ii) references Ecology's existing rules on how to review SMPs for consistency with GMA plans and regulations. (Those rules clarify that local governments are responsible for determining whether their SMP is consistent with other local plans and regulations, and not Ecology).

§ 3(b)(iii) acknowledges local governments may combine locally initiated amendments together with the periodic review.

(3)(c) Take legislative action.

(i) At the end of the review process, counties and cities must take legislative action declaring the review process complete.

(ii) The notice of hearing for legislative actions that are intended to address the periodic review process must state that the actions to be considered are part of the periodic review process under RCW 90.58.080(4).

(iii) The findings for any legislative action on the periodic review process must state that the action is intended to satisfy the requirements of RCW 90.58.080(4).

(iv) A local government that determines after review that amendments are not needed shall adopt a resolution, motion, or ordinance declaring findings of adequacy. Findings of adequacy are a local written determination that no revisions to a shoreline master program are needed to comply with the requirements of RCW 90.58.080(4).

§ 3(c)(i) – (iii) is based on the GMA periodic update rule [WAC 365-196-610(2)(c)]. These rules are based on Growth Management Hearings Board decisions that found procedural errors in some local GMA periodic review adoptions. It is important to definitively conclude the periodic review in legislative findings.

§ 3(c)(iv) clarifies that when no changes are needed a local government will adopt formal “Findings of Adequacy.”

(3)(d) Submittal to the department.

(i) A local government that determines amendments are needed shall submit the amendments to the department consistent with WAC 173-26-110.

(ii) A local government that determines amendments are not needed shall submit the following in lieu of the requirements of WAC 173-26-110:

(A) A resolution or ordinance declaring findings of adequacy.

(B) Evidence of compliance with applicable public notice and consultation requirements.

(C) Copies of all public, agency and tribal comments received during any applicable public comment periods, or where no comments have been received, a statement to that effect.

(D) A completed checklist demonstrating review elements have been considered, and are either inapplicable or have already been addressed through previous locally initiated amendments prior to the scheduled periodic review.

§ 3(d)(i) clarifies that when there are amendments, local governments will follow the normal amendment process.

§ 3(d)(ii) provides submittal requirements when there are no amendments – these are the required elements for complete submittal to accompany “findings of adequacy.”

(e) State process for approving periodic reviews.

(i) The department must issue a formal approval of any amendment or findings of adequacy.

Department approval is necessary to affirmatively conclude the periodic review process, to confirm that state review of local action has occurred, and to establish a definitive appeal window consistent with RCW 90.58.190.

(ii) Where the local government final action includes master program amendments, local governments and the department shall follow applicable adoption procedures described in WAC 173-26-120.

(iii) Where the local government final action is to adopt findings of adequacy, the department shall follow applicable adoption procedures described in WAC 173-26-120. The department shall review the findings of adequacy solely for consistency with RCW 90.58.080(4) and this section.

§ 3(e)(i) clarifies that Ecology must approve any amendment as well as the “findings of adequacy.” Any appeals would be of Ecology’s approval rather than the local government determination.

§ 3(e)(ii) clarifies that the normal adoption process applies if there are amendments.

§ 3(e)(iii) provides submittal requirements where there are no amendments. Ecology will follow the normal adoption process but substitute review of the local “findings of adequacy” with evaluation of actual amendments.

SHORELINE MASTER PROGRAM PERIODIC REVIEW

Periodic Review Checklist – City of Gig Harbor (10.31.18 draft)**Introduction**

This document is intended for use by counties, cities and towns conducting the “periodic review” of their Shoreline Master Programs (SMPs). This review is intended to keep SMPs current with amendments to state laws or rules, changes to local plans and regulations, and changes to address local circumstances, new information or improved data. The review is required under the Shoreline Management Act (SMA) at [RCW 90.58.080\(4\)](#). Ecology’s rule outlining procedures for conducting these reviews is at [WAC 173-26-090](#).

This checklist summarizes amendments to state law, rules and applicable updated guidance adopted between 2007 and 2017 that may trigger the need for local SMP amendments during periodic reviews.

How to use this checklist

See Section 2 of Ecology’s *Periodic Review Checklist Guidance* document for a description of each item, relevant links, review considerations, and example language.

At the beginning: Use the review column to document review considerations and determine if local amendments are needed to maintain compliance. See WAC 173-26-090(3)(b)(i).

At the end: Use the checklist as a final summary identifying your final action, indicating where the SMP addresses applicable amended laws, or indicate where no action is needed. See WAC 173-26-090(3)(d)(ii)(D), and WAC 173-26-110(9)(b).

Local governments should coordinate with their assigned [Ecology regional planner](#) for more information on how to use this checklist and conduct the periodic review.

Row	Summary of change	Review	Action
2017			
a.	OFM adjusted the cost threshold for substantial development to \$7,047.	Subsection 8.2.1.A (SSDP requirement) & Subsection 8.2.2 (a)-exemptions from Substantial Development Permit	Revise cost threshold from \$6,416 to \$7,047 (also revise Customer Assistance Memo and website as necessary)
b.	Ecology amended rules to clarify that the definition of “development” does not include dismantling or removing structures.	Chapter 2 definition for “development”	clarify that it doesn’t include the dismantling or removal of structures-see WAC 173-27-030(6)
c.	Ecology adopted rules that clarify exceptions to local review under the SMA.	Chapter 1, Section 1.6- applicability	Q: revise to address 3 types of development that the local SMP doesn’t apply to
d.	Ecology amended rules that clarify permit filing procedures consistent with a 2011 statute.	Subsection 8.5.2.A-Ecology Review-Submittal Requirements	Revise subsection 8.5.2.A to address filing with Ecology by return requested receipt mail.
e.	Ecology amended forestry use regulations to clarify that forest practices that only involves timber cutting are not SMA “developments” and do not require SDPs.	N/A	N/A
f.	Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction	Chapter 1, Section 1.6- applicability	Q: revise to clarify SMP application to projects, uses and areas under federal jurisdiction
g.	Ecology clarified “default” provisions for nonconforming uses and development.	N/A	N/A
h.	Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews.	N/A	N/A
i.	Ecology adopted a new rule creating an optional SMP amendment process that allows for a shared local/state public comment period.	N/A	N/A
j.	Submittal to Ecology of proposed SMP amendments.	N/A	N/A
2016			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structures to	Subsection 8.2.2-Exemptions from SDP	Add new subsection 8.2.2.q to listed exemptions

Row	Summary of change	Review	Action
	comply with the Americans with Disabilities Act .		
b.	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	Confirm with Ecology that existing requirements comply with state wetland critical area guidance. Also, review GHSMP for consistency with July 2018 Ecology guidance for wetland buffers relative to current rating system and habitat tables in GHSMP Subsection 6.2.5.11.	Revise GHSMP Subsection 6.2.5 (regulations-critical areas) as necessary. Revise reference from most recent version of rating system to Wetlands Guidance for Critical Areas Ordinance Updates- Western Washington.
2015			
a.	The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects.	N/A	N/A
2014			
a.	The Legislature raised the cost threshold for requiring a Substantial Development Permit (SDP) for replacement docks on lakes and rivers to \$20,000 (from \$10,000).	Subsection 8.2.2-Exemptions from SDP	Add new subsection 8.2.2.h.ii raising threshold from 10 to \$20K
b.	The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014.	N/A	N/A
2012 (Pre-Comprehensive SMP adoption (11.25.13) & effective date (12.17.13))			
a.	The Legislature amended the SMA to clarify SMP appeal procedures .	N/A	N/A
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual .	N/A	N/A
b.	Ecology adopted rules for new commercial geoduck aquaculture .	N/A	N/A
c.	The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011.	N/A	N/A

Row	Summary of change	Review	Action
d.	The Legislature authorized a new option to classify existing structures as conforming.	See Subsection 8.11.8.d- currently addressed by existing SMP	none
2010			
a.	The Legislature adopted Growth Management Act – Shoreline Management Act clarifications.	N/A	N/A
2009			
a.	The Legislature created new “relief” procedures for instances in which a shoreline restoration project within a UGA creates a shift in Ordinary High Water Mark.	N/A	N/A
b.	Ecology adopted a rule for certifying wetland mitigation banks.	Subsection 6.2.5.16.2	Add new Subsection 6.2.5.16.2.d that allows credits from a certified mitigation bank to be used to compensate for unavoidable impacts
c.	The Legislature added moratoria authority and procedures to the SMA.	N/A	N/A
2007			
a.	The Legislature clarified options for defining “floodway” as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA.	Chapter 2-Definitions	Revise per Ecology “option 1” example language
b.	Ecology amended rules to clarify that comprehensively updated SMPs shall include a list and map of streams and lakes that are in shoreline jurisdiction.	N/A	N/A
c.	Ecology’s rule listing statutory exemptions from the requirement for an SDP was amended to include fish habitat enhancement projects that conform to the provisions of RCW 77.55.181.	N/A	N/A
2018	Proposed City of Gig Harbor Revisions		

Row	Summary of change	Review	Action
	Add shoreline permit application requirements addressed by WAC 173-27-180 GHSMP Section 8.3 (application requirements).	Section 8.3 (application requirements)	Revise Section 8.3 by providing a reference to the application requirements of WAC 173-27-180
	Amend GHSMP 7.18 (Residential Section) to reference liveaboards as a permitted use per marina section	Section 7.18 (Residential) and provide reference to Section 7.11 (Boating & Marinas: Piers, Docks & Moorage)	Revise existing subsection 7.18.2.1 to note that liveaboards are allowed per subsection 7.11.9.3.f
	Amend GHSMP Subsection 7.1.1 (Permitted Use Tables) and Table 7-2 (use matrix) by adding water-related and water-enjoyment uses located waterward of OHWM in new structures to use matrix as a conditionally listed use in the City Waterfront & Historic Working Waterfront S.E.D.'s.	Subsection 7.1.1, Table 7-2- Shoreline Use Matrix, and GHSMP Section 7.12 (Commercial Uses)	Revise existing regulation by eliminating the limitation that water-related and water-enjoyment uses only be allowed in "existing structures" as a listed conditional use. Consider limiting the use and size of structures located water ward of the OHWM and the addition of additional review criteria for such structures. In the alternative, consider adding a prohibition symbol to the use matrix if the Planning Commission and City Council do not approve of such a revision to clarify the table.
	Amend GHSMP Subsection 7.1.1 (Permitted Use Tables), Table 7-2 (Use Matrix) & Subsection 7.20.4 (Parking Regulations) by adding principal use public parking areas as a conditionally listed use in the City Waterfront SED.	Review GHSMP Chapter 2 (definitions), Subsection 7.1.1- Table 7-2 Use Matrix and GHSMP subsection 7.20.4 (parking regulations).	Create a definition in GHSMP Chapter 2 for principle use public parking areas, amend Subsection 7.1.1-Table-2, Use Matrix and Subsection 7.20.4, Parking Regulations, to allow principle use public parking areas as a conditionally allowed use in the City Waterfront SED.
	Amend Subsection 6.2.5.23 (Critical Fish & Wildlife Habitat Areas) consistent with revisions to GHMC Chapters 18.08 & 18.10 to address proposed FEMA Special Flood Hazard Area Regulations (door 2B approach)	Review Subsection 6.2.5.23.C.2 & 3 (Habitat Assessment & Habitat Management Plan regs) & 6.2.5.23.D (buffer requirements).	Revise Subsections 6.2.5.23.C.2 & 3 (Habitat Assessment & Habitat Management Plan regs) & 6.2.5.23.D (buffer requirements) to tighten-up agency review process and increase minimum required buffer from 25-50 feet in width.

Row	Summary of change	Review	Action
	Amend Subsection 6.5.2.4 (Public Access) to address conditions that don't require public access	Review Subsection 6.5.2.2, 6.5.2.3 & 6.5.2.4	Revise Subsection 6.5.2.4 to reference Subsection 6.5.2.3, not Subsection 6.5.2.2.
	Amend Subsection 6.2.5.13(1)(b) (Wetlands-Permitted Uses in Buffer Areas) to clarify where pervious trails and viewing platforms can be located within a wetland buffer. See GHMC 18.08.120.B for correct citation.	Review Subsection 6.2.5.13(1)(b)	Revise Subsection 6.2.5.13(1)(b) to clarify that it only applies to category 1 wetlands
	Amend Subsection 6.2.5.13 (Wetlands-Permitted Uses in Buffer Areas) to reference subsection 6.2.5.11, not 6.2.5.10 (see 1.1.ii, 1.3, & 1.h)	Review Subsection 6.2.5.13 for inaccurate reference to wetland report, not wetland buffer requirement	Revise subsection to reference GHSMP subsection 6.2.5.11
	Amend GHSMP subsection 6.2.3.2(2) (Marine-Vegetation Conservation Strip) to address structures & "uses"	Review GHSMP subsection 6.2.3.2	Revise to clarify the applicability of the requirement to uses and structures.
	Amend GHSMP subsection 7.20.4(1) (Parking Regulations) for consistency with definition for "principal use parking"	Review Chapter 2 (definitions) and subsection 7.20.4(1) for consistent use of terms	Revise subsection 7.20.4(1) consistently with definition for "principal use parking" set forth in GHSMP Chapter 2.
	Amend GHSMP Chapter 2 (definitions) to correct "development" definition for proper spelling of "Shoreline" not "Shorelines" as in Shoreline Management Act of 1971.	Review Chapter 2 (definitions) and definition for development for correct spelling of "Shoreline"	Revise spelling for Shoreline set forth in the definition for development in GSMP Chapter 2
	Amend GHSMP Chapter 2 (definitions) to revise the existing definition for "Utilities" to include storm water.	Review GHSMP Chapter 2 and Section 7.21 (Utilities) for consistency	Revise Utilities definition in GHSMP Chapter 2 to include storm water
	Amend GHSMP Chapter 2 (definitions) by adding a new definition for "navigational aids"	Review WAC 352-66-050 (Aids to Navigation), WAC 173-27-040(2)(f) and Ecology guidance.	Create new definition for "navigational aids." Navigational aids include lights, channel markers and anchor buoys placed in accordance with Coast Guard Standards & requirements of WAC 352-66-050 and not moorage buoys or dolphins used for the moorage of commercial or recreational vessels.

Row	Summary of change	Review	Action
	Amend GHSMP Chapter 2 (definitions) to revise the definition for "Substantial Development" to the new \$7,047 cost threshold for requiring a SSDP	Review GHSMP Chapter 2 (definitions) and definition for Substantial Development for consistency with the current SSDP cost threshold	Revise the definition for "substantial development" consistent with current SSDP cost threshold
	Amend GHSMP Chapter 2 (definitions) by adding a new definition for "Harbor Area."	Review Wa. DNR definitions in RCW 79.105.060	Create new definition for "Harbor Area" consistent with DNR definition for same in RCW 79.105.060
	Amend GHSMP Chapter 2 (definitions) to add definitions for First-Class Tidelands, Second-Class Tidelands & Tidelands	Review Wa. DNR definitions in RCW 79.105.060	Create new definitions for First & Second Class Tidelands and Tidelands
	Amend GHSMP Subsection 7.21.2(8) (Utilities-Regulations) to add additional review criterion for utility conveyance systems.	Review GHSMP Section 7.21 for consistency with the city's Ecology approved storm water manual requirements	Revise subsection 7.21.2(8) to include consistency with Ecology approved storm water manual as one of applicable review criteria for storm water conveyance systems located within shoreline jurisdiction.
	Additional Review for Consistency		
	Comprehensive Plan Consistency	The Harbor Element-Chapter 3	No action required-existing and proposed revisions remain consistent with the element.

S.M.P. AMENDMENTS

CHAPTER 1 – INTRODUCTION

1.4 Adoption Authority

This Master Program is adopted under the authority granted by the Act and Chapter 173-26 of the Washington Administrative Code (WAC).

1.5 Relationship to Other Plans and Regulations

Uses, developments and activities regulated by this Master Program may also be subject to the provisions of the Gig Harbor Comprehensive Plan, the Washington State Environmental Policy Act ("SEPA," Chapter 43.21C RCW and Chapter 197-11 WAC), other provisions of the Gig Harbor Municipal Code (GHMC), including Title 17 Zoning and Title 18 Environment, and various other provisions of local, state and federal law, as may be amended. Any conflicts between the SMP and other relevant federal, state, or local regulations are resolved in favor of the regulation that is most protective of the shoreline ecological functions. The specific provisions of GHMC Title 16 Subdivisions and Title 17 shall apply when not specifically addressed by the Master Program's development regulations. All other referenced code provisions are not considered part of this Master Program.

Project proponents shall comply with all applicable laws prior to commencing any use, development or activity.

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.

1.6 Applicability

This Master Program shall apply to all new development, redevelopment and changes in land use. It also applies to every person, individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or other non-federal entity which develops, owns, leases, or administers lands, wetlands, or waters that fall under the jurisdiction of the Act.

This Master Program shall apply to all of the lands and waters in the City of Gig Harbor that fall under the jurisdiction of the Act (see Section 1.7 Shoreline Jurisdiction below).

The Master Program does not apply to:

- o ~~Those lands and waters located in the City's Urban Growth Area (UGA) until such time the area is annexed into the City. Until annexation occurs, all development in UGA areas will continue to be regulated by the Pierce County Shoreline Master Program. Goals, policies, and regulations that apply specifically to areas in the UGA have been included in this Master Program in anticipation of future annexations. Also, shorelines within the City's UGA have been pre-designated (see Chapter 5). Portions of this Master Program that apply specifically to UGA areas will not apply until annexation occurs.~~
- o Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW.
- o Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.
- o WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review.
- o Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.
- o Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.
- o Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of chapter 90.58 RCW.

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Commented [CdS1]: Not found in guidance, but existing in SMP.

Commented [CdS2]: KV commented that these areas are likely not found in GH; included anyway.

All proposed uses and development occurring within shoreline jurisdiction must conform to Chapter 90.58 RCW, the Shoreline Management Act, and this Program. The Shoreline Management Act's provisions are intended to provide for the

management of all development and uses within shoreline jurisdiction, whether or not a shoreline permit is required because many activities that may not require a substantial development permit, such as clearing vegetation or construction of a residential bulkhead, can, individually or cumulatively, adversely impact adjacent properties and natural resources.

Federal agency actions on shorelines of the state are required to be consistent with this Master Program and the Act, as provided by the Coastal Zone Management Act (Title 16 United States Code §1451 et seq.; and §173-27-060(1) WAC, Applicability of Chapter 90.58 RCW [Shoreline Management Act] to federal lands and agencies).

The permit requirements established under this Master Program apply to non-federal activities undertaken on lands subject to non-federal ownership, lease, or easement; and to development and uses undertaken on lands not federally owned but under lease, easement, license, or other similar property right of the federal government.

With regard to tribal treaty rights, nothing in this Master Program shall affect any rights established by treaty to which the United States is a party.

1.7 Shoreline Jurisdiction

Under the Shoreline Management Act (SMA), the shoreline jurisdiction includes water bodies that have been designated as "shorelines of statewide significance" or "shorelines of the state" and their associated shorelands, defined as the upland area within 200 feet of the ordinary high water mark (OHWM), as well as any associated wetlands (RCW 90.58.030). See Figure 1-1 for illustrative purposes.

S.M.P. AMENDMENTS

CHAPTER 2 – DEFINITIONS

- 1) With regard to a permit other than a permit governed by subsection (10) of this section, "date of filing" as used in this section refers to the date of actual receipt by the department of the local government's decision.
- 2) With regard to a permit for a variance or a conditional use governed by subsection (10) of this section, "date of filing" means the date the decision of the department is transmitted by the department to the local government.
- 3) When a local government simultaneously transmits to the department its decision on a shoreline substantial development with its approval of either a shoreline conditional use permit or variance, or both, "date of filing" has the same meaning as defined in (2) of this subsection.
- 4) The department shall notify in writing the local government and the applicant of the date of filing by telephone or electronic means, followed by written communication as necessary, to ensure that the applicant has received the full written decision.

Designated Wetland

"Designated wetland" means those lands identified through the classification process established by this SMP.

Development

~~"Development" means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Shorelines Management Act of 1971 at any stage of water level. "Development" does not include dismantling or removing structures if there is no other associated development or re-development. "Development" means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the act at any stage of water level. "Development" does not include dismantling or removing structures if there is no other associated development or redevelopment~~

Development Regulations

flood in any one year, with those areas defined and identified on the Federal Emergency Management Administration (FEMA) flood insurance rate maps for the City of Gig Harbor.

Flood Hazard Reduction

"Flood hazard reduction" means measures taken to reduce flood damage or hazards. Flood hazard reduction measures may consist of nonstructural or indirect measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, bioengineering measures, and storm water management programs; and of structural measures, such as dikes, levees, and floodwalls intended to contain flow within the channel, channel realignment, and elevation of structures consistent with the National Flood Insurance Program.

Flood Plain

"Flood plain" is synonymous with the one hundred-year flood plain and refers to the land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the act.

Floodplain Hazard Permit

"Floodplain hazard permit" means the permit required by the City flood hazard construction ordinance (GHMC Chapter 18.10 Flood Hazard Construction Standards).

Floodway

~~"Floodway" means the area, as identified in a master program, that either: (i) Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or (ii) consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually. Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices~~

maintained by or maintained under license from the federal government, the state, or a political subdivision of the state. "Floodway" means the area that has been established in effective federal emergency management agency flood insurance rate maps or floodway maps. The floodway does not include lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

Forest Land

"Forest land" means all land that is capable of supporting a merchantable stand of timber and is not being actively used, developed, or converted in a manner that is incompatible with timber production.

Forest Practices

"Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing or harvesting of timber, or the processing of timber, including but not limited to: road and trail construction and maintenance; harvest, final and intermediate; pre-commercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control.

Geologically Hazardous Areas

"Geologically hazardous areas" means those areas as designated in the City of Gig Harbor comprehensive plan as "landslide hazards," in the Washington Department of Ecology Coastal Zone Atlas, Volume 7, and which are further defined in WAC 365-190-080(5) and this Master Program.

Geotechnical Report

"Geotechnical report" or "geotechnical analysis" means 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

Natural Topography

"Natural topography" or "existing topography" means the topography of the lot, parcel, or tract of real property immediately prior to any site preparation or grading, including excavation or filling.

Navigational Aids

"Navigational Aids" include lights, channel markers and anchor buoys placed in accordance with Coast Guard Standards and the requirements of WAC 352-66-050. They do not include moorage buoys or dolphins used for the moorage of commercial or recreational vessels.

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Navigational Channels

"Navigational channels" are those logical routes on the waters of Gig Harbor beyond the outer harbor line, commonly used by ships for useful commerce.

Net Shed

"Net shed" means a building constructed over or near the water for the purpose of storing, mending and maintaining fishing nets and other fishing gear.

Non-conforming Structure

"Non-conforming structure" means a structure that was lawfully constructed prior to the effective date of these regulations, but which no longer conforms to the applicable regulations of the master program.

Non-conforming Use

A "non-conforming use" is a use which lawfully occupied a building or land at the time this Master Program becomes effective and which does not conform with the use regulations for the particular use activity under which it falls.

Non-residential

"Non-residential" means activity not involving human occupation of a building for living, cooking, sleeping and recreation. Such activities include, but are not limited

whether installed on, above, or below the surface of the ground or water, except for vessels.

Structural Shoreline Stabilization

"Structural Shoreline Stabilization" means those "hard" structural stabilization measures including but not limited to concrete bulkheads, rock revetments and seawalls, and "soft" structural measures including but not limited to biotechnical vegetation or beach enhancement. Also see definition for "shoreline stabilization."

Sub-basin

"Sub-basin" means a geographic area, that drains to a stream or waterbody named and noted on common maps, and that is contained within a basin of the stream or waterbody.

Substantial Development

"Substantial development" shall mean any development of which the total cost or fair market value exceeds ~~six thousand four hundred and sixteen~~ seven thousand and forty seven dollars (\$~~6,416~~7,047), or as adjusted by the State Office of Financial Management, or any development which materially interferes with the normal public use of the water or shorelines of the state.

Substantially Degrade

"Substantially degrade" means to cause significant ecological impact.

Substrate

"Substrate" means the soil, sediment, decomposing organic matter or combination of those located on the bottom surface of the wetland.

Surface Water Management Activities

Those activities conducted by the City of Gig Harbor pursuant to GHMC Chapter 14.20 Stormwater Management to improve, maintain and repair the City's stormwater drainage system.

Tidal Water

"Tidal water" includes marine and estuarine waters bounded by the ordinary high water mark. Where a stream enters the tidal water, the tidal water is bounded by the extension of the elevation of the marine ordinary high water mark within the stream.

Transmit

"Transmit" means to send from one person or place to another by mail or hand delivery. The date of transmittal for mailed items is the date that the document is certified for mailing or, for hand-delivered items, is the date of receipt at the destination.

Transportation Facility

A "transportation facility" includes roads and railways, related bridges and culverts, and bus and truck terminals. Not included are off-street bicycle or recreational trails.

Uplands

"Uplands" means dry lands landward of OHWM.

Utilities

"Utilities" are services and facilities that produce, convey, store, or process power, gas, sewage, storm water, communications, oil, waste, and the like. On-site utility features serving a primary use, such as a water, sewer or gas line to a residence, are "accessory utilities" and shall be considered a part of the primary use.

Utility Line

"Utility line" means pipe, conduit, cable or other similar facility by which services are conveyed to the public or individual recipients. Such services shall include, but are not limited to, water supply, electric power, gas and communications.

S.M.P. AMENDMENTS

CHAPTER 6 – GENERAL GOALS, POLICIES & REGULATIONS

6.2.3.2 Marine – Vegetation Conservation Strip

- 1) Vegetation conservation strips shall consist of an undisturbed area of native vegetation established to protect the integrity, functions and processes of the shoreline. See Section 6.2.4 for standards regarding vegetation conservation.
- 2) A vegetation conservation strip shall be maintained on all marine shorelines for all non-water dependent uses **and structures** adjacent to the marine shoreline to protect and maintain the integrity, functions and processes of the shoreline and to minimize risks to human health and safety. The vegetation conservation strip shall be measured horizontally from the site's OHWM or top of bluff, whichever is applicable, to the building line of the structure (see definition for "building line" in Chapter 2). The vegetation conservation strip requirement shall not apply to water-dependent uses as addressed in Table 6-1.
- 3) The depth of the vegetation conservation strip shall equal the *minimum structure setback*, as established below in Table 6-1; or the depth of a critical area buffer, as established in Section 6.2.5, whichever is greater.
- 4) The *minimum structure setback* may be reduced pursuant to Section 6.2.3.3, Regulations #1-4 provided:
 - a) The reduced setback does not conflict with a required critical area buffer;
 - b) The reduced setback meets or exceeds the *minimum nonconforming structure setback*, except for those circumstances described under Section 6.2.3.3, Regulation #2; and
 - c) Within the Urban Conservancy, Low Intensity, and Natural environment designations, there is no net increase in impervious surface within the *minimum structure setback* except when:
 - i) The net increase is 1 percent or less of the property's shoreline jurisdiction area or 50 square feet, whichever is greater; or
 - ii) Low impact development techniques in compliance with the Gig Harbor Stormwater Management and Site Development Manual are used to offset impacts from the additional impervious surface area.
- 5) A building setback from the upland edge of the vegetation conservation strip shall be established to limit construction impacts unless development exceptions are utilized pursuant to Section 6.2.3.3, Regulations #1-3.

Blocking access or discouraging use of existing on-site public access are examples of such impacts that will require mitigation.

- b) Proposed water-enjoyment, water-related and non-water-dependent commercial or industrial shoreline developments.
 - c) Residential developments involving the creation of more than four (4) lots or the construction of multiple-family dwellings.
 - d) Where the development is proposed or funded by a public entity or on public lands, except where public access improvements would adversely affect publicly funded restoration actions.
 - e) Where a use or development will interfere with a public use of land or waters subject to the public trust doctrine.
- 2) The requirement for public access shall be determined based on a site specific analysis. Where public access is required, the area dedicated and improved for public access shall be roughly proportional to the scale and character of the proposed development and its impacts.
- 3) An applicant may not need to provide public access where one or more of the following conditions apply.
- 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 amenity is unreasonably disproportionate to the total long-term cost of the proposed development, as determined by the Administrator;
 - d) Unacceptable environmental impacts that cannot be mitigated would occur; or
 - 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) In order to meet any of the conditions under Section 6.5.2 Regulation #~~2~~3 above, the applicant must first demonstrate and the City must determine in its findings that all reasonable alternatives have been exhausted, including but not limited to:

S.M.P. AMENDMENTS

CHAPTER 7 – Shoreline Use & Modification Policies and Regulations

**LOCALLY APPROVED
GIG HARBOR SHORELINE MASTER PROGRAM**

CHAPTER 7

Shoreline Use	Shoreline Environment Designations					
	Natural⁵	Urban Conservancy	Low Intensity	City Waterfront	Historic Working Waterfront	Marine Deepwater⁵
Commercial Uses (Section 7.12)			X: Non-water-oriented, water-related & water-enjoyment uses waterward of OHWM	C - water-related and water-enjoyment uses waterward of OHWM only in existing structures C -Water-related and water-enjoyment uses on deck structures located waterward of the OHWM C - non-water oriented uses waterward of the OHWM in existing structures	and water enjoyment uses waterward of OHWM only in existing structures C - non-water oriented uses waterward of the OHWM in existing structures for those properties listed on the City's Register of Historic Places	
Commercial Fishing – Sales and Services (Section 7.13)	X	X	X	P	P	P
Commercial Fishing Moorage (Section 7.11.11)	X	P	P	P	P	P

Shoreline Use		Shoreline Environment Designations					
		Natural⁵	Urban Conservancy	Low Intensity	City Waterfront	Historic Working Waterfront	Marine Deepwater⁵
Educational facilities (Scientific, historical, cultural, educational research uses) (Section 7.14)		X	P	P	P	P	X
Forest Practices		X	X	X	X	X	X
Industrial Development (Section 7.15)							
Industrial Use Types	Industrial, Levels 1 & 2	X	X	X	X	X	X
	Marine boat sales, levels 1 & 2	X	X	X	P	P	X
	Marine sales and service	X	X	X	P	P	X
	Marine Industrial	X	X	X	P	P	P
Mining		X	X	X	X	X	X
Net sheds, historic ⁴ (Section 7.16)		X	X	P	P	P	X
Parking, Principal Use (Section 7.20)		X	X	X	X	X	X
Permanent Solid Waste Storage or Transfer Facilities		X	X	X	X	X	X
Railroads		X	X	X	X	X	X

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7.12 Commercial Uses

It is the goal of the City of Gig Harbor to give preference to water-dependent and other water-oriented uses for shorelines within the jurisdiction of the City of Gig Harbor while preserving the unique mix of waterfront uses in Gig Harbor Bay and Purdy.

7.12.1 Policies

A. Preferred uses

Give preference to water-dependent commercial uses, then to water-related and water-enjoyment commercial uses in shoreline locations. Non-water-oriented commercial uses should be allowed in the City Waterfront shoreline environment designation. Non-water oriented commercial uses in other shoreline environment designations may be allowed if they are combined with public benefits, such as historic preservation, public access, education and shoreline ecological restoration.

B. Public access

Require commercial developments to provide public access consistent with the public access requirements set forth in Chapter 6, Section 6.5.2, unless such improvements are demonstrated to be incompatible due to reasons of safety, security, or impact to the shoreline environment. In requiring public access, carefully analyze development proposals to ensure that an essential nexus exists between the development and the public access required, and that the required public access is roughly proportional to the impacts of the project.

C. Low impact development techniques

Commercial development should implement low impact development techniques to the maximum extent possible.

7.12.2 Regulations

- 1) A use or development shall not be considered water-dependent, water-related or water-enjoyment until the City determines that the proposed design, layout

and operation of the use/development meet the definition and intent of water-dependent, water-related or water-enjoyment per Chapter 2 definitions.

- 2) In the City Waterfront and Historic Working Waterfront shoreline environmental designations, non-water oriented uses located landward of the ordinary high water mark on shorelines shall be allowed pursuant to the use matrix set forth in GHMC Chapter 17.14 Land Use Matrix.
- 3) In the Low Intensity and Urban Conservancy shoreline environment designations, non-water oriented uses located landward of the ordinary high water mark on shorelines shall not be allowed unless they meet the following criteria:
 - a) The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or
 - b) Navigability is severely limited at the proposed site; and the commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.
 - c) In areas designated for commercial use, nonwater-oriented commercial development may be allowed if the site is physically separated from the shoreline by another property or public right of way.
- 4) Commercial use and development, including deck structures located waterward of the OHWM that are appurtenant to permitted upland water-oriented and water-enjoyment uses, shall be allowed when the proponent demonstrates that it will not result in a net loss of shoreline ecological functions or processes, or have significant adverse impact on other shoreline uses, resources and/or values such as navigation, recreation and public access.
- 4)5) Deck structures located waterward of the OHWM that are appurtenant to permitted upland water-oriented and water-enjoyment uses shall consist of a cantilevered design without the need for piling support, shall not exceed a maximum size of 750 square feet of floor area and shall be dedicated to uses that attract the general public to the shoreline.
- 5)6) All commercial uses shall comply with the development regulations set forth in Section 7.1.2, Table 7-3 of this program and the Gig Harbor Municipal Code including, but not limited to, height, setbacks, impervious coverage and off-street parking.

~~6.71~~ In the Historic Working Waterfront Shoreline Environment Designation, non-water oriented commercial uses are allowed as a conditional use within existing overwater structures for those properties listed on the City's Register of Historic Places pursuant to GHMC Section 17.97.040 Register of historic places.

~~7.81~~ All commercial uses shall provide public access as required by Section 6.5-Public Access.

F. Protect, enhance and restore shoreline resources

Encourage methods to protect, enhance, and restore shoreline ecological functions and other shoreline resources for residential development.

7.18.2 Regulations

- 1) New and expanded overwater residential development including garages, accessory buildings, boathouses, house boats, floating homes and house barges shall be prohibited unless otherwise specified in this chapter. [Residential liveaboards are permitted within marinas per the requirements of Subsection 7.11.9.3.f.](#)
- 2) Existing overwater residences, including those located within the overwater residential community of Nesika Beach may be maintained consistent with the regulations set forth in Section 8.11-Nonconforming Uses and Structures.
- 3) New residential lots created through land division shall be allowed provided they are consistent with [Subsection 7.9.3.1.](#)
- 4) A primary residence shall be allowed on each lot provided none of the following are necessary:
 - a) New structural shoreline stabilization measures that would cause significant impacts to other properties or public improvements or a net loss of ecological functions;
 - b) New improvements proposed within the required vegetation conservation area, the required setback from the OHWM or critical area buffer, except as provided in Section 6.2-Marine Shorelines, Vegetation Conservation and Critical Areas Protection;
 - c) Removal of significant vegetation that adversely impacts ecological functions;
 - d) Site work that creates significant erosion or reduction in slope stability; and
 - e) Site work that creates increased erosion in the new development or to other properties.
- 5) New residential lots shall also demonstrate the following:

7.20 Transportation Facilities

It is the goal of the City of Gig Harbor to encourage pedestrian and vehicular circulation and access to the waterfront while avoiding impacts to the aesthetics and natural ecology of the shoreline environment.

7.20.1 General Policies

A. Arterial roads

Where feasible, discourage construction of new or expanded arterial roads in the shoreline jurisdiction.

B. Local roads

Where feasible, design local access roads and pedestrian routes to fit into the existing topography.

C. Pedestrian trails and bicycle routes

Plan, locate, and design trails where they will have the least possible adverse effect on shoreline resources. Trail space or other accommodation for non-motorized traffic should be encouraged along roads in shoreline jurisdiction, where appropriate.

D. Foot passenger ferry service in Gig Harbor Bay

Encourage foot passenger-only ferry service in Gig Harbor Bay at sites capable of accommodating the necessary improvements.

7.20.2 Parking Policies

A. Location and shared use

Allow parking when necessary to support an approved shoreline use. Encourage shared parking areas between multiple uses and underground parking. Parking as a

primary use (e.g., commercial pay lots and parking not associated with a permitted or conditionally allowed shoreline use) should ~~not be allowed~~ only be allowed in limited circumstances and only when separated from the shoreline area by an arterial street. Locate surface parking outside of shoreline jurisdiction whenever possible or otherwise as far from the shoreline as possible. However, on-street parking is acceptable within an approved transportation facility.

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B. Aesthetic

Use appropriate screening and landscaping, and maintain parking areas to avoid aesthetic impacts on their surroundings. The use of native vegetation should be encouraged where appropriate.

C. Parking impacts

Locate and design parking facilities to avoid or minimize adverse impacts including those related to stormwater runoff, erosion and siltation, water quality, public access, and vegetation and habitat. Low impact development techniques should be implemented to the maximum extent feasible.

7.20.3 Roadway Regulations

1) Proponents of new roads must be able to demonstrate the following:

- a) The need for a shoreline location and that no reasonable upland alternative exists.
- b) That construction is designed to protect the adjacent shorelands against erosion, uncontrolled or polluting drainage, and other factors detrimental to the environment both during and after construction.
- c) That the project will be planned to fit the existing topography as much as possible thus minimizing alterations to the natural environment.
- d) That all debris, overburden and other waste materials from construction will be disposed of in such a way as to prevent their entry by erosion from drainage into water body.
- e) That when new roads will afford scenic vistas, viewpoint areas will be provided. Scenic corridors shall have sufficient provision for safe pedestrian and non-motorized vehicular travel.

- 2) Roads should be located on grade rather than elevated except when crossing wetlands or streams. Road designs must provide appropriate pedestrian and non-motorized vehicular crossings where public access to shorelines is intended.
- 3) All cut and fill slopes shall be stabilized and planted with native and/or appropriately introduced grasses, shrubs and/or trees which shall be maintained by the installing agency or developer until established.
- 4) Non-emergency construction and repair work shall be scheduled for that time of year when seasonal conditions permit optimum feasible protection of shoreline ecological functions and processes.
- 5) Maintenance activity including vegetation control and erosion control shall be carried out consistent with this Program. Necessary resurfacing of existing roadways, including roadway overlays, sub-grade replacements and repair may be exempt from Substantial Development Permit requirements as provided by Section 8.3.
- 6) RCW 35.79.035 prohibits the City from vacating any City road that abuts a body of saltwater except for recreational, educational or industrial purposes. Therefore, development, abandonment, or alteration of undeveloped City road ends within SMP jurisdiction is prohibited unless approved in accordance with this Program.

7.20.4 Parking Regulations

- 1) Parking as a primary-principal use shall be prohibited in the shoreline jurisdiction, except in those portions of the City Waterfront SED located land ward of Harborview Drive and North Harborview Drive. Where off-street parking is allowed, best management practices that include low impact development techniques shall be employed in the design and operation of off-street parking areas consistent with the requirements of GHMC Chapter 14.20-Stormwater Management.
- 2) Parking or storage of recreational vehicles or travel trailers as a primary use shall be prohibited in the shoreline jurisdiction.
- 3) Parking in shoreline areas must directly serve an approved shoreline use.
- 4) Parking areas shall be located no closer to the site's OHWM than allowed for structures on the site. Where feasible, parking areas shall be located on the landward side of proposed structures. Parking and loading areas shall be allowed pursuant to subsections 7.11.9.7.b and 7.11.11.1.a.

7.21 Utilities

It is the goal of the City of Gig Harbor to provide adequate utilities to serve approved shoreline uses while avoiding impacts to the shoreline environment.

7.21.1 Policies

A. Production and processing facilities

Except for public drinking water wells, locate utility production and processing facilities, such as power plants and sewage treatment plants, or parts of those facilities that are non-water-dependent, outside of the shoreline jurisdiction unless it can be demonstrated that no other feasible option is available and it can be shown that outfalls will not adversely affect water quality.

B. Transmission facilities

Except for public sewer lift stations, locate transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, outside of the shoreline area or underground where feasible. If located within the shoreline area, major transmission lines should be incorporated into programs for public access to and along water bodies.

C. Development on aquatic lands and tidelands

Discourage development of pipelines, cables, and other utilities requiring periodic maintenance and inspection on aquatic lands and tidelands, particularly those running roughly parallel to the shoreline, except where no other feasible alternative exists.

D. Views and aesthetics

Design and install utilities in such a way as to avoid impacts to scenic views and aesthetic qualities of the shoreline area to the maximum extent possible.

E. Stormwater detention and treatment facilities

Locate stormwater detention and treatment facilities serving allowed uses outside of the shoreline jurisdiction unless it can be demonstrated that no other feasible alternative exists.

F. Shoreline protection

Locate, design and install new utilities to eliminate the need for extensive shoreline protection measures. Upon completion of utility projects on shorelines, banks should be restored, replanted and maintained until newly planted vegetation is established. Plantings should be native species and/or be similar to non-invasive vegetation in the surrounding area.

G. Stormwater and sanitary sewer pipeline outfall locations

Outfall pipelines should be located only where there will be minimal adverse effects on shoreline ecological functions and processes.

H. Maintenance of stormwater pipeline outfalls

Establish a monitoring program, water quality sampling, and long-term maintenance permit to allow City workers scheduled access for maintenance and inspection of City-owned stormwater pipeline outfalls located on private property.

7.21.2 Regulations

- 1) Shoreline permit applications for installation of utility production and processing facilities shall include the following:
 - a) Demonstration why utility facility requires a shoreline location;
 - b) Alternative locations considered and reasons for their elimination;
 - c) Location of other utility facilities in the vicinity of the proposed project including facilities of other types of utilities;
 - d) Plans for reclamation of areas disturbed during construction;
 - e) Plans for control of erosion and turbidity during construction;

- f) Possibility for consideration of the proposed facility within existing utility right-of-way.
- 2) The State of Washington Departments of Fish and Wildlife and Ecology shall be notified of any utility proposal which would require withdrawals of water from any body of water under shoreline management jurisdiction.
- 3) Upon completion of utility projects, shorelines shall, at a minimum, be restored, replanted and provided with maintenance care until the newly planted vegetation is fully established. Plantings shall be native species and/or be similar to vegetation in the surrounding area.
- 4) Where utilities must be placed in a shoreline area, obstruction of scenic views shall be minimized to the greatest extent possible.
- 5) Where overhead transmission lines must parallel the shoreline, they shall be outside of the shoreline jurisdiction unless topography or safety factors would make it unfeasible.
- 6) Accessory utility facilities, such as those typical and normal to support and serve a permitted shoreline use, shall be permitted in all environments. This will typically consist of distribution lines and individual service lines. Such utility facilities may be new or may be relocated facilities,
- 7) Storm water management facilities, limited to detention / retention / treatment ponds, media filtration facilities, and lagoons or infiltration basins, within the shoreline jurisdiction shall only be permitted when the following provisions are met:
 - a) Construction of the storm water facility does not displace or impact a critical area;
 - b) There is no other feasible location for the storm water facility and the facility is located, constructed, and maintained in a manner that minimizes adverse effects to shoreline ecological functions;
 - c) The storm water facility is designed to resemble natural wetlands and meets applicable storm water management standards and the discharge water meets state water quality standards;
 - d) Low impact development approaches have been considered and implemented to the maximum extent feasible.
- 8) Conveyance facilities, including storm water, wastewater, or water supply pump stations; and storm water discharge facilities such as dispersion trenches, level

spreaders, and outfalls, may be located in the shoreline jurisdiction on a case by case basis when the Administrator determines that all of the following are met:

- a) Due to topographic or other physical constraints there are no feasible locations for these facilities outside the shoreline;
 - b) The discharge outlet is sited in a manner that minimizes disturbance of soils and vegetation;
 - c) The discharge outlet is designed to prevent erosion and promote infiltration.
 - ~~e)d)~~ The conveyance facilities, including discharge outlets, shall be designed consistently with the city's Ecology approved Storm Water Manual.
- 9) Construction of stormwater facilities in the shorelines shall be timed to avoid fish and wildlife migratory and spawning periods.
 - 10) Construction of underwater utilities or those crossing streams or wetlands shall be timed to avoid major fish migratory runs.
 - 11) Proposal for all new storm water facilities shall include landscaping plans that enhance the aesthetic quality of the shoreline, utilize native vegetation, and provide for maintenance care until newly planted vegetation is established.
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S.M.P. AMENDMENTS

CHAPTER 8 – Administrative Procedures

issued by local government and Ecology, or issued by Ecology alone for violations of the SMA. The Board is not affiliated with any other unit of government.

8.2 Types of Shoreline Permits

Any person wishing to undertake substantial development (as defined in Chapter 2) or exempt development (per WAC 173-27-040 and SMP Section 8.2.2) within the shoreline jurisdiction of the Master Program shall apply to the Administrator for shoreline permit(s) and/or a Statement of Exemption if required pursuant to WAC 173-27-050. This section describes the various types of shoreline permits and permit review process.

8.2.1 Shoreline Substantial Development Permit

A. Permit required

A permit is required for any development with a total cost or fair market value exceeding ~~six seven~~ thousand ~~four hundred and sixteen~~~~forty-seven~~ dollars (~~\$6,4167.047~~) (or the value as amended or adjusted for inflation per RCW 90.58.030 [3] [e]) or any development which materially interferes with the normal public use of the water or shorelines of the state, except those exempted developments set forth in WAC 173-27-040 (Developments Exempt from Substantial Development Permit Requirements) (also see Section 8.2.2).

B. Purpose

The purpose of a Shoreline Substantial Development Permit is to provide a review process for proposed substantial developments to ensure consistency with the Master Program and the Act.

C. Process

An open record decision hearing by the City of Gig Harbor's Hearing Examiner is required for a Substantial Development Permit. The Administrator's responsibilities are set forth in GHMC 19.05.002 (Responsibility of director/administrator for hearing). Public notice of complete application, date of

public hearing and final decision is required as set forth in GHMC Title 19. The Administrator shall notify the Department of Ecology and the Attorney General of the permit decision. (See Section 8.5.2 for more information).

D. Administrator review criteria

The Administrator must review the permit for consistency with applicable regulations and comprehensive plan, as set forth in GHMC19.04.001 (Determination of consistency).

E. Hearing Examiner review criteria

A Substantial Development Permit shall be granted by the Hearing Examiner only when the development is consistent with the following, as established in WAC 173-27-150:

- 1) The policies and procedures of the act;
- 2) The provisions of this regulation; and
- 3) The applicable master program adopted or approved for the area; provided, that where no master program has been approved for that area, the development shall be reviewed for consistency with the provisions of chapter 173-26 WAC, and to the extent feasible, any draft or approved master program which can be reasonably ascertained as representing the policy of the local government.

Local government may attach conditions to the approval of permits as necessary to assure consistency of the project with the act and the local master program.

8.2.2 Exemptions from Substantial Development Permit

An exemption from the Substantial Development Permit process is not an exemption from compliance with the SMA or the Master Program, or from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of the Master Program and the SMA.

A development or use that is listed as a conditional use pursuant to the Master Program, or is an unlisted use, must obtain a Conditional Use Permit even though the development or use does not require a Substantial Development Permit.

When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of the master program, such development or use can only be authorized by approval of a variance.

Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the Substantial Development Permit process.

The burden of proof that a development or use is exempt from the permit process is on the applicant.

If any part of a proposed development is not eligible for exemption, then a Substantial Development Permit is required for the entire proposed development project.

The City may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the Master Program and the Act.

The following developments shall not require Substantial Development Permits:

a) Any development of which the total cost or fair market value, whichever is higher, does not exceed ~~six-seven~~ thousand ~~four hundred and sixteen~~~~forty-seven~~ dollars ~~(\$7,047)~~, if such development does not materially interfere with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the *Washington State Register* at least one month before the new dollar threshold is to take effect. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials;

b) Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its

original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment;

c) Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the department of fish and wildlife.

d) Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or the local master program, obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and the local master program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;

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

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

g) Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to chapter 90.58 RCW. "Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. Normal appurtenances include a garage no larger than 24 x 36 feet (864 square feet); deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Local circumstances may dictate additional interpretations of normal appurtenances which shall be set forth and regulated within the applicable master program. Construction authorized under this exemption shall be located landward of the ordinary high water mark;

h) Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single-family and multiple-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if either:

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

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

~~(A) Twenty thousand dollars for docks that are constructed to replace existing docks, are of equal or lesser square footage than the existing dock being replaced; or~~

~~(B) Ten thousand dollars for all other docks constructed in fresh waters, ten thousand dollars;~~

~~but~~However, if subsequent construction ~~having a fair market value exceeding two thousand five hundred dollars~~ occurs within five years of completion of the prior construction, ~~and the combined fair market value of the subsequent and prior construction exceeds the amount specified above,~~ the subsequent construction shall be considered a substantial development for the purpose of this chapter.

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

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

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

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

l) Any project with a certification from the governor pursuant to chapter 80.50 RCW;

m) Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:

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

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

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

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

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

q) The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.

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8.5 Shoreline Substantial Development, Conditional Use and Variance Permit Process

8.5.1 Public Hearing by the Hearing Examiner

A public hearing shall be held by the Hearing Examiner regarding an application for a Shoreline Substantial Development, Shoreline Conditional Use or Shoreline Variance Permit. The public hearing should be held at the earliest possible date after the thirty (30) day public comment period has ended. The Hearing Examiner shall review the application and related information and make a decision to approve, approve with conditions, or deny the application for a Shoreline Substantial Development, Shoreline Conditional Use or Shoreline Variance Permit. The Hearing Examiner shall review an application for a Substantial Development, Conditional Use or Variance Permit using the following information:

- 1) The application;
- 2) Applicable SEPA documents;
- 3) Written and oral comments from interested persons;
- 4) Information and comment from other City departments;
- 5) Evidence presented at the public hearing;
- 6) The findings, conclusions and recommendations of the Administrator.

8.5.2 Ecology Review

A. Submittal requirements

Ecology shall be notified of any Substantial Development, Conditional Use or Variance Permit decisions made by the Hearing Examiner, whether it is an approval or denial. The notification shall occur after all local administrative appeals, including reconsideration requests provided by GHMC 19.05.010 related to the permit have concluded or the opportunity to initiate such appeals has lapsed. When

a Substantial Development Permit and either Conditional Use or Variance Permit are required for a development, the submittal of the permits shall be made concurrently. The Administrator shall file the following via return receipt requested mail, with the Department of Ecology and Attorney General:

- 1) A copy of the complete application per WAC 173-27-180;
- 2) Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation, applicable Master Program policies and regulations and the consistency of the project with appropriate review criteria for the type of permit(s);
- 3) The final decision of the City;
- 4) The permit data sheet per WAC 173-27-990;
- 5) Affidavit of public notice; and
- 6) Where applicable, the Administrator shall also file the applicable documents required by the State Environmental Policy Act (RCW 43.21C).

When the project has been modified in the course of the local review process, plans or text shall be provided to Ecology that clearly indicates the final approved plan.

If Ecology determines that the submittal does not contain all of the documents and information required by this section, Ecology shall identify the deficiencies and notify the City and the applicant in writing. Ecology will not act on Conditional Use or Variance Permit submittals until the material requested in writing is submitted to them.

B. Ecology decision on Conditional Use and Variance Permits

Ecology shall convey to the City and applicant its final decision approving, approving with conditions, or disapproving the permit within thirty days (30) of the date of submittal by the City. The Administrator will notify those interested persons having requested notification of such decision.

Ecology shall base its determination to approve, approve with conditions or deny a Conditional Use Permit or Variance Permit pursuant to WAC 173-27-200.

8.6 Relief from Development Standards and Use Regulations

- 1) [The City and Ecology](#) may grant relief from Program development standards and use regulations [as set forth below and pursuant to RCW 90.58.580](#) when a shoreline restoration project causes or would cause a landward shift in the ordinary high water mark, resulting in one of the following:
 - a) Land that had not been regulated under this Program being brought into shoreline jurisdiction; or
 - b) Additional regulatory requirements due to a landward shift in required shoreline buffers or other regulations; or
 - c) Application of shoreline master program regulations would preclude or interfere with use of the property permitted by local development regulations, thus presenting a hardship to the project proponent;
- 2) The relief shall be verified by the Administrator and must be the minimum necessary to relieve the hardship; result in a net environmental benefit from the restoration project; and be consistent with the objectives of the restoration project and consistent with this Program.
- 3) Where a shoreline restoration project is created as mitigation to obtain a development permit, the project proponent required to perform the mitigation is not eligible for relief under this section; and
- 4) The application for relief must be submitted to the State Department of Ecology for written approval or disapproval. This review must occur during the department's normal review of a Shoreline Substantial Development, Conditional Use, or Variance Permit. If no such permit is required, then Ecology shall conduct its review when the City provides a copy of a complete application and all supporting information necessary to conduct the review.

8.7 Appeals

Appeals of administrative interpretations and statements of exemption may be made to Gig Harbor's Hearing Examiner. Appeals of any final permit decision may be made to the Shorelines Hearing Board as governed by the procedures established in

- c) That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and Shoreline Master Program and will not cause adverse impacts to the shoreline environment;
 - d) That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
 - e) That the variance requested is the minimum necessary to afford relief; and
 - f) That the public interest will suffer no substantial detrimental effect.
- 3) Variance Permits for development and/or uses that will be located waterward of the ordinary high water mark or within any wetland may be authorized provided the applicant can demonstrate all of the following:
- a) That the strict application of the bulk, dimensional or performance standards set forth in this SMP precludes all reasonable use of the property not otherwise prohibited by this SMP;
 - b) That the proposal is consistent with the criteria established under subsection (2)(b) – (2)(f); and
 - c) That the public rights of navigation and use of the shorelines will not be adversely affected.
- 4) In the granting of all Variance Permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example if variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the SMA policies (see RCW 90.58.020 Legislative Findings) and shall not cause substantial adverse effects to the shoreline environment.
- 5) Variances from the permitted use regulations of the Master Program are prohibited.

8.3 Application Requirements

Prior to submitting a complete application for a Shoreline Substantial Development, Shoreline Conditional Use or Shoreline Variance Permit, the applicant may request a pre-application meeting pursuant to the requirements of GHMC 19.2.001 - Optional

Pre-Application Conference. This will enable the applicant to become familiar with the requirements of the Program, other applicable regulations, and the permitting process. A pre-application form, cover letter describing the nature of the proposal, site plan drawing, list of questions and concerns, and other applicable documents pertinent to the project are required to initiate the pre-application process.

To apply for a Statement of Exemption, Substantial Development, Shoreline Conditional Use or Shoreline Variance Permit, obtain the applicable permit form from the Planning Department. Application forms identify the necessary information to be submitted with the application and applicable permit fees. [A complete application shall address all applicable requirements of WAC 173-27-180 \(Application requirements for substantial development, conditional use and variance permit\).](#)

8.4 Public Notice Requirements

8.4.1 Shoreline Substantial Development, Conditional Use and Variance Permits

Upon submittal of a complete application for Substantial Development, Shoreline Conditional Use or Shoreline Variance Permits, the Administrator shall follow the procedures prescribed in GHMC 19.02.004 and 19.03.001 (Public Notice of Application).

A notice of public hearing pursuant to GHMC 19.03.003 and notice of final decision pursuant to GHMC 19.02.007 and 19.05.008 shall be made for each application unless withdrawn by the applicant or determined to have expired by the City pursuant to GHMC 19.02.006.

8.4.2 Statement of Exemption

The Administrator shall transmit the Statement of Exemption to the applicant and to all parties of record and property owners within three hundred feet (300) of the site and shall also include a notice of appeal of an administrative decision to the Hearing Examiner pursuant to a Type II Permit as provided in GHMC Title 19.

ecological restoration project. Contact the City of Gig Harbor Planning Department for additional information on the restrictions prior to commencing any activity within this area.

Date

Signature Owner

→ 6.2.5 Regulations - Critical Areas

A. Applicability

- 1) The shoreline critical area regulations set forth in this subsection apply to all lands regulated under the City's Shoreline Master Program and the State Shoreline Management Act. All areas outside of the shoreline jurisdiction are regulated pursuant to GHMC Chapter 18.08. All development proposals in shoreline critical areas, whether on public or private property, shall comply with the requirements of this section. The Administrator or his/her designee shall utilize the procedures and rules established in the City of Gig Harbor environmental policy ordinance, GHMC Chapter 18.04 Environmental Review (SEPA), and the applicable provisions of GHMC Title 19, Administration of Development Regulations to implement the provisions of this section. Development proposals include any development project which would require any of the following:
 - a) Building permit for any construction;
 - b) Clearing and grading permit;
 - c) Any shoreline management permit as authorized under Chapter 90.58 RCW and this master program;
 - d) Site plan review;
 - e) Subdivision, short subdivision or planned unit development; or
 - f) Zoning variance or conditional use permit.
- 2) Special Studies Required. When an applicant submits an application for any development proposal, the application shall indicate whether any critical area is located on the site. The Administrator shall visit the site, and in conjunction with the review of the information provided by the applicant and any other suitable information, shall make a determination as to whether or not sufficient information is available to evaluate the proposal. If it is determined that the information presented is not sufficient to adequately evaluate a proposal, the

Administrator shall notify the applicant that additional studies as specified herein shall be provided. Land that is regulated by critical areas and/or buffers shall not be subdivided to create parcels that would only be buildable through a shoreline variance process.

6.2.5.1 Maintenance of Existing Structures and Developments

- 1) The requirements of Chapter 8, Section 8.11, Nonconforming Uses and Structures, shall apply.

6.2.5.2 Mitigation Conservation Easement

- 1) If mitigation is performed on-site and/or off-site, a conservation easement, deed restriction or other legal document must be provided to the City that:
 - a) Ensures that the party responsible for the maintenance and monitoring of the mitigation has access and the right to perform these activities; and
 - b) Permanently protects the critical area functions and values in perpetuity.

6.2.5.3 Critical Area Buffer Activity Allowance

- 1) Public access pursuant to subsection 6.2.4, and water-dependent activities or development pursuant to subsection 6.2.5 are allowed within the regulated vegetation conservation strip and are also allowed in the regulated critical area buffer provided the mitigation sequence has been followed and any remaining impacts have been mitigated to ensure there is no net loss of shoreline ecological functions.

6.2.5.4 Variance from Critical Area Regulations

- 1) A variance may be granted to provide relief from the requirements of Section 6.2.5. The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in this Master Program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of this Master Program will impose unnecessary hardships on the applicant or prevent the implementation of the policies set forth in RCW 90.58.020. An application for a variance shall be reviewed in accordance with the variance criteria set forth in WAC 173-27-170 and Section 8.2.5.E, and as a Type III application under the

permitting procedures of GHMC Title 19. The burden of proof is upon the applicant to demonstrate consistency with the variance criteria set forth in WAC 173-27-170 and Section 8.2.5.E.

6.2.5.5 Wetlands – Designation and Mapping

- 1) Pursuant to WAC 197-11-908, the City designates wetlands as critical areas defined in Chapter 2 of this Master Program.
- 2) The approximate location and extent of critical areas are shown on the City's critical area map. These maps are to be used as a guide and may be updated as new critical areas are identified. They are a reference and do not provide final critical area designations. Mapping sources include:
 - a) Areas designated on the National Wetland Inventory maps;
 - b) Areas which have been designated as wetlands on the Pierce County wetland atlas.

6.2.5.6 Wetlands – Delineation Guidelines/Ratings

- 1) Wetland rating and classification shall be established based upon the completion of a delineation report to determine boundary, size, function and value.
- 2) Wetland delineation shall be conducted by a qualified wetland specialist using the guidelines found in the most recent version of the approved federal wetland delineation manual and applicable regional supplements.
- 3) Wetland Ratings. Wetlands shall be rated according to the Washington State Department of Ecology wetland rating system found in the most recent version of Washington State Wetland Rating System for Western Washington. This document contains the definitions and methods for determining if the criteria below are met.

a) Wetland Rating Categories.

i) Category I. Category I wetlands are: (1) relatively undisturbed estuarine wetlands larger than 1 acre; (2) wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; (3) bogs; (4) mature and old-growth forested wetlands larger than 1 acre; (5) wetlands in coastal lagoons; (6) interdunal wetlands that score 8 or 9 habitat points and are larger than 1 acre; and (7) wetlands that perform many functions well (scoring 23 points or more). These wetlands: (1) represent unique or rare wetland types; (2) are more sensitive to

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disturbance than most wetlands; (3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (4) provide a high level of functions.

ii) Category II. Category II wetlands are: (1) estuarine wetlands smaller than 1 acre, or disturbed estuarine wetlands larger than 1 acre; (2) interdunal wetlands larger than 1 acre or those found in a mosaic of wetlands; or (3) wetlands with a moderately high level of functions (scoring between 20 and 22 points).

iii) Category III. Category III wetlands are: (1) wetlands with a moderate level of functions (scoring between 16 and 19 points); (2) can often be adequately replaced with a well-planned mitigation project; and (3) interdunal wetlands between 0.1 and 1 acre. Wetlands scoring between 16 and 19 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

iv) Category IV. Category IV wetlands have the lowest levels of functions (scoring fewer than 16 points) and are often heavily disturbed. These are wetlands that we should be able to replace, or in some cases to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree.

a)

i) Category I. Category I wetlands are those wetlands of exceptional resource value based on their functional value and diversity. Category I wetlands are:

(1) Undisturbed estuarine wetlands larger than one acre;

(2) Wetlands designated by Washington Natural Heritage Program as high quality;

(3) Bogs;

(4) Mature and old-growth forested wetlands larger than one acre;

(5) Wetlands in coastal lagoons;

(6) Wetlands that perform high functions (wetlands scoring 70 points or more on the Ecology wetland rating form).

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~~ii) Category II. Category II wetlands are those wetlands of significant resource value based on their functional value and diversity. Category II wetlands are:~~

~~(1) Estuarine wetlands smaller than one acre or disturbed estuarine wetlands larger than one acre; or~~

~~(2) Wetlands scoring between 51 and 69 points on the Ecology wetland rating form.~~

~~iii) Category III. Category III wetlands are those wetlands of important resource value based on their functional value and diversity. Category III wetlands are wetlands with a moderate to low level of functions (wetlands scoring 30 to 50 points on the wetland rating form).~~

~~iv) Category IV. Category IV wetlands are those wetlands with the lowest level of functions scoring less than 30 points on the Ecology wetland rating form.~~

6.2.5.7 Wetlands – Regulated Activities

- 1) The following activities in a wetland and/or its associated buffer shall be regulated pursuant to the requirements of Section 6.2.5. The regulated activities are as follows:
 - a) Removing, excavating, disturbing or dredging soil, sand, gravel, minerals, organic matter or materials of any kind;
 - b) Dumping, discharging or filling with any material;
 - c) Draining, flooding or disturbing the water level or water table;
 - d) Constructing, reconstructing, demolishing or altering the size of any structure or infrastructure, except repair of an existing structure or infrastructure, where the existing square footage or foundation footprint is not altered;
 - e) Destroying or altering vegetation through clearing, harvesting, cutting, intentional burning, shading or planting vegetation that would alter the character of a wetland;
 - f) Activities from construction or development that result in significant, adverse changes in water temperature, physical or chemical characteristics of wetland water sources, including quantity and pollutants.

- 2) Activities listed in Section 6.2.5.3 Regulation #1 which do not result in alteration in a wetland and/or its associated buffer may require fencing along the outside perimeter of the buffer or erosion control measures.

6.2.5.8 Wetlands – Permitting Process

- 1) Overview. Inquiries regarding conduct of a regulated activity in a wetland can be made to the Administrator. The Administrator shall utilize the National Wetlands Inventory (NWI) maps and the Pierce County wetland atlas to establish general location of wetland sites. If the maps indicate the presence of a wetland, a wetland delineation report shall be filed, unless the Administrator determines that a wetland is not on or within the site. This determination may be based on information provided by the applicant and from other sources. If the map does not indicate the presence of a wetland or wetland buffer zone within the site, but there are other indications that a wetland may be present, the Administrator shall determine whether a wetland analysis report is required.
- 2) Permit Requirements. No separate application or permit is required to conduct regulated activities within a wetland or its associated buffer. Review of regulated activities within a wetland and buffers is subject to the permit processing procedure for the required permit type as defined under GHMC Title 19. The Administrator shall utilize existing environmental review procedures, the City SEPA ordinance, Chapter 18.04 GHMC, to assess impacts to wetlands and impose required mitigation. The Administrator's review of proposed alterations to wetlands and buffer areas and a wetland mitigation plan may be required prior to issuance of a SEPA determination by the City's responsible official.
- 3) Prior to submittal of a wetland delineation report, recommendation on wetland category, proposed alterations to wetlands and buffer areas, or wetland mitigation plan, the applicant may request a pre-application conference in accordance with the procedures established in GHMC 19.02.001 Optional preapplication conference.
- 4) Request for Official Determination. A request for an official determination of whether a proposed use or activity at a site is subject to Chapter 6, Section 6.2.5 must be in writing and made to the Administrator. The request can be accompanied by a SEPA environmental checklist. The request shall contain plans, data and other information in sufficient detail to allow for determination, including a wetland delineation report. The applicant shall be responsible for providing plans and the wetland delineation report to the Administrator.

- 5) A wetland analysis report shall be submitted to the Administrator for review of a proposal for activity which lies within a wetland, or within 300 feet of a wetland. The purpose of the wetland analysis report is to determine the extent and function of wetlands to be impacted by the proposal.
- 6) Preliminary Site Inspection. Prior to conducting a wetland analysis report, the applicant may request that the Administrator conduct a preliminary site inspection to determine if a wetland may be present on the proposal site. Upon receipt of the appropriate fee, the Administrator shall make a site inspection. If the Administrator determines that a wetland is not on the site, this shall be indicated to the applicant in writing, and a wetland analysis report shall not be required.
- 7) Prior to submittal of the wetland analysis report or the development of a lot which has a classified wetland, boundaries of wetlands shall be staked and flagged in the field by a qualified wetland specialist and surveyed by a licensed professional surveyor registered in the state. Field flagging shall be distinguishable from other survey flagging on the site.
- 8) If alteration of a wetland or buffer is proposed, a wetland mitigation plan shall be submitted pursuant to requirements of this chapter, subsequent to staff review of the wetland analysis report. In no event will a wetland mitigation plan be required prior to a determination of whether a designated wetland is present on a site.

6.2.5.9 Wetlands – Administration

- 1) Filing Fees. A wetland regulatory processing fee in an amount established under the City's development fee ordinance, GHMC Title 3 Revenue and Finance, shall be paid at the time of a request for official determination of whether a proposed use or activity at a site is subject to Chapter 6, Section 6.2.5. The fee shall be paid prior to administrative review, including environmental review. It shall include all costs of administrative and environmental review, including the preliminary site inspection, and review and approval of a wetland analysis report. It shall be in addition to any other fees for environmental assessment and environmental impact review, provided by the City environmental policy ordinance, GHMC Chapter 18.04.
- 2) Notice and Title.
 - a) Notice. Upon submission of a complete application for a shoreline permit or shoreline permit exemption for which wetland review is required, notice of the application shall be provided to property owners within 300 feet of

the subject property in accordance with the requirements of GHMC Section 19.03.001 and/or GHMC Section 18.04.160 as required. Notice on Title. The owner of any property with field-verified presence of wetland or wetland buffer on which a development proposal is submitted shall file for record with the Pierce County auditor a notice approved by the Administrator in a form substantially as set forth below. Such notice shall provide notice in the public record of the presence of a wetland or wetland buffer, the application of Chapter 6, Section 6.2.5 to the property, and that limitations on actions in or affecting such wetlands and their buffers may exist. The notice shall be notarized and shall be recorded prior to approval of any development proposal for such site. The notice shall run with the land and shall be in the following form:

WETLAND AND/OR WETLAND BUFFER NOTICE

Legal Description:

Present Owner: _____

NOTICE: This property contains wetlands or their buffers as defined by City of Gig Harbor Shoreline Master Program. Restrictions on use or alteration of the wetlands or their buffers may exist due to natural conditions of the property and resulting regulations.

Date Signature Owner

- 3) Other Laws and Regulations. No approval granted pursuant to Chapter 6, Section 6.2.5 shall remove an obligation to comply with the applicable provisions of any other federal, state or local law or regulation.
- 4) Atlas. As part of its review, the Administrator shall include the appropriately designated wetland in the Pierce County wetlands atlas or in the City wetland atlas, as may be adopted.

6.2.5.10 Wetlands – Analysis Report Requirements

- 1) A wetland analysis report shall be prepared by a qualified wetland specialist and submitted to the Administrator. A wetlands analysis report is required with all annexation petitions and land use applications for properties which do not have wetlands mapped and classified per the City of Gig Harbor wetlands map.
- 2) The wetland analysis report shall be prepared in accordance with the methods outlined in Ecology Publication #10-06-002 *Wetlands and CAO Updates-Guidance for Small Cities* (Western Washington) or a more recent version, and submitted to the Administrator for review for any proposals that are within 300 feet of a wetland.
- 3) After review of the wetland analysis report and other information by the department, the Administrator shall determine the appropriate wetland category, buffering requirement, and required mitigation. The report shall be accorded substantial weight and the Administrator shall approve the report's findings and approvals, unless specific, written reasons are provided which justify not doing so. Once accepted, the report shall control future decision-making related to designated wetlands unless new information is found demonstrating the report is in error.

6.2.5.11 Wetlands – Buffer Areas

- 1) Following the Administrator's determination of the category for a wetland associated with a proposal, the Administrator shall determine appropriate buffer widths. Wetland buffer zones shall be evaluated for all development proposals and activities adjacent to wetlands to determine their need to protect the integrity, functions and values of the wetland. Wetland buffer widths are determined by the category of wetland, the intensity of impacts of a land use and the functions or special characteristics of the wetland that need to be protected as determined by the rating system. All wetland buffer zones are measured perpendicular from the wetland boundary as surveyed in the field. Except as otherwise permitted by Section 6.2.5, wetland buffers shall consist of a relatively intact native vegetation community adequate to protect the wetland functions and values at the time of proposed activity. If the vegetation is inadequate then the buffer width shall be planted to maintain the buffer width.
- 2) Impact of Land Use. Different uses of land can result in a high, moderate or low level of impact to adjacent wetlands. Types of land use are categorized into impact levels as shown in Table 6-2.

Table 6-2. Land Use Types and Associated Levels of Impact

<i>Level of Impact from Land Use</i>	<i>Types of Land Uses Based on Common Use Categories</i>
High	Residential uses (greater than one unit per acre); schools; churches; public facilities, public/private services and government administrative uses (excluding parks, rights-of-way and utilities); lodging uses; personal, professional, product and automotive services; health care services; commercial and sales uses; animal clinics and kennels; marine-related uses; industrial uses; restaurant uses; museum, club and recreation hall uses; high-intensity parks, outdoor and indoor recreation (golf courses, ball fields, tennis clubs, swimming pools, etc.); conversion to high-intensity agriculture (dairies, nurseries, greenhouses, growing and harvesting crops requiring annual tilling and raising and maintaining animals, etc.); hobby farms.
Moderate	Residential uses (less than one unit per acre); moderate-intensity parks and outdoor recreation (parks with biking, jogging, etc.); conversion to moderate-intensity agriculture (orchards, hay fields, etc.) and paved trails; building of logging roads; utility corridor or right-of-way shared by several utilities and including access/maintenance road.
Low	Forestry (cutting of trees only); low-intensity parks and open space (hiking, bird-watching, preservation of natural resources, etc.) and unpaved trails; utility corridor without a maintenance road and little or no vegetation management.

- 3) If a wetland meets more than one of the wetland characteristics listed in the tables in subsection 6 of this section, the buffer width required to protect the wetland is the widest buffer width.
- 4) Category I Wetlands. The following buffer widths for Category I wetlands per Table 6-3 are required:

Table 6-3. Category I Wetland Buffers

<i>Wetland Characteristics</i>	<i>Buffer Widths by Impact of Land Use</i>	<i>Other Protection Measures Required</i>
Natural Heritage Wetlands	Low – 125 feet Moderate – 190 feet High – 250 feet	No additional surface discharges to wetland or its tributaries No septic systems within 300 feet of wetland Restore degraded parts of buffer
Bogs	Low – 125 feet Moderate – 190 feet High – 250 feet	No additional surface discharges to wetland or its tributaries Restore degraded parts of buffer
Forested	Buffer width to be based on score for habitat functions or water quality functions	If forested wetland scores high for habitat, need to maintain connections to other habitat areas Restore degraded parts of buffer
Estuarine	Low – 100 feet Moderate – 150 feet High – 200 feet	None required
Wetlands in coastal lagoons	Low – 100 feet Moderate – 150 feet High – 200 feet	None required
High level of function for habitat (score for habitat 29–365-9 points)	Low – 150 feet Moderate – 225 feet High – 300 feet	Maintain connections to other habitat areas Restore degraded parts of buffer

Wetland Characteristics	Buffer Widths by Impact of Land Use	Other Protection Measures Required
Moderate level of function for habitat (score for habitat 20—286.7 points)	Low – 75 feet Moderate – 110 feet High – 150 feet	None required
High level of function for water quality improvement (24—328.9 points) and low for habitat (less than 203.5 points)	Low – 50 feet Moderate – 75 feet High – 100 feet	No additional surface discharges of untreated runoff
Not meeting any of the above characteristics	Low – 50 feet Moderate – 75 feet High – 100 feet	N/A

*A 15-foot building setback shall be provided from the land ward edge of all regulated category 1-4 critical area buffers to the "building line" as defined in Chapter 2 of this master program.

- 5) Category II Wetlands. The following buffer widths for Category II wetlands per Table 6-4 are required:

Table 6-4. Category II Wetland Buffers

Wetland Characteristics	Buffer Widths by Impact of Land Use	Other Protection Measures Required
High level of function for habitat (score for habitat 29—368.9 points)	Low – 150 feet Moderate – 225 feet High – 300 feet	Maintain connections to other habitat areas
Moderate level of function for habitat (score for habitat 20—286.7 points)	Low – 75 feet Moderate – 110 feet High – 150 feet	None required
High level of function for water quality improvement and low for habitat (score for water quality 24—328.9 points; habitat less than 203.5 points)	Low – 50 feet Moderate – 75 feet High – 100 feet	No additional surface discharges of untreated runoff

<i>Wetland Characteristics</i>	<i>Buffer Widths by Impact of Land Use</i>	<i>Other Protection Measures Required</i>
Moderate level of function for habitat (score for habitat 20—286-7 points)	Low – 75 feet Moderate – 110 feet High – 150 feet	None required
High level of function for water quality improvement (24—328-9 points) and low for habitat (less than 203-4 points)	Low – 50 feet Moderate – 75 feet High – 100 feet	No additional surface discharges of untreated runoff
Not meeting any of the above characteristics	Low – 50 feet Moderate – 75 feet High – 100 feet	N/A

*A 15-foot building setback shall be provided from the land ward edge of all regulated category 1-4 critical area buffers to the "building line" as defined in Chapter 2 of this master program.

- 5) Category II Wetlands. The following buffer widths for Category II wetlands per Table 6-4 are required:

Table 6-4. Category II Wetland Buffers

<i>Wetland Characteristics</i>	<i>Buffer Widths by Impact of Land Use</i>	<i>Other Protection Measures Required</i>
High level of function for habitat (score for habitat 29—368-9 points)	Low – 150 feet Moderate – 225 feet High – 300 feet	Maintain connections to other habitat areas
Moderate level of function for habitat (score for habitat 20—286-7 points)	Low – 75 feet Moderate – 110 feet High – 150 feet	None required
High level of function for water quality improvement and low for habitat (score for water quality 24—328-9 points; habitat less than 20-3-5 points)	Low – 50 feet Moderate – 75 feet High – 100 feet	No additional surface discharges of untreated runoff

<i>Wetland Characteristics</i>	<i>Buffer Widths by Impact of Land Use</i>	<i>Other Protection Measures Required</i>
Estuarine	Low – 75 feet Moderate – 110 feet High – 150 feet	None required
Interdunal	Low – 75 feet Moderate – 110 feet High – 150 feet	None required
Not meeting above characteristics	Low – 50 feet Moderate – 75 feet High – 100 feet	None required

*A 15-foot building setback shall be provided from the land ward edge of all regulated category 1-4 critical area buffers to the "building line" as defined in Chapter 2 of this master program.

- 6) Category III Wetlands. The following buffer widths for Category III wetlands per Table 6-5 are required:

Table 6-5. Category III Wetland Buffers

<i>Wetland Characteristics</i>	<i>Buffer Widths by Impact of Land Use</i>	<i>Other Protection Measures Required</i>
Moderate to high level of function for habitat (score for habitat 20-36 6-7 points) <i>Note: If wetland scores 8-9 habitat points, use Table 6-4 for Category II buffers.</i>	Low – 75 feet Moderate – 110 feet High – 150 feet	None required
Not meeting above characteristic	Low – 40 feet Moderate – 60 feet High – 80 feet	None required

*A 15-foot building setback shall be provided from the land ward edge of all regulated category 1-4 critical area buffers to the "building line" as defined in Chapter 2 of this master program.

- 7) Category IV Wetlands. The following buffer widths for Category IV wetlands per Table 6-6 are required:

Table 6-6. Category IV Wetland Buffers

<i>Wetland Characteristics</i>	<i>Buffer Widths by Impact of Land Use</i>	<i>Other Protection Measures Required</i>
Score for all three basic functions is less than 300 15 points	Low – 25 feet Moderate – 40 feet High – 50 feet	None required

*A 15-foot building setback shall be provided from the land ward edge of all regulated category 1-4 critical area buffers to the "building line" as defined in Chapter 2 of this master program.

- 8) Where a legally established developed roadway transects a wetland buffer, the director may approve a modification of the minimum required buffer width to the edge of the roadway if the part of the buffer on the other side of the road does not provide any buffer functions to protect the wetland in question.
- 9) Where a legally established bulkhead transects a wetland buffer, the Administrator may approve a modification of the minimum required buffer width as long as the biologic, hydrologic and water quality functions of the wetland are protected. This modification would be evaluated on a case-by-case basis and rely upon a sensitive areas study provided by a qualified biologist where it can be demonstrated that an equal or greater protection of the wetland would occur. Measures may include bioengineering of shoreline protection, revegetation with native species, or other shoreline or buffer enhancement measures.

6.2.5.12 Wetlands – Alteration of Buffers

- 1) Wetland Buffer Width Averaging. Buffer width averaging to improve wetland function shall be considered on a case-by-case basis when the proposed averaging is in accordance with an approved wetland mitigation plan and best available science. Averaging of buffer widths may only be allowed where a qualified wetland specialist demonstrates that:
- a) It will not reduce wetland functions or values;