Agenda Planning Commission
Gig Harbor Civic Center
Thursday, August 5, 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: July 1, 2021

Agenda Items

I. Shoreline Master Program Periodic Update: Study Session – Carl de Simas/Kim Mahoney

Other Business

Next meeting Thursday, August 19, 2021

Adjournment

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

5:00 p.m. - Call to order, roll call Commissioner Hoeksema, Commissioner Krawczyk, Commissioner Grina, Commissioner Brown & Commissioner Soltess Staff; Carl deSimas Senior Planner; Kim Mahoney, Associate Planner & Michelle Thomas, Planning Technician

Approval of Minutes: June 17, 2021  Motion Krawczyk/Soltess all in favor minutes approved as written

Agenda Items

I. Shoreline Master Program – Periodic Review – Carl de Simas Presentation & Commission discussion

Other Business

Next meeting Thursday, July 15, 2021

Adjournment Motion Brown/Krawczyk All in favor meeting adjourned at 6:14 PM

Staff Memorandum

TO: Planning Commission

FROM: Carl de Simas, Senior Planner
Kim Mahoney, Senior Planner
Planning Division

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

DATE: July 30, 2021

At the upcoming Planning Commission (PC) meeting on **August 5, 2021** staff will continue the discussion around the periodic review of the City's Shoreline Mater Program (SMP). If you will recall, at the last meeting on July 1, 2021 staff presented proposed amendments that had already been, for the most part, reviewed and vetted through the Department of Ecology, Grette and Associates (City's 3rd party consultant) and the Planning Commission. Most of what was presented, Commissioners were supportive of and most questions were answered by staff at the meeting. A couple of questions came up that needed follow-up and staff committed to bringing those back to the Commission at its next meeting.

The first question was regarding live-aboards, how they are regulated currently, and if the City plans to address them in the future. Commissioner Brown followed up, via email to staff and the Commission Chair, with the following two questions:

- The first is the question I sent to you last week: does the City regulate the number of live-aboard slips in Gig Harbor marinas?
- Second, what was the intent of the authors of the proposed language that prohibits house boats, raft or barge boats, etc. in Gig Harbor? What were the authors trying to prevent or correct?

Staff did some research within the SMP and found the following information for the Commission to consider:

- The SMP does not limit the number of slips per marina that may be designated as live-aboards. They are required to be associated with marinas which have provided for

restrooms and sewage. The applicant for a proposed marina use, or an alteration to an existing marina, must disclose the number of live-aboards proposed as part of their application. Please consider the following citations:

- SMP Chapter 2: "Live-aboard vessel" is a vessel, typically a yacht or other recreational watercraft, which is used as a primary residence[1] by one or more persons who may or may not be related by blood or marriage."
- SMP 7.11.9(7)(f): "Marinas with live-aboards shall provide permanent restrooms and sewage disposal facilities in compliance with applicable health regulations."
- SMP 7.11.9(8)(c): "New marina facilities, and alterations to existing facilities, shall submit the following information as part of their application for a Shoreline Substantial Development Permit…The number of live-aboard vessels or slips allocated for live-aboard vessels."

The other question raised was with regard to the definition of Substantial Development and the dollar amount used as a threshold for determining if a proposed development can be considered substantial development. If you will recall, the dollar amount is established in state law under RCW 90.58.030(3)(e). The amount is adjusted for inflation by the WA Office of Financial Management every five years beginning July 1, 2007. The following issue was raised by Commissioners:

- Because the threshold amount changes frequently, it would offer more clarity to include a description in the definition as to how, when and why it changes.

Staff looked into the issue and noted that the threshold amount is also referenced in Subsection 8.2.1 and 8.2.2, in addition to Chapter 2. In each instance, the language describing the threshold amount is presented slightly differently; however, the overall meaning is clearly the same. The descriptions in Chapter 8 provide more depth and get to the Commission's concerns over clarity. Staff has recommended amending the definition in Chapter 2 to include the language, verbatim, from the RCW and removing the exact threshold amount. The amount would remain in Chapter 8 as that is the Administrative Procedures chapter.

In addition to discussing these questions, staff will present a few other amendments relative to those items still highlighted in yellow on the working Dept. of Ecology Checklist. The presentation will again be in the form of a PowerPoint slide deck similar to what was presented previously. The checklist and the PowerPoint presentation from the July 1st meeting are included in your packets for reference. Please feel free to review that former presentation and ask any additional questions you might have.

Here is the project schedule, which is subject to change:

[1] SMP Chapter 2: "Primary residence" shall mean the place in which a person lives or resides. It includes single-family, duplex, triplex and multiple-family dwellings."

Date	Action	Notes
~~**July 1, 2021**~~	~~PC Meeting: Review~~	~~Itemized review of all proposed amendments to date.~~
August 5, 2021	PC Meeting: Study Session	Study and discuss final proposed amendments and any additional proposed amendments.
August 16, 2021	Notice Ecology Joint Public Comment Period	30-day comment period
August 16, 2021	SEPA Threshold Determination	14-day comment period required
September 2, 2021	Notice PC Public Hearing	10-day notice and public comment period required
September 16, 2021	PC Meeting: Public Hearing	30-day joint public comment period ends on 9/15
October 25, 2021	City Council: 1st Reading of DRAFT Ordinance	

Should you have any questions, please contact us at your convenience. Thank you.

Shoreline Master Program: Periodic Review – Proposed City of Gig Harbor Revisions

CITY OF GIG HARBOR

AUGUST 5, 2021

PLANNING COMMISSION

Proposed City Revisions: 2018 e

Summary of Change

- Amend Subsection 6.2.5.23 (Critical Fish & Wildlife Areas) consistent with revisions to GHMC Chapters 18.08 & 18.10 to address proposed FEMA Special Flood Hazard Area Regulations (Door 2B Approach)

Section 6.2.5.23 CFWHA (Page 6-62 – 6-68)

- Section 6.2.5.24 in current draft
- Combined Habitat Assessment and Habitat Management Plan into a single report: HAMP
- Removed the additional 45-day review by state and federal agencies
- Change buffer requirement from minimum 25' to minimum 50' and remove buffer reduction
- Reference GHMC 18.10 for fill and structures proposed in special flood hazard area.

GIG HARBOR
"THE MARITIME CITY"

Proposed City Revisions: 2018 e (cont.)

Summary of Change

- Amend Subsection 6.2.5.23 (Critical Fish & Wildlife Areas) consistent with revisions to GHMC Chapters 18.08 & 18.10 to address proposed FEMA Special Flood Hazard Area Regulations (Door 2B Approach)

Section 6.2.5.23 CFWHA (Page 6-65)

- Section 6.2.5.24 in current draft
- Subsection 6.2.5.24.4.a.v

If applicable, the HAMP shall also include, but may not be limited to, the analysis requirements found in GHMC 18.10.100, Compliance with Endangered Species Act, as follows:

- Subsection 6.2.5.24.a.v.1

A determination that the regulated activity meets the standards of "no effect" (NE)…

GIG HARBOR
"THE MARITIME CITY"

Proposed City Revisions: 2018 e (cont.)

Summary of Change

- Amend Subsection 6.2.5.23 (Critical Fish & Wildlife Areas) consistent with revisions to GHMC Chapters 18.08 & 18.10 to address proposed FEMA Special Flood Hazard Area Regulations (Door 2B Approach)

Section 6.2.5.10 Wetlands – Analysis Report Requirements (Page 6-36 – 6-37)

- Section 6.2.5.11 in current draft
- Added new subsection:

If development is proposed within an area of special flood hazard, the analysis report must include the elevations of the 10-, 50-, and 100-year floods, where such data are available.

GIG HARBOR
"THE MARITIME CITY"

Proposed City Revisions: 2018 e (cont.)

Summary of Change

- Amend Subsection 6.2.5.23 (Critical Fish & Wildlife Areas) consistent with revisions to GHMC Chapters 18.08 & 18.10 to address proposed FEMA Special Flood Hazard Area Regulations (Door 2B Approach)

Section 6.2.5.20 Streams – Critical Areas Report (Page 6-57)

- Section 6.2.5.21 in current draft
- Subsection 6.2.5.21.2:

The stream analysis report shall be prepared in accordance with ~~the methods provided by WDFW or Pierce County PALS or other acceptable scientific method and submitted to the Administrator for review for any proposals that are within 200 feet of a stream.~~

GIG HARBOR
"THE MARITIME CITY"

Proposed City Revisions: 2018 e (cont.)

- Section 6.2.5.21 in current draft
- Subsection 6.2.5.21.2:

The stream analysis report shall be prepared in accordance with acceptable scientific method and submitted to the Administrator for review for any proposals that are within 200 feet of a stream. In addition to project impacts to species and habitat, the report shall address project impacts to water quality, water quantity, flood volume and flood velocities. If development is proposed with the area of special flood hazard, the applicant must also provide the elevations of the 10-, 50-, and 100-year floods, where such data are available.

GIG HARBOR
"THE MARITIME CITY"

Proposed City Revisions: 2018 e (cont.)

Summary of Change

- Amend Subsection 6.2.5.23 (Critical Fish & Wildlife Areas) consistent with revisions to GHMC Chapters 18.08 & 18.10 to address proposed FEMA Special Flood Hazard Area Regulations (Door 2B Approach)

Section 6.2.5.21 Streams – Performance Standards - General (Page 6-59)

- Section 6.2.5.22 in current draft
- New Subsection 6.2.5.22.3.h:

If the stream crossing is located within a designated Special Flood Hazard Area, the crossing must meet the above requirements as well as the requirements of GHMC 19.10, the city's Flood Hazard Construction Standards ordinance.

GIG HARBOR
"THE MARITIME CITY"

Proposed City Revisions: 2018 e (cont.)

Summary of Change

- Amend Subsection 6.2.5.23 (Critical Fish & Wildlife Areas) consistent with revisions to GHMC Chapters 18.08 & 18.10 to address proposed FEMA Special Flood Hazard Area Regulations (Door 2B Approach)

Section 6.2.5.21 Streams – Performance Standards - General (Page 6-62)

- Section 6.2.5.22 in current draft
- New Subsection 6.2.5.22.7
- Streambank Stabilization: Includes Subsections 6.2.5.22.7.a.i-v

GIG HARBOR
"THE MARITIME CITY"

Proposed City Revisions: 2018 g

Summary of Change

- 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.

Section 6.2.5.13 Wetlands – Permitted Uses in Buffer Areas (Page 6-44)

- Section 6.2.5.14 in current draft

Pervious trails and associated viewing platforms; provided, that in the case of Category I wetlands, the minimum distance from the wetland edge is not less than 75 percent of the Category I~~, II, and II~~ buffer width established in Section 6.2.5.12. A decrease in the required buffer width through buffer width averaging or other means does not indicate a corresponding decreased distance from a Category I wetland edge for trails and viewing platforms.

GIG HARBOR
"THE MARITIME CITY"

Proposed City Revisions: 2018 h

Summary of Change

- 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)

Section 6.2.5.13 Wetlands – Permitted Uses in Buffer Areas (Page 6-44 – 6-45)

- Section 6.2.5.14 in current draft
- The revised reference in the current draft would be 6.2.5.12.
- The reference has been amended in several locations.

GIG HARBOR
"THE MARITIME CITY"

Proposed City Revisions: Consistency with GHMC 18.08.100 Wetland Buffer Areas

Summary of Change

- Amend the habitat scores in Tables 6-3, 6-4, 6-5 and 6-6 for consistency with GHMC 18.08.040 of the City's Critical Areas Ordinance.

Section 6.2.5.11 Wetlands – Buffer Areas (Page 6-39 – 6-42)

- Section 6.2.5.12 in current draft
- Habitat scores have been amended for consistency with the GHMC 18.08.040.

GIG HARBOR
"THE MARITIME CITY"

Proposed City Revisions: Update Wetland Rating Categories

Summary of Change

- Amend the wetland rating categories in Subsection 6.2.5.6 to incorporate the revised wetland ratings.

Section 6.2.5.6 Wetlands – Delineation Guidelines/Ratings (Page 6-31 – 6-32)

- Section 6.2.5.7 in current draft
- Revised Subsections 6.2.5.7.3.a.i-iv to incorporate new wetland ratings.
- The categories have not been updated in GHMC 18.08, but will be updated in a subsequent revision to the critical area ordinance.

GIG HARBOR
"THE MARITIME CITY"

Next Steps & Discussion

GIG HARBOR
"THE MARITIME CITY"

CHAPTER 2 DEFINITIONS

Act

"Act" means the Washington State Shoreline Management Act (SMA) of 1971, as amended, chapter 90.58 RCW.

Active Commercial Fishing Vessels

“Active commercial fishing vessels” are those which have a current commercial license issued by the appropriate state or regional authority or a contract from the previous fishing season or for the next fishing season.

Accessory Structure

An “accessory structure” is a subordinate building incidental to the use of the main building or use.

Accessory Apartment

“Accessory apartment” means a residential unit of up to 600 square feet with a functional kitchen, bath, and outside entrance attached to or on the same parcel as a single-family residence in a residential zone. Accessory apartments shall be under the same ownership as the primary residential unit with the owner living on-site in either unit. Accessory apartments shall not be condominiumized or otherwise sold separately.

Accessory Use

“Accessory use” means a use customarily incidental to a permitted use; provided, that such use shall be located on the same lot as the permitted use except where specifically permitted elsewhere in zoning district regulations.

Administrator

The “Administrator” is the City Community Development Director or her/his designee.

Agricultural Activities

"Agricultural activities" means agricultural uses and practices including, but not limited to: producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation.

“New agricultural activities” are activities that meet the definition of agricultural activities but are proposed on land not currently in agricultural use.

"Agricultural products" includes, but is not limited to, horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and livestock including both the animals themselves and animal products including, but not limited to, meat, upland finfish, poultry and poultry products, and dairy products;

"Agricultural equipment" and "agricultural facilities" includes, but is not limited to:

1) The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains;

2) Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands; and

3) Farm residences and associated equipment, lands, and facilities.

Agricultural facilities do not include seasonal farmers’ markets, and roadside fruit and vegetable stands.

"Agricultural land" means those specific land areas on which agricultural activities are conducted as of the date of adoption of a local master program pursuant to the

state guidelines adopted December 17, 2003, as evidenced by aerial photography or other documentation. After the effective date of the master program, land converted to agricultural use is subject to compliance with the requirements of the master program.

Alteration

“Alteration” means any activity which materially affects the existing condition of land or improvements, including removal of substantial amounts of vegetation or modification of natural site characteristics.

Amendment

"Amendment" means a revision, update, addition, deletion, and/or re-enactment to an existing shoreline master program.

Applicant

“Applicant” means the person, party, firm, corporation, or other legal entity that proposes any activity. The applicant is either the owner of the land on which the proposed activity would be located, a contract vendee, a lessee of the land, the person who would actually control and direct the proposed activity, or the authorized agent of such a person.

Approval

"Approval" means an official action by a local government legislative body agreeing to submit a proposed shoreline master program or amendments to Ecology for review and official action pursuant to this chapter; or an official action by Ecology to make a local government shoreline master program effective, thereby incorporating the approved shoreline master program or amendment into the state master program.

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.

Aquaculture

"Aquaculture" means the culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery.

Aquifer

"Aquifer" means a subsurface, saturated geologic formation which produces, or is capable of producing, a sufficient quantity of water to serve as a private or public water supply.

Aquifer Recharge Area

"Aquifer recharge areas" means those areas which serve as critical ground water recharge areas and which are highly vulnerable to contamination from intensive land uses within these areas.

Associated Wetlands

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

Average Grade Level

"Average grade level" means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure: In the case of structures to be built over water, average grade level shall be the elevation of the ordinary high water mark. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure.

Beach Access Structure

"Beach access structure" means a structural pathway/walkway for purposes of providing pedestrian access to a beach or shoreline area, not for motorized vehicle

access. It often includes a stairway, tram, stair tower, platform and/or elevated walkway anchored to the ground surface by structural means.

Beds of Navigable Waters or Bedlands

Beds of navigable waters or bedlands means those lands lying waterward of and below the line of navigability on rivers and lakes not subject to tidal flow, or extreme low tide mark in navigable waters, or the outer harbor line where harbor area has been created.

Best Management Practices

“Best management practices” (BMP’s) means conservation practices or systems of practices and management measures that:

1) Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, or sediment;

2) Minimize adverse impacts to surface water and ground water flow and circulation patterns and to the chemical, physical, and biological characteristics of wetlands;

3) Protect trees, vegetation and soils designated to be retained during and following site construction and use native plant species appropriate to the site for re-vegetation of disturbed areas; and

4) Provide standards for proper use of chemical herbicides within critical areas.

Bioengineering

"Bioengineering" means project designs or construction methods which use living plant material or a combination of living plant material and specially developed natural or synthetic materials to establish a complex root grid within the existing bank which is resistant to erosion, provides bank stability, and maintains a healthy riparian environment with habitat features important to fish life. Use of wood structures or limited use of clean angular rock may be allowable to provide stability for establishment of the vegetation.

Bluff

"Bluff" means a steeply rising, near vertical slope which abuts and rises from the Puget Sound shoreline. The toe of the bluff is the beach and the top is typically a distinct line where the slope abruptly levels out. Where there is no distinct break in a slope, the top is the line of vegetation separating the unvegetated slope from the vegetated uplands, or, if the bluff is vegetated, that point where the bluff slope diminishes to 15 percent or less.

Boat

See definition under "Vessel."

Boating Facilities

"Boating facility" means a facility or structure providing access in and out of the water for vessels, such as docks, piers, floats, marinas, launching ramps, rails, or lift station. For purposes of the Shoreline Master Program, boating facilities excludes docks serving four or fewer single-family residences.

Boat Launch Ramp

"Boat launch ramp" means an inclined slab, set of pads, rails, planks, or graded slope used for launching boats with trailers or by hand.

Breakwater

"Breakwater" means an offshore structure that is generally built parallel to shore that may or may not be connected to land, and may be floating or stationary. Their primary purpose is to protect harbors, moorages and navigation activity from wave and wind action by creating stillwater areas along shore. A secondary purpose is to protect shorelines from wave caused erosion.

Buffer

"Buffer" means the area adjacent and contiguous to a critical area that serves to protect the natural functions and/or structural stability of the critical area. Also, see definitions for "stream buffer zone" and "wetland buffer zone."

Building

A “building” is a structure whose assessed value is more than $300.00, built for the support, shelter, or enclosure of persons, animals, or movable property of any kind.

Building Setback

“Building setback” means the distance between the building line and the nearest boundary to the site or lot, measured at right angles to the boundary..

Building Setback-Vegetation Conservation Strip & Critical Areas

“Building Setback-Vegetation Conservation Strip and Critical Areas” means the distance between the building line and the landward edge of the vegetation conservation strip or critical area buffer measured at right angles to the vegetation conservation strip or critical area buffer.

Building Line

“Building line” means the surface of that face or corner of the part of the building nearest the property line, or the nearest landward edge of the vegetation conservation strip or critical area buffer.

Bulkhead

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 “bulkhead” is a solid wall of rock, rip-rap, concrete, steel, or timber or combination of these materials erected parallel to and near the Ordinary High Water Mark to provide a protective wall resistant to water and wave action.

Buoy

See mooring buoy.

City

"City" means the City of Gig Harbor, Washington

City Utility Activities

"City utility activities" involve the operation, repair, maintenance, improvement, replacement and reconstruction of existing utilities and construction of new utilities by the City of Gig Harbor.

Clearing

"Clearing" means the removal of vegetation or plant cover by manual, chemical, or mechanical means. Clearing includes, but is not limited to, actions such as cutting, felling, thinning, flooding, killing, poisoning, girdling, uprooting, or burning.

Commercial

"Commercial" means a business or activity at a scale greater than a home occupation or cottage industry involving retail or wholesale marketing of goods and services. Examples of commercial uses include, but are not limited to, restaurants, offices, and retail shops.

Commercial Fishing

"Commercial fishing" is the activity of capturing fish and other seafood under a commercial license.

Compensatory Mitigation

"Compensatory mitigation" means mitigation for critical area losses or impacts resulting from alteration of critical areas and/or their buffers. It also means mitigation for impacts to shoreline ecological functions. It includes, but is not limited to, creation, enhancement, restoration or preservation.

Conditional Use

"Conditional use" means a use, development, or substantial development which is classified as a conditional use or is not classified within the Master Program.

Condominium Moorage

"Condominium Moorage" is a moorage facility in which individual slips and moorage space are offered for sale and which are privately owned, collectively or individually.

Critical Areas

"Critical areas" consist of those lands which are subject to natural hazards, contain important or significant natural resources or which have a high capability of supporting important natural resources.

Creation

"Creation" means the producing or forming of a wetland through artificial means from an upland (non-wetland) site.

Contaminant

"Contaminant" means any chemical, physical, biological or radiological material that is not naturally occurring and is introduced into the environment by human action, accident or negligence.

Critical Saltwater Habitat

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

Date of Filing

"Date of Filing" means that any decision on an application for a permit under the authority of this master program and RCW 90.58, whether it is an approval or a denial, shall, concurrently with the transmittal of the ruling to the applicant, be filed with the Department of Ecology and the attorney general. This shall be accomplished by return receipt requested mail. A petition for review of such a decision must be commenced within twenty-one days from the date of filing of the decision.

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 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

"Development regulations" means the controls placed on development or land uses, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a shoreline master program other than goals and policies approved or adopted under chapter 90.58 RCW, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto.

Dike

A “dike” is an artificial embankment normally set back from the bank or channel in the floodplain for the purpose of keeping floodwaters from inundating adjacent land.

Dock

A “dock” is a landing and/or moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. A dock floats on the surface of the water and is connected to land.

Document of Record

"Document of record" means the most current shoreline master program officially approved or adopted by rule by Ecology for a given local government jurisdiction, including any changes resulting from appeals filed pursuant to RCW 90.58.190.

DRASTIC

“DRASTIC” means a model developed by the National Water Well Association and Environmental Protection Agency and which is used to measure aquifer susceptibility to contamination.

Dredging

“Dredging” is the removal of earth, sand, sludge or other material from the bottom of a water body, by mechanical means.

Dredging Spoils

“Dredging spoils” are the bottom materials obtained from dredging.

Drift Cell

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

Dune Modification

“Dune modification” means the removal or addition of material to a dune, the reforming or reconfiguration of a dune, or the removal or addition of vegetation that will alter the dune’s shape or sediment migration.

Earth/Earth Material

“Earth/earth material” means naturally occurring rock, soil, stone, sediment, organic material, or combination thereof.

Ecological Functions

"Ecological functions" or "shoreline functions" means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-200 (2)(c).

Ecology

“Ecology” refers to the Washington State Department of Ecology.

Ecosystem-wide Processes

"Ecosystem-wide processes" means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

Educational Facilities

“Educational facilities” means a building or place for teaching and learning; or for the acquisition, conservation, study, assembly and public display and/or exhibition, and educational interpretation of objects having historical, cultural, scientific, or artistic value such as the Harbor History Museum.

Effective Date of Permit

The “effective date” of a Shoreline Substantial Development, Conditional Use and Variance Permits shall be the date of filing (for Shoreline Substantial Development

Permit the date of filing is the date of actual receipt of the permit by Ecology; for Conditional Use and Variance Permits the date of filing is the date the Ecology decision is transmitted to the local government). The permit time periods per Section 8.8 (Time Requirements and Revisions) of the Program do not include the time during which a use or activity was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals.

Emergency

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. 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.

Enhancement

“Enhancement” means actions performed to improve the conditions of existing degraded areas such as wetlands, streams, critical fish and wildlife habitat, and/or buffers and vegetation conservation strips so that the functions they provide are of a higher quality (e.g., increasing plant diversity, increasing wildlife habitat, installing environmentally compatible erosion controls, removing nonindigenous plant or animal species, removing fill material or garbage).

Erosion

“Erosion” means the wearing away of the earth’s surface as a result of the movement of wind, water, or ice.

Erosion Hazard Areas

“Erosion hazard areas” means those areas which are vulnerable to erosion due to natural characteristics including vegetative cover, soil texture, slope, gradient or which have been induced by human activity. Those areas which are rated severe or very severe for building site development on slopes or cut banks, in accordance with the United States Department of Agriculture Soil Conservation Service Soil Survey for Pierce County Area (February 1979), are included within this definition.

Excavation

"Excavation" means the disturbance, displacement and/or removal of unconsolidated earth material such as silt, sand, gravel, soil, rock or other material from all areas landward of OHWM.

Existing and Ongoing Agricultural Activities

"Existing and ongoing agricultural activities" means those activities conducted on lands defined in RCW 84.34.020(2), and those activities involved in the production of crops and livestock, including but not limited to operation and maintenance of farm and stock ponds or drainage ditches, irrigation systems, changes between agricultural activities, and normal operation, maintenance or repair of existing serviceable structures, facilities or improved areas. Activities which bring an area into agricultural use are not part of an ongoing activity. An operation ceases to be ongoing when the area on which it was conducted has been converted to a nonagricultural use or has lain idle both more than five years and so long that modifications to the hydrological regime are necessary to resume operations, unless the idle land is registered in a federal or state soils conservation program.

Environmental Remediation

"Environmental remediation" means any action or expenditure consistent with the purposes of RCW 70.105D (Hazardous Waste Cleanup-Model Toxics Control Act) to identify, eliminate, or minimize any threat or potential threat posed by hazardous substances to human health or the environment including any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance and any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

Exempt

"Exempt" developments are those set forth in RCW 90.58.030, the State Shoreline Management Act which are not required to obtain a Shoreline Substantial Development Permit but which must otherwise comply with applicable provisions of the act and the local master program. Section 8.2 of this Master Program also addresses exemptions to the Substantial Development Permit requirement.

Extensively Disturbed Area

“Extensively disturbed area” means a shoreline area that has been altered by past development practices to the degree that remaining vegetation does not provide shoreline ecological function. Extensively disturbed areas are those locations that: lack native trees or shrubs, have low percent cover of vegetation, support predominantly ornamental plants and/or are dominated by invasive species (such as blackberry). These areas are generally developed and poorly vegetated. An example of an area that has been extensively disturbed is downtown Gig Harbor Bay.

Extreme Low Tide

"Extreme low tide" means the lowest line on the land reached by a receding tide.

Fair Market Value

"Fair market value" of a development is the open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials.

Feasible

"Feasible" means, for these purposes, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

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

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

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

In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant.

In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

Fill

“Fill” means the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

Fish and Wildlife Habitat Areas

“Fish and wildlife habitat areas” means those areas identified as being of critical importance in the maintenance and preservation of fish, wildlife and natural vegetation including waters of the state, and as further identified in this Master Program.

Float

“Float” means a platform structure anchored in and floating upon a water body that does not connect to the shore, and that provides landing for water dependent recreation or moorage for vessels or watercraft, and that does not include above water storage. Floats are either attached to a pier or are anchored to the seabed so as to allow free movement up or down with the rising or falling water levels.

Floating Home

"Floating home" means a single-family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed.

Flood Hazard Areas

“Flood hazard areas” means those areas within the City of Gig Harbor which are determined to be at risk of having a one percent or greater chance of experiencing a 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 to allow construction or development within an area of special flood hazard established in GHMC Chapter 18.10.

Floodway

"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 adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

Grading

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

Grading Permit

“Grading permit” means the permit required by the City grading and clearing ordinance.

Groin

A “groin” is a barrier structure extending from the shore to the water. It is used to interrupt lateral sediment movement along the shore.

Guidelines

"Guidelines" means those standards adopted by Ecology to implement the policy of chapter 90.58 RCW and WAC 173-26 for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards shall also provide criteria for local governments and Ecology in developing and amending master programs.

Habitat Assessment Report

“Habitat assessment report” means a scientific study or evaluation prepared by a qualified wildlife biologist. The habitat assessment shall include an analysis and discussion of critical fish and wildlife species and habitats known or suspected to be located within 300 feet of a development site, and the potential adverse and/or beneficial effects of the development proposal on such species and habitats. The habitat assessment shall also include a site plan that clearly delineates the location of critical fish and wildlife habitat found within 300 feet of the development site.

Habitat Management Plan

“Habitat management plan” means a report prepared by a qualified wildlife biologist.

Harbor Area

"Harbor area" means the area of navigable waters determined as provided in Article XV, section 1 of the state Constitution, which shall be forever reserved for landings, wharves, streets, and other conveniences of navigation and commerce.

Hard Shoreline Stabilization

“Hard shoreline stabilization” means shore erosion control practices using hardened structures that armor and stabilize the shoreline landward of the structure from further erosion including but not limited to, bulkheads, rip-rap, and revetments.

Hazardous Substances

“Hazardous substances” means those wastes designated by WAC 173-340-200, and regulated as hazardous substances by Ecology.

Hearings Board

"Hearing[s] board" or “State Shorelines Hearings Board” means the shoreline[s] hearings board established by 90.58 RCW. This is the hearings board established by the Shorelines Management Act of 1971 to decide appeals of cases involving shoreline substantial development permits, conditional uses, or variances.

Height

"Height" is measured from average grade level to the highest point of a structure; provided, that television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable master program specifically requires that such appurtenances be included; provided further, that temporary construction equipment is excluded in this calculation.

Hillsides

“Hillsides” means geologic features with slopes of 15 percent or greater. This Master Program provides four classes of hillsides in order to differentiate between the levels of protection and the application of development standards.

Industrial

“Industrial, level 1” means the assembly, production, or storage of finished or semi-finished materials or components into a finished or semifinished product. Acceptable uses must have minimal nuisance factors such as, but not limited to, noise, light, glare, odors, particulate emissions and hazardous waste. Examples of acceptable uses include contractor’s office and/or shop, light assembly, light

manufacturing, mailing and packaging facilities, warehousing, cinematography and video production facilities, research and development facilities, linen, diaper and similar supply services and laundry facilities.

"Industrial, level 2" means the assembly, production, or storage of finished, semi-finished, or raw materials or components into a finished or semi-finished product. Acceptable uses may have moderate nuisance factors such as, but not limited to, noise, light, glare, odors, particulate emissions and hazardous waste. Examples of such uses include all industrial, level 1 uses plus uses such as contractors' yards, moving companies, distribution facilities, frozen food lockers, commercial greenhouses and processing of raw materials, except that refining and smelting are not allowed.

In-kind Wetland Mitigation

"In-kind wetland mitigation" means to replace Wetlands with substitute Wetlands whose characteristics and functions and values are intended to replicate those destroyed or degraded by a regulated activity.

In-kind Shoreline Mitigation

"In-kind shoreline mitigation" means compensatory mitigation that is the same physical and functional type as that of the impact area.

In-stream Structure

"In-stream structure" means a structure placed by humans within a stream or river waterward of the ordinary high-water mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose.

Jetty

A "jetty" is a structure that is generally perpendicular to shore extending through or past the intertidal zone. Jetties are built singly or in pairs at harbor entrances or river mouths mainly to prevent shoaling or accretion from littoral drift in entrance channels, which may or may not be dredged. Jetties also serve to protect channels from storm waves or cross currents, and stabilize inlets through barrier beaches. Most jetties are of riprap mound construction.

Landslide

“Landslide” means an abrupt downslope movement of soil, rock or ground surface material.

Landslide Hazard Area

“Landslide hazard area” means those areas which are susceptible to risk of mass movement due to a combination of geologic, topographic and hydrologic factors.

Local Government

"Local government" means the City of Gig Harbor.

Lot Coverage

“Lot coverage” is that percentage of the area of a lot or site that is built on or occupied by buildings, parking areas and other impervious surfaces.

Low-impact Development

“Low impact development” is a stormwater management and land development strategy applied at the parcel and subdivision scale that emphasizes conservation and use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely mimic predevelopment hydrologic functions.

Live-aboard Vessel

“Live-aboard vessel” is a vessel, typically a yacht or other recreational watercraft, which is used as a primary residence by one or more persons who may or may not be related by blood or marriage.

Maintenance Dredging

“Maintenance dredging” refers to dredging for the purpose of maintaining a prescribed minimum depth previously authorized by a federal, state, and/or local permit as part of any specific waterway project.

Marina

“Marina” means a water-dependent commercial facility consisting of a system of piers, docks, floats, or buoys which provides moorage for lease, rent or sale of more than four slips and may include related services such as commercial sale of goods or services.

Marine

"Marine" means pertaining to tidally influenced waters, including oceans, sounds, straits, marine channels, and estuaries, including the Pacific Ocean, Puget Sound, Straits of Georgia and Juan de Fuca, and the bays, estuaries and inlets associated therewith.

“Marine boat sales, level 1” means a boat sales brokerage offering services to buyers and sellers, but without on-site outdoor, dry land storage and/or display yard.

“Marine boat sales, level 2” means a boat sales brokerage offering services to buyers and sellers, with on-site outdoor display yard.

“Marine sales and service” means marine- related sales of items such as boating equipment, fishing equipment, hardware and supplies, fisheries products for human consumption, bait sales and boat repair.

“Marine industrial” means the assembly, production, or storage of finished or semi-finished materials or components into a finished or semi-finished marine product, and includes the production or sale of fishing equipment and supplies, boat construction and dry land boat storage, sales of fisheries products for human consumption, and commercial fishing operations.

Marine Fueling Facility

“Marine fueling facility” means a marine sales and service use in which fuel for boats is sold.

Maritime Facility

A “Maritime facility” is a facility which is open to the public in which the primary activities relate to the commercial fishing industry; boat building and repair; or other maritime activities or the history thereof.

Master Program

"Master program" shall mean the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020.

May

"May" means the action is acceptable, provided it conforms to the provisions of this Master Program.

Mean Higher High Water

“Mean Higher High Water” is the line on tidal beaches where the mean of the higher of each day's high tides has left a mark upon the beach distinctly separating the tidal area from adjoining uplands. For Gig Harbor, 11.80 feet above Mean Lower Low Water shall constitute the line of Mean Higher High Water, in those cases where the line of Ordinary High Water cannot be determined or established.

Minimally Disturbed Area

“Minimally disturbed area” means a shoreline area that has not been significantly altered by past development practices such that the area supports existing vegetation that is mostly native, including trees, shrubs and/or understory vegetation. These areas have relatively undisturbed soils, slopes and topography. Minimally disturbed areas can include limited amount of impervious surfaces or structures, but still provide important shoreline ecological function. Invasives or ornamental plant species may be present at the edge of development. An example of an area that has been minimally disturbed is the area immediately south of the city limits on Tacoma Narrows.

Mining

“Mining” is the removal of sand, gravel, soil, minerals, and other earth materials for commercial and other uses. Historically, the most common form of mining in shoreline areas is for sand and gravel because of the geomorphic association of rivers and sand and gravel deposits.

Mitigation

“Mitigation” means to avoid, minimize, or compensate for adverse impacts to shoreline ecological functions and processes.

Moorage

“Moorage” is a pier, dock, buoy or float, either fixed or floating, to which vessels may be secured.

“Covered moorage” refers to moorage which has a roof.

“Individual mooring facilities” refers to moorage for single vessels.

“Joint moorage” refers to moorage with two to four slips shared in common by adjacent shoreline single-family properties that are each under separate ownership.

”Community Moorage” means moorage for pleasure craft and/or landing for water sports for use in common by more than four shoreline residences of a certain subdivision or community within shoreline jurisdiction, or for use by patrons of a public park or quasi-public recreation area, including rental of non-powered craft. If community moorage provides commercial services or moorage slips are leased, rented or sold, it shall be considered a marina. If a proposal includes commercial sale of goods or services, or a means of launching other than a ramp, swinging boom, or davit style hoist, it shall be considered a marina.

Moored Boat

A “moored boat” is a vessel that is secured to a pier, float, dock, buoy or other vessel.

Mooring Buoy

“Mooring buoy” means an anchored floating device in a water body used for the landing or storage of a vessel or water craft.

Must

"Must" means a mandate; the action is required.

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.

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

to, restaurants, yacht clubs, offices, retail shops and churches. Also includes commercial uses (see definition for Commercial)."

Normal Maintenance

"Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition.

Normal Repair

"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.

Off-site Shoreline Mitigation

"Off-site shoreline mitigation" means compensatory mitigation that is not located at or near the project that is affecting critical areas or shoreline resources. Off-site shoreline mitigation is generally only allowed when on-site mitigation is not practicable and environmentally preferable.

On-site Shoreline Mitigation

"On-site shoreline mitigation" means compensatory mitigation that occurs within project boundaries and/or areas adjacent or contiguous to an impacted critical area or shoreline resource area.

Ordinary High Water Mark

"Ordinary high water mark" on all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued

by a local government or Ecology: PROVIDED, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water.

Outer Harbor Line

"Outer harbor line" is the line located and established by the State Department of Natural Resources in navigable waters beyond which the State shall never sell or lease any rights whatever. This line determines the extent of water area that may be leased to private interests.

Out-of-kind Wetland Mitigation

"Out-of-kind wetland mitigation" means to replace wetlands with substitute wetlands whose characteristics do not closely approximate those destroyed or degraded by a regulated activity.

Out-of-kind Shoreline Mitigation

"Out-of-kind shoreline mitigation" means compensatory mitigation in which the critical area and its associated functions used to compensate for the impacts are of a different kind than those impacted.

Over-water Building

An "over-water building" refers to a structure or other construction erected on piling or upon a float located waterward of the OHWM.

Parking

"Accessory parking" is the use of land for the purpose of accommodating motor vehicles, motorized equipment, or accessory units, such as trailers, and directly serves an approved shoreline use.

"Principal use parking" is parking which is the principal use on the property and is not accessory to another use.

Party of Record

"Party of record" includes all persons, agencies or organizations who have submitted written comments in response to a notice of application; made oral

comments in a formal public hearing conducted on the application; or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail.

Passive Recreation

“Passive recreation” means recreational uses that involve minimum alteration to vegetation and topography. Uses include, but are not limited to, non-team sports like hiking, bicycling and swimming, bird watching, picnicking, and non-motorized boating like kayaking and canoeing.

Permanent Erosion Control

“Permanent erosion control” means continuous on-site and off-site control measures that are needed to control conveyance or deposition of earth, turbidity or pollutants after development, construction, or restoration.

Permit

"Permit" means any Substantial Development, Variance, Conditional Use Permit, or revision authorized under chapter 90.58 RCW.

Person

"Person" means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated.

Pier

“Pier” means a platform structure supported by piles in a water body that abuts the shore to provide landing for water-dependent recreation or moorage for vessels or watercraft and does not include above water storage.

Priority Habitat

"Priority habitat" means a habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes:

- Comparatively high fish or wildlife density;
- Comparatively high fish or wildlife species diversity;
- Important wildlife habitat;
- Important fish or wildlife seasonal range;
- Important fish or wildlife movement corridor;
- Rearing and foraging habitat;
- Important marine mammal haul-out;
- Refugia habitat;
- Limited availability;
- High vulnerability to habitat alteration;
- Unique or dependent species; or
- Shellfish bed.

A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as a consolidated marine/estuarine shoreline, talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or nonpriority fish and wildlife.

Priority Species

"Priority species" means species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below.

- Criterion 1. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the department of fish and wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.

- Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.

- Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.

- Criterion 4. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered.

Provisions

"Provisions" means policies, regulations, standards, guideline criteria or environment designations.

Public Access

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

Public Interest

"Public interest" means the interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected including, but not limited to, an effect on public property or on health, safety, or general welfare resulting from a use or development.

Qualified Biologist

"Qualified biologist" means a person with a minimum of a four-year degree in wildlife sciences, biology, environmental sciences, soil science, limnology or an equivalent academic background who also has at least two years of experience in stream restoration.

Qualified Wetland Specialist

"Qualified wetland specialist" is a person with a minimum of a four-year degree in wildlife sciences, biology, environmental sciences, soil science, limnology or an equivalent academic background who also has experience in performing wetland delineations, analysis of wetland functions and values and project impacts, and wetland mitigation and restoration techniques. The person must be familiar with the identification of wetlands and delineation of their boundaries in accordance with the approved federal delineation manual and applicable regional supplements, City grading and clearing regulations and the requirements of this Master Program.

Qualified Wildlife Biologist

"Qualified wildlife biologist" means a person having, at a minimum, a bachelor's degree in wildlife biology, wildlife science, wildlife ecology, wildlife management or zoology, or a bachelor's degree in natural resource or environmental science plus 12 semester or 18 quarter hours on wildlife coursework and two years of professional experience.

Ravine Sidewall

"Ravine sidewall" means a steep slope which abuts and rises from the valley floor of a stream and which was created by the normal erosive action of the stream. Ravine sidewalls are characterized by slopes predominantly in excess of 25 percent although portions may be less than 25 percent. The base of a ravine sidewall is the stream valley floor. The top of a ravine sidewall is a distinct line where the slope abruptly levels out. Where there is no distinct break in slope, the top shall be that point where the slope diminishes to 15 percent or less.

Recreational Development

“Recreational development” includes commercial and public facilities designed and used to provide recreational opportunities to the public.

Residence, Primary

“Primary residence” shall mean the place in which a person lives or resides. It includes single-family, duplex, triplex and multiple-family dwellings.

Residential

“Residential” means activity involving the human occupation of a building for living, cooking, sleeping and recreation.

Residential uses and development

“Residential uses and development” means single-family residences, multifamily development and the creation of new residential lots through land division.

Restore

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

Revetment

“Revetment” means a sloped wall constructed of riprap or other material placed on stream banks or other shorelines to retard bank erosion and minimize lateral stream movement. A revetment typically slopes waterward and has rough or jagged facing. The slope differentiates it from a bulkhead, which is a vertical structure.

Riparian Buffer Zone

"Riparian buffer zone" encompasses all areas that are within 200 feet of marine shorelines or 150 feet of streams and that are also within the Special Flood Hazard Area. In no case does the Riparian Buffer Zone extend beyond the limits of the Special Flood Hazard Area.

Rip-Rap

"Rip-rap" is a foundation or retaining wall of stones or rock placed along the water's edge or on an embankment to prevent erosion.

Seismic Hazard Areas

"Seismic hazard areas" means those areas which are susceptible to severe damage from earthquakes as a result of ground shaking, slope failure, settlement or soil liquefaction.

Setback, Minimum Structure

The "minimum structure setback" establishes the minimum width of the vegetation conservation strip required for all proposed structures containing non-water dependent uses. The setback shall be measured from the site's Ordinary High Water Mark or top of bluff, whichever is greater, landward as prescribed in Chapter 6 Section 6.2.3.2, Figure 6-1.

Setback, Minimum Nonconforming Structure

The "minimum nonconforming structure setback" establishes the minimum width of the vegetation conservation strip required for the reconstruction of all structures occupied by a non-water dependent use that are nonconforming to the required minimum structure setback. The setback shall be measured from the site's Ordinary High Water Mark or top of bluff, whichever is greater, landward as prescribed in Chapter 6 Section 6.2.3.2, Figure 6-1.

Shall

"Shall" means a mandate; the action must be done.

Shorelands

"Shorelands" or "shoreland areas" means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of RCW 90.58.030.2(d).

Shoreline Habitat and Natural Systems Enhancement Projects

“Shoreline Habitat and Natural Systems Enhancement Projects” means projects which include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines.

Shoreline Jurisdiction

"Shoreline jurisdiction" means all "shorelines of the state" and "shorelands."

Shoreline Master Program

"Shoreline master program (SMP)" or "master program" means the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020.

As provided in RCW 36.70A.480, the goals and policies of a shoreline master program approved under chapter 90.58 RCW shall be considered an element of the City's comprehensive plan. All other portions of the shoreline master program for a city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the City's development regulations.

Shoreline Modifications

"Shoreline modifications" means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.

Shoreline Stabilization

“New shoreline stabilization” refers to the construction or addition of hard or soft shoreline stabilization measures, including but not limited to bulkheads, revetments, rip rapping, anchor trees and slope bioengineering along a property abutting the shoreline.

“Replacement shoreline stabilization” refers to the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

Shoreline Substantial Development Permit

A “Shoreline Substantial Development Permit” is the permit required by this Master Program for uses which are substantial developments in shoreline jursidiction.

Shorelines

"Shorelines" means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except

1) Shorelines of statewide significance;

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

3) Shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

Shorelines of Statewide Significance

“Shorelines of statewide significance” means those waters of Puget Sound and Gig Harbor Bay lying seaward of extreme low water.

Shorelines of the State

"Shorelines of the state" are the total of all "shorelines" and "shorelines of statewide significance" within the state.

Should

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

Sign

“Sign” means:

1) Any visual communication device, structure, or fixture which is visible from any public right-of-way or waterway placed for the promotion of products, goods, services, events or to identify a building, using sign graphics or trademarks; or

2) Steel, plastic or similar panels displaying corporate colors, logos or trademarks and as are common on corporate signature buildings to give identity to the business (corporate colors which conform to the city’s design manual requirements for color shall be excluded from this definition of a sign); or

3) Inflatable figures, balloons (in a display of six or more), festoons, streamers, spinners, product representations and advertisements for services which are attached to a fixed object or stationary vehicle.

Significant Impact

“Significant impact” means a meaningful change or recognizable effect to the ecological function and value of a critical area, which is noticeable or measurable, resulting in a loss of function and value.

Significant Vegetation Removal

"Significant vegetation removal" means the removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

Single-Family Residence

"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.

Site

“Site” means any parcel or combination of contiguous parcels, or right-of-way or combination of contiguous rights-of-way under the applicant’s ownership or control where the proposed project would occur.

Slope

“Slope” means an inclined earth surface, the inclination of which is expressed as the ratio (percentage) of vertical distance to horizontal distance by the following formula: V (vertical distance)/H (horizontal distance) x 100 = % slope.

Soft-shore Stabilization

“Soft-shore stabilization” is a type of shore erosion control that contributes to restoration, protection or enhancement of shoreline ecological functions. Soft-shore stabilization typically includes a mix of gravels, cobbles, boulders, logs and native vegetation placed to provide shore stability in a non-linear, sloping arrangement.

Solid Waste

“Solid waste” means all solid and semi-solid wastes including, but not limited to, junk vehicles, garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities, but excluding agricultural wastes and crop residues returned to the soil at agronomic rates. This includes all liquid, solid and semi-solid materials which

are not the primary products of public, private, industrial, commercial, mining and agricultural operations. Solid waste includes but is not limited to sludge from wastewater treatment plants and septage from septic tanks, wood waste, dangerous waste, and problem wastes. Unrecovered residues from recycling operations shall be considered solid waste. This definition does not include wastes identified in WAC 173-304-015.

Solid Waste Facility

"Solid waste facility" or "transfer facility" refers to any land or structure where solid waste is stored, collected, transported, or processed in any form, whether loose, baled or containerized, including but not limited to the following: transfer stations, landfills, or solid waste loading facilities. Solid waste handling and disposal facilities do not include the following: handling or disposal of solid waste as an incidental part of an otherwise permitted use; and solid waste recycling and reclamation activities not conducted on the same site as and accessory to the handling and disposal of garbage and refuse.

Special Flood Hazard Area

"Special Flood Hazard Area" includes those lands designated by the Federal Emergency Management Agency (FEMA)~~includes all parcels located within 200 feet landward from the +9 elevation (NGVD 1929 datum) FEMA-designated Special Flood Hazard Areas~~ that are subject to inundation by the 1% Annual Chance Flood per the FEMA scientific and engineering report entitled "The Flood Insurance Study for Pierce County and Incorporated Areas" dated March 7, 2017 and any revisions thereto, with the accompanying FEMA Flood Insurance Rate Map (FIRM) dated March 7, 2017 and any revisions thereto.

Species of Local Importance

"Species of local importance" means a species of animal which is of local concern due to their population status or their sensitivity to habitat manipulation. This term also includes game species.

State Master Program

"State master program" means the cumulative total of all shoreline master programs and amendments thereto approved or adopted by rule by Ecology.

Stockpiling

“Stockpiling” means the placement of material with the intent to remove at a later time.

Stream Buffer Zone

“Stream buffer zone” means a designated area contiguous or adjacent to a stream that is required for the continued maintenance, function, and structural stability of the stream. Functions of a buffer include shading, input of organic debris and coarse sediments, uptake of nutrients, stabilization of banks, protection from intrusion, or maintenance of wildlife habitat. Also, see definitions for “buffer” and “wetland buffer zone.”

Streams

“Streams” means those areas where surface waters produce a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices, or other entirely artificial watercourses, unless they are used by salmonids or are used to convey streams naturally occurring prior to construction in such watercourses. For the purpose of this definition, a defined channel or bed is an area which demonstrates clear evidence of the passage of water and includes, but is not limited to, bedrock channels, gravel beds, sand and silt beds, and defined-channel swales. The channel or bed need not contain water year-round.

Structure

"Structure" means a permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels.

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" means any development of which the total cost or fair market value exceeds five thousand dollars, or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection (3)(e) 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.

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.

Variance

"Variance" is a means to grant relief from the specific bulk, dimensional or performance standards set forth in the applicable master program and not a means to vary a use of a shoreline.

Vegetation Conservation

“Vegetation conservation” includes activities to protect and restore vegetation along or near shorelines that minimize habitat loss and the impact of invasive plants, erosion and flooding and contribute to the ecological functions of shoreline areas. Vegetation conservation provisions include the prevention or restriction of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and nonnative species. Vegetation management provisions apply even to those shorelines and uses that are exempt from a permit requirement.

Vegetation Conservation Strip

“Vegetation conservation strip” means that area of land measured horizontally from the edge of the Ordinary High Water Mark landward as prescribed by Chapter 6 Section 6.2.3.2, Figure 6-1. A vegetation conservation strip consists of an undisturbed area of native vegetation established to protect the integrity, functions and natural processes of the shoreline.

Vessel

"Vessel" includes ships, boats, barges, or any other floating watercraft which are designed and used for navigation and do not interfere with the normal public use of the water.

Water-dependent Use

"Water-dependent use" means a use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations.

Water-dependent Utility

“Water-dependent utility” means sewer and stormwater utilities that require a shoreline location for pipelines and associated outfalls that discharge to marine waters.

Water-enjoyment Use

"Water-enjoyment use" means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number

of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

Water-oriented Use

"Water-oriented use" means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

"Nonwater-oriented uses" means those uses that are not water-dependent, water-related, or water-enjoyment.

Water Quality

"Water quality" means the physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, the term "water quantity" refers only to development and uses regulated under this chapter and affecting water quantity, such as impermeable surfaces and storm water handling practices. Water quantity, for purposes of this chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

Water-related Use

"Water-related use" means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

1) The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or

2) The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

Watershed Restoration

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

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

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

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

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

Weir

“Weir” means a structure in a stream or river for measuring or regulating stream flow.

Wetlands

"Wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for

life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

Wetland Buffer Zone

"Wetland buffer zone" means a designated area contiguous or adjacent to a wetland that is required for the continued maintenance, function, and structural stability of the wetland. Functions of a buffer include shading, input of organic debris and coarse sediments, uptake of nutrients, stabilization of banks, protection from intrusion, or maintenance of wildlife habitat. Also, see definition for "buffer" and "stream buffer zone."

Wetland Class

"Wetland class" means the U.S. Fish and Wildlife Service wetland classification scheme using a hierarchy of systems, subsystems, classes and subclasses to describe wetland types (refer to USFWS, December 1979, Classification of Wetlands and Deepwater Habitats of the United States for a complete explanation of the wetland classification scheme). Eleven class names are used to describe wetland and deepwater habitat types. These include: forested wetland, scrub-shrub wetland, emergent wetland, moss-lichen wetland, unconsolidated shore, aquatic bed, unconsolidated bottom, rock bottom, rocky shore, streambed, and reef.

Wetland Delineation Report

"Wetland delineation report" consists of a document that explains the methods by which the boundary of a wetland was determined, as well as the existing condition of the wetland at the time of the study. The report typically contains a description of how and when the delineation was done; data forms used to delineate the wetland area; a map that clearly identifies data collection point and boundaries of the delineated wetland and a soil survey map.

Wetland Analysis Report

"Wetland analysis report" consists of a document that addresses the functions and values of wetlands utilizing best available science. The report is prepared by a

qualified scientific professional or team of qualified scientific professionals and is used for regulatory purposes to address local, state and federal wetland regulations.

CHAPTER 6 GENERAL GOALS POLICIES AND REGULATIONS

The following goals, policies and regulations apply to all shoreline development, modifications and uses.

6.1 Shoreline Use

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.

6.1.1 Policies

A. Preferred uses on Gig Harbor shorelines

Give preference to shoreline uses that are water-oriented (water-dependent, water-related, or water-enjoyment); provide public access and recreational opportunity; or are single-family residential uses, consistent with state policy (RCW 90.58.020). Such uses should be located, designed, and maintained in a manner that minimizes adverse impacts to shoreline ecological functions and/or processes. Non-water-oriented development should be allowed provided the development supports the objectives of the Gig Harbor Comprehensive Plan and the Shoreline Master Program.

B. Open space, recreation and view corridors on Gig Harbor shorelines

Integrate multiple-use concepts including open space, recreation, and view preservation with commercial, multifamily, and new residential development.

C. Waterfront uses in Gig Harbor Bay

Retain a mixed use waterfront in Gig Harbor Bay including those commercial endeavors such as commercial fishing, boating, marine shops and services, restaurants and retail shops, as well as residential uses which provide the bay's unique appeal. Continue to develop and enhance the recreation and tourism industry along Gig Harbor Bay, as an economic asset, in a manner that will enhance the public enjoyment of, and public access to the bay.

D. Restoration of degraded shoreline areas along Gig Harbor shorelines

Encourage restoration of shoreline areas that are degraded as a result of past activities or events.

E. Protection of rights

Ensure that proposed shoreline uses do not unreasonably infringe upon the rights of others or the rights of private ownership, that uses do not create undue risk or harm to others (e.g., landslide and erosion hazards to adjacent properties), and that existing water-side access to properties is not impacted.

F. Resource-based uses on Gig Harbor shorelines

Prohibit those resource-based uses and industries that are inappropriate for the City's shoreline, including agriculture, forest management practices, and mining.

6.1.2 Regulations

Shoreline regulations for specific uses and associated shoreline modifications (e.g., commercial, residential, recreational development, dredging, bulkheads, etc.) are in Chapter 7, Shoreline Use and Modification Policies and Regulations.

6.2 Marine Shorelines, Vegetation Conservation and Critical Areas Protection

It is the goal of the City of Gig Harbor to protect ecological processes and functions existing in the shoreline and nearshore area. It is also the goal of the City of Gig Harbor to protect and restore shoreline vegetation, recognizing the multiple benefits native vegetation provides, including reduction in the need for structural stabilization; ecological functions and habitat; coastal bluff stability, safety, and protection of human life and property; and visual and aesthetic qualities.

6.2.1 General Policies

A. Level of protection

Provide a level of protection to designated critical areas that are located within the shoreline that assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources.

B. No net loss

Assure no net loss of shoreline ecological functions and processes. This means all shoreline use and development should be carried out in a manner that avoids and minimizes adverse impacts so that the resulting ecological condition does not become worse than the current condition. Natural features of the shoreline and nearshore environment that provide ecological functions and that should be protected include marine riparian habitat, banks and bluffs, beaches and backshore, critical saltwater habitat, wetlands and streams. Shoreline processes that should be protected include erosion and accretion; sediment delivery, transport and storage; and large woody debris recruitment.

C. Mitigation measures

Require shoreline development to ensure no net loss of shoreline ecological functions by mitigating for unavoidable environmental impacts. Compensatory mitigation measures should be considered both in the immediate vicinity and within the broader watershed or nearshore environment as identified in applicable comprehensive resource management or shoreline restoration plans.

D. Habitat

Preserve and protect habitat which provides the shoreline's unique value, including the Crescent Creek and Donkey Creek estuaries, and McCormick Creek, and critical saltwater habitats which include kelp beds, eelgrass beds, spawning and holding areas for forage fish such as surf smelt and sand lance, sand spits, mud flats, and areas with which priority species have a primary association.

E. Wetlands

Preserve, protect, and/or restore wetlands associated with the City's shorelines to achieve no net loss of wetland area and wetland functions.

F. Development in critical areas

Developments or creation of new lots in shoreline areas that are identified as critical areas or pose a foreseeable risk to people and improvements during the life of the development should not be allowed.

G. Cumulative impacts

Consider both direct impacts and cumulative impacts in assessing the potential for net loss of ecological functions from proposed projects.

H. Protect critical areas

Protect critical areas and the functions they perform by the careful and considerate regulation of development.

I. Landslide and erosion

Minimize damage to life, limb and property due to landslides and erosion on steep or unstable slopes, seismic hazard areas and areas subject to subsidence.

J. Wetland functions and values

Protect wetlands and their functions and values.

K. Streams

Protect and maintain stream flows and water quality within the streams.

L. Gig Harbor Bay

Minimize or prevent siltation to the receiving waters of Gig Harbor Bay for the maintenance of marine water quality and the maintenance and preservation of marine fish and shellfish.

M. Drainage and stream flow

Preserve natural forms of flood control and stormwater storage from alterations to drainage or stream flow patterns.

N. Aquifer recharge areas

Protect aquifer recharge areas from undesirable or harmful development.

O. Wildlife

Protect, maintain and enhance areas suitable for wildlife, including rare, threatened or endangered species.

P. Fish and wildlife habitat conservation areas

Protect, maintain and enhance fish and wildlife habitat conservation areas within their natural geographic distribution so as to avoid the creation of subpopulations.

Q. Functions of shoreline vegetation

Conserve or restore native shoreline vegetation where new development and/or uses are proposed in order to maintain shoreline ecological functions and processes provided by native vegetation.

R. Erosion control projects

Integrate native shoreline vegetation with proposals for bioengineering, or "softshore" bank stabilization and erosion control projects.

S. Vegetation conservation

Develop measures to conserve native vegetation along shorelines. Vegetation conservation may include avoidance or minimization of clearing or grading, restoration of areas of native vegetation, and/or control of invasive or non-native vegetation.

T. Vegetation management for views of the water

Maintaining well-vegetated shorelines is preferred over clearing vegetation to create views or provide lawns. Limited and selective clearing for views and lawns should be allowed when slope stability and ecological functions are not compromised. Trimming and pruning are generally preferred over removal of native vegetation.

6.2.2 Regulations - No Net Loss and Mitigation

1) Uses and developments that cause a net loss of ecological functions and processes shall be prohibited. All uses and development shall provide a report to the Shoreline Administrator that addresses no net loss of ecological function associated with a development proposal in a format approved by the City.

2) All shoreline use and development, including preferred uses and uses that are exempt from permit requirements, shall be located, designed, constructed, conducted, and maintained in a manner that maintains shoreline ecological processes and functions.

3) Mitigation measures shall be applied in the following sequence of steps listed in order of priority.

   a) Avoiding the impact altogether by not taking a certain action or parts of an action, or altering the action to avoid impacts;

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

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

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

e) Compensating for the impact by replacing, enhancing, or providing similar substitute resources or environments and monitoring the impact and the mitigation project and taking appropriate corrective measures.

4) Mitigation actions shall not have a significant adverse impact on other shoreline ecological functions.

5) When compensatory mitigation measures are required, all of the following shall apply:

a) The quality and quantity of the replaced, enhanced, or substituted resources shall be the same or better than the affected resources; and

b) The mitigation site and associated vegetative planting shall be nurtured and maintained such that healthy native plant communities can grow and mature over time; and

c) The mitigation shall be informed by pertinent scientific and technical studies, including, but not limited to, the Shoreline Inventory and Characterization Report, the Shoreline Restoration Plan and other background studies prepared in support of this Program; and

d) The mitigation shall replace the functions as quickly as possible following the impacts to ensure no net loss; and

e) The mitigation activity shall be monitored and maintained to ensure that it achieves its intended functions and values; and

f) The City shall require the applicant/proponent to post a bond or provide other financial surety equal to the estimated cost of the mitigation in order to ensure the mitigation is carried out successfully. The bond/surety shall be refunded to the applicant/proponent upon completion of the mitigation activity and any required monitoring.

6) When compensatory measures are appropriate pursuant to the mitigation priority sequence (Section 6.2.2 Regulation #3 above), preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, off-site compensatory mitigation provided within the same watershed or appropriate section of marine shoreline (e.g., reach or drift cell) is allowed when it provides greater and more sustainable benefits. When determining whether offsite

mitigation provides greater and more sustainable benefits, the City shall consider limiting factors, critical habitat needs, and other factors identified by the Gig Harbor shoreline restoration plan, or an approved watershed or comprehensive resource management plan. Authorization of off-site compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions. Compliance with off-site mitigation requirements in Section 6.2.4 is required.

7) To encourage shoreline property owners to remove bulkheads and perform other beneficial shoreline restoration actions in advance of shoreline development or redevelopment, as of November 25, 2013, the City may give mitigation credit to any beneficial restoration action that occurred on a proposed development site within 5 years of the proposed development/redevelopment activity provided that:

   a) The applicant/property owner can provide conclusive evidence of the pre- and post-restoration conditions using photographs, reports, plans, affidavits, permits, or similar evidence;

   b) The City can confirm via site inspection, photographs, affidavits or other evidence that the restoration actions have improved shoreline conditions;

   c) The applicant/property owner protects the restoration area by complying with Section 6.2.4 Regulations #6 and 7;

   d) A habitat management plan is prepared that describes the appropriate amount and type of development that the mitigation credits can be applied towards; and

   e) The habitat management plan and mitigation credit shall be formalized by a covenant recorded with the Pierce County Auditor that runs with the land for the life of the project, and includes a statement that the mitigation credit cannot be sold or transferred to the owner of another parcel.

6.2.3 Regulations – Marine Shorelines

6.2.3.1 Marine – Classification

1) Marine shorelines include all marine "shorelines of the state", including Colvos Passage, Gig Harbor Bay, Tacoma Narrows, Henderson Bay and the portions upstream to the marine ordinary high water marks within freshwater streams which flow into Gig Harbor Bay and Henderson Bay.

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 associated 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:

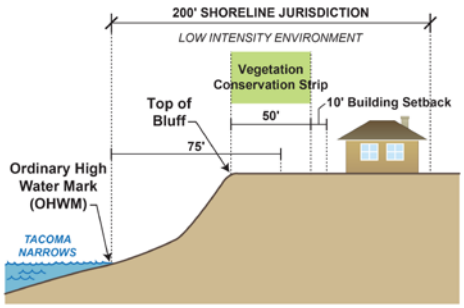
      i) The net increase is 1 percent or less of the property's shoreline jurisdiction area or 50 square feet, whichever is greater; or

      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.

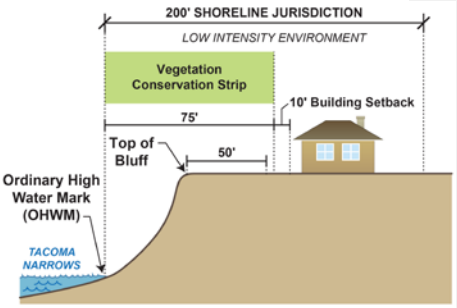
5) A building setback from the upland edge of the vegetation conservation strip shall be established to limit construction impacts unless development exceptions are utilized pursuant to Section 6.2.3.3, Regulations #1-3.

6) Figure 6-1 illustrates the approach to determining the applicable vegetation conservation strip when both a top-of-bluff setback and setback from the OHWM is required per Table 6-1.

Figure 6-1. OHWM and Top-of-Bluff Setbacks (Example in Low Intensity SED)[1]



In this example, the 50-foot from top-of-bluff measurement is the required vegetation conservation strip.



In this example, the 75' from OHWM measurement is the required vegetation conservation strip.

[1] See Table 6-1, subsection 6.2.3.2 for Colvos Passage and Tacoma Narrows Low Intensity Shoreline Environment Designation vegetation conservation strip requirements.

Table 6-1 – Vegetation Conservation Strip Setbacks for Marine Shorelines

Note: The vegetation conservation strip and minimum setback requirements are not applicable to water-dependent uses pursuant to Subsection 6.2.3.2.2.

Waterbody	***Vegetation Conservation Strip***	***Minimum Structure Setback from OHWM/Top-of-Bluff for Non-water Dependent Uses[1 & 5] (Minimum Structure Setback)***	***Building setback from Vegetation Conservation Strip[2]***	***Minimum Nonconforming Structure Setback from OHWM or Top-of–Bluff [3 & 5] (Minimum Nonconforming Structure Setback)***
City Waterfront				
Gig Harbor Bay	Same as critical area buffer or *Minimum Structure Setback from OHWM*, whichever is greater	25 feet	10 feet	10 feet
Historic Working Waterfront				
Gig Harbor Bay	Same as critical area buffer or *Minimum Structure Setback from OHWM*, whichever is greater	25 feet	10 feet	10 feet
Low Intensity				
Colvos Passage	Same as critical area buffer or *Minimum Structure Setback* from OHWM, whichever is greater	50 feet	10 feet	20 feet
Gig Harbor Bay (UGA)	Same as above	50 feet	10 feet	20 feet
Gig Harbor Bay	Same as above	35 feet	10 feet	15 feet
Tacoma Narrows North (south line of City Waterfront designation south to Old Ferry landing-south line of parcel #0221085019)	Same as above	35 feet	10 feet	15 feet
Tacoma Narrows South (south line of parcel #0221085019 to south line parcel #0221084059)	Same as above	75 feet or 50 feet from top of bluff whichever is greater	10 feet	20 feet from top of bluff
Henderson Bay	Same as above	75 feet	10 feet	25 feet

Waterbody	***Vegetation Conservation Strip***	***Minimum Structure Setback from OHWM/Top-of-Bluff for Non-water Dependent Uses[1 & 5] (Minimum Structure Setback)***	***Building setback from Vegetation Conservation Strip[2]***	***Minimum Nonconforming Structure Setback from OHWM or Top-of–Bluff [3 & 5] (Minimum Nonconforming Structure Setback)***
Urban Conservancy				
Colvos Passage	Same as critical area buffer (a buffer equal to the height of the bluff from the top, toe and sides of the bluff) or *Minimum Structure Setback from OHWM*, whichever is greater	75 feet or 50 feet from top of bluff, whichever is greater	10 feet	20 feet from top of bluff
Gig Harbor Bay (UGA)	Same as critical area buffer or *Minimum Structure Setback from OHWM*, whichever is greater	100 feet	10 feet	25 feet
Gig Harbor Bay	Same as above	100 feet	10 feet	25 feet
Henderson Bay	Same as above	100 feet	10 feet	25 feet
Natural				
Gig Harbor Spit[4]	N/A	N/A	N/A	N/A
Tacoma Narrows	Same as critical area buffer (a buffer equal to the height of the bluff from the top, toe and sides of the bluff) or *Minimum Structure Setback from OHWM*, whichever is greater	150 feet or 50 feet from top of bluff whichever is greater	10 feet	20 feet from top of bluff

[1] May be reduced per Section 6.2.3.3
[2] May be waived per Section 6.2.3.3, Regulations #1-4
[3] Minimum required structure setback when utilizing exceptions per Section 6.2.3.3, Regulations #1-3
[4] Vegetation conservation standards and building setbacks are waived in recognition of Federal preemption
[5] Refer to subsection 8.11.8 for requirements that apply to nonconforming structures

6.2.3.3 Marine – Vegetation Conservation Strip Modifications

1) Exception for existing nonconforming structures in all shoreline environment designations except for the Natural designation:

   a) As provided in Chapter 8, section 8.11.8.1.c, intentional reconstruction, including reconfiguration of the building footprint, of existing, legally nonconforming, principal structures located within the *minimum structure setback* is permitted provided the following standards are met:

      i) A *minimum nonconforming structure setback* is maintained as a vegetation conservation strip per requirements of Section 6.2.4;

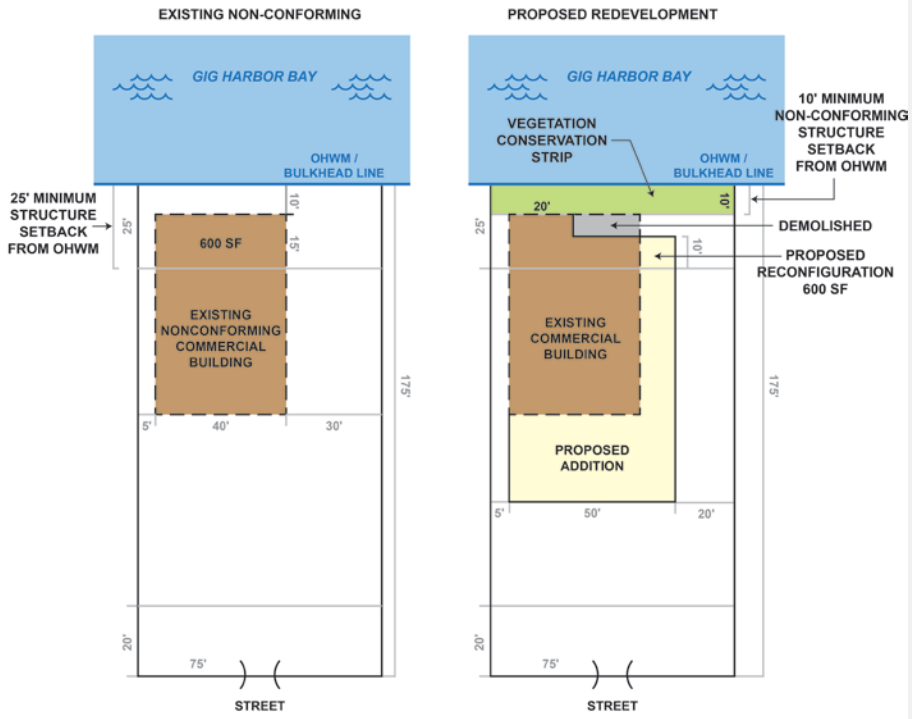
      ii) No increase in building footprint square footage within the *minimum structure setback* occurs; and

      iii) The setback between the existing, legally nonconforming, principal structure and the OHWM is not decreased.

   b) The required 10-foot building setback from the upland edge of the vegetation conservation strip is waived under this provision. See Figure 6-2 for illustrative purposes.

   c) The exception addressed in subsection 6.2.3.3.1.a above, shall not apply to structures that are located between the *minimum nonconforming structure setback* and the OHWM as set forth in Table 6-1.

Figure 6-2. Reconstruction/Additions of Existing Nonconforming Structures (Example in City Waterfront SED)



2) Exception for properties affected by hardship associated with unique conditions:

a) In instances where the subject property is affected by a hardship specifically related to the property that is the result of unique conditions such as irregular lot shape, size or natural features, that would preclude the reconstruction of a structure that meets the *minimum nonconforming structure setback*, structures that are located between the *minimum nonconforming structure setback* and the OHWM may be intentionally reconstructed on the same or smaller footprint provided the new structure maintains the same or an increased building setback from the OHWM as provided by the former structure. In instances where multiple structures on the same parcel are located between the *minimum nonconforming structure setback* and the OHWM, each structure may be reconstructed on the same or smaller footprint, or the sum of the square footage contained within the

structures may be combined into one structure provided the structure does not exceed the maximum gross floor area requirements for the site established by GHMC Title 17. In such instances the existing building setback from the OHWM maintained by the former structure(s) shall be maintained or increased.

In all instances, the project proponent must demonstrate to the satisfaction of the Administrator that the subject site is affected by a qualifying hardship condition. In instances where the hardship involves steep or unstable slopes, the Administrator may require that a Geotechnical Report be prepared by a licensed engineer to address the hardship condition. In all instances, the project proponent shall demonstrate through a Habitat Assessment Report that the reconstruction of the structure(s) shall not adversely affect the existing ecological functions of the site. The required report shall be prepared by a qualified wildlife biologist.

b) The required 10-foot building setback from the upland edge of the vegetation conservation strip is waived under this provision.

3) Exceptions for new infill developments:

a) In instances where a vacant parcel is located between two parcels, each of which is developed with a legal, nonconforming principal structure located within the required *minimum structure setback*, the setback for the vacant parcel shall be calculated as follows:

i) Determine the existing setback of the principal structure of each of the adjacent parcels;

ii) Add existing setbacks distances of each parcel and divide by two.

Results of the averaging will determine the setback for the proposed principal structure for the vacant parcel. In no case shall the average setback be reduced to less than the minim*um nonconforming structure setback*. This average structure setback shall be maintained as a vegetation conservation strip per the requirements of Section 6.2.4. The required 10-foot building setback from the vegetation conservation strip is waived under this provision. See Figure 6-3 for illustrative purposes.

b) Development of a vacant, infill corner parcel which abuts a parcel on the interior side that has an existing, legal, nonconforming principal structure located within the *minimum structure setback* may utilize an average structure setback in place of the *minimum structure setback*. Averaging shall be determined by calculating the average of the following two values:

i) The distance (in feet) from the OHWM to the building line of the existing principal structure on the interior lot abutting the subject property.

ii) *Minimum structure setback* per Table 6-1.

The resulting value shall be the average structure setback from the OHWM, provided it is no less than the *minimum nonconforming structure setback*. This minimum average structure setback shall be maintained as a vegetation conservation strip per the requirements of Section 6.2.4. The required 10-foot building setback from the vegetation conservation strip is waived under this provision. See Figure 6-4 for illustrative purposes.

Figure 6-3. Setback Averaging for Vacant Infill Parcel (Example in City Waterfront SED)

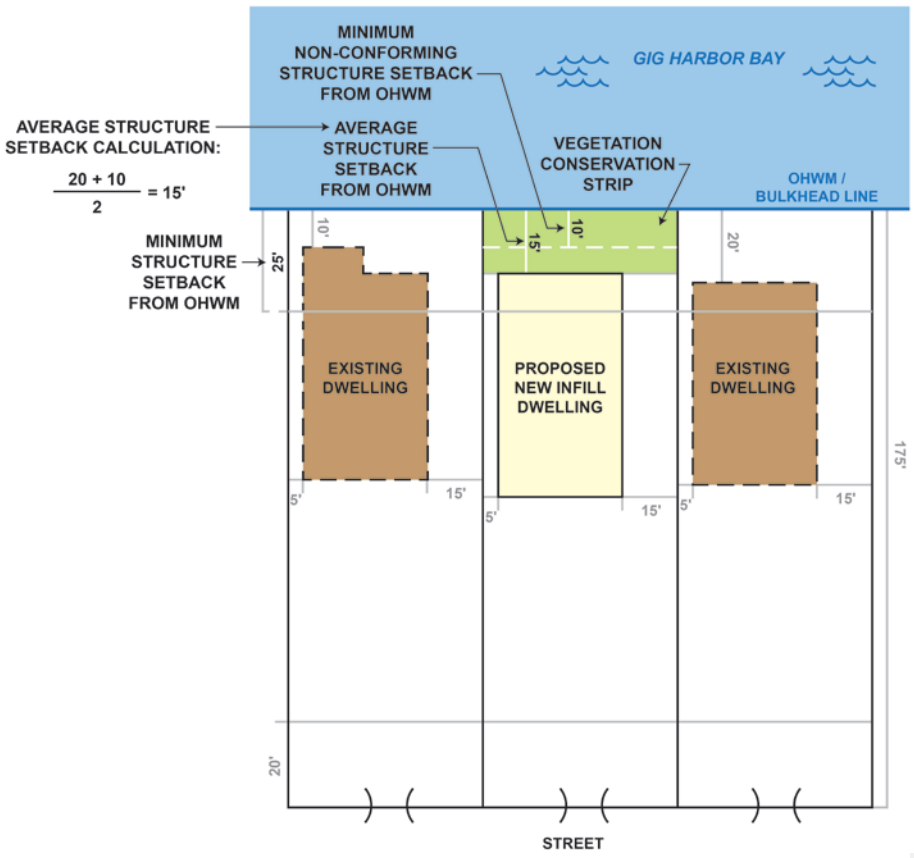
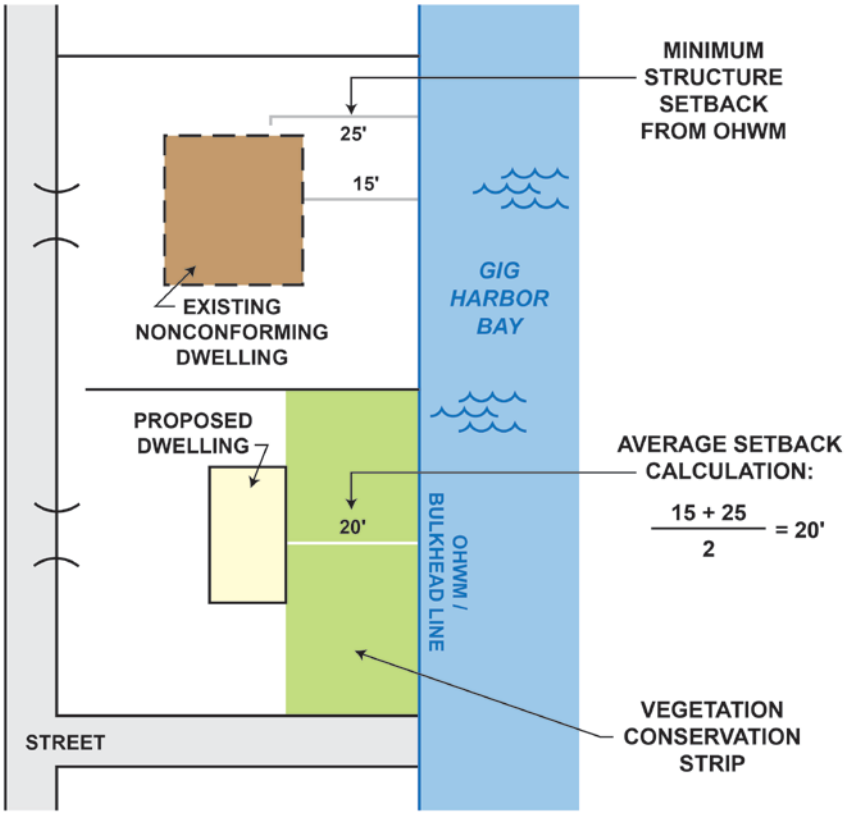


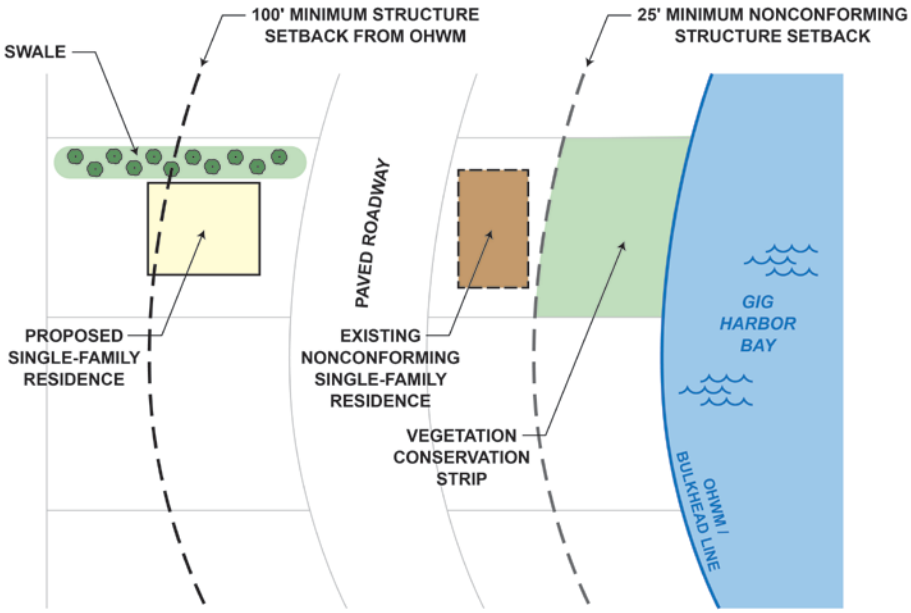
Figure 6-4 Setback Averaging on Corner Lot (Example in City Waterfront SED)



4) Exception when roadway transects *minimum structure setback*:

   a) Where a legally established developed roadway transects the *minimum structure setback* the Administrator may approve a modification of the standard to the edge of the roadway if the part of the *minimum structure setback* on the landward side of the road does not provide any functions to protect the shoreline. The modification of the standard shall not conflict with a required critical area buffer. The required 10-foot building setback from the vegetation conservation strip is waived under this provision. See Figure 6-5 for illustrative purposes.

Figure 6-5. Roadway Transects Minimum Structure Setback (Example in Urban Conservancy SED)



6.2.4 Regulations – Vegetation Conservation Strip

1) Areas containing existing native plant communities located within the marine vegetation conservation strip or critical area buffer shall be protected, maintained, or enhanced. Invasive species shall be removed and replaced with native vegetation to maintain or enhance ecological functions on the property where practical.

2) Proposed development in the shoreline jurisdiction shall provide a landscape plan with information appropriate to identify the required marine vegetation conservation strip required pursuant to section 6.2.3.2, or critical area buffer required pursuant to section 6.2.5.

3) Landscape plans shall include the location, species, diameter or size of materials using both botanical and common names. Plans shall reflect the ultimate size of the plant materials. In drier months, temporary surface irrigation or temporary

installation of intermediate plantings may be required until weather or seasonal conditions permit installation of the permanent plantings. When required by the Administrator, landscape plans shall establish a staged vegetation removal and replacement program that keeps the amount of exposed soil during and after clearing and grading activities to a minimum.

4) The following applies to minimally disturbed areas containing existing native plant communities located within the marine vegetation conservation strip or critical area buffer:

   a) No more than 15 percent of the area with native shoreline vegetation shall be cleared within the marine vegetation conservation strip or critical area buffer. All native trees in the vegetation conservation area over 6 inches in diameter at 54 inches above grade shall be retained. Lawn grass, pervious surfaces which provide opportunities for outdoor furniture arrangements, and fire-pits are allowed within the disturbed portion of vegetation conservation strip area. Trees determined by a certified arborist to be hazardous or diseased may be removed upon approval by the City. Removal of trees greater than six-inches in diameter at 54 inches above grade shall be replaced at a 2:1 ratio with deciduous trees of a minimum two-inch caliper as measured one (1) foot above grade or evergreen trees a minimum of five-feet in height. Buffers and setbacks from the OHWM that have been previously disturbed shall be re-vegetated as part of the development pursuant to an approved landscape plan. See Figure 6-6 for illustrative purposes.

   b) In the Natural, Urban Conservancy and Low Intensity Shoreline Environment Designations, where the vegetation conservation strip and building setbacks for marine shorelines are measured from the "top-of-bluff" pursuant to the requirements of Section 6.2.3.2, Table 6-1, no more than 15 percent of the area within the native shoreline vegetation conservation strip or buffer area at the top of bluff shall be cleared. The minimum required vegetation conservation strip or buffer area may be reduced to a minimum width of twenty-five (25) feet provided the project proponent demonstrates through a Geotechnical Report prepared by a licensed engineer that such a reduced area will not adversely impact the stability of adjacent steep slopes. All native trees in the minimum required vegetation conservation strip or buffer area greater than 6 inches in diameter at 54 inches above grade shall be retained. 100 percent of the native vegetation within adjacent steep slope areas shall be retained, except as necessary to provide for private and public access to the shoreline as set forth in subsection 6.2.4.8 below. Lawn grass, pervious surfaces which provide opportunities for outdoor furniture arrangements, and fire-pits are allowed within the disturbed portion of vegetation conservation strip or buffer area, between the top of bluff and the upland

edge of the required area. Structures are not allowed within the reduced vegetation conservation strip or buffer area, per requirements of Section 6.2.3 and other provisions of the Master Program. See Figure 6-7 for illustrative purposes.

c) The allowance to clear up to 15 percent of the area within the native vegetation conservation strip or critical area buffer shall not be allowed for properties that established a vegetation conservation strip equal to the *minimum nonconforming structure setback* per Section 6.2.3.2, Table 6-1.

Figure 6-6. Minimally Disturbed Areas (Example in Low Intensity SED)

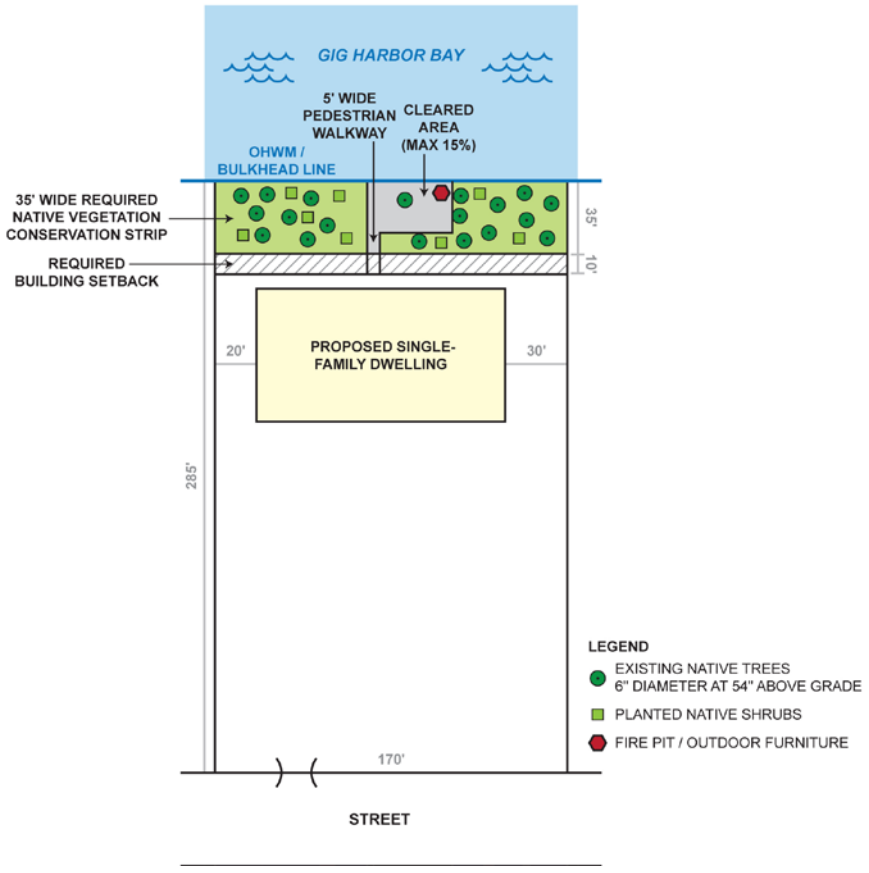
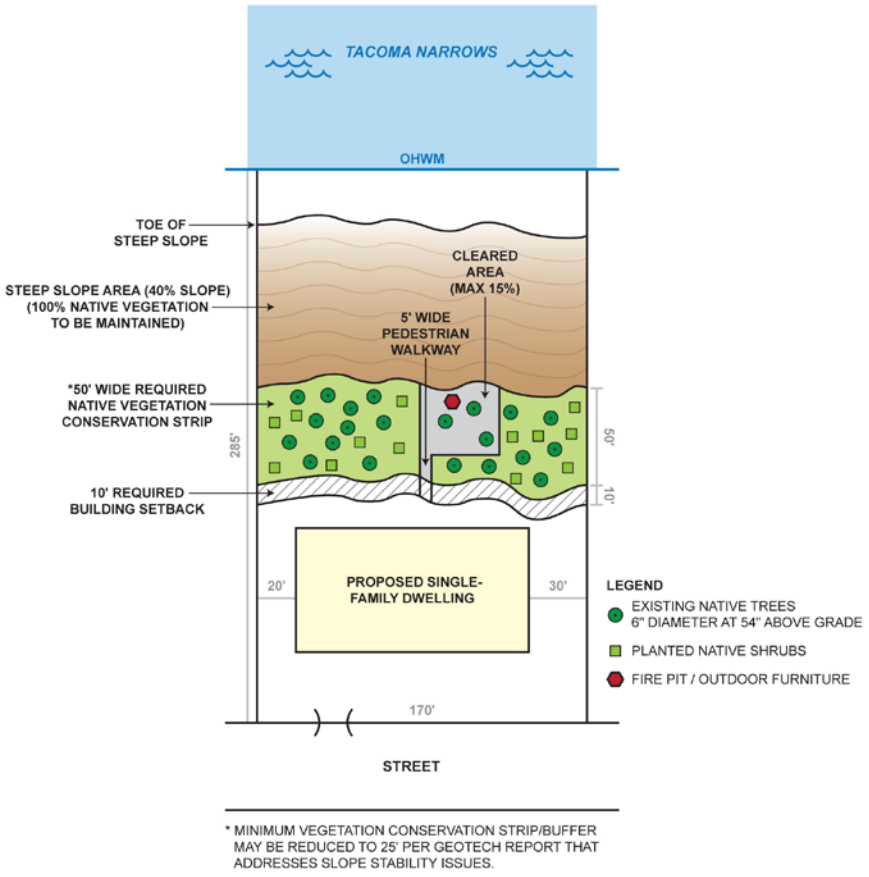


Figure 6-7. Minimally Disturbed Areas (Example in Low Intensity SED with top-of-bluff measurement)



5) In extensively disturbed areas, when re-vegetation of the required vegetation conservation strip area is required, the vegetation conservation strip or critical area buffer shall be planted to meet the following standards:

   a) At the time of planting, deciduous trees shall be a least two (2) inches in caliper as measured one (1) foot above grade, and coniferous trees must be at least five (5) feet in height. A minimum of three (3) trees per 100 linear feet of shoreline frontage shall be required, with portions of a tree rounded up to the next required tree. The required trees may be grouped within the

required vegetation conservation strip or critical area buffer to preserve views of the shoreline.

b) At the time of planting, shrubs must be at least eighteen (18) inches high. Shrubs should be planted such that within two years the shrubs will cover at least sixty percent (60%) of the area that would be covered when the shrubs have attained mature size. In instances where no hard armoring retains the site's shoreline frontage, log and rock placement, shoreline plantings and beach coves may be used in the landscape plan consistent with the requirements of Section 7.9 Shoreline Stabilization. Other types of vegetation, including ornamentals, may be used to supplement the native plantings if a greater coverage is desired.

c) A maximum of thirty percent (30%) of the required vegetation conservation strip or critical area buffer may be maintained as a view preservation corridor oriented perpendicular to the site's shoreline frontage. The permitted view preservation corridor may be divided into one or more corridors. Within the view preservation corridor, existing native trees greater than 6-inches in diameter at 54-inches above grade shall be retained. A minimum ten (10) foot wide planting area measured landward from the site's OHWM shall be planted with shrubs per the requirements of subsection 6.7.2.4.b above and existing native trees greater than 6 inches in diameter at 54-inches above grade shall be retained. Within the required vegetation conservation strip or critical area buffer, trees determined by a certified arborist to be hazardous or diseased may be removed upon approval by the City. Removal of trees greater than six-inches in diameter at 54 inches above grade shall be replaced at a 2:1 ratio with deciduous trees of a minimum two-inch caliper as measured one (1) foot above grade or evergreen trees a minimum of five-feet in height. Lawn grass, pervious surfaces which provide opportunities for outdoor furniture arrangements, fire-pits, and annual gardens are allowed within the view preservation corridor. See Figure 6-8 for illustrative purposes.

d) In the Natural, Urban Conservancy and Low Intensity Shoreline Environmental Designations, where the vegetation conservation strip and building setbacks for marine shorelines are measured from the "top-of-bluff" pursuant to the requirements of Section 6.2.3.2, Table 6-1, the minimum vegetation conservation strip or buffer may be reduced to a minimum width of twenty-five (25) feet provided the project proponent demonstrates to the Administrator through a Geotechnical Report prepared by a licensed engineer that such a planting area will not adversely impact the stability of adjacent steep slope areas. Structures are not allowed within the reduced vegetation conservation strip or buffer area, per requirements of Section

6.2.3 and other provisions of the Master Program. Native plantings shall be installed within the twenty-five-foot wide vegetation conservation strip area with a minimum of three trees provided for every 100 linear feet of shoreline frontage, with portions of a tree rounded up to the next required tree. Shrubs must be at least eighteen (18) inches high, and planted such that within two years the shrubs will cover at least sixty percent (60%) of the area that would be covered when the shrubs have attained mature size. 100 percent of the native vegetation within adjacent steep slope areas shall be retained, except as necessary to provide for private and public access to the shoreline as set forth in subsection 6.2.4.8 below. See Figure 6-9 for illustrative purposes.

Figure 6-8. Extensively Disturbed Areas (Example in Low Intensity SED)

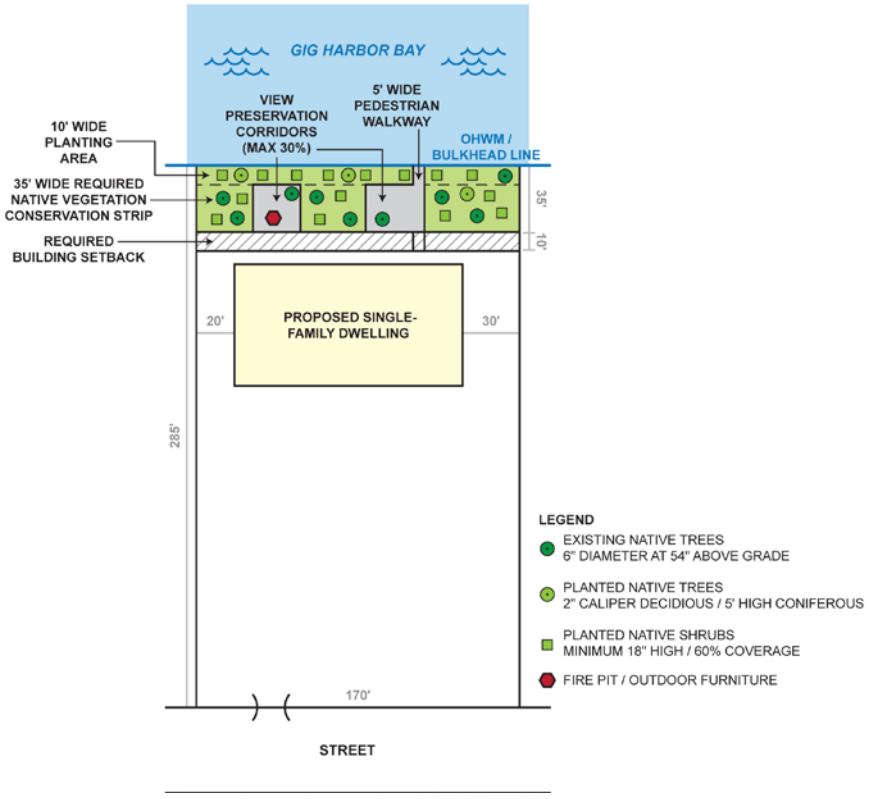
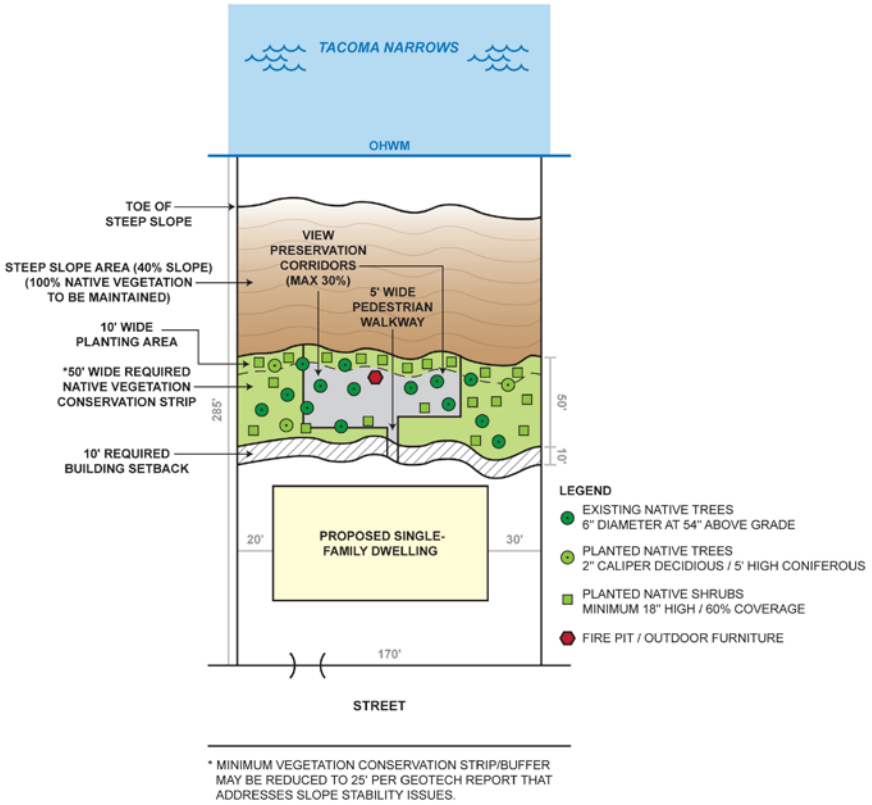


Figure 6-9. Extensively Disturbed Areas (Example in Low Intensity SED with top-of-bluff measurement)



6) For a period of two (2) years after initial planting, the property owner shall replace any unhealthy or dead vegetation planted as part of an approved landscape plan for the required vegetation conservation strip or critical area buffer.

7) When restoring or enhancing shoreline vegetation within the required marine vegetation conservation strip or critical area buffer, proponents shall use plant species native to western Washington and of a similar diversity and type to that occurring in the general vicinity of the site prior to any shoreline alteration. The Washington Native Plant Society Native Plants for Western Washington Gardens

and Restoration Projects tree, shrub and plant list, *or other certified listings,* shall serve as a guide for shoreline restoration and enhancement projects.

8) Private pedestrian walkways and related beach access structures, and required public access walkways and related beach access structures, that are a maximum of five (5) feet in width may bisect the required vegetation conservation strip or critical area buffer to provide access from the uplands of a site to the shoreline frontage of the site, including the beach. One private pedestrian walkway and/or beach access structure that is a maximum of five (5) feet in width may be installed within the required vegetation conservation strip or critical area buffer to provide access to the beach. The area required for private pedestrian walkways and related beach access structures shall be applied to the maximum 15% clearing allowed within the marine vegetation conservation strip or critical area buffer as set forth in subsection 6.2.4.4 above. If public access is required pursuant to Section 6.5-Public Access, pedestrian walkways shall be setback a minimum of 10 feet from and oriented parallel to the site's OHWM. The area devoted to public access walkways and related public beach access structures that are required pursuant to Section 6.5-Public Access, shall not be applied to the maximum 15% clearing allowance.

9) Should a development create unavoidable impacts adverse to native shoreline vegetation located within the required marine vegetation conservation strip, mitigation shall be required. Mitigation shall ensure that there will be no net loss in the amount of vegetated area or the ecological functions performed by the disturbed vegetation. The Administrator shall rely on the Gig Harbor Shoreline Inventory and Characterization Report as a general guide for restoring ecological functions. Pursuant to Section 6.2.2 Regulation #3, on-site and in-kind mitigation is preferred. Mitigation plans shall be completed before initiation of other permitted activities unless a phased or concurrent schedule that assures completion prior to building occupancy has been approved by the Administrator.

10) Should a development create unavoidable impacts adverse to native shoreline vegetation located within the required critical area buffer, mitigation shall be required. Mitigation shall ensure that there will be no net loss in the amount of vegetated area or the ecological functions performed by the disturbed vegetation. The Administrator shall rely on the applicant's critical areas report to provide specific description of the ecological functions, while also relying on the Gig Harbor Shoreline Inventory and Characterization Report as a general guide. Pursuant to Section 6.2.2 Regulation #3, on-site and in-kind mitigation is preferred. Mitigation plans shall be completed before initiation of other permitted activities unless a phased or concurrent schedule that assures completion prior to building occupancy has been approved by the Administrator.

11) In addition to the requirements set forth above for marine vegetation conservation strips and critical area buffers, properties that are located in the Low Intensity Shoreline Environment Designation in Gig Harbor Bay (UGA) and Colvos Passage shall retain trees that are 12 inches or more in diameter outside of required marine vegetation conservation strip areas or critical area buffers. Trees determined by a certified arborist to be hazardous or diseased may be removed upon approval by the City. If healthy or non-hazardous trees are removed, each removed tree must be replaced with at least three (3) six-foot trees or one (1) 18-foot tree or one (1) 12-foot plus one (1) six-foot tree of the same species or equivalent native tree species . Ten percent of the replaced trees must be located within the required vegetation conservation area.

12) All feasible techniques to maximize retention of existing native shoreline vegetation shall be used while allowing for shoreline views. Techniques shall include selective pruning, windowing and other measures that preserve native plant composition and structure. Limbing and crown thinning may be appropriate if sufficient crown is retained to preserve the trees fullness, health, and function. Tree topping is prohibited.

13) The owner of any property containing an ecological restoration project approved in conjunction with a development proposal, or as an independent project, 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 an ecological restoration project on the subject property, the application of the City's Shoreline Master Program to the property, and that limitations on actions in or affecting such ecological restoration project 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:

Ecological Restoration Project:

Legal Description:

_____

_____

_____

Present Owner: _____

NOTICE: This property contains an ecological restoration project as identified on the attached project plans. Restrictions exist on the use or alteration of the

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 Notice and Title

1. Notice. Upon submission of a complete application for a development approval, notice shall be provided in accordance with the city zoning code for site plan review for notification of 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..

2. Notice on Title. The owner of any property with field-verified presence of critical areas and/or critical area buffers on which a development proposal is submitted shall file for record with the Pierce County Auditor a notice approved by the department in a form substantially as set forth below. Such notice shall provide notice in the public record of the presence of a critical area or critical area buffer, the application of this chapter to the property, and that limitations on actions in or affecting such critical areas 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:

CRITICAL AREA AND/OR CRITICAL AREA BUFFER NOTICE

Legal Description:

_____

_____

_____

Present Owner: _____

NOTICE: This property contains critical areas or their buffers as defined by Gig Harbor Municipal Code Chapter 18.08. Restrictions on use or alteration of the critical areas or their buffers may exist due to natural conditions of the property and resulting regulations.

_____ _____

Date Signature Owner

Formatted: Normal

~~6.2.5.1~~6.2.5.2 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~~6.2.5.3 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~~6.2.5.4 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~~6.2.5.5 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~~6.2.5.6 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~~6.2.5.7 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 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.

Formatted: Space After: 0 pt

Formatted: Indent: Left: 0.25", No bullets or numbering

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)~~

Formatted: Indent: Left: 0.5", No bullets or numbering

~~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).~~

~~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~~6.2.5.8 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~~6.2.5.9 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~~6.2.5.10 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)~~2) 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)~~3) 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~~6.2.5.11 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) If development is proposed within an area of special flood hazard, the analysis report must include the elevations of the 10-, 50-, and 100-year floods, where such data are available.

Formatted: Not Highlight

~~2)~~3) 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)~~4) 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~~6.2.5.12 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

Level of Impact from Land Use	*Types of Land Uses Based on Common Use Categories*
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

Wetland Characteristics	*Buffer Widths by Impact of Land Use*	*Other Protection Measures Required*
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 – 36~~8-9 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 – 28~~6-7 points)	Low – 75 feet Moderate – 110 feet High – 150 feet	None required
High level of function for water quality improvement (~~24 – 32~~8-9 points) and low for habitat (~~less than 20~~3-5 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 – 36~~8-9 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 – 28~~6-7 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 – 32~~8-9 points; habitat less than ~~20~~ 3-5 points)	Low – 50 feet Moderate – 75 feet High – 100 feet	No additional surface discharges of untreated runoff

Wetland Characteristics	*Buffer Widths by Impact of Land Use*	*Other Protection Measures Required*
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

Wetland Characteristics	*Buffer Widths by Impact of Land Use*	*Other Protection Measures Required*
Moderate to high level of function for habitat (score for habitat ~~20 – 36~~6-7 points) Note: If wetland scores 8-9 habitat points, use Table 6-4 for Category II buffers.	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

Wetland Characteristics	*Buffer Widths by Impact of Land Use*	*Other Protection Measures Required*
Score for all three basic functions is ~~less than 30~~9-15 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~~6.2.5.13 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;

b) The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;

c) The buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower-functioning or less sensitive portion;

d) The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

e) The buffer at its narrowest point is never less than either ¾ of the required width or 75 feet for a Category I and II, 50 feet for a Category III, and 25 feet for a category IV, whichever is greater.

2) Wetland Buffer Increases. The Administrator may require increased buffer widths in accordance with the recommendations of a qualified wetland specialist and the best available science on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values based on site-specific characteristics. This determination shall be reasonably related to protection of the functions and values of the regulated wetland. Such determination shall demonstrate that:

a) A larger buffer is necessary to maintain viable populations of existing species; or

b) The wetland is used by species listed by the federal government or the state as endangered, threatened, sensitive or as documented priority species or habitats, or essential or outstanding potential sites such as heron rookeries or raptor nesting areas; or

c) The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impact; or

d) The adjacent land has minimum vegetative cover or slopes greater than 30 percent.

3) Buffer Mitigation Ratios: Impacts to buffers shall be mitigated at a 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.

~~6.2.5.13~~6.2.5.14 Wetlands – Permitted Uses in Buffer Areas

1) The following activities are permitted within the wetland buffer; provided, that no other location is feasible; the location of such facilities will not degrade the functions and values of the wetland; any impacts are mitigated through the requirements of Section 6.2.5:

   a) Wells and necessary appurtenances associated with single-family dwellings, including a pump and appropriately sized pump house, including a storage tank, may be allowed on each site in a wetland buffer if all the following conditions are met:

      i) The well is either an individual well (serving only one residence) or a Class B well (a maximum of 15 connections including necessary storage tanks);

      ii) For Category I and II wetlands, the minimum distance from the well and appurtenances to the wetland edge is not less than 75 percent of the buffer widths established in Section 6.2.5.~~10~~12. A decrease in the required buffer width through buffer reduction or buffer width averaging or other means does not indicate a corresponding decreased distance is allowed from the wetland edge to the well and appurtenances;

      iii) Access to the well and pump house shall be allowed.

   b) Pervious trails and associated viewing platforms; provided, that in the case of Category I wetlands, the minimum distance from the wetland edge is not less than 75 percent of the Category I~~, II, and III~~ buffer width established in Section 6.2.5.~~10~~12. A decrease in the required buffer width through buffer width averaging or other means does not indicate a corresponding decreased distance from a Category I wetland edge for trails and viewing platforms.

   c) The placement of underground utility lines, on-site septic drainfields meeting the requirements of the Pierce County health code.

   d) In the case of Category I and II wetland buffers, the development of new "city utility activities" as defined in Chapter 2 of this master program shall be a conditional use subject to the requirements of WAC 173-27-160 and the mitigation requirements of Section 6.2.5.

   e) In the case of Category III and IV wetland buffers only grass-lined swales and detention/retention facilities for water treated by biofiltration or other processes prior to discharge, provided the minimum distance from the

wetland edge is not less than 75 percent of the buffer widths established in Section 6.2.5.~~10~~12.

f) Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside the wetland buffer boundary, provided the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. The Shoreline Administrator may require specific studies as necessary from a hydrologist to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column would be affected by the drilling activity authorized under this provision.

g) Placement of access roads and utilities across Category III and IV wetland buffers, if the Administrator determines that there is no alternative location for providing access and/or utilities to a site and mitigation is provided as designated in Section 6.2.5.

h) Alterations of native shoreline vegetation and placement of outdoor furniture arrangements and fire pits in Category II wetland buffers as provided in Subsection 6.2.4.4 and 5 provided the minimum distance from the wetland edge is not less than 75 percent of the buffer widths established in Subsection 6.2.4.5.~~10~~12. Alteration of native shoreline vegetation and placement of outdoor furniture arrangements and fire pits in Category III and IV wetland buffers provided the minimum distance from the wetland edge is not less than 25 percent of the buffer widths established in Subsection 6.2.

i) Educational and scientific research activities.

~~6.2.5.14~~6.2.5.15 Wetlands – Alteration of Wetlands and Sequence of Mitigation Actions

1) Alteration of Category I wetlands is prohibited.

2) Alteration of Category II, III and IV wetlands may be allowed when all adverse impacts to wetland functions and values can be shown to be fully mitigated. Criteria to be considered by the applicant or the property owner are:

   a) Avoiding the impact altogether by not taking a certain action or parts of actions;

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

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

d) Compensating for the impact by replacing or providing substitute resources or environments.

3) Mitigation may include a combination of the above measures and may occur concurrently, unless a phased schedule is agreed.

~~6.2.5.15~~6.2.5.16 Wetlands – Mitigation Plan Submittal Requirements

1) Following submittal of any proposed alterations to wetland and buffer areas, the applicant shall submit to the Administrator a wetland mitigation plan substantially in the following form:

a) Conceptual Phase. A conceptual wetland mitigation plan shall be submitted to the Administrator. In cases in which environmental review is required, a threshold determination may not be made prior to the Administrator's review of the conceptual wetland mitigation plan. The conceptual wetland mitigation plan shall include:

i) General goals of the wetland mitigation plan, including an overall goal of no net loss of wetland function and acreage, and to strive for a net resource gain in wetlands over present conditions;

ii) A review of literature or experience to date in restoring or creating the type of wetland proposed;

iii) Approximate site topography following construction;

iv) Location of proposed wetland compensation area;

v) General hydrologic patterns on the site following construction;

vi) Nature of compensation, including wetland types (in-kind and out-of-kind), general plant selection and justification, approximate project sequencing and schedule, and approximate size of the new wetland buffer;

vii) A conceptual maintenance plan;

viii) Conceptual monitoring and contingency plan.

b) Detailed Phase. Following approval of the conceptual wetland mitigation plan by the Administrator, a detailed wetland mitigation plan shall be submitted to the Administrator. The detailed wetland mitigation plan shall contain, at a minimum, the following components, and shall be consistent with the standards in Section 6.2.5.15 and 6.2.5.17:

i) Text and map of the existing condition of the proposed compensation area, including:

(1) Existing vegetation community analysis;

(2) Hydrological analysis, including topography, of existing surface and significant subsurface flows into and out of the area in question;

(3) Soils analysis providing both Soil Conservation Service mapping and data provided by on-site verified determinations;

(4) Detailed description of flora and fauna existing on the site;

(5) Description of existing site conditions in relation to historic conditions for those sites which have been recently altered or degraded;

ii) Text and map of the proposed alterations to the compensation area, including:

(1) Relationship of the project to the watershed and existing water bodies;

(2) Topography of site using one-foot contour intervals;

(3) Water level data, including depth and duration of seasonally high water table;

(4) Water flow patterns;

(5) Grading, filling and excavation, including a description of imported soils;

(6) Irrigation requirements, if any;

(7) Water pollution mitigation measures during construction;

(8) Aerial coverage of planted areas to open water areas (if any open water is to be present);

(9) Appropriate buffers;

The wetland mitigation plan shall include detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome. The wetland mitigation plan shall provide for elevations which are appropriate for the desired habitat type(s) and which provide sufficient tidal prism and circulation data;

iii) As part of the wetland mitigation plan, a landscaping plan shall be designed by a registered landscape architect or contractor working with a qualified wetland specialist, describing what will be planted where and when. The landscape plan shall include the following:

(1) Soils and substrate characteristics;

(2) Specification of substrate stockpiling techniques;

(3) Planting instructions, including species, stock type and size, density or spacing of plants, and water and nutrient requirement;

(4) Specification of where plant materials will be procured. Documentation shall be provided which guarantees plant materials are to be procured from licensed regional nurseries, or from wetlands on-site which are part of the wetland mitigation plan;

iv) A schedule shall be provided showing dates for beginning and completing the mitigation project, including a sequence of construction activities;

v) A monitoring and maintenance plan, consistent with Section 6.2.5.17. The plan shall include all the following:

(1) Specification of procedures for monitoring and site maintenance;

(2) A schedule for submitting monitoring reports to the Administrator;

vi) A contingency plan, consistent with Section 6.2.5.17;

vii) A detailed budget for implementation of the wetland mitigation plan, including monitoring, maintenance and contingency phases;

viii) A guarantee that the work will be performed as planned and approved, consistent with Section 6.2.5.17;

ix) The wetland mitigation plan shall be signed by the qualified wetland specialist to indicate that the plan is according to specifications determined by the qualified wetland specialist. A signed original wetland mitigation plan shall be submitted to the Administrator.

c) Following the approval of the detailed wetland mitigation plan by the Administrator, the plan shall be signed and notarized by the applicant and Administrator, and recorded with the Pierce County auditor.

d) Approval of the detailed wetland mitigation plan shall occur prior to the issuance of building permits or other development permits. No development activity shall occur on the site prior to approval. Required mitigation may also be required prior to issuance of permits or prior to commencing development activity. Timing of required mitigation shall be determined on a case-by-case basis.

~~6.2.5.16~~6.2.5.17 Wetlands – Criteria for Compensatory Mitigation/Location and Timing of Compensatory Mitigation

1) The applicant shall develop a wetland mitigation plan that provides for construction, maintenance, monitoring and contingencies of the replacement wetland. In addition, the applicant and landowner shall meet the following criteria:

   a) The created, rehabilitated, enhanced, or preserved wetland shall be as persistent as the wetland it replaces;

   b) The applicant shall demonstrate sufficient capability to carry out the compensation project;

   c) The compensation area shall be provided with permanent protection and management to avoid further development or degradation and to provide for the long-term persistence of the compensation area as designed.

2) Type and location of compensatory mitigation. Unless it is demonstrated that a higher level of ecological functioning would result from an alternative approach, compensatory mitigation for ecological functions shall be either in kind and on site, or in kind and within the same stream reach, sub-basin, or drift cell (if estuarine wetlands are impacted). Compensatory mitigation actions shall be conducted within the same sub-drainage basin and on the site of the alteration except when all of the following apply:

a) There are no reasonable opportunities on site or within the sub-drainage basin (e.g., on-site options would require elimination of high-functioning upland habitat), or opportunities on site or within the sub-drainage basin do not have a high likelihood of success based on a determination of the capacity of the site to compensate for the impacts. Considerations should include: anticipated replacement ratios for wetland mitigation, buffer conditions and proposed widths, available water to maintain anticipated hydrogeomorphic classes of wetlands when restored, proposed flood storage capacity, and potential to mitigate riparian fish and wildlife impacts (such as connectivity);

b) Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland; and

c) Off-site locations shall be in the same sub-drainage basin unless:

   i) Established watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the city and strongly justify location of mitigation at another site; or

   ii) Credits from a state-certified wetland mitigation bank are used as compensation, and the use of credits is consistent with the terms of the bank's certification.

d) The design for the compensatory mitigation project needs to be appropriate for its location (i.e., position in the landscape). Therefore, compensatory mitigation should not result in the creation, restoration, or enhancement of an atypical wetland. An atypical wetland refers to a compensation wetland (e.g., created or enhanced) that does not match the type of existing wetland that would be found in the geomorphic setting of the site (i.e., the water source(s) and hydroperiod proposed for the mitigation site are not typical for the geomorphic setting). Likewise, it should not provide exaggerated morphology or require a berm or other engineered structures to hold back water. For example, excavating a permanently inundated pond in an existing seasonally saturated or inundated wetland is one example of an enhancement project that could result in an atypical wetland. Another example would be excavating depressions in an existing wetland on a slope, which would require the construction of berms to hold the water.

~~6.2.5.17~~6.2.5.18 Wetlands – Replacement Criteria

1) Where wetlands are altered, the applicant shall meet the minimum requirements of this section.

2) When it is proposed to alter or eliminate a wetland and the Administrator is considering the alteration or elimination, the applicant shall be required to replace or enhance the functions and values of the affected wetland. The wetland values will be based on an approved evaluation procedure. The recommended wetland mitigation ratios for replacement/compensation are as established in Table 6-7:

Table 6-7. Wetland Mitigation Ratios

Category and Type of Wetland	*Creation or Re-establishment*	*Rehabilitation*	*Enhancement*	*Preservation*
Category I: Bog, Natural Heritage site	Not considered possible	6:1	Case by case	10:1
Category I: Mature Forested	6:1	12:1	24:1	24:1
Category I: Based on functions	4:1	8:1	16:1	20:1
Category II	3:1	6:1	12:1	20:1
Category III	2:1	4:1	8:1	15:1
Category IV	1.5:1	3:1	6:1	10:1

3) Ratios provided are for proposed projects with on-site, in-kind replacement, or off-site as provided herein, which occurs prior to development of the site. Replacement ratio for unauthorized wetland impact requires replacement at a ratio two times that listed for the wetland categorical type. The increased ratio is based on the uncertainty of probable success of proposed replacement, projected losses of wetland functions and values, or significant period of time between elimination and replacement of wetland. Such required increases in replacement ratios will be made by the Administrator after review of all pertinent data relating to the proposed or committed alteration.

4) The Administrator will allow the ratios to be decreased if the applicant provides findings of special studies coordinated with agencies with expertise which demonstrate to the satisfaction of the Administrator that no net loss of wetland function or value is attained under the decreased ratio.

5) In instances where the mitigation is provided in advance of project impacts, the replacement ratio may be decreased to a ratio of 1:1, if the following criteria are met:

   a) The applicant shows to the satisfaction of the Administrator that a replacement ratio of greater than 1:1 is either not feasible on-site, would be likely to result in substantial degradation of other natural features or results in an increase of wetland function and values; and

   b) The applicant submits to the Administrator a wetland mitigation plan according to the requirements of Section 6.2.5.14 and 6.2.5.15 which shows to the satisfaction of the Administrator that a net increase in wetland functions and values will result from the mitigation; and

   c) The mitigation is completed and monitored by the Administrator for three growing seasons after completion of the mitigation. After three growing seasons the Administrator shall make a determination of whether or not the mitigation has been successful.

      i) If the Administrator is satisfied that the mitigation will successfully meet the anticipated final outcome of the wetland mitigation plan, development permits may be issued and development activity on the site may begin.

      ii) If the Administrator is not satisfied that the mitigation will successfully meet the anticipated final outcome of the wetland mitigation plan, development permits shall not be issued and development activity on the site shall not begin. Modifications to the wetland mitigation plan and further monitoring may be required until the Administrator is satisfied that the mitigation will be successful.

6) In-kind compensation shall be provided except where the applicant can demonstrate to the satisfaction of the Administrator that:

   a) The wetland system is already significantly degraded and out-of-kind replacement will result in a wetland with greater functional value; or

   b) Scientific problems such as exotic vegetation and changes in watershed hydrology make implementation of in-kind compensation impossible; or

   c) Out-of-kind replacement will best meet identified regional goals (e.g., replacement of historically diminished wetland types); or

d) Where out-of-kind replacement is accepted, greater acreage replacement ratios may be required to compensate for lost functions and values.

7) Site-specific quantifiable criteria shall be provided for evaluating whether or not the goals and objectives for the proposed compensation are being met. Such criteria include but are not limited to water quality standards, survival rates for planted vegetation, habitat diversity indices, species abundance or use patterns, hydrological standards including depths and durations of water patterns. Detailed performance standards for mitigation planning shall include the following criteria:

a) Use only plants indigenous to Pierce County (not introduced or foreign species);

b) Use plants appropriate to the depth of water at which they will be planted;

c) Use plants available from local sources;

d) Use plant species high in food and cover value for fish and wildlife;

e) Plant mostly perennial species;

f) Avoid committing significant areas of site to species that have questionable potential for successful establishment;

g) Plant selection must be approved by a qualified wetland specialist;

h) Water depth is not to exceed six and one-half feet (two meters);

i) The grade or slope that water flows through the wetland is not to exceed six percent;

j) Slopes within the wetland basin and the buffer zone should not be steeper than 3:1 (horizontal to vertical);

k) The substrate should consist of a minimum of one foot, in depth, of clean (uncontaminated with chemicals, or solid/hazardous wastes) inorganic/organic materials;

l) Planting densities and placement of plants shall be determined by a qualified wetland specialist and shown on the design plans;

m) The wetland (excluding the buffer area) should not contain more than 60 percent open water as measured at the seasonal high water mark;

n) The planting plan must be approved by a qualified wetland specialist;

o) Stockpiling shall be confined to upland areas and contract specifications should limit stockpile durations to less than four weeks;

p) Planting instructions shall describe proper placement, diversity, and spacing of seeds, tubers, bulbs, rhizomes, sprigs, plugs, and transplanted stock;

q) Apply controlled release fertilizer at the time of planting and afterward only as plant conditions warrant (determined during the monitoring process), and only to the extent that the release would be conducted in an environmentally sound manner;

r) Install an irrigation system, if necessary, for initial establishment period;

s) Construction specifications and methods shall be approved by a qualified wetland specialist and the Administrator;

t) All mitigation shall be consistent with requirements of Chapter 18.10 GHMC and City storm drainage comprehensive plan;

u) As appropriate, and if impacts to natural wetland functions and values can be fully mitigated, capacity of the wetland to store surface water should be equal to or greater than surface water storage capacity prior to the proposed activity;

v) As appropriate, and if impacts to natural wetland functions and values can be fully mitigated, ability of the wetland to intercept surface water runoff on the site should be equal to or greater than such ability prior to the proposed activity;

w) As appropriate, and if impacts to natural wetland functions and values can be fully mitigated, the ability of the wetland to perform stormwater detention functions should be equal to or greater than such functions prior to the proposed activity.

8) Wetland mitigation shall occur according to the approved wetland mitigation plan, and shall be consistent with all provisions of this regulation.

9) On completion of construction required to mitigate for impacts to wetlands, the wetland mitigation project shall be signed off by an approved qualified wetland specialist and the City's environmental official. Signature will indicate that the construction has been completed as planned.

~~6.2.5.18~~6.2.5.19 Wetlands – Monitoring Program and Contingency Plan

1) If the wetland mitigation plan includes compensatory mitigation, a monitoring program shall be implemented to determine the success of the compensatory mitigation project.

2) Specific criteria shall be provided for evaluating the mitigation proposal relative to the goals and objectives of the project and for beginning remedial action or contingency measures. Such criteria may include water quality standards, survival rates of planted vegetation, species abundance and diversity targets, habitat diversity indices, or other ecological, geological or hydrological criteria.

3) A contingency plan shall be established for compensation in the event that the mitigation project is inadequate or fails.

4) Requirements of the monitoring program and contingency plan are as follows:

   a) During monitoring, use scientific procedures for establishing the success or failure of the project;

   b) For vegetation determinations, permanent sampling points shall be established;

   c) Vegetative success equals: Year 1, 100% survival; Year 3, 35% aerial coverage and Year 5, 50% aerial coverage;

   d) Submit monitoring reports of the current status of the mitigation project to the Administrator. The reports are to be prepared by a qualified wetland specialist and shall include monitoring information on wildlife, vegetation, water quality, water flow, stormwater storage and conveyance, and existing or potential degradation, and shall be produced on the following schedule:

      i) At time of construction;

      ii) Thirty days after planting;

      iii) Early in the growing season of the first year;

      iv) End of the growing season of first year;

      v) Twice the second year;

      vi) Annually;

e) Monitor a minimum of five (5) growing seasons, depending on the complexity of the wetland system. The time period will be determined and specified in writing prior to the implementation of the site plan;

f) If necessary, correct for failures in the mitigation project;

g) Replace dead or undesirable vegetation with appropriate plantings;

h) Repair damages caused by erosion, settling, or other geomorphological processes;

i) Redesign mitigation project (if necessary) and implement the new design;

j) Correction procedures shall be approved by a qualified wetland specialist and the City's environmental official.

~~6.2.5.19~~6.2.5.20 Streams – Designation and Rating of Streams

1) Streams are waterbodies with a defined bed and banks and demonstrable flow of water as defined in Chapter 2. Streams are designated as environmentally critical areas.

2) Stream Classification. Streams shall be designated Type 1, Type 2, Type 3, and Type 4 according to the criteria in this subsection.

   a) Type 1 streams are those streams identified as "shorelines of the state" under Chapter 90.58 RCW.

   b) Type 2 streams are those streams which are:

      i) Natural streams that have perennial (year-round) flow and are used by salmonid fish; or

      ii) Natural streams that have intermittent flow and are used by salmonid fish.

   c) Type 3 streams are those streams which are:

      i) Natural streams that have perennial flow and are used by fish other than salmonids; or

      ii) Natural streams that have intermittent flow and are used by fish other than salmonids.

d) Type 4 streams are those natural streams with perennial or intermittent flow that are not used by fish.

3) Ditches. Ditches are artificial drainage features created in uplands through purposeful human action, such as irrigation and drainage ditches, grass-lined swales, and canals. Purposeful creation must be demonstrated through documentation, photographs, statements and/or other evidence. Ditches are excluded from regulation as streams under this section. Artificial drainage features with documented fish usage are regulated as streams. Drainage setbacks are required as per the City's surface water manual.

~~6.2.5.20~~6.2.5.21 Streams – Critical Areas Report

1) A stream analysis report shall be prepared by a qualified biologist and submitted to the Administrator as part of the SEPA review process established by the City of Gig Harbor environmental policy ordinance, Chapter 18.04 GHMC.

2) The stream analysis report shall be prepared in accordance with acceptable scientific method and submitted to the Administrator for review for any proposals that are within 200 feet of a stream. In addition to project impacts to species and habitat, the report shall address project impacts to water quality, water quantity, flood volume and flood velocities. If development is proposed with the area of special flood hazard, the applicant must also provide the elevations of the 10-, 50-, and 100-year floods, where such data are available.

3) Within 30 days of receipt of the stream analysis report and other information, the Administrator shall determine the appropriate stream 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 streams unless new information is found demonstrating the report is in error.

~~6.2.5.21~~6.2.5.22 Streams – Performance Standards – General

1) Establishment of Stream Buffers. The establishment of buffer areas shall be required for all development proposals and activities in or adjacent to streams. The purpose of the buffer shall be to protect the integrity, function, and value of the stream. Buffers shall be protected during construction by placement of a temporary barricade, on-site notice for construction crews of the presence of the

stream, and implementation of appropriate erosion and sedimentation controls. Native vegetation removal or disturbance is not allowed in established buffers.

Required buffer widths shall reflect the sensitivity of the stream or the risks associated with development and, in those circumstances permitted by these regulations, the type and intensity of human activity and site design proposed to be conducted on or near the sensitive area. Buffers or setbacks shall be measured as follows.

2) Stream Buffers.

a) The following buffers per Table 6-8 are established for streams:

Table 6-8. Stream Buffers

Stream Type	*Buffer Width (Feet)*
Type 1	200
Type 2	100
Type 3	50
Type 4	25

b) Measurement of Stream Buffers. Stream buffers shall be measured perpendicularly from the ordinary high water mark.

c) Increased Stream Buffer Widths. The Administrator shall require increased buffer widths in accordance with the recommendations of a qualified biologist and the best available science on a case-by-case basis when a larger buffer is necessary to protect stream functions and values based on site-specific characteristics. This determination shall be based on one or more of the following criteria:

i) A larger buffer is needed to protect other critical areas;

ii) The buffer or adjacent uplands has a slope greater than 30 percent or is susceptible to erosion and standard erosion-control measures will not prevent adverse impacts to the wetland.

d) Buffer Conditions Shall Be Maintained. Except as otherwise specified or allowed in accordance with this title, stream buffers shall be retained in an undisturbed condition.

e) Degraded Buffers Shall Be Enhanced. Stream buffers vegetated with non-native species or otherwise degraded shall be enhanced with native plants, habitat features or other enhancements.

f) Buffer Uses. The following uses may be permitted within a stream buffer in accordance with the review procedures of this chapter, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent stream:

i) Conservation and Restoration Activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife;

ii) Passive Recreation. Passive recreation facilities designed in accordance with an approved critical area report, including:

(1) Walkways and trails; provided, that those pathways that are generally parallel to the perimeter of the stream shall be located in the outer 25 percent of the buffer area;

(2) Wildlife viewing structures; and

(3) Fishing access areas;

iii) Stormwater Management Facilities. Grass-lined swales and dispersal trenches may be located in the outer 25 percent of the buffer area. All other surface water management facilities are not allowed within the buffer area.

3) Stream Crossings. Stream crossings may be allowed and may encroach on the otherwise required stream buffer if:

a) All crossings use bridges or other construction techniques which do not disturb the stream bed or bank, except that bottomless culverts or other appropriate methods demonstrated to provide fisheries protection may be used for Type 2 or Type 3 streams if the applicant demonstrates that such methods and their implementation will pose no harm to the stream or inhibit migration of fish;

b) All crossings are constructed during the summer low flow and are timed to avoid stream disturbance during periods when use is critical to salmonids;

c) Crossings do not occur over salmonid spawning areas unless the City determines that no other possible crossing site exists;

d) Bridge piers or abutments are not placed within the FEMA floodway or the ordinary high water mark;

e) Crossings do not diminish the flood-carrying capacity of the stream;

f) Underground utility crossings are laterally drilled and located at a depth of four feet below the maximum depth of scour for the base flood predicted by a civil engineer licensed by the state of Washington. Temporary bore pits to perform such crossings may be permitted within the stream buffer established in this title; and

g) Crossings are minimized and serve multiple purposes and properties whenever possible; and

~~g)~~h) If the stream crossing is located within a designated Special Flood Hazard Area, the crossing must meet the above requirements as well as the requirements of GHMC Chapter 18.10, the city's Flood Hazard Construction Standards ordinance.~~.~~

4) Stream Relocations.

a) Stream relocations may be allowed only for:

i) All stream types as part of a public project for which a public agency and utility variance is granted pursuant to this title; or

ii) Type 3 or 4 streams for the purpose of enhancing resources in the stream if:

(1) Appropriate floodplain protection measures are used; and

(2) The relocation occurs on the site, except that relocation off the site may be allowed if the applicant demonstrates that any on-site relocation is impracticable, the applicant provides all necessary easements and waivers from affected property owners and the off-site location is in the same drainage sub-basin as the original stream.

b) For any relocation allowed by this section, the applicant shall demonstrate, based on information provided by a civil engineer and a qualified biologist, that:

i) The equivalent base flood storage volume and function will be maintained;

ii) There will be no adverse impact to local ground water;

iii) There will be no increase in velocity;

iv) There will be no interbasin transfer of water;

v) There will be no increase in the sediment load;

vi) Requirements set out in the mitigation plan are met;

vii) The relocation conforms to other applicable laws; and

viii) All work will be carried out under the direct supervision of a qualified biologist.

5) Stream Enhancement. Stream enhancement not associated with any other development proposal may be allowed if accomplished according to a plan for its design, implementation, maintenance and monitoring prepared by a civil engineer and a qualified biologist and carried out under the direction of a qualified biologist.

6) Minor Stream Restoration. A minor stream restoration project for fish habitat enhancement may be allowed if:

a) The project results in an increase in stream function and values;

b) The restoration is sponsored by a public agency with a mandate to do such work;

c) The restoration is not associated with mitigation of a specific development proposal;

d) The restoration is limited to removal and enhancement of riparian vegetation, placement of rock weirs, log controls, spawning gravel and other specific salmonid habitat improvements;

e) The restoration only involves the use of hand labor and light equipment; or the use of helicopters and cranes which deliver supplies to the project site; provided, that they have no contact with sensitive areas or their buffers; and

f) The restoration is performed under the direction of a qualified biologist.

7) Streambank Stabilization.

a) Bank stabilization along streams may be allowed if:

i) Bank stabilization is required to protect a legally-existing structure;

ii) No other alternative to structural stabilization is feasible, such as increasing setbacks or relocating structures;

iii) All bank stabilization measures requiring armoring utilize bioengineering per the Integrated Streambank Protection Guidelines 2003 or current Best Available Science;

iv) All bank stabilization measures are designed and implemented under the direction of a qualified engineer; and

~~f~~v) Any adverse impacts to stream or buffer function are fully mitigated.

Formatted

~~6.2.5.22~~6.2.5.23 Streams – Mitigation Requirements

1) Stream Mitigation. Mitigation of adverse impacts to riparian habitat areas shall result in equivalent functions and values on a per function basis, be located as near the alteration as feasible, and be located in the same sub-drainage basin as the habitat impacted.

2) Alternative Mitigation for Stream Areas. The performance standards set forth in this subsection may be modified at the City's discretion if the applicant demonstrates that greater habitat functions, on a per function basis, can be obtained in the affected sub-drainage basin as a result of alternative mitigation measures.

~~6.2.5.23~~6.2.5.24 Critical Fish and Wildlife Habitat Areas

1) Critical fish and wildlife habitat areas are those areas identified as being of critical importance in the maintenance and preservation of fish, wildlife and natural vegetation. Areas which are identified or classified as fish and wildlife habitat areas subject to this section shall be subject to the requirements of this section.

2) General. Critical fish and wildlife habitat areas are identified as follows:

a) Areas with which federal or state endangered, threatened and sensitive species of fish, wildlife and plants have a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term;

b) Habitats and species of local importance, including:

i) Areas with which state-listed monitor or candidate species or federally listed candidate species have a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term;

ii) Special habitat areas which are infrequent in occurrence in the City of Gig Harbor and which provide specific habitats as follows:

(1) Old-growth forests;

(2) Snag-rich areas;

(3) Category 2 wetland areas;

(4) Significant stands of trees which provide roosting areas for endangered, threatened, rare or species of concern as identified by the Washington State Department of Wildlife;

c) Commercial and public recreational shellfish areas;

d) Kelp and eelgrass beds;

e) Herring and smelt spawning areas;

f) Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat;

g) Lakes, ponds and streams planted with fish by a governmental agency, and agency-sponsored group or tribal entity;

h) State natural area preserves and natural resource conservation areas.

3) Classification. Critical fish and wildlife habitat areas are identified in the following documents:

a) Puget Sound Environmental Atlas (Puget Sound Water Quality Authority);

Commented [CD1]: Could we include our own mapping here? If we have the areas mapped, based on these resources, would it bring us closer to a programmatic approach rather than case by case? In other words, we would be saying that if the proposed development is within those specifically mapped areas, then a CFWHA is present and shall be regulated in accordance with the rest of this section.

Commented [KM2R1]: I would think we'd first need to work with Mike on our own mapping – is that already in the works? I know we've talked about this being a fantastic undertaking for an intern. My thought here is that our Giggle layers are just fed by other agency data, so it isn't really "our mapping." However, this list is far from complete in the resources we use…

Would we be moving closer to a programmatic approach if we more loosely referenced "all relevant agency databases available to the City," or something along those lines? I don't love it, it deserves tweaking.

Commented [CD3R1]: Good ideas, Kim. I am interested to see what Grette thinks about this idea. It might not be worth tackling at this point given we don't have our own data at this point. I don't think we get closer to "programmatic" unless the areas are identified outright.

b) Coastal Zone Atlas of Washington, Volume IV, Pierce County (Washington State Department of Ecology);

c) Commercial and Recreational Shellfish Areas in Puget Sound (Washington State Department of Health);

d) The Department of Natural Resources stream typing maps and natural heritage database;

e) The Washington State Department of Fish and Wildlife priority habitats and species program, the nongame database, and the Washington rivers information system.

4) Regulation.

a) Habitat Assessment and Management Plan. For all regulated activity proposed on a site which contains or is within 300 feet of critical fish and wildlife habitat, a habitat assessment and management plan shall be prepared by a qualified wildlife biologist. The ~~habitat assessment~~plan shall include, at a minimum, the following:

i) An analysis and discussion of species or habitats known or suspected to be located within 300 feet of the site;

~~i)~~ii) An analysis of potential impacts to species, habitat, water quality, water quantity, flood volume and flood velocities;

~~ii)~~ A site plan which clearly delineates the critical fish and wildlife habitats found on or within 300 feet of the site;~~:~~

~~b) Habitat Assessment Review. A habitat assessment shall be forwarded for review and comment to agencies with expertise or jurisdiction on the proposal, including, but not limited to:~~

~~i) Washington State Department of Fish and Wildlife;~~

~~ii) Washington State Department of Natural Resources;~~

iii) ~~United States Fish and Wildlife Service.~~

~~Comments received by the requested review agencies within 45 days of the submittal of the assessment shall be considered by the Administrator. If it is determined, based upon the comments received, that critical fish and wildlife habitat does not occur on or within 300 feet of the site, the development may proceed without any additional requirements under this section. If it is determined~~

Formatted

Formatted: Indent: Left: -0.25"

Formatted: Indent: Left: 0"

~~that a critical fish and wildlife habitat is on or within 300 feet of the site, a habitat management plan shall be prepared.~~

~~c) Habitat Management Plan. Habitat management plans required under this section shall be prepared in coordination with the Washington State Department of Fish and Wildlife by a qualified wildlife biologist. A habitat management plan shall contain, at a minimum, the following:~~

~~i)~~iv) ~~A~~Aanalysis and discussion on the project's effects on critical fish and wildlife habitat.~~:~~ The analysis shall include, but is not limited to, a determination that the regulated activity meets the standards of "no effect" (NE) or "not likely to adversely affect" (NLAA) Endangered Species Act (ESA) listed species, unless the applicant submits a letter from the National Marine Fisheries Service or the Federal Emergency Management Agency stating that the activity complies with the requirements under the biological opinion and the ESA. If it is determined that the regulated activity is likely to adversely affect (LAA) ESA-listed species, then the city may not issue the development permit unless the development is redesigned to a point where the assessment is NLAA or NE. If a development cannot be redesigned to meet the standard of NLAA or NE, the development may only be permitted if the applicant submits a letter from the National Marine Fisheries Service or the Federal Emergency Management Agency demonstrating concurrence through a consultation under Section 7 or 4(d) of the ESA or issuance of an incidental take permit under Section 10 of the ESA~~.~~;

~~ii)~~v) An assessment and discussion on special management recommendations which have been developed for species or habitat located on the site by any federal or state agency;

~~iii)~~vi) Proposed mitigation measures which could minimize or avoid impacts;

~~iv)~~vii) Assessment and evaluation of the effectiveness of mitigation measures proposed;

~~v)~~viii) -Assessment and evaluation of ongoing management practices which will protect critical fish and wildlife habitat after development of the project site, including proposed monitoring and maintenance programs;

~~vi)~~ix) Assessment of project impact or effect on water quality ~~in Crescent, Donkey, or McCormick Creeks,~~ and any proposed methods or practices to avoid ~~degradation of water quality~~or mitigate for such impacts or effects as provided in subsection 6.2.2.3. ~~Upon a review of the habitat~~

Formatted: No bullets or numbering

Commented [KM4]: If we incorporate this language, we should add definitions to Chapter 2 of our SMP for NE, NLAA, and LAA consistent with the definitions in GHMC 18.10.040.

Commented [CD5R4]: We may also want to define the biological opinion

Commented [CD6]: Language taken directly from GHMC 18.10.100 "Compliance with Endangered Species Act"

~~management plan by appropriate federal and state agencies, comments received by the agencies within 45 days of the submittal of the proposed plan shall be considered by the City and, if mitigation is recommended, may be incorporated into conditions of project approval, as appropriate.~~ If it is determined~~, based upon the comments received,~~ that a project or proposal will result in the extirpation or isolation of a critical fish or wildlife species, including critical plant communities, the project or proposal may be denied.

5) Buffer Requirements. If it is determined by the Administrator or designee~~, based upon a review of the comments received on the habitat management plan,~~ that a buffer would serve to mitigate impacts to a critical fish or wildlife habitat, an undisturbed buffer shall be required on the development site. The width of the buffer shall be based upon ~~a~~ the ~~recommendation of at least one of the appropriate review agencies~~a ~~qualified biologist~~the review of scientific and technical information but, in no case, shall exceed 150 feet, nor be less than ~~25~~ 50 feet.

~~6) Buffer Reduction. A buffer required under this section may be reduced or eliminated if the local conservation district has approved a best management plan (BMP) for the site which would provide protection to a critical fish or wildlife habitat.~~

~~7)~~6) Compensatory mitigation shall be provided to offset impacts to critical fish and wildlife habitat and to meet the requirements of no net loss of shoreline functions. The applicant shall demonstrate that the compensatory mitigation achieves no net loss.

~~8)~~7) Compensatory mitigation for impacts shall occur on-site, except where on-site mitigation is not scientifically feasible or practical due to physical features of the site and when off-site mitigation has a greater likelihood of providing equal or improved critical area functions than the impacted critical area. The burden of proof shall be on the applicant to demonstrate that these provisions can be met.

~~9)~~8) Off-site Mitigation. In cases in which it is determined that compensatory mitigation is allowed, the following shall apply:

a) When compensatory mitigation cannot be provided on-site, off-site shoreline mitigation shall be provided in the following locations, listed in order of priority:

i) In the shoreline jurisdiction associated with the same drift cell as the permitted activity. Impacts on sediment delivery such as shoreline

Commented [CD7]: How is this buffer defined? What is allowed in it? Is it vegetated or is it simply a setback? Later it states that it is "undisturbed." Does that imply that no development would be allowed – does it also imply that no plantings would be required?

Commented [KM8R7]: I think certainly no development would be allowed, or a critical area variance would need to be secured.

I definitely think we need to clean up "undisturbed." I see room for that to be interpreted as non-landscaped. I don't know that that's the intent here…

Commented [CD9R7]: Right – if we are requiring a buffer where no other provision would require one, it should be clearly defined. It might be as simple as a reference to another standard.

Commented [CD10R7]: Grette (Scott/Chad) – could you take a look at this please?

Commented [KM11]: If we increase this to 50' and rely on Grette's review (who has a practice of requiring the minimum buffer to achieve no net loss), I think we can reasonably expect to see a required 50' buffer on most shoreline development. Is that what we want? Given the dimensions of most shoreline parcels, I'd imagine it being very difficult to have a 50' buffer and develop the site. 7 Seas, for instance, has a 25' critical buffer than is also a landscaped VCS, and they can barely squeeze in 21 parking stalls. That's a larger shoreline parcel, too.

Is the 50' change here based on feedback from FEMA or ECY? I wonder about leaving this as 25'.

Commented [CD12R11]: All good questions and points! My initial feeling here is to explore the option of removing this buffer altogether as I don't think it really pertains to the shoreline jurisdiction. I think it is more applicable to the RBZ. However, even then, the stream buffer might be greater than this. I am not sure I see the need for this.

Commented [CD13]: I am trying to think of a scenario in which a buffer reduction would apply. We are not likely to apply the buffer requirement of subsection 5 above; but, in a case where no other buffer applies (including the VCS), would we want to reduce it? Eliminate? If not, do we need to define the "local conservation district" or is this the City? I think we have interpreted it as the City.

Commented [KM14R13]: I think we need to ditch this provision. This was one of my first questions here: who's our local conservation district? We don't have a good answer. That said, I don't know if we delete it entirely or differ to another entity OK'ing a BMP. More discussion needed, I think.

Commented [CD15R13]: If we keep the reduction language (I don't believe we should) we'll need to be sure to add clarity around what it applies to. In other words, it would not apply to a VCS or some other buffer requirement as those would have their own standards for reduction. Correct?

armoring must be mitigated within the same drift cell as the permitted activity.

ii) In the shoreline jurisdiction associated with the same body of water (i.e., Gig Harbor Bay and Gig Harbor Spit, Colvos Passage, Tacoma Narrows, and Henderson Bay, and freshwater streams) as the permitted activity; and

iii) In the nearshore Puget Sound shoreline jurisdiction in the same sub-basin as the permitted activity.

b) In determining appropriate areas for off-site mitigation, lower priority locations shall be applied only where higher priority locations are determined to be infeasible or inapplicable.

c) Off-site mitigation ratios for in-water work shall be established in consultation with state and federal permitting agencies and approval of the Administrator.

d) Off-site shoreline mitigation shall be provided with in-kind mitigation unless out-of-kind mitigation would provide greater ecological function than in-kind mitigation, as determined by the Administrator. The burden of proof that out-of-kind mitigation provides greater function is on the applicant who must provide an analysis from a qualified scientific expert.

~~10)~~9) Specific Habitats – Anadromous Fish.

a) All activities, uses, and alterations proposed to be located in water bodies used by anadromous fish or in areas that affect such water bodies shall give special consideration to the preservation and enhancement of anadromous fish habitat, including, but not limited to, adhering to the following standards:

i) Activities shall be timed to occur only during the allowable work window as designated by the Washington State Department of Fish and Wildlife for the applicable species;

ii) An alternative alignment or location for the activity is not feasible;

iii) The activity is designed so that it will not degrade the functions or values of the fish habitat or other critical areas; and

iv) Any impacts to the functions or values of the habitat conservation area are mitigated in accordance with an approved ~~critical area report~~habitat assessment and management plan.

b) Structures that prevent the migration of salmonids shall not be allowed in the portion of water bodies currently or historically used by anadromous fish. Fish bypass facilities shall be provided that allow the upstream migration of adult fish and shall prevent fry and juveniles migrating downstream from being trapped or harmed.

c) Fills, when authorized by the master program, SEPA review or clearing and grading, shall not adversely impact anadromous fish or their habitat and shall mitigate any unavoidable impacts. Fill shall only be allowed for a water-dependent use, restoration, City utility activities and public access.

~~c)~~d) Any fill or structure proposed within a Special Flood Hazard Area shall comply with the city's Flood Hazard Construction Standards (GHMC Chapter 18.10).

~~6.2.5.24~~6.2.5.25 Aquifer Recharge Areas

1) Aquifer recharge areas are particularly susceptible to contamination and degradation from land use activities. Areas which have a high potential for ground water resource degradation are identified as aquifer recharge areas under this section and shall be subject to the requirements herein.

2) Designation/Classification. For the purposes of this section, the boundaries of any aquifer recharge areas within the city shall consist of the two highest DRASTIC zones which are rated 180 and above on the DRASTIC index range. Any site located within these boundaries is included in the aquifer recharge area.

3) Regulation.

   a) Hydrogeologic Assessment Required. The following land uses shall require a hydrogeologic assessment of the proposed site if the site is located within an aquifer recharge area:

      i) Hazardous substance processing and handling;

      ii) Hazardous waste treatment and storage facility;

      iii) Wastewater treatment plant sludge disposal categorized as S-3, S-4 and S-5;

      iv) Solid waste disposal facility.

   b) Hydrogeologic Assessment Minimum Requirements. A hydrogeologic assessment shall be submitted by a firm, agent or individual with experience

in hydrogeologic assessments and shall contain, at a minimum, and consider the following parameters:

i) Documentable information sources;

ii) Geologic data pertinent to well logs or borings used to identify information;

iii) Ambient ground water quality;

iv) Ground water elevation;

v) Depth to perched water table, including mapped location;

vi) Recharge potential of facility site, respective to permeability and transmissivity;

vii) Ground water flow vector and gradient;

viii) Currently available data on wells and any springs located within 1,000 feet of the facility site;

ix) Surface water location and recharge potential;

x) Water supply source for the facility;

xi) Analysis and discussion of the effects of the proposed project on the ground water resource;

xii) Proposed sampling schedules;

xiii) Any additional information that may be required or requested by the Pierce County environmental health department.

c) Review of Hydrogeologic Assessment. A hydrogeologic assessment prepared under this section shall be submitted to the Pierce County department of environmental health for review and comment. Comments received by the department of health within 60 days of submittal of the assessment shall be considered by the City in the approval, conditional approval or denial of a project.

d) Findings for Consideration of Approval. A hydrogeologic assessment must clearly demonstrate that the proposed use does not present a threat of contamination to the aquifer system, or provides a conclusive demonstration that application of new or improved technology will result in no greater

threat to the ground water resource than the current undeveloped condition of the site. Successful demonstration of these findings warrants approval under this section.

~~6.2.5.25~~6.2.5.26 Hillsides, Ravine, Sidewalls and Bluffs

1) Disturbance Limitations. If a hillside, ravine sidewall or bluff is located on or adjacent to a development site, all activities on the site shall be in compliance with the following requirements:

   a) Ravine Sidewalls and Bluffs.

      i) Buffers. An undisturbed buffer of natural vegetation equal to the height of the ravine sidewall or bluff shall be established and maintained from the top, toe and sides of all ravine sidewalls and bluffs. All buffers shall be measured on a horizontal plane.

      ii) Buffer Delineation. The edge of a buffer shall be clearly staked, flagged and fenced prior to any site clearing or construction. Markers shall be clearly visible and weather-resistant. Site clearing shall not commence until such time that the project proponent or authorized agent for the project proponent has submitted written notice to the City that the buffer requirements of this section have been met. Field marking of the buffer shall remain in place until all phases of construction have been complete and an occupancy permit has been issued by the City.

      iii) Buffer Reduction. A buffer may be reduced upon verification by a qualified professional and supporting environmental information to the satisfaction of the City that the proposed construction method will:

         (1) Not adversely impact the stability of ravine sidewalls;

         (2) Not increase erosion and mass movement potential of ravine sidewalls;

         (3) Use construction techniques which minimize disruption of existing topography and vegetation;

         (4) Includes measures to overcome any geological, soils and hydrologic constraints of the site. The buffer may be reduced to no less than the minimum vegetation conservation strip requirement as prescribed in Table 6-1 and as provided in subsection 6.2.3.3.

b) Hillsides of 15 Percent Slope and Greater – Studies Required. Developments on hillsides shall comply with the following requirements:

i) Site Analysis Reports Required. Table 6-9 below sets forth the level of site analysis report required to be developed based upon the range of the slope of the site and adjacent properties:

Table 6-9. Site Analysis Report Levels Based on Slope

Slope of Site and/or Adjacent Properties	*Length of Slope (Feet)*	*Parameters of Report (See Key)*	*Report Prepared By*
0% to 15%	No limit	Report not required	
15% to 25%	> 50	1, 2, 3	Building contractor or other technical consultant
25% to 40%	> 35	1, 2, 3, 4	Registered civil engineer
40% +	> 20	1, 2, 3, 4	Registered engineer or geotechnical engineer

Report Key Contents

(1) Recommended maximum site ground disturbance.

(2) Estimate of storm drainage (gpm) for pre-construction, during construction and post-construction.

(3) Recommended methods to minimize erosion and storm water runoff from site during construction and post-construction.

(4) Seismic stability of site, preconstruction, during construction and post-construction.

ii) Development Location. Structures and improvements shall be located to preserve the most sensitive portion of the site, its natural land forms and vegetation.

iii) Landscaping. The disturbed areas of a development site not used for buildings and other developments shall be landscaped according to the landscape standards of the zoning code (GHMC Chapter 17.78 Landscaping and Screening).

iv) Project construction shall be required to implement all recommended requirements of the report referenced in subsection (A)(2)(a) of this section, and any additional requirements as determined by City staff. In addition, should adjacent properties be adversely impacted by the implementation or construction, additional mitigation measures necessary to minimize or eliminate these impacts shall be implemented by the applicant.

~~6.2.5.26~~6.2.5.27 Landslide and Erosion Hazard Areas

1) Areas which are identified as landslide or erosion hazard areas shall be subject to the requirements established in this section.

2) Regulation. Applications for regulated activities proposed within designated landslide and erosion hazard areas shall be accompanied by a geotechnical report prepared by a geologist or geotechnical engineer licensed as a civil engineer with the state. If it is satisfactorily demonstrated to the Administrator that a landslide or erosion hazard potential does not exist on the site, the requirements of this section may be waived.

3) Geotechnical Report Requirements. A geotechnical report required under this section shall include, at a minimum, the following information:

   a) Topographic data at a minimum scale of 1:240 (1 inch equals 20 feet). Slope ranges shall be clearly delineated in increments of 15 percent to 25 percent, 25 percent to 40 percent and greater than 40 percent;

   b) Subsurface data, including boring logs and exploratory methods, soil and rock stratigraphy, ground water levels and any seasonal variations of ground water levels;

   c) Site history, including description of prior grading and clearing, soil instability or slope failure.

   If a geotechnical report has been prepared and accepted by the Administrator within the previous two years for a specific site and the proposed land use development and site conditions have not changed, the report may be utilized without the requirement for a new report.

4) Development Standards. Upon submission of a satisfactory geotechnical report or assessment, site development may be authorized by the Administrator subject to the following:

a) Buffers shall comply with the requirements of Section 6.2.5.25, Regulation #1;

b) Approved erosion control measures are in place prior to, or simultaneous with, site clearing or excavation;

c) Such other conditions as deemed appropriate by the Administrator to ensure compliance with the provisions of this chapter.

~~6.2.5.27~~6.2.5.28 Seismic Hazard Areas

1) Designated seismic hazard areas shall be subject to the requirements of this section. At a minimum, seismic hazard areas shall include areas of alluvial and recessional outwash surficial geologic units as identified in "Water Resources and Geology of the Kitsap Peninsula and Certain Adjacent Lands, Water Supply Bulletin Number 18, Plate One," U.S. Department of the Interior, Geological Survey, Water Resources Division, and any lot, tract, site or parcel which has been modified by imported or excavated earthen fill material.

2) Regulation. Applications for regulated activities proposed within designated seismic hazard areas shall be accompanied by a geotechnical report prepared by a geologist or geotechnical engineer licensed as a civil engineer with the state. If it is satisfactorily demonstrated that a seismic hazard potential does not exist on the site, the requirements of this section may be waived.

3) Geotechnical Report Requirements. The required report shall evaluate the existing site conditions, including geologic, hydrologic and site capability to accommodate the proposed activity. At a minimum, the following shall be included:

   a) Analysis of subsurface conditions;

   b) Delineation of the site subject to seismic hazards;

   c) Analysis of mitigation measures which may be employed to reduce or eliminate seismic risks, including an evaluation of the effectiveness of mitigation measures.

   If a proposal is required to submit a seismic risk analysis pursuant to any requirements of the most recently adopted edition of the International Building Code by the City of Gig Harbor, the report requirements of this section may be waived by the Administrator.

~~6.2.5.28~~6.2.5.29 Flood Hazard Areas

1) Areas which are prone to flooding and which are identified in the most current Federal Emergency Management Administration flood insurance rate maps for the City of Gig Harbor shall be subject to the requirements of this section.

2) Regulation. All development within flood hazard areas shall be subject to the requirements of the City of Gig Harbor flood hazard construction standards (Chapter 18.10 GHMC).

6.3 Flood Hazard Reduction

It is the goal of the City of Gig Harbor to limit development and shoreline modifications that may cause a significant flood hazard for people or property or result in a net loss of shoreline ecological functions. In achieving this goal, it is recognized that municipal surface water management activities may be necessary to address the City's obligations pursuant to its adopted Stormwater Comprehensive Plan and Stormwater Management and Site Development Manual or as the plan and manual may be amended in the future. When necessary, municipal surface water management activities shall be accomplished in a manner that results in no net loss of ecological functions and ecosystem-wide processes.

6.3.1 Policies

A. Structural and non-structural flood hazard reduction measures

With the exception of municipal surface water management activities, structural flood hazard reduction measures should be avoided if possible. Non-structural flood hazard reduction measures may be allowed provided they are accomplished in a manner that assures no net loss of ecological functions and ecosystem-wide processes. Non-structural measures include setbacks, land use controls prohibiting or limiting development in areas that are historically flooded, stormwater management plans, or soft-shore stabilization measures.

6.3.2 Regulations

1) If necessary, structural flood hazard reduction measures, such as, but not limited to, dikes, levees, revetments, floodwalls, channel re-alignment and elevation of structures must be designed and developed in accordance with the National Flood Insurance Program requirements and with the applicable requirements of GHMC 18.10. When necessary, flood hazard reduction measures shall be accomplished in a manner that assures no net loss of ecological functions and ecosystem-wide processes.
2) Municipal surface water management activities shall be accomplished in a manner that assures no net loss of ecological functions and ecosystem-wide process.
3) All shoreline uses and activities shall comply with GHMC 18.10.

6.4 Historic, Cultural, Scientific and Educational Resources

It is the goal of the City of Gig Harbor to preserve and prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the City, affected Native American Tribes, the State Department of Archaeology and Historic Preservation, and other appropriate authorities.

6.4.1 Policies

A. Resource inventories and registers

Maintain and update existing inventories and registers of significant local historic, cultural, and archaeological sites in collaboration with tribal, federal, and state governments as appropriate. Consistent with applicable state and federal laws the location of sensitive historic, cultural and/or archaeological sites should remain confidential.

B. Protection of resources

Preserve and maintain the historic, cultural, scientific, or educational integrity of known resources, including properties listed on the Gig Harbor Register of Historic Places; properties located in the Gig Harbor Historic District; and all other resources listed on existing inventories and surveys. Plan and design development on sites having historic, cultural, or archaeological resources in a manner that prevents impacts to the resource and provides educational benefits to the public, where appropriate. Develop adaptive re-use options for historic net sheds and registered landmarks listed on the City's Register of Historic Places to encourage preservation of Gig Harbor's cultural heritage.

C. Compatible design

Design and operate development adjacent to identified historic, cultural or archaeological sites to be compatible with the continued protection of the resource.

D. Public access and education opportunities

Encourage private and public owners of historic sites to provide public access and educational opportunities in a manner consistent with long term protection of the resource.

E. Overwater Nesika Beach cabins

Encourage the preservation and continued use of the existing overwater cabins at Nesika Beach. New cabins and the expansion of existing cabins should not be allowed.

6.4.2 Regulations – General

1) Significant cultural, archaeological and historic resources shall be permanently preserved in situ or recovered for scientific study, education and public observation.

2) All shoreline permits and statements of exemption shall contain provisions which require developers to immediately stop work and notify the City, the State Department of Archaeology and Historic Preservation (DAHP), the Puyallup Tribe of Indians, and the Suquamish Tribe if any artifacts of possible historic, cultural, or archaeological value are uncovered during excavations. In such cases, the developer shall be required to provide for a site inspection and evaluation by a professional archaeologist or historic preservation professional, as applicable, in coordination with the state and/or affected tribes.

6.4.3 Regulations - Procedural Requirements

1) Upon receipt of an application for a shoreline permit or request for a statement of exemption for development on properties known to contain an historic, cultural or archaeological resource(s), the City shall require a site inspection, evaluation, and written report by a professional archaeologist or historic preservation professional, as applicable, to determine the presence of cultural, historic or archaeological resource(s). The professional should meet qualification standards for cultural resource management professionals promulgated by the National Park Service, published in 36 CFR Part 61, and included on the DAHP approved consultant list. If it is determined that a site has a significant resource(s), shoreline permits or a statement of exemption shall not

be issued until protection or mitigation is developed to the satisfaction of both DAHP and affected tribes. The City may require that development be postponed to allow for:

a) Coordination with potentially affected tribes and/or the Department of Archaeology and Historic Preservation; and/or

b) Investigation of potential to provide public access and educational opportunities; and/or

c) Retrieval and preservation of significant artifacts.

2) Upon receipt of an application for a shoreline permit or request for a statement of exemption for development adjacent to a historic, cultural or archaeological site listed on federal, state, or local preservation registers, the Administrator shall determine if the proposal is compatible. The Administrator may establish design standards or conditions to ensure compatibility with or the avoidance of adverse effects to the integrity of the resource.

3) Where public access is provided to any private or publicly-owned building or structure of historic, archeological or cultural significance, a public access management plan shall be developed in consultation with the Washington State Department of Archaeology and Historic Preservation, affected tribes and/or other agencies, to address the following:

a) The type and/or level of public access that is consistent with the long term protection of both historic resource values and shoreline ecological functions and processes; and

b) Types and location of interpretative signs, displays and other educational materials; and

c) Site- and resource-specific conditions, including hours of operation, interpretive and/or directional signage, lighting, pedestrian access, and/or traffic and parking.

6.5 Public Access

It is the goal of the City of Gig Harbor to preserve and enhance opportunities for physical and visual public access to shorelines.

6.5.1 Policies

A. Protection of public access

Protect and maintain existing public access sites and view corridors to ensure that the public may continue to enjoy the physical and aesthetic qualities of the shoreline, including views of and from the water.

B. Public, commercial and industrial development

Provide public access as part of each development project by a public entity, and for all private commercial and industrial development, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment.

C. Residential development

Provide public access as part of new multiple family dwelling development, and new subdivisions of more than four parcels for the enjoyment of its residents and the public, unless access is infeasible due to safety, impacts to shoreline ecology, or legal limitations.

D. Public access plan in Gig Harbor Bay

Gig Harbor should plan for an integrated shoreline area public access system that identifies public needs and opportunities to provide public access.

E. Tideland trails

Work cooperatively with private property owners, Washington Department of Natural Resources and Pierce County to develop shoreline trail systems on tidelands, consistent with the City's Parks and Open Space Plan. The City should

seek to own property or obtain access easements through property on which tideland trails are located, when appropriate.

F. Non-motorized boat trails

Work cooperatively with Washington Water Trails Association to develop water trails and upland hand-launch sites for non-motorized boats.

G. Street-ends

Preserve, maintain, and enhance public access provided by shoreline street-ends. Enhancement of existing street-ends could include directional and informational signage, plantings, and/or benches.

H. Commensurate public access

Require public access improvements commensurate with the scale and character of the development and adjoining development. Requirements should be reasonable, effective and fair to all affected parties including but not limited to the land owner and the public. . 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.

I. Views and visual access

Preserve views and vistas to and from the water, to enjoy the aesthetic qualities and character of Gig Harbor shorelines. Expand opportunities for visual public access to shorelines commensurate with obligations for urban infilling under the Growth Management Act, and the rights of private property owners.

6.5.2 Regulations – Public Access Required

1) Shoreline substantial developments and/or conditional uses shall provide public access where any of the following conditions are present except as provided in Section 6.5.2 Item 3:

    a) Where a development or use will interfere with an existing public access, the development or use shall provide public access to mitigate this impact.

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:

a) Regulating access by such means as maintaining a gate and/or limiting hours of use; and

b) Designing separation of uses and activities (e.g. fences, terracing, screening, hedges, landscaping, etc.).

5) Public access easements and permits subject to conditions regarding public access must be recorded with the auditor. Requirements for public access shall be shown on approved plats. Required public access shall be provided for the life of the project.

6.5.3 Regulations - Type and Design of Public Access

1) Developments within the shoreline area that are required to provide public access per Section 6.5.2 shall provide, at a minimum, visual access to the water. Visual access shall consist of one of the following:

a) A public view corridor measuring twenty (20) frontage feet along the street or twenty (20) percent of the total waterfront footage of the parcel, whichever is greater. View corridors shall be from public rights-of-way. Parking shall not be allowed in view corridors. Fences or railings exceeding 42 inches in height shall only be permitted when required by the building code.

b) A five-foot (5) wide public pathway along the property perimeter down one side line of the property to the ordinary high water mark or bulkhead or to the waterside face of the structure, whichever is further waterward, thence across the waterside face of the property or structure and back to the street along the other side property line. Landscaping may be planted intermittently along the pathway.

c) A public viewing platform at the highest level of any structure on the property, with the platform having a minimum area of fifty (50) square feet. Railings around the platform, consistent with the City Building Code, may extend the maximum allowable height.

2) If the Administrator determines that visual access per Section 6.5.3 Regulation #1 is not appropriate or infeasible, one of the following forms of public access or recreational opportunity shall be implemented instead:

a) A public fishing pier extending out to mean lower low water and connected by a minimum five (5) foot wide public pathway which connects to the

frontage street. A minimum of ten (10) feet of open water shall surround the pier.

b) A small vessel landing available for transient use by rowboats, canoes, dinghies, or other type of non-motorized watercraft less than 18 eighteen feet in length, and extending out to mean lower low water or beyond and connected by a five (5) foot wide public pathway to the frontage street. A minimum of ten (10) feet of open water shall surround the small boat landing.

c) A public transient moorage for up to two (2) vessels a maximum of thirty (30) feet in length, and which moorage must have a minimum water depth of minus eight (8) feet (reference MLLW). The facility must be easily accessible to visiting vessels and posted with signage that is legible to a distance of one hundred feet.

3) The location of new public access sites shall be clearly identified. Signs identifying public access shall be constructed, installed and maintained by the property owner in conspicuous locations at public access sites and/or along common routes to public access sites. The signs shall indicate the public's right of access, the hours of access, and other information as needed to control or limit access according to conditions of approval. The final location of all public access signage shall be subject to the approval of the Administrator.

4) Public access sites shall be directly connected to the nearest public street and shall include improvements that conform to the requirements of the Americans with Disabilities Act (ADA) when feasible.

5) Required public access sites shall be fully developed and available for public use at the time of occupancy of the use or activity.

6) When otherwise consistent with this Program, public access structures shall be exempt from the shoreline buffer requirements of this Program, meaning that such structures shall be allowed to encroach into the shoreline buffer when necessary to provide physical and or visual access to the water's edge.

7) Public access shall be located and designed to be compatible with the natural shoreline character, to avoid adverse impacts to shoreline ecological functions and processes, and to ensure public safety.

6.6 Water Quality and Quantity

It is the goal of the City of Gig Harbor to maintain or enhance the quantity and quality of surface and ground water over the long term by effectively managing the location, construction, operation, and maintenance of all shoreline uses and developments.

6.6.1 Policies

A. Stormwater management

Manage and treat stormwater runoff consistent with NPDES permit requirements, the Stormwater Comprehensive Plan, the most current edition of the City's Stormwater Management and Site Development Manual, and applicable City regulations (GHMC Title 14 Storm and Surface Water Drainage).

B. Contaminating and polluting activities

Define and regulate activities which can possibly contaminate or pollute the harbor and shorelines including best management practices for the use or storage of chemicals, pesticides, fertilizers, fuels and lubricants, animal and human wastes, and construction materials that will have contact with the water.

C. Water quality basin plan

Coordinate with Pierce County, Kitsap County, the Tacoma-Pierce County Health Department, and the Key Peninsula-Gig Harbor-Islands watershed council to develop and implement a water quality baseline study as a prelude to an area-wide water-quality basin plan.

D. Landscaping maintenance

Fertilizers and herbicides should not be used to maintain landscaping near the shoreline. Technical guidance, public outreach, and educational materials addressing alternatives that are more environmentally protective should be provided to residents and businesses located adjacent to shorelines.

E. Erosion and runoff

Require effective temporary and permanent erosion control and water runoff treatment methods during and after construction.

F. Sanitary sewer

Require new development to connect to the City's sanitary sewer lines in areas where sewer service is available, consistent with the City's Wastewater Comprehensive Plan, City Public Works Standards and other City regulations. Work cooperatively with Tacoma-Pierce County Health Department to identify and correct sanitary system failures.

G. Reclaimed water

Study the benefits and potential uses for reclaimed water and explore options to create reclaimed water (Class A water) at the City's existing Wastewater Treatment Plant or new satellite treatment facilities.

6.6.2 Regulations

1) New development shall provide stormwater management facilities designed, constructed, and maintained in accordance with the current stormwater management standards.

2) All shoreline uses and activities shall be designed and constructed employing best management practices (BMPs) to control treatment and release of surface water runoff so that the receiving water quality and shore properties and features are not adversely affected.

3) All shoreline uses and activities shall use effective erosion control methods during both project construction and operation. At a minimum, effective erosion control methods shall require compliance with the current edition of the City's stormwater management standards and the erosion and sedimentation control provisions of the Gig Harbor Municipal Code (GHMC Chapter 14.20).

4) All materials that may come in contact with water shall be constructed of materials, such as untreated wood, concrete, approved plastic composites or steel, that will not adversely affect water quality or aquatic plants or animals. Materials used for decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff.

5) For lawns and other vegetation maintained within the shoreline jurisdiction, the use of chemical fertilizers, pesticides or other similar chemical treatments shall be discouraged and alternative practices shall be employed. Where chemical fertilizer, herbicide, or pesticide use is necessary for protecting existing natural vegetation or establishing new vegetation in shoreline areas as part of an erosion control or mitigation plan, the use of time release fertilizer and herbicides shall be preferred over liquid or concentrate application.

6) The release of oil, chemicals or hazardous materials onto land or into the water is prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in safe and leak-proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been corrected.

7) During construction in the shoreline area, vehicle refueling or maintenance shall be conducted outside the shoreline jurisdiction where possible and in accordance with an approved permit pursuant to the City of Gig Harbor Fire Code.

8) New developments in the shoreline shall connect to the City's sanitary sewer system and are prohibited from installing an on-site sewage system unless otherwise approved in accordance with City regulations.

9) Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer comprehensive plans that have been approved by the state Departments of Ecology and Health.

6.7 Quality Waterfront Development along Gig Harbor Bay

It is the goal of the City of Gig Harbor to define and enforce the highest quality standards concerning present and future land use developments within the Gig Harbor Bay waterfront areas, recognizing the unique historic character and scale of the Gig Harbor Bay waterfront. This goal will be achieved through a balance of several different uses including those commercial endeavors such as commercial fishing, boating, marine shops and services, restaurants and retail shops, as well as residential uses which provide the bay's unique appeal.

6.7.1 Policies

A. Balance and scale

Maintain a balance in waterfront land use development so that any single use does not overpower or detract from the others. Maintain a human, compatible scale so that new structures do not overpower existing facilities and do not dominate the shoreline in terms of size, location or appearance. Achieve balance and scale through compliance with GHMC 17.99 (Design Manual).

B. Public amenities

Encourage waterfront developments to provide public amenities commensurate with the project's scale and the character of the development. Amenities may include additional docks, paths or walks, overlooks, picnic and seating areas, fishing piers or areas, and viewpoints.

C. Supporting improvements

Enforce suitable standards governing the development of supporting improvements (e.g., parking areas, sidewalks, stormwater facilities) equal to the standards enforced in other developed areas in the planning area. In addition, illustrate and enforce design standards which control scale, construction methods and materials, drainage patterns, site coverage, landscaping and screening, signage, and other features of unique importance to the waterfront setting. Encourage innovative, effective solutions which cluster and share common improvements, reduce paved

areas and otherwise blend construction with the natural setting or with desirable features of the built environment.

6.7.2 Regulations

1) Where appropriate use clustering to minimize adverse impacts on shoreline ecological functions and processes. Development shall be designed to minimize clearing, grading and alteration of natural topography, bank stabilization, and other natural features and shall comply with the applicable requirements of GHMC 17.99.240 Natural site conditions. Roadway and driveway alignment shall follow the natural contours of the site and minimize width to the maximum extent feasible.

2) Impervious surfacing for parking lot/space areas shall be minimized through the use of alternative surfaces where feasible, consistent with the most current edition of the City's stormwater management standards as established in GHMC 14.20.

3) Utilities shall be located within roadway and driveway corridors and right-of-ways wherever feasible.

4) Design of structures should provide natural bank stabilization and conform to natural contours and minimize disturbance to soils and native vegetation and shall comply with the applicable requirements of GHMC 17.99.370 Site-sensitive building design. Foundations shall be tiered with earth retention incorporated into the structure.

5) Development shall be located, designed, and managed so that impacts on public use of the shoreline, such as fishing, boating, and water-related recreation, are minimized and mitigated per Section 6.5.2 Regulation #1a.

6) Public recreation activities such as fishing, boating, and water related recreation shall be protected.

7) Exterior lighting located outside of public street rights-of-way shall be designed and operated to avoid illuminating nearby properties or public areas, prevent glare on adjacent properties, public areas or roadways to avoid infringing on the use and enjoyment of such areas, and to prevent hazards. Methods of controlling spillover light include, but are not limited to, limits on height of structure, limits on light levels of fixtures, light shields, setbacks, buffer areas and screening and shall comply with the applicable requirements of GHMC 17.99.

8) All facilities shall be located and designed to avoid impediments to navigation and to avoid depriving other properties of reasonable access to navigable waters. All in-water structures shall be marked and lighted in compliance with U.S. Coast Guard regulations.

9) All shoreline use and development shall provide appropriate setbacks from adjacent properties and shall comply with applicable provisions of GHMC Title 17. Setbacks shall be of adequate width to attenuate proximity impacts such as noise, light and glare, and may address scale and aesthetic impacts.

6.8 Restoration and Remediation

It is the goal of the City of Gig Harbor to improve the overall shoreline ecological conditions by restoring ecological functions and processes through development incentives and community involvement as provided in this Master Program and its associated Shoreline Restoration Plan Element.

6.8.1 Policies

A. Restoration actions

Employ incentives and encourage actions in shorelines and critical areas that restore the ecological functions and ecosystem-wide processes of the City's shorelines consistent with the Shoreline Restoration Plan Element.

B. Regional coordination

Continue to work with the State, Kitsap and Pierce Counties, West Sound Watershed Council, West Central Local Integrating Organization and other governmental and non-governmental organizations to explore how Gig Harbor can best address the needs of preserving and restoring ecological processes and shoreline functions.

C. City-led projects

Identify specific restoration opportunities where the City can take the lead with support from other regional entities.

D. Integration with public projects

Incorporate habitat enhancement elements into the design and implementation of public infrastructure improvement projects.

E. Integration with mitigation requirements

Use the restoration framework outlined in the Shoreline Restoration Plan Appendix B to integrate compensatory mitigation projects into the broader restoration vision for the city.

F. Climate change

Consideration should be made for potential adverse effects of global climate change and sea level rise when designing restoration and remediation projects.

G. Education and outreach

Educate the community and encourage public involvement in the restoration of the shoreline by creating and leveraging programs, such as the NPDES Phase II stormwater requirements.

H. General remediation actions

Encourage remediation actions as part of redevelopment proposals. Such actions could include removal of derelict buildings, unnecessary hard shoreline armoring, derelict overwater structures, and pilings treated with toxic materials.

I. Hazardous substance remediation

Encourage development proposals to integrate hazardous substance remediation into development projects.

6.8.2 Regulations

1) Restoration of ecological functions and processes shall be allowed on all shorelines and shall be located, designed and implemented in a manner that is consistent with the Shoreline Restoration Plan Element, observes the critical area standards in Section 6.2.5 and assures compatibility with other shoreline uses.

2) Ecological restoration projects shall be carried out in accordance with City or resource agency-approved restoration plan and in accordance with the policies and regulations of this Program.

3) To encourage shoreline property owners to remove bulkheads and perform other beneficial shoreline restoration actions in advance of shoreline development or redevelopment the City may give mitigation credit pursuant to Section 6.2.2, Regulation #7.

CHAPTER 8
ADMINISTRATIVE PROCEDURES

8.1 Administration

The intent of this section is to distinguish the duties, roles and responsibilities of the City of Gig Harbor's Administrator, Hearing Examiner, Planning Commission, City Council and State Department of Ecology and State Shoreline Hearings Board for administering and implementing the Shoreline Master Program.

8.1.1 General

The purpose of establishing this administrative system is to describe responsibilities for implementation of the Master Program and shoreline permit review, to prescribe an orderly process by which to review proposals and permit applications, and to ensure that all persons affected by this Master Program are treated in a fair and equitable manner.

8.1.2 Administrator

The Administrator, or his/her designee, shall have overall responsibility for administration of the Shoreline Master Program in the City as described in this section.

The duties and responsibilities of the Administrator shall include:

1) Establishing the procedures and preparing forms deemed essential for the administration of this program;

2) Advising interested citizens and applicants of the goals, policies, regulations, and procedures of this program;

3) Making administrative decisions and interpretations of the policies and regulations of this Program and the Shoreline Management Act (SMA or the

Act); the Administrator shall consult with the Department of Ecology when issuing any formal written interpretations to insure consistency with the purpose and intent of Chapter 90.58 RCW and the applicable guidelines. Ecology shall be provided with 30-days from receipt of the city's "request for comments" to submit formal comments to the city on any interpretation.

4) Collecting applicable fees;

5) Determining that all applications and necessary information and materials are provided to the public. The Joint Aquatic Resource Application (JARPA) or other application forms deemed appropriate by the Administrator may be used for making application for the required shoreline permits and shoreline permit exemptions. The JARPA may be accessed on-line at: www.epermitting.wa.gov/site/alias_resourcecenter/jarpa/9983/jarpa.aspx

6) Making field inspections, as necessary;

7) Enforcing compliance with this program and permit conditions as applicable;

8) Reviewing, insofar as possible, all submitted information deemed necessary for appropriate application needs;

9) Determining if a Statement of Exemption, Shoreline Substantial Development Permit, Conditional Use Permit or Variance Permit is required;

10) Preparing Statements of Exemptions that identify a project's consistency with the Master Program and the Act and attaching conditions to ensure such consistency;

11) Conducting a thorough review and analysis of Shoreline Substantial Development Permit applications, making written findings and conclusions, and recommending approval, approval with conditions, or denial of such permits to the Hearing Examiner;

12) Submitting Variance and Conditional Use Permit Applications and making written recommendations and findings on such permits to the Hearing Examiner for his/her consideration and official action. The Administrator shall assure that all relevant information and testimony regarding the application is made available to the Hearing Examiner during his/her review;

13) Filing Hearing Examiner decisions on Shoreline Substantial Development, Variance and Conditional Use Permits with the Department of Ecology.

14) Assuring that proper notice is given to appropriate persons and the public for all hearings;

15) Providing a summary report of the decisions on shoreline permits, shoreline permit exemptions and enforcement actions issued during the past calendar year to the City Council in February of each year. The report should include findings and conclusions on significant administrative determinations and appeals, identification of problem areas and recommendations on how the Master Program can be improved. Informing the citizens of the purposes, goals, policies, and regulations of this program and any changes or amendments thereto;

16) Investigating, developing, and proposing amendments to this program as deemed necessary to more effectively and equitably achieve its goals and policies;

17) Seeking remedies for alleged violations of this program, the provisions of the act, or of conditions of any approved shoreline permit or statement of exemption issued by the City;

18) Coordination of information with affected agencies.

8.1.3 Hearing Examiner

The Gig Harbor Office of the Hearing Examiner shall be responsible for hearing and making final decisions for the City on the following matters:

1) Shoreline Substantial Development Permits;

   The Examiner shall issue a preliminary decision on Shoreline Conditional Use and Shoreline Variance Permits with final authorization of such permits with Ecology.

8.1.4 Planning Commission

The Gig Harbor Planning Commission shall be responsible for hearing and making recommendations for action to the City Council on the following types of matters:

1) Amendments to the Shoreline Master Program; and,

2) Reviewing this Program not less than once every eight years, beginning on or before June 30, 2019 and every eight years thereafter to evaluate the cumulative effects of all authorized development on shoreline conditions. The City's Interlocking Software Permit System shall be used as a mechanism to document all approved shoreline permits and shoreline permit exemptions,

whether a written exemption is required or not, to monitor compliance with all conditions of approval imposed upon the permits and evaluate the cumulative effects of all authorized development on shoreline conditions. This process should involve coordination with State resource agencies, affected tribes, and other interested parties.

8.1.5 City Council

The Gig Harbor City Council shall be responsible for making final determinations on amendments to the Shoreline Master Program, for review and approval by Ecology, which shall be adopted by ordinance. The Council shall enter findings and conclusions setting forth the factors it considered in reaching its decision.

8.1.6 County Tax Assessor

As provided for in RCW 90.58.290, the restrictions imposed upon the use of real property through the implementation of the policies and regulations of the Act and this Master Program shall be duly considered by the County Assessor and the County Board of Equalization in establishing the fair market value of such properties.

8.1.7 State Department of Ecology

The duties and responsibilities of the Washington State Department of Ecology shall include, but are not limited to the following:

1) Reviewing and approving Master Program and subsequent amendments prepared by the City of Gig Harbor pursuant to WAC 173-26-120 (State Process for Approving/Amending Shoreline Master Programs);

2) Final authority to approve, condition or deny Shoreline Conditional Use Permits and Shoreline Variance Permits filed by the City of Gig Harbor.

8.1.8 State Shoreline Hearings Board

The duties and responsibilities of the Washington State Shoreline Hearings Board shall include:

1) Hearing appeals on shoreline permit decisions issued by local government and the Department of Ecology, and appeals on those shoreline penalties jointly

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 ($~~6,416~~7,047) (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.

Formatted: Indent: Left: 0.5"

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;

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

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

(iv) A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and

(v) The activity is not subject to the permit requirements of RCW 90.58.550;

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

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

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

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

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

(C) A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource

available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the ordinary high water mark of the stream.

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

p) A public or private project that is designed to improve fish or wildlife habitat or fish passage, when all of the following apply:

(i) The project has been approved in writing by the department of fish and wildlife;

(ii) The project has received hydraulic project approval by the department of fish and wildlife pursuant to chapter 77.55 RCW; and

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

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

Commented [CdS1]: Looking at the WAC, and the reference provided under (A) below, it looks like this should be indented under (iii).

Formatted: Indent: Left: 0.25"

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

(I) A fish habitat enhancement project must be a project to accomplish one or more of the following tasks:

- Elimination of human-made fish passage barriers, including culvert repair and replacement;

- Restoration of an eroded or unstable stream bank employing the principle of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

- Placement of woody debris or other instream structures that benefit naturally reproducing fish stocks.

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

(II) A fish habitat enhancement project must be approved in one of the following ways:

- By the department of fish and wildlife pursuant to chapter 77.95 or 77.100 RCW;

- By the sponsor of a watershed restoration plan as provided in chapter 89.08 RCW;

- By the department as a department of fish and wildlife-sponsored fish habitat enhancement or restoration project;

- Through the review and approval process for the jobs for the environment program;

- Through the review and approval process for conservation district-sponsored projects, where the project complies with design standards established by the conservation commission through interagency agreement with the United States Fish and Wildlife Service and the natural resource conservation service;

- Through a formal grant program established by the legislature or the department of fish and wildlife for fish habitat enhancement or restoration; and

- Through other formal review and approval processes established by the legislature.

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

(C)(I) A hydraulic project approval permit is required for projects that meet the criteria of (p)(iii)(A) of this subsection and are being reviewed and approved under this section. An applicant shall use a joint aquatic resource permit application form developed by the office of regulatory assistance to apply for approval 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.

Formatted: Indent: Left: 0"

8.2.3 Statement of Exemption

A. Statement required

A Statement of Exemption must be obtained from the Administrator for a development activity or use that is exempt from a Substantial Development Permit and subject to the provisions of WAC 173-27-050. Exempt development does not require a Substantial Development Permit, but may require a Conditional Use Permit or Variance Permit pursuant to WAC 173-27-040(1)(b). Pursuant to WAC 173-27-050, a Statement of Exemption is required when a development is determined by the Administrator to be exempt from the Substantial Development Permit requirements and the development is subject to one or more of the following federal permit requirements:

1) A U.S. Army Corps of Engineers Section 10 Permit under the Rivers and Harbors Act of 1899; (The provisions of Section 10 of the Rivers and Harbors Act generally apply to any project occurring on or over navigable waters. Specific applicability information should be obtained from the Corps of Engineers.); or

2) A Section 404 Permit under the Federal Water Pollution Control Act of 1972. (The provisions of Section 404 of the Federal Water Pollution Control Act generally apply to any project which may involve discharge of dredge or fill material to any water or wetland area. Specific applicability information should be obtained from the Corps of Engineers.).

B. No Net Loss Analysis

1) In all instances involving a formal shoreline permit exemption as addressed pursuant to Subsection 8.2.3.A above, or, in the alternative, an informal determination that a development proposal is exempt from the formal exemption process, a no net loss analysis shall be provided to the city for review in a format approved by the Planning Department. Exempt developments that cause a net loss of ecological functions and processes shall be subject to the requirements of Section 6.2.2 and shall mitigate project impacts consistently with the requirements of Subsection 6.2.2.3-6.

C. Purpose

The purpose of a Statement of Exemption is to verify that the action is exempt, ensure the development is in compliance with the Master Program and the Act, and to provide an itemization of SMP requirements to the applicant.

D. Process

The Administrator shall prepare a Statement of Exemption which includes:

1) The specific exemption provision from WAC 173-27-040 (Developments Exempt from Shoreline Substantial Development Permit Requirement) that is being applied to the development.

2) A summary of the Administrator's analysis of the consistency of the project with the Master Program and the Act.

3) Itemization of the Program's requirements and other requirements applicable to the proposed project in conjunction with other permit processes.

The Administrator may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the Act and the Master Program. According to State guidelines, the burden of proof that a development activity or use is exempt from the permit process is on the applicant.

8.2.4 Shoreline Conditional Use Permit

A. Permit required

The circumstances for which a Conditional Use Permit is required are described in Table 7-1 Shoreline Modification Matrix, in Table 7-2 Shoreline Use Matrix, and in the regulatory requirements in Chapter 7.

B. Purpose

The purpose of a Shoreline Conditional Use Permit is to allow a case-by-case review of certain uses which may have a greater potential for impacts if permitted without project-specific conditions. In authorizing a Shoreline Conditional Use Permit, special conditions may be attached to the permit by the Hearing Examiner or Ecology.

C. Process

An open record decision hearing by the City of Gig Harbor's Hearing Examiner is required for a Conditional Use Permit. The Administrator's responsibilities are set forth in GHMC 19.05.002. Public notice of completed application, date of public hearing and final decision is required as set forth in GHMC Title 19. Ecology is the final approving authority for Conditional Use Permits. (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 GHMC 19.04.001 (Determination of consistency).

E. Hearing Examiner review criteria

The criteria below shall constitute the minimum criteria for review and approval of a Conditional Use Permit. Uses classified as conditional uses, and those uses not specifically listed and not prohibited by the regulations of this SMP, may be authorized provided that the applicant can demonstrate all of the following:

1) That the proposed use will be consistent with the policies of RCW 90.58.020 and the master program;

2) That the proposed use will not interfere with the normal public use of public shorelines;

3) That the proposed use of the site and 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;

4) That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located;

5) That the public interest suffers no substantial detrimental effect;

6) That consideration has been given to the cumulative impact of additional requests for like actions in the area. For example, if Conditional Use Permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 (Legislative Findings) and shall not produce substantial adverse effects to the shoreline environment.

Uses which are specifically prohibited by the Master Program may not be authorized pursuant to the criteria listed above (1-6).

Uses which are not classified or set forth in the Master Program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section.

The Hearing Examiner may attach conditions to the approval of permits as necessary to assure consistency of the proposal with the above criteria.

8.2.5 Shoreline Variance Permit

A. Permit required

A Shoreline Variance Permit is required when an applicant seeks relief from specific bulk, dimensional or performance standards set forth in this Master Program, including Section 6.2.5-Critical Areas.

B. Purpose

The purpose of a Shoreline Variance Permit is to grant relief from specific bulk, dimensional or performance standards set forth in this Master Program only where there are extraordinary or unique circumstances relating to the physical character

or configuration of the property such that the strict implementation of the Master Program would impose unnecessary hardships on the applicant or thwart the SMA policies (see RCW 90.58.020 Legislative Findings).

C. Process

An open record decision hearing by the City of Gig Harbor's Hearing Examiner is required for a Variance Permit. The Administrator's responsibilities are set forth in GHMC 19.05.002. Public notice of complete application, date of public hearing and final decision is required as set forth in GHMC Title 19. Ecology is the final approving authority for Variance Permits. (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.

E. Hearing Examiner review criteria

The criteria below shall constitute the minimum criteria for review and approval of a Shoreline Variance Permit.

1) Variance Permits should be granted in circumstances where denial of the permit would result in a thwarting of SMA policy enumerated in RCW 90.58.020 (Legislative Findings). In all instances the applicant must demonstrate that extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

2) Variance Permits for development that will be located landward of the ordinary high water mark and/or landward of 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 the Master Program precludes, or significantly interferes with a reasonable use of the property not otherwise prohibited by this SMP;

    b) That the hardship described above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the Master Program, and not, for example, from deed restrictions or the applicant's own actions;

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.

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

RCW 90.58.180 (Appeals from Granting, Denying, or Rescinding Permits) and WAC 461-08 (Practice and Procedure, Review of the Granting, Denying or Rescinding of Substantial Development Permits, Hearings). All appeals of any final permit decision must be made to the Shorelines Hearing Board within twenty-one (21) days of the date of filing concerning the shoreline permit or formal approval to revisions of the permit.

8.8 Time Requirements and Revisions

8.8.1 Construction Timing

Construction pursuant to a Substantial Development Permit shall not begin and is not authorized until twenty-one (21) days after the "date of filing"; provided no appeals have been initiated during this twenty-one (21) day period. "Date of filing" is the date of actual receipt by Ecology of the local government's decision.

Construction pursuant to a Shoreline Conditional Use Permit or Shoreline Variance Permit shall not begin and is not authorized until twenty-one (21) days after Ecology issues its final decision, provided no appeals have been initiated during this twenty-one (21) day period. "Date of filing" means the date the Ecology decision is transmitted to the local government.

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" means the date the decision of the department is transmitted by the department to the local government.

8.8.2 Duration of Permits

The time requirements of this section shall apply to all Substantial Development Permits and to any development authorized pursuant to a Variance or Conditional Use Permit authorized by this chapter. Upon a finding of good cause, based on the requirements and circumstances of the project proposed and consistent with the policy and provisions of the master program and this chapter, local government may adopt different time limits from those set forth in subsections (1) and (2) of this section as a part of action on a Substantial Development Permit.

1) Construction activities shall be commenced or, where no construction activities are involved, the use or activity shall be commenced within two (2) years of the effective date of a Substantial Development Permit. However, local government may authorize a single extension for a period not to exceed one (1) year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record on the Substantial Development Permit and to Ecology.

2) Authorization to conduct construction activities shall terminate five (5) years after the effective date of a Substantial Development Permit (see definition of effective date in Chapter 2). However, local government may authorize a single extension for a period not to exceed one (1) year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and to the department.

The effective date of a Substantial Development Permit shall be the date of filing as provided in RCW 90.58.140(6) (see definition of effective date in Chapter 2). The permit time periods in subsections (1) and (2) of this section do not include the time during which a use or activity was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals. Revisions to permits under WAC 173-27-100 (also see Section 8.8.3) may be authorized after original permit authorization has expired: provided, that this procedure shall not be used to extend the original permit time requirements or to authorize substantial development after the time limits of the original permit.

Local government shall notify Ecology in writing of any change to the effective date of a permit, as authorized by this section, with an explanation of the basis for approval of the change. Any change to the time limits of a permit other than those authorized by RCW 90.58.143 as amended shall require a new permit application.

8.8.3 Permit Revision

A permit revision is required whenever an applicant proposes substantive changes to the design, terms or conditions of a project from that which was approved in the permit. When a revision of a permit is sought, the applicant shall submit detailed plans and text describing the proposed changes in the permit and demonstrating compliance with the following minimum standards, consistent with WAC 173-27-100.

1) If local government determines that the proposed changes are within the scope and intent of the original permit, and are consistent with the master program and the act, local government may approve a revision.

2) Within the scope and intent of the original permit means all of the following:

   a. No additional over water construction is involved except that pier, dock, or float construction may be increased by five hundred (500) square feet or ten (10) percent from the provisions of the original permit, whichever is less;

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

   c. The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of the Program except as authorized under a variance granted as the original permit or a part thereof;

   d. Additional or revised landscaping is consistent with any conditions attached to the original permit and with the Program;

   e. The use authorized pursuant to the original permit is not changed; and

   f. No adverse environmental impact will be caused by the project revision.

3) Revisions to permits may be authorized after original permit authorization has expired under RCW 90.58.143. The purpose of such revisions shall be limited to authorization of changes which are consistent with this section and which would not require a permit for the development or change proposed under the terms of chapter 90.58 RCW, this regulation and the local master program. If the proposed change constitutes substantial development then a new permit is required. Provided, this subsection shall not be used to extend the time requirements or to authorize substantial development beyond the time limits of the original permit.

4) If the sum of the revision and any previously approved revisions under former WAC 173-14-064 or this section violate the provisions in subsection (2) of this section, local government shall require that the applicant apply for a new permit.

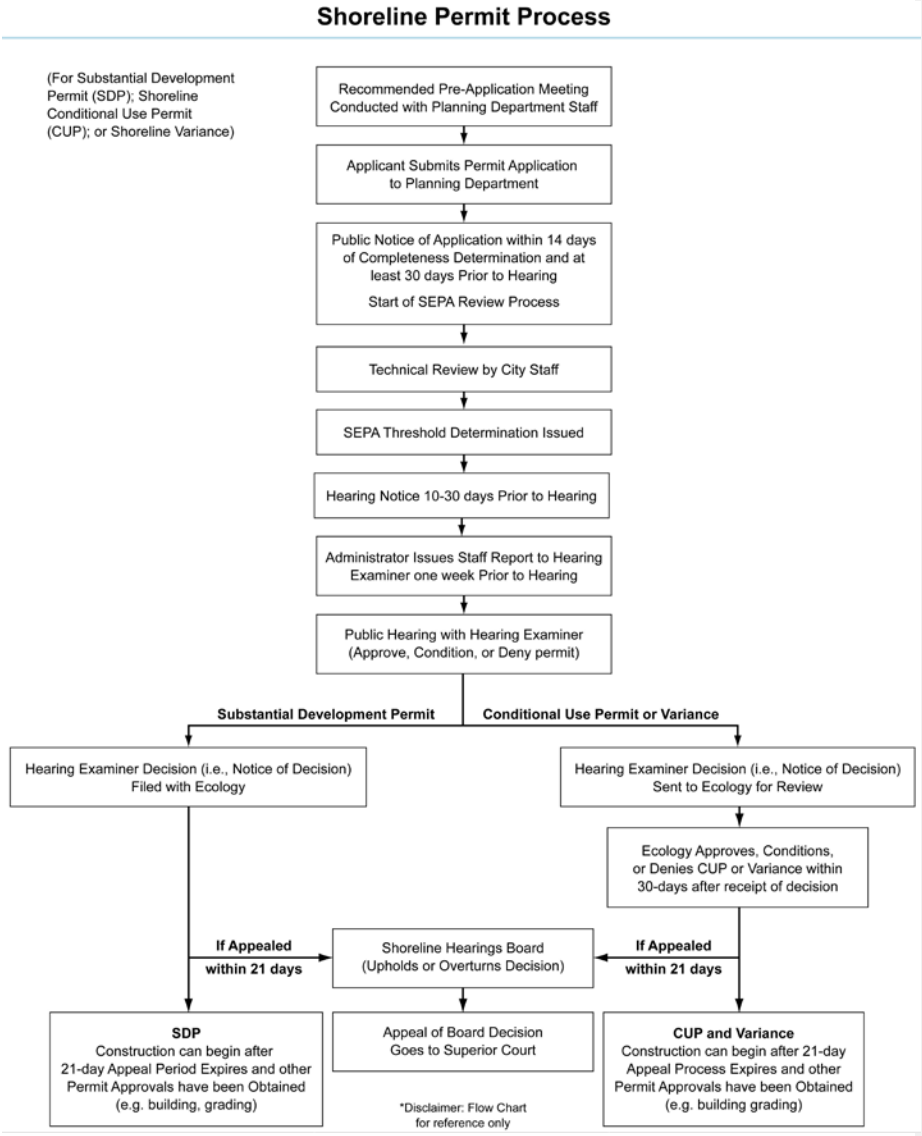
5) The revision approval, including the revised site plans and text consistent with the provisions of WAC 173-27-180 as necessary to clearly indicate the authorized changes, and the final ruling on consistency with this section shall be filed by the city with the Department of Ecology. In addition, local government shall notify parties of record of their action.

6) If the revision to the original permit involves a conditional use or variance, local government shall submit the revision to the Department of Ecology for the department's approval, approval with conditions, or denial, and shall indicate that the revision is being submitted under the requirements of this subsection. The department shall render and transmit to local government and the applicant its final decision within fifteen days of the date of the department's receipt of the submittal from local government. Local government shall notify parties of record of the department's final decision.

7) The revised permit is effective immediately upon final decision by local government or, when appropriate under subsection (6) of this section, upon final action by the Department of Ecology.

8) Appeals shall be in accordance with RCW 90.58.180 and shall be filed within twenty-one days from the date of receipt of the local government's action by the Department of Ecology or, when appropriate under subsection (6) of this section, the date the Department of Ecology's final decision is transmitted to local government and the applicant. Appeals shall be based only upon contentions of noncompliance with the provisions of subsection (2) of this section. Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit is at the applicant's own risk until the expiration of the appeals deadline. If an appeal is successful in proving that a revision is not within the scope and intent of the original permit, the decision shall have no bearing on the original permit.

Figure 8-1. Shoreline Permit Process



8.9 Enforcement and Penalties

The Administrator shall follow the procedures prescribed in GHMC 17.07 (Enforcement) to enforce this Program.

8.10 Master Program – Review, Amendments and Adoption

This Master Program shall be periodically reviewed consistent with RCW 90.58.080(4) and adjustments shall be made as are necessary to reflect changing local circumstances, new information or improved data, and changes in State Statutes and regulations. This review process shall be consistent with WAC 173-26-090 requirements and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

Any of the provisions of this Master Program may be amended as provided for in WAC 173-26-100. Amendments or revisions to the Master Program, as provided by law, do not become effective until approved by the Washington State Department of Ecology.

8.11 Nonconforming Uses and Structures

Nonconforming development is a shoreline lot, use or structure which was lawfully constructed or established prior to the adoption of the master program but which does not conform to regulations or standards of this Master Program or the Act. In such cases, the following standards shall apply:

8.11.1 Intent

1) Within the shoreline jurisdiction, there may be existing lots, structures, uses of land and structures, and characteristics of use that were lawful before the effective date of the applicable regulations, but that would be prohibited, regulated, or restricted under the terms of this Shoreline Master Program, or a

future amendment thereof. Section 8.11 is intended to allow these nonconformities to continue until they are removed but not to encourage their perpetuation. It is further intended that nonconformities shall not be enlarged upon, expanded, extended or be used as grounds for adding other structures or uses prohibited elsewhere in the same shoreline environment designation.

2) Because nonconformities do not conform to the requirements of the regulations within their shoreline environment designations, they are declared by Section 8.11 to be incompatible with the permitted uses in the shoreline environment designations involved. To avoid undue hardship, nothing in Section 8.11 shall be deemed to require a change in the submitted drawings, construction or designated use of any building for which a complete application for a building permit or shoreline permit was made prior to the effective date of the adoption or an amendment to this Shoreline Master Program.

8.11.2 Nonconforming Lots of Record

1) Building on Nonconforming Lots of Record. In any shoreline environment designation, notwithstanding limitations imposed by other provisions of the Shoreline Master Program, permitted principal uses and structures and customary accessory buildings may be constructed on any lot that is of record at the effective date of the adoption or of an amendment of the applicable regulations. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are applicable in the shoreline environment designation. Such permitted principal uses and structures and accessory buildings may be constructed on such a nonconforming lot provided that all dimensional requirements of the Shoreline Master Program including minimum yard requirements, the maximum height of structures and the maximum coverage by all buildings are complied with.

2) Combination of Legally Nonconforming Lots. A property owner of two or more lots that are legally nonconforming as to lot area may request that the lots be combined into one larger lot, even if the resulting lot does not satisfy the existing lot area requirements in the shoreline environment designation, as long as the Administrator determines that the property owner has submitted sufficient evidence to demonstrate that the original lots are legally nonconforming. In addition, the lot combination shall satisfy the requirements of and be processed according to the procedures in GHMC Chapter 16.03 Boundary Line Adjustments, with the exception of GHMC 16.03.003(B). Criteria for approval.

3) Dedication of Property to the Public. That portion of a lot remaining after dedication or sale of a portion of the lot to the city or state for street or highway purposes shall be a separate building site, as long as the area of the remaining lot is at least 3,000 square feet.

8.11.3 Nonconforming Use and Structure Review

1) Any change to a nonconforming use or nonconforming structure shall be reviewed for compliance with the standards of Section 8.11 and nonconforming review approval shall be obtained prior to the commencement of any such change.

2) Any change to a nonconforming use or structure shall comply with the substantive and procedural requirements of the master program.

3) Nonconforming review is a Type II project permit application and shall be processed as set forth in GHMC Title 19 with the exception of changes described in GHMC 17.68.035 changes from one nonconforming use to another, which shall be processed as a Type III project permit application as set forth in GHMC Title 19.

4) A complete nonconforming review application shall contain the following information:

   a) A written description of the proposed nonconforming use and/or nonconforming structure change including any plans and drawings which illustrate such change;

   b) A written statement of justification for approving the nonconforming change pursuant to the regulations contained within Section 8.11.

8.11.4 Nonconforming Uses of Land

1) When, before the effective date of the adoption or an amendment of the applicable regulations, a lawful use of land existed that would not be permitted by the regulations thereafter imposed by the Shoreline Master Program, or amendments thereof, the use may be continued so long as it remains otherwise lawful, and shall be deemed a nonconforming use; provided, however, that:

a) No such nonconforming use shall be expanded in size or extended to occupy a greater area of land than was occupied at the effective date of the adoption or an amendment of such applicable regulations;

b) No such nonconforming use shall be moved, in whole or in part, to any portion of the lot or parcel other than that occupied by such use at the effective date of the adoption or an amendment of such applicable regulations;

2) Destruction and Discontinuance

a) If any such nonconforming use of land is discontinued for any reason for a period of more than one year, any subsequent use of land shall conform to the regulations specified by this title for the district in which such land is located. "Discontinued" is defined in Section 8.11.6;

b) A nonconforming use that is damaged by fire, act of nature or other causes beyond the control of the owners may be resumed, as long as the use is not discontinued more than one year.

c) Any structure occupied by a nonconforming use that is unintentionally destroyed may only be reconstructed to the same or smaller configuration existing immediately prior to the time the structure was damaged or destroyed. The reconstruction shall comply with all applicable building codes in force at the time of replacement. As determined during the nonconforming use and structure review process (see Section 8.11.3), the reconstruction shall comply with all other applicable codes to the maximum extent possible;

d) When a structure and premises have a nonconforming use status, the intentional removal, intentional destruction or intentional alteration of the structure shall eliminate the nonconforming use status. Intentional removal, intentional destruction and intentional alteration for the purposes of this subsection is defined as damage and/or alterations valued at more than 50 percent of the replacement value of the structure at the time of damage and/or alterations as determined by the square foot construction cost table in the City's fee schedule;

3) No additional structures not conforming to the requirements of the Shoreline Master Program shall be constructed in connection with such nonconforming use of land.

8.11.5 Changes from One Nonconforming Use to Another

1) If no structural alterations are made, any nonconforming use of a structure and premises may be changed to another nonconforming use, under the procedures established in GHMC Title 19 for a Type III project permit application. In order to approve such new nonconforming use, the hearing examiner must find that the proposed use is more appropriate for the shoreline environment designation than the existing nonconforming use. The hearing examiner may also require that appropriate conditions and safeguards be imposed on the change from one nonconforming use to another.

8.11.6 Discontinuance of Nonconforming Uses

1) Any structure and premises in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the use regulations for the shoreline environment designation in which they are located and the nonconforming use may not thereafter be resumed.

2) A use is considered discontinued when:

   a) A permit to change the use of the nonconforming lot or nonconforming structure was issued and acted upon;

   b) The structure, or a portion of the structure, is not being used for the nonconforming use allowed by the most recent permit;

   c) The structure is vacant, or the portion of the structure formerly occupied by the nonconforming use is vacant. The use of the structure shall be considered discontinued even if materials from the former use remain or are stored on the property. A multifamily structure with one or more vacant dwelling units is not considered vacant and the use is not considered to be discontinued unless all units in the structure are vacant;

   d) If a complete application for a permit that would allow the nonconforming use to continue, or that would authorize a change to another nonconforming use, has been submitted before the structure has been vacant for 12 consecutive months, the nonconforming use shall not be considered discontinued unless the permit lapses or the permit is denied.

8.11.7 Uses Permitted under Conditional Use Provisions

1) A use that existed before the effective date of the adoption or an amendment of the applicable regulations and that is permitted as a conditional use in the shoreline environment designation in which it is located under the terms of this master program or GHMC Title17 shall not be deemed a nonconforming use. Such a use shall be considered to exist as a conditional use. The scope of the conditional use shall be governed by the provisions of Section 8.11 unless modified by the hearing examiner in accordance with subsection 8.2.4 of this master program or GHMC Chapter 17.64 Conditional Uses.

8.11.8 Nonconforming Structures

1) When a lawful structure existed at the effective date of the adoption or an amendment of the applicable regulations and could not be built under the terms of the current regulations set forth in this Shoreline Master Program, or amendments thereof, by reason of the restrictions on area, lot size or dimension, coverage, height, yards and the location on the lot or other requirements concerning the structure, such structure may be continued as a nonconforming structure so long as it remains otherwise lawful and shall be subject to the following provisions:

   a) No such nonconforming structure may be altered or remodeled in any way that increases its nonconformity respective to bulk or dimensional standards in effect, but any structure or portion thereof may be altered or remodeled to decrease its nonconformity;

   b) A nonconforming structure that is damaged by fire, act of nature or other causes beyond the control of the owners may be reconstructed provided the following standards are met:

      i) The structure is not discontinued for more than 12 consecutive months. The Administrator may grant not more than two (2) one-year extensions based on good cause.

      ii) In instances where the nonconforming structure is located waterward of the minimum nonconforming structure setback and landward of the OHWM, such structure shall be reconstructed to the same or smaller configuration existing immediately prior to the time the structure was damaged or destroyed, and shall not be required to meet either the minimum nonconforming structure setback or minimum structure

setback standards that apply to non-water dependent uses pursuant to Section 6.2.3.2, Table 6-1.

iii) In instances where the nonconforming structure is located landward of the minimum nonconforming structure setback and waterward of the minimum structure setback as provided in subsection 6.2.3.2, Table 6-1, such reconstruction shall be allowed, including the reconfiguration of the building footprint within the minimum structure setback area, provided the following standards are met:

(1) A minimum nonconforming structure setback is maintained as a vegetation conservation strip per requirements of Section 6.4

(2) No increase in building footprint square footage within the minimum structure setback occurs; and

(3) The existing setback between the existing, legally nonconforming, principal structure and the OHWM is not decreased.

iv) The reconstruction shall comply with all applicable building codes in force at the time of replacement. As determined during the nonconforming use and structure review process (see Section 8.11.3), the reconstruction shall comply with all other applicable codes to the maximum extent possible. "Discontinued" is defined in Section 8.11.6; and,

v) Nonconforming structures located waterward of the OHWM may be reconstructed to those configurations existing immediately prior to the time the structures were damaged.

c) Any such nonconforming structure or nonconforming portion of a structure that is intentionally damaged, intentionally altered, or intentionally removed may be reconstructed to the same or smaller configuration existing immediately prior to the time the structure was damaged or altered provided the following standards are met:

i) The subject property is not located in a Natural shoreline environment designation.

ii) Reconstruction shall occur within one (1) year of the time of intentional damage or alteration or not at all. The Administrator may grant not more than two (2) one-year extensions based on good cause.

iii) In instances where the nonconforming structure is located waterward of the minimum nonconforming structure setback as provided in subsection 6.2.3.2, Table 6-1, and landward of the OHWM, the reconstruction shall comply with the minimum nonconforming structure setback, shall establish a minimum nonconforming structure setback as a vegetation conservation strip per the requirements of Section 6.4, and shall not result in an increase in building square footage within the minimum structure setback.

iv) In instances where the nonconforming structure is located within the minimum structure setback, reconstruction shall comply with the requirements of subsection 6.2.3.

v) The reconstruction shall comply with all applicable building codes in force at the time of replacement. As determined during the nonconforming use and structure review process (see Section 8.11.3), the reconstruction shall comply with all other applicable codes to the maximum extent possible. Interior-only remodels which do not increase a structure's nonconformity shall not be considered reconstruction as it relates to this section; and,

vi) Nonconforming structures located waterward of the OHWM may be reconstructed to those configurations existing immediately prior to the time the structures were intentionally damaged or altered.

d) Principal residential structures that were legally established but do not meet current standards for setbacks, buffers, or yards; area; bulk; height; or density are considered a conforming structure to the provisions of this master program.

i) Redevelopment, expansion, change within class of occupancy, or replacement of such principal residential structure shall be consistent with the requirements of the master program including no net loss of shoreline ecological functions.

8.11.9 Repairs and Maintenance

1) Repairs may be made to any nonconforming structure or any portion of a structure containing a nonconforming use; provided, they are restricted to the repairs or replacement of structural elements, fixtures, wiring and plumbing required so as to protect occupants and public safety. The need for such repairs or replacements shall be confirmed by the building official.

2) Nothing in Section 8.11 shall be deemed to prevent the strengthening or restoration to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety and upon the order of such official.

8.11.10 Nonconforming Parking, Loading and other Characteristics of Use

1) If the characteristics of a use such as off-street parking, off-street loading, lighting or other matters required by the Shoreline Master Program in relation to specific uses of land, structures or premises, with the exception of signs, are not in accordance with the requirements of the Shoreline Master Program, no change that increases the nonconformity with such requirements shall be made in such characteristics of use. Any change that decreases the nonconformity to the requirements of the Shoreline Master Program shall be permitted. Nonconforming signs are regulated under GHMC 17.80.130 Nonconforming signs.

8.11.11 Continuity of Prior Conditions and Variances

1) Any valid conditional use or variance granted prior to the effective date of the enactment of this Shoreline Master Program shall be permitted to continue in accordance with such use or variance.