Agenda Planning Commission
Open Public Hearing
Gig Harbor Civic Center
Thursday, September 16, 2021
6:00 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

To speak during the meeting, press the Raise Hand button near the bottom of your Zoom window or press *9 on your phone. Comments are only allowed during designated portions of the meeting. Please refrain from "raising your hand" until the Chair has announced that he has opened the public comment portion of the meeting. Your name or the last four digits of your phone number will be called out when it is your turn to speak. When using your phone to call in you may need to press *6 to unmute yourself. All speakers will have up to three minutes to speak.

If you wish to submit written public comment, please provide your comments to the Planning Division by Wednesday, September 15, 2021. All written comments must be able to be read in 3 minutes or less to be included in the record and have the title: FOR PUBLIC COMMENT included. Send comments to: mthomas@gigharborwa.gov. Written comments will be read during the appropriate agenda item.

I. **Call to Order**:

II. **Roll call**:

III. **Approval of Minutes:** August 19, 2021

IV. **Agenda Items for Formal Review**

a. Announcement of Application
b. Open Public Meeting Announcement
c. Appearance of Fairness Issues

d. Staff Report
e. Applicant Introduction and Presentation
f. Public Comment (See Assistance Memo)
g. Discussion

1. Shoreline Management Program Periodic Review Public Hearing

V. <u>Other Business</u> Next meeting Thursday, October 7, 2021

VI. <u>Adjournment</u>

DRAFT Minutes Planning Commission
Gig Harbor Civic Center
Thursday, August 19, 2021
5:00 P.M.

5:00 p.m. - Call to order, roll call Chair Commissioner Hoeksema, Commissioner Soltess, Commissioner Brown, Commissioner Grina, Commissioner Bennett & Commissioner Bradbury

Approval of Minutes: August 5, 2021Motion Soltess/Grina all in favor minutes approved as written

Agenda Items

I. Urban Growth Area Analysis – Presentation Carl deSimas and Commission discussion

Other Business

Next meeting Thursday, September 2, 2021 Comprehensive Plan Update draft

Adjournment Motion Bennet/Soltess all in favor meeting adjourned at 6:33

PLANNING DIVISION
STAFF REPORT

TO: Planning Commission
FROM: Planning Staff
DATE: September 9, 2021

RE: **PL-COMP-21-0002:** Shoreline Master Program Periodic Review & Update
Public Hearing: September 16, 2021

I. GENERAL INFORMATION

Applicant: City of Gig Harbor
Community Development Department
3510 Grandview Street
Gig Harbor, WA 98335

Agent: Same

II. PROJECT DESCRIPTION

The proposal is a non-project, legislative action to update the Gig Harbor Shoreline Master Program (GHSMP). The GHSMP, which was adopted by the city on November 25, 2013 and became effective on December 27, 2013, is now subject to its first periodic review pursuant to Washington Administrative Code (WAC) Section 173-26-090. The periodic review is required at least once every 8 years on a schedule established under the Shoreline Management Act ("the Act," RCW Chapter 90.58). Deadlines for completing this review are established under the Act for King, Pierce and Snohomish Counties, and the cities located within those counties planning under the Shoreline Management Act. The periodic review must be accomplished through local government legislative action which requires that the Planning Commission first review the proposed updates and then make a recommendation to the Gig Harbor City Council for its direct action (see Exhibit C). The required minimum scope of review consists of:

- To assure that the master program complies with applicable law and guidelines in effect at the time of the review; and,

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

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

As part of this review, the City has proposed several updates in addition to those required under state law. All updates are included in a checklist provided by the ECY and included here as Exhibit B An associated guidance document is also provided by ECY and is included here as Exhibit C. Updates proposed by the City are found under the section titled, "2018." Most of the City-proposed updates are relative to the clean up of inconsistencies noted by staff through its administration of the program. The City is also proposing updates that would bring the GHSMP into alignment with the FEMA National Insurance Flood Program and a "Door 2" approach to compliance with the Endangered Species Act. Section 2018, Row "e," of Exhibit B provides the reference where this update can be found. Also, the City proposes to allow principal use parking areas upland of specified streets within the City Waterfront Shoreline Environmental Designation. Section 2018, Row "d," of Exhibit B provides the reference where this update can be found. Lastly, the City proposes an update that would allow overwater decks appurtenant to permitted upland water-oriented and water enjoyment uses in the City Waterfront and Historic Working Waterfront Shoreline Environmental Designations. Section 2018, Rows "c" and "j," of Exhibit B provide the reference where this update can be found.

All proposed updates are included within each respective chapter and shown as either strikeouts or underlines where strikeouts are removed language and underlines are added language (Exhibits A.1 – A.8). Note that no updates are proposed to Chapters 3 and 4 and, as such, those have been omitted.

III. APPLICABLE CODES AND POLICIES

The City's Shoreline Master Program is adopted by reference and integrated into Chapter 10, Shoreline Management, of the City's Comprehensive Plan.

Chapter 19.09 of the Gig Harbor Municipal Code (GHMC) outlines the process for review of amendments to the Comprehensive Plan. The process states that the Planning Commission should hold a public hearing on the applications and consider all applications cumulatively under the criteria set forth below. The Commission's written recommendation on the applications shall then be forwarded to the City Council. In order to approve, the City Council must make findings that the proposed amendment is consistent with the criteria for approval provided under Section 19.09.170 GHMC:

A. The proposed amendment will further and be consistent with the goals, policies and objectives of the comprehensive plan; and

B. The proposed amendment is consistent with the Growth Management Act, Puget Sound Regional Council multicounty planning policies, the countywide planning policies and other applicable interjurisdictional policies and agreements, and/or other state or local laws; and

C. The proposed amendment will not adversely impact the city's ability to provide sewer and water, and will not adversely affect transportation facilities and other public facilities and services such as parks, police, fire, emergency medical services and governmental services; and

D. The proposed amendment advances the public interest; and

E. For text amendments which propose to increase density or intensity of permitted development and all land use map amendments, the following approval criteria also apply:

1. Adequate infrastructure, facilities and services are available to serve the proposed or potential development expected as a result of this amendment, according to one of the following provisions:

a. The city has adequate funds for needed infrastructure, facilities and services to support new development associated with the proposed amendments; or

b. The city's projected revenues are sufficient to fund needed infrastructure, facilities and services, and such infrastructure, facilities and services are included in the schedule of capital improvements in the city's capital facilities plan; or

c. Needed infrastructure, facilities and services will be funded by the developer under the terms of a development agreement associated with the comprehensive plan amendment; or

d. Adequate infrastructure, facilities and services are currently in place to serve expected development as a result of this comprehensive plan amendment based upon an assessment of land use assumptions; or

e. Land use assumptions have been reassessed, and required amendments to other sections of the comprehensive plan are being processed in conjunction with this amendment in order to ensure that adopted level of service standards will be met; and

2. For a land use map amendment, the subject parcels being redesignated are physically suitable for the allowed land uses in the designation being requested, including compatibility with existing and planned surrounding land uses; and

3. The proposed amendment will not create a demand to change land use designations of other properties, unless the change in land use designation for other properties is in the long-term interest of the community in general.

On February 22, 2021, the City Council initiated the review of five docketed Comprehensive Plan Amendments and forwarded them to the Planning Commission for review. The current amendment is relative to the City's Shoreline Master Program and therefore, per Section 19.09.020 of the Gig Harbor Municipal Code (GHMC), is excepted from the typical Comprehensive Amendment process. Under this process, the Comprehensive Plan may be amended more than once per year for Shoreline Master Plan amendments, consistent with RCW 36.70A.130(2) and under the procedures set forth in Chapter 90.58 RCW.

The City's Shoreline Master Program, Section 8.10, provides for the "Master Program – Review, Amendments and Adoption" procedures. The section states, "Any of the provisions of this Master Program may be amended as provided for in WAC 173-26-100."

WAC 173-26-100 provides for the "Standard local process for approving/amending shoreline master programs." For this amendment, the City chose to utilize the optional joint review process provided for in this section of the WAC and outlined in WAC 173-26-104.

Under the Shoreline Management Act of 1971 – Chapter 90.58 RCW – the Department of Ecology (ECY) has the authority to approve amendments to a local jurisdiction's master program. ECY must find the proposed amendments consistent with the policies set forth in Section 90.58.090 RCW and the

amendment procedures and master program guidelines expressed in WAC Sections: 173-26-090, 173-26-100/173-26-104, 173-26-201.

WAC 173-26-201(1)(C) establishes the approval criteria for shoreline master program amendments:

> (i) The proposed amendment will not foster uncoordinated and piecemeal development of the state's shorelines;
>
> (ii) The amendment is consistent with all applicable policies and standards of the act;
>
> (iii) All procedural rule requirements for public notice and consultation have been satisfied; and
>
> (iv) Master program guidelines analytical requirements and substantive standards have been satisfied, where they reasonably apply to the amendment. All master program amendments must demonstrate that the amendment will not result in a net loss of shoreline ecological functions.

IV. BACKGROUND

In 2018, the City of Gig Harbor Planning Division began the periodic review process of the Gig Harbor Shoreline Master Program (GHSMP). The current program was adopted in 2013 and per state law, master programs are to be reviewed and updated at least every eight years from the original deadline established under the SMA. Therefore, the GHSMP periodic update was due in 2019. City Staff began working with the Planning Commission to develop the necessary updates, but due to some comments provided by state agencies, the process was stymied. The City worked, and continues to work, closely with the Department of Ecology; and, as such, they are aware of the delays and granted the City time to work through the issues.

Recognizing that an update to the GHSMP is an amendment to the City's Comprehensive Plan, the periodic review was added to the City's Comprehensive Plan Amendment Docket and initiated by the City Council for 2021. Upon initiating the proposed amendment, the City Council forwarded the application to the City's Planning Commission for further review. The Planning Commission reviewed the updates at ten study sessions between 2018-2021: November 15, 2018, February 7, 2019, March 7, 2019, March 28, 2019, April 4, 2019, July 18, 2019, December 5, 2019, March 18, 2021, July 1, 2021, and August 5, 2021. Staff memos for each meeting are included as Exhibit D to this report.

Amendments to a local jurisdiction's Shoreline Master Program may be processed either through a standard amendment process per WAC 173-26-100

or through an optional process per WAC 173-26-104. The City chose to utilize the optional process, which includes joint review, joint public comment periods, and a joint hearing between the City and the Department of Ecology (ECY). The joint 30-day public comment period was noticed on August 18, 2021. The hearing was noticed, per Gig Harbor Municipal Code (GHMC), on September 5, 2021. Both notices are included as Exhibit E to this report.

During the 30-day joint public comment period and the SEPA comment period, the City received no written comments. The comment period ends on September 17, 2021 and, as such, more comments may be received between the time this report is completed and the hearing; as well, the comment period will remain open for one day past the hearing date. Comments received in the interim will be presented to the Planning Commission for their consideration at the September 16, 2021 public hearing. In accordance with the requirements of the optional joint review process, all public comments will receive a response and any resulting edits proposed to the amendment, subsequent to the public hearing, will be noted and provided to ECY with the rest of the amendment proposal. ECY then has 30-days to consider the proposal and provide the City with an Initial Determination of Consistency which may include required or recommended changes. After any modifications are made, the City Council may accept the updated GHSMP by resolution per the required local legislative process.

V. ENVIRONMENTAL REVIEW

The SEPA Responsible Official issued a threshold determination of non-significance (DNS) on August 26, 2021 for this non-project action per WAC 197-11-340(2) (Exhibit F). The appeal period for this DNS ends on September 15, 2021.

VI. STAFF ANALYSIS

The proposed updates to the GHSMP are, in large part, mandated by the State due to changes in state law since City adopted its last major update to the program in 2013. The Department of Ecology provides the guidance for the periodic review A few updates are also proposed by the City, including some clean up and corrections noted by staff through the administration of the program as well as some proposed improvements that would allow for additional flexibility related to use and development of land within the shoreline jurisdiction while still adhering to the same level of protection for ecological functions.

The following is an analysis of this recommendation for consistency with required approval criteria of the Gig Harbor Municipal Code (GHMC) and the

applicable sections of the Washington Administrative Code (WAC). The analysis focuses on those few updates that are proposed by the City that are not relative to "clean-up" items, but that are more substantive and deserve some consideration.

GHMC 19.09.170

A. The proposed amendment will further and be consistent with the goals, policies and objectives of the comprehensive plan.

    a. Staff Analysis: Chapter 10, Shoreline Management, of the Gig Harbor Comprehensive Plan (Exhibit G) includes three main goals:

        i. Goal 10.1: Protect Natural Quality

        ii. Goal 10.2: Mixed Use Waterfront

        iii. Goal 10.3: Quality Urban Development

    The proposed updates to the GHSMP are each supported by various elements within each of these goals. The natural quality of the shoreline would, in certain circumstances, be further preserved through the clarity added by the changes relating to the City's Door 2 approach to NFIP compliance. This particular update would clarify and further enhance the City's already excellent programmatic approach to the protection of nearshore habitat and ecological function thereby having direct impacts to required protections for ESA listed species under the Puget Sound Biological Opinion. The City would be one of only a few jurisdictions in the state to have achieved such an approach and received an official commendation from FEMA for having done such.

    Developing a mixed use waterfront where "preference to shoreline uses that are water-oriented (water-dependent, water-related, or water enjoyment); provide pubic access and recreational opportunity; or are residential, consistent with state policy (RCW 90.58.020)" (Goal 10.2) is a primary goal of this element. The allowance for overwater decks appurtenant to permitted water-oriented and water-enjoyment uses, in limited shoreline environmental designations, is clearly supported by the element and encouraged. Likewise, in order to encourage a mix of uses, the City must consider parking, which is limited near the commercial areas that are within the shoreline environment. Goal 10.2.4, Commercial Uses, states, "Encourage development of water-oriented commercial uses in waterfront locations which can be provided adequate and unobtrusive supporting services and improvements, including parking." The proposed update relative to parking meets the intent of this goal by conditionally allowing

principal use parking, in the City Waterfront Shoreline Environment Designation, landward of Harborview Drive and North Harborview Drive.[1]

Given all of the supporting language noted in this analysis, it appears clear that the proposed amendment is consistent with the balance of the goals, policies and objectives of the City's Comprehensive Plan.

B. The proposed amendment is consistent with the Growth Management Act, Puget Sound Regional Council multicounty planning policies (PSRC MPP), the countywide planning policies (CPP) and other applicable interjurisdictional policies and agreements, and/or other state or local laws.

    a. Staff Analysis: The proposed amendment is consistent with the Washington State Growth Management Act – RCW 36.70A – as it would be consistent with the Legislative findings – State policy enunciated – Use Preference of RCW 90.58.020 and the goals and policies stated therein. Namely, the proposed amendment does provide measures for protecting the shorelines of the state through minimization of any damage to the ecology of the shoreline jurisdiction, recognizing that a proposal shall not produce a net loss of ecological function, and providing for mitigation measures consistent with the applicable sections of the City's adopted SMP.

    The City's adopted Comprehensive Plan has been certified and therefore is consistent with the PSRC MPP and Pierce County CPP. As analyzed in Section VI.A of this report, the proposed amendment is consistent with the goals and policies of the City's Comprehensive Plan and associated plans.

    The applicable state law, which provides the approval criteria for a shoreline master program amendment, is WAC 173-26-201. The Department of Ecology has sole jurisdiction to approve updates to the local and county shoreline master program. Their consistency review will be conducted after the public hearing is closed.

C. The proposed amendment will not adversely impact the city's ability to provide sewer and water, and will not adversely affect transportation facilities and other public facilities and services such as parks, police, fire, emergency medical services and governmental services.

    a. Staff Analysis: The current action does not propose any changes to land-use and would not have obvious impacts related to the

[1] "Principal use parking" is parking which is the principal use on the property and is not accessory to another use. Gig Harbor Shoreline Master Program, Chapter 2, "Parking"

City's ability to provide public utilities and facilities. Concurrency review will be conducted at the project specific level and consistency would then be evaluated based on the merits of the proposal itself.

D. The proposed amendment advances the public interest.

    a. Staff Analysis: The public interest is directly advanced by the proposed updates as they bring the GHSMP into compliance with state law; with federal law; with the City's adopted Comprehensive Plan, as noted previously; and regional and county plans and policies.

E. For text amendments which propose to increase density or intensity of permitted development and all land use map amendments, the following approval criteria also apply: (see Section III for listed criteria)

    a. Staff Analysis: This criterion does not apply as the updates do not propose changes to the land use map.

WAC 173-26-201(1)(C)

i. The proposed amendment will not foster uncoordinated and piecemeal development of the state's shorelines.

ii. The amendment is consistent with all applicable policies and standards of the [shoreline management] act.

iii. All procedural rule requirements for public notice and consultation have been satisfied.

iv. Master program guidelines, analytical requirements, and substantive standards have been satisfied, where they reasonably apply to the amendment. All master program amendments must demonstrate that the amendment will not result in a net loss of shoreline ecological functions.

Staff, to this point, have worked with state agency staff to ensure the proposed updates are consistent with this and all other applicable state laws and guidelines. The Department of Ecology will be reviewing the proposed updates for consistency prior to City Council's decision to accept them. Any inconsistencies with state law will be rectified prior to that time.

VII. CONCLUSIONS

Based on Staff's analysis for consistency with all applicable laws and policies, and the effort applied to developing and honing the proposed updates at study sessions with the Planning Commission, coordination with contracted professionals in the environmental field, and discussions with state and federal staff, we conclude that the proposed updates to the Shoreline Master Program

under the state mandated periodic review have met the required criteria for approval as required by both local and state regulations – RCW 90.58, WAC 173-26, and GHMC 19.09 – as follows:

A. Consistent with the goals, policies and objectives of the comprehensive plan; and
B. Consistent with the Growth Management Act, Puget Sound Regional Council multicounty planning policies, the countywide planning policies and other applicable interjurisdictional policies and agreements, and/or other state or local laws; and
C. Will not adversely impact the city's ability to provide sewer and water, and will not adversely affect transportation facilities and other public facilities and services such as parks, police, fire, emergency medical services and governmental services; and
D. Advances the public interest; and
E. Will not foster uncoordinated and piecemeal development of the state's shorelines; and
F. Consistent with all applicable policies and standards of the (shoreline management) act; and
G. All procedural rule requirements for public notice and consultation have been satisfied; and
H. Master program guidelines analytical requirements and substantive standards have been satisfied, where they reasonably apply to the amendment. All master program amendments must demonstrate that the amendment will not result in a net loss of shoreline ecological functions.

Project Planner: Carl de Simas - Principal Planner

_____

Date: _____

Exhibits

A. Updated Gig Harbor Shoreline Master Program Chapters
1. **GHSMP Chapter 1**
2. **GHSMP Chapter 2**
5. **GHSMP Chapter 5**
6. **GHSMP Chapter 6**
7. **GHSMP Chapter 7**
8. **GHSMP Chapter 8**

B. Department of Ecology Periodic Review Checklist
C. Department of Ecology Periodic Review Checklist Guidance & Procedural Review Rules
D. Planning Commission Staff Memos
E. Public Hearing Notices
F. SEPA Determination of Non-significance (DNS)
G. Gig Harbor Comprehensive Plan, Chapter 10, Shoreline Management

CHAPTER 1 INTRODUCTION

1.1 Purpose and Intent

The purpose of this Shoreline Master Program is:

1) To guide the future development of shorelines in the City of Gig Harbor in a positive, effective, and equitable manner consistent with the Washington State Shoreline Management Act of 1971 (the "Act") as amended (Revised Code of Washington [RCW] 90.58).

2) To promote the public health, safety, and general welfare of the community by providing long range, comprehensive policies and effective, reasonable regulations for development and use of Gig Harbor's shorelines; and

3) To ensure, at a minimum, no net loss of shoreline ecological functions and processes and to plan for restoring shorelines of the state that have been impaired or degraded by adopting and fostering the following policy contained in RCW 90.58.020, Legislative Findings:

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

   In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the State shall be preserved to the greatest extent feasible consistent with the overall best interest of the State and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment or are unique to or dependent upon use of the State's shoreline. Alterations of the natural condition of the shorelines of the State, in those limited instances when authorized, shall be given priority for single family residences, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the State, industrial and commercial

developments which are particularly dependent on their location on or use of the shorelines of the State, and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the State.

Permitted uses in the shorelines of the State shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water."

1.2 Governing Principles

The following Governing Principles, along with the policy statements of RCW 90.58.020, Legislative Findings, establish the basic concepts upon which the goals, policies and regulations of this Program are based.

1) Any inconsistencies between this Program and the Act must be resolved in accordance with the Act.

2) The policies of this Program may be achieved by diverse means, one of which is regulation. Other means, authorized by the Act, include but are not limited to: acquisition of lands and/or easements by purchase, or gift; and implementation of capital facility and/or non-structural programs.

3) Regulation of private property to implement Program goals such as public access and protection of ecological functions and processes must be consistent with all relevant constitutional and other legal limitations. These include, but are not limited to civil rights guaranteed by the U.S. and State constitutions, recent federal and state case law, and state statutes, such as RCW 43.21C.060, Conditioning or Denial of Governmental Action and 82.02, General Provisions on Excise Taxes.

4) Regulatory or administrative actions contained herein must not unconstitutionally infringe on private property rights or result in an unconstitutional taking of private property.

5) The regulatory provisions of this Program are limited to shorelines of the state, whereas the planning functions of this Program may extend beyond the designated shoreline boundaries.

6) The policies and regulations established by the Program must be integrated and coordinated with those policies and rules of the Gig Harbor Comprehensive Plan

and development regulations adopted under the Growth Management Act (RCW 36.70A) and RCW 34.05.328, Significant Legislative Rules.

7) Protecting the shoreline environment is an essential statewide policy goal, consistent with other policy goals. This Program protects shoreline ecology from such impairments in the following ways:

   a) By using a process that identifies, inventories, and ensures meaningful understanding of current and potential ecological functions provided by shorelines.

   b) By including policies and regulations that require mitigation of adverse impacts in a manner that ensures no net loss of shoreline ecological functions. The required mitigation shall include avoidance, minimization, and compensation of impacts in accordance with the policies and regulations for mitigation sequencing in WAC 173-26-201(2)(e)(i), Comprehensive Process to Prepare or Amend Shoreline Master Programs. By including policies and regulations to address cumulative impacts, including ensuring that the cumulative effect of exempt development will not cause a net loss of shoreline ecological functions, and by fairly allocating the burden of addressing such impacts among development opportunities.

   c) By including regulations and regulatory incentives designed to protect shoreline ecological functions, and restore impaired ecological functions where such functions have been identified.

8) In light of other relevant local, state, and federal regulatory and non-regulatory programs, Gig Harbor should balance the policy goals of this Program to the extent consistent with the policies of the Act, per RCW 90.58.020, Legislative Findings, and these Governing Principles.

1.3 Title

This document shall be known and may be cited as the Gig Harbor Shoreline Master Program ("this Master Program," "the Master Program," or “SMP”).

1.4 Adoption Authority

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

1.5 Relationship to Other Plans and Regulations

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

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

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

1.6 Applicability

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

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

The Master Program does not apply to:

- ~~t~~Those lands and waters located in the City's Urban Growth Area (UGA) until such time the area is annexed into the City. Until annexation occurs, all development in UGA areas will continue to be regulated by the Pierce County Shoreline Master Program. Goals, policies, and regulations that apply specifically to areas in the UGA have been included in this Master Program in anticipation of future annexations. Also, shorelines within the City's UGA have been pre-designated (see Chapter 5). Portions of this Master Program that apply specifically to UGA areas will not apply until annexation occurs.

- Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW.

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

- WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review.

- Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.

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

- Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of chapter 90.58 RCW.

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

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

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

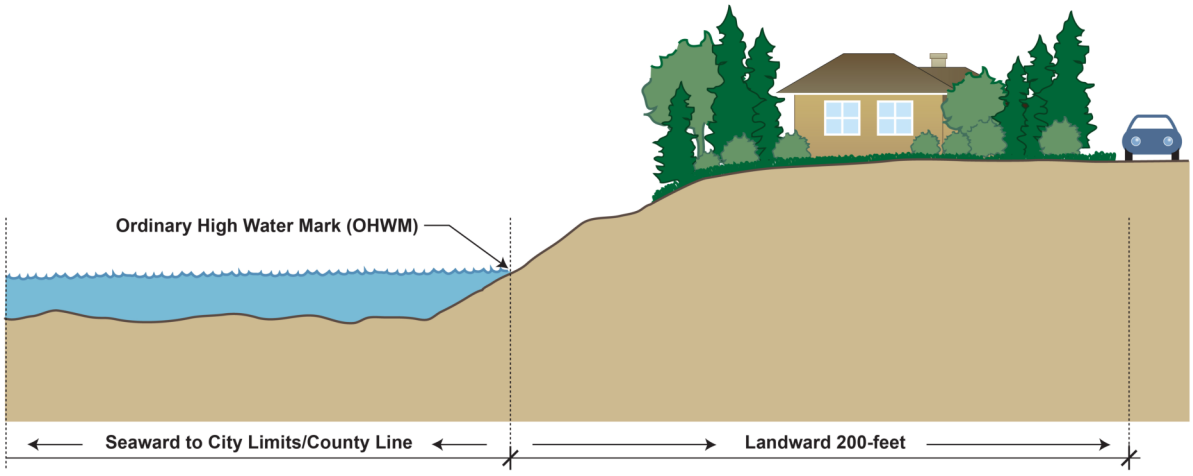
The permit requirements established under this Master Program apply to non-federal activities undertaken on lands subject to non-federal ownership, lease, or easement; and to development and uses undertaken on lands not federally owned but under lease, easement, license, or other similar property right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

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

1.7 Shoreline Jurisdiction

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

Figure 1-1. Shoreline Jurisdiction



Under the SMA, the shoreline area to be regulated under the City's shoreline master program must include all shorelines of statewide significance, shorelines of the state, and their adjacent shorelands within its municipal jurisdiction. The portion of Puget Sound in Gig Harbor waterward from the line of extreme low tide is considered a "shoreline of statewide significance", per Revised Code of Washington (RCW) 90.58.030(2)(e).

The approximate shoreline jurisdiction within the city limits of Gig Harbor and its Urban Growth Area (UGA) encompasses approximately 5.126~~.7~~ miles of the Puget Sound shoreline as shown on Map 1, with approximately 3.32~~16~~ miles of shoreline within the city limits (see Section 1.6 for applicability of this SMP on UGA areas). This includes the following shoreline areas:

- Gig Harbor Bay and the Gig Harbor Spit
- Portions of Colvos Passage, the Tacoma Narrows and Henderson Bay
- The portion upstream to the marine ordinary high water mark within freshwater streams which flow through the City or its UGA into Gig Harbor Bay (Donkey and Crescent Creeks), and Henderson Bay.

1.8 Optional Shoreline Jurisdiction

Under the SMA, local municipalities have the option to extend shoreline jurisdiction to include lands within the 100-year floodplain and/or lands necessary for buffers for critical areas (RCW 90.58.030(2)(f)). The City of Gig Harbor is not extending shoreline jurisdiction under either of these options. All critical areas and associated

regulated buffers located within shoreline jurisdiction are regulated solely by the City's Shoreline Master Program. All critical areas and associated regulated buffers located outside shoreline jurisdiction shall be regulated by the City's critical area regulations set forth in GHMC Chapter 18.08 Critical Areas.

1.9 Liberal Construction

As provided for in RCW 90.58.900, Liberal Construction, the Act is exempted from the rule of strict construction; the Act and this Program shall therefore be liberally construed to give full effect to the purposes, goals, objectives, and policies for which the Act and this Program were enacted and adopted.

1.10 Severability

If any provision of this Master Program, or its application to any person or circumstance is held invalid, the remainder of the Master Program, or the application of the provision to other persons or circumstances, shall not be affected.

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 ~~Planning~~ Community Development Director or ~~his/her~~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.

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.

Biological Opinion

"Biological opinion" means that certain opinion issued by the National Marine Fisheries Service on September 22, 2008, recommending changes to the implementation of the National Flood Insurance Program in order to meet the requirements of the Endangered Species Act in the Puget Sound watershed.

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

Development Regulations

"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. Flood Hazard Construction Standards).

Floodway

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

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

Forest Land

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

Forest Practices

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

Geologically Hazardous Areas

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

Geotechnical Report

"Geotechnical report" or "geotechnical analysis" means a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological

impacts of the proposed development, including the potential adverse impacts to 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.

Likely to Adversely Affect (LAA)

"Likely to adversely affect" or "LAA" means the effects of the development will result in short- or long-term adverse effects on listed species or designated habitat area.

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.

May Affect, Not Likely to Adversely Affect (NLAA)

"May affect, not likely to adversely affect" or "NLAA" means the effects to the listed species or designated critical habitat are insignificant and/or discountable.

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.

No Effect (NE)

"No effect" or "NE" means the development has no effect whatsoever to the listed species or designated critical habitat.

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 Art

“Public Art” means original works of visual art that have been approved through a public process with the specific intent to be displayed on publicly owned lots or in public right-of-way for the general public’s enjoyment and education. These include but are not limited to sculptures, statues, interpretive displays, and memorials intended to reflect the City’s historical or cultural significance to the community.

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" includes all parcels located within 200 feet landward from the +9 elevation (NGVD 1929 datum).

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" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

~~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 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.[1] ~~shall mean any development of which the total cost or fair market value exceeds six thousand four hundred and sixteen~~seven ~~thousand and forty seven~~ dollars (~~$6,416~~7,047), ~~or as adjusted by the State Office of Financial Management, or any development which materially interferes with the normal public use of the water or shorelines of the state.~~

Substantially Degrade

"Substantially degrade" means to cause significant ecological impact.

[1] Visit the City of Gig Harbor's web site for current information on the dollar threshold amount.

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 5 SHORELINE ENVIRONMENT DESIGNATIONS

5.1 Official Shoreline Environment Designations Map

A set of designations for shorelines called Shoreline Environment Designations have been developed as a part of this Program and are delineated on a map incorporated as a part of this Program (Map 1) that will be known as the Official Shoreline Map. The Map is located at the City of Gig Harbor Planning Department and the Washington State Department of Ecology. The purpose of Shoreline Environment Designations is to provide a systematic, rational, and equitable basis upon which to guide and regulate development within specific shoreline areas. These Shoreline Environment Designations apply to areas of the shoreline that have similar ecological conditions and similar land uses or potential development patterns.

Shoreline Environment Designations have been determined after consideration of:

- The ecological functions and processes that characterize the shoreline, together with the degree of human alteration as determined by the 2009 Shoreline Inventory and Characterization Report and any subsequent investigations or analyses as may be required by this program;
- Existing development patterns together with the Gig Harbor Comprehensive Plan land use designations and other officially adopted plans; and
- The guidelines outlined in WAC 173-26-211, Environment Designation System.

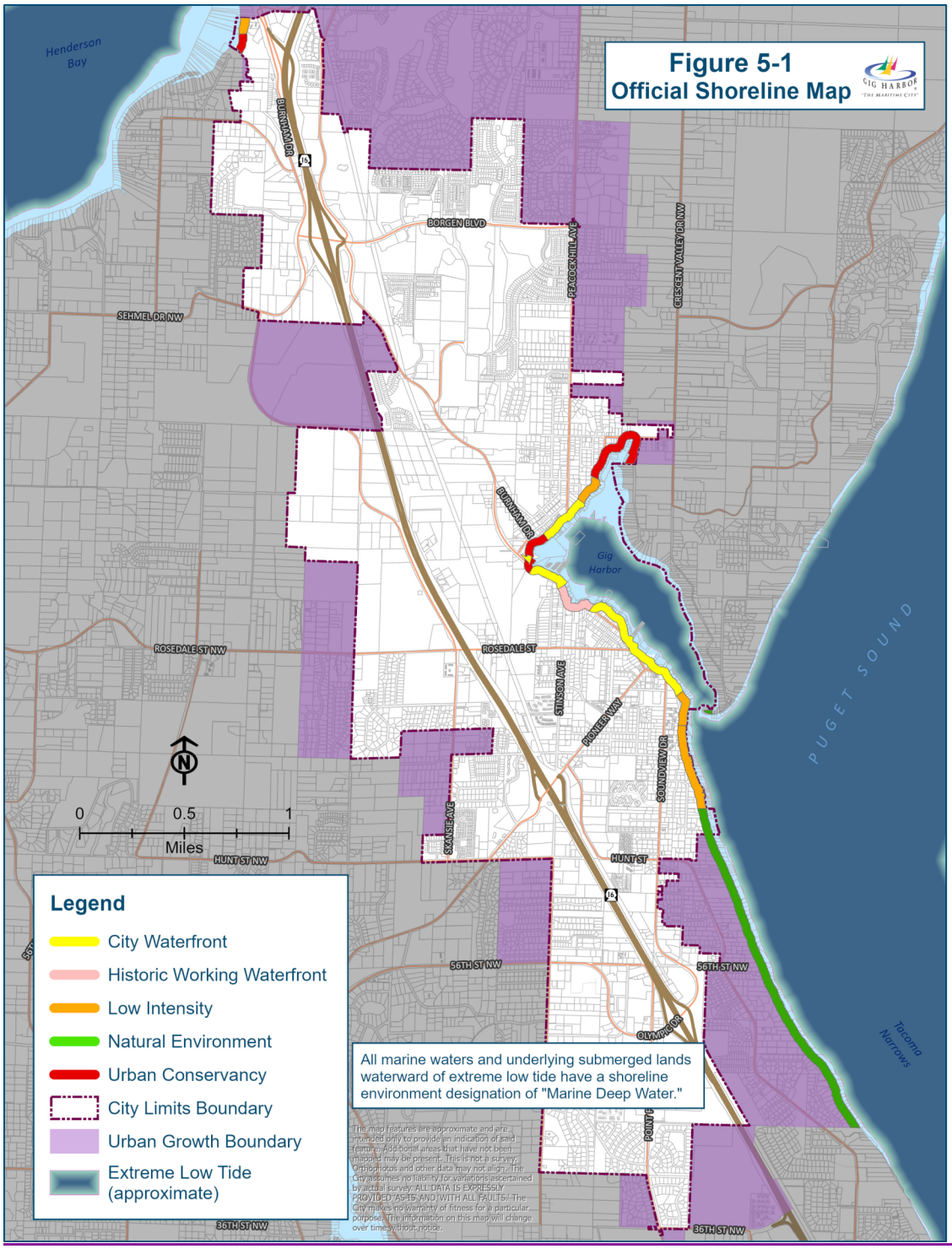
The City may, from time to time as new or improved information becomes available, modify the Official Shoreline Map consistent with state guidelines to more accurately represent, clarify, or interpret the true limits of the shorelines defined in this chapter. A substantive change to the map triggers a master program amendment process.

Areas found to be within shoreline jurisdiction that are not mapped and/or designated are automatically assigned the “Urban Conservancy” designation until re-designated through a master program amendment process.

A parcel found to be within more than one Shoreline Environment Designation shall conform to the Shoreline Environment Designation which overlays more than fifty (50) percent of the parcel.

This Master Program and its Shoreline Environmental Designations shall apply to all of the lands and waters in the City of Gig Harbor that fall under the jurisdiction of the Act (see Section 1.7 Shoreline Jurisdiction). The Master Program will apply to all lands and waters in the City's Urban Growth Area (UGA) at such time the lands and waters are annexed into the City. Until that time, the Pierce County Shoreline Master Program will govern development and activities within the UGA.

Figure 5-1. Shoreline Map (Map 1)



The purpose of the Official Shoreline Map is to identify the approximate location of the shoreline jurisdiction. The map does not necessarily locate the exact lateral extent of shoreline jurisdiction or all associated wetlands. The lateral extent of the shoreline jurisdiction shall be determined case by case based on the ~~surveyed~~ location of the Ordinary High Water Mark utilizing the definition set forth in RCW 90.58.030.2(c), and the presence of associated wetlands.

The Official Shoreline Map also identifies the location of Shoreline Environment Designations. If disagreement develops as to the exact location of a Shoreline Environment Designation boundary line, the Administrator shall interpret the boundaries and the following rules shall apply:

1) Boundaries indicated as approximately following lot, tract, or section lines shall be so construed.
2) Boundaries indicated as approximately following roads or waterbodies shall be construed to follow their centerlines.
3) Boundaries indicated as approximately parallel to or extensions of features indicated in (1) or (2) above shall be so construed.
4) Whenever existing physical features are inconsistent with boundaries on the Official Shoreline Map, the Administrator shall interpret the boundaries.
5) Whenever changes in parcel numbers affect indicated parcel-specific boundaries, the Administrator shall defer to the general boundaries described under 5.2.1.

5.2 Shoreline Environment Designations

5.2.1 Shoreline Environments and General Boundaries

This Master Program establishes six distinct Shoreline Environments with their general boundaries:

- **Natural**: Gig Harbor Spit; and Tacoma Narrows south of overwater beach cabins to southern Urban Growth Area limits;
- **Urban Conservancy**: ~~Colvos Passage; stream~~ Stream mouths and estuarine wetlands of Crescent and Donkey Creeks; and the stream mouth of McCormick Creek;

- **Low Intensity**: ~~East Gig Harbor Bay; Colvos Passage; overwater~~ Overwater beach cabins along Tacoma Narrows; and Henderson Bay within the city limits excluding the stream mouth of McCormick Creek;

- **City Waterfront**: Downtown Gig Harbor Bay excluding stream mouths and estuarine wetlands of Crescent and Donkey Creeks;

- **Historic Working Waterfront:** Downtown Gig Harbor Bay within the historic "Millville" District; and

- **Marine Deepwater**: Gig Harbor Bay, and Henderson Bay within the city limits waterward of extreme low tide.

All Environments extend waterward to the extreme low tide, except that the Marine Deepwater Environment extends waterward to city limits.

This section describes the purpose, designation criteria, parcel-specific location of designated shorelines, and shoreline management policies for each Environment.

5.2.2 Natural Environment

A. Purpose

The purpose of the "Natural" environment designation is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions that would become irreversibly impaired as a result of human development and activity. These systems require that only very low intensity uses be allowed in order to maintain ecological functions and ecosystem-wide processes. Consistent with the policies of the designation, restoration of degraded shorelines within this environment is appropriate.

B. Designation Criteria

This designation should be applied to shoreline areas in city limits or in designated urban growth areas if any of the following characteristics apply:

- The shoreline is ecologically intact and therefore, currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity.

- The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest.

- The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.

C. Shorelines Designated

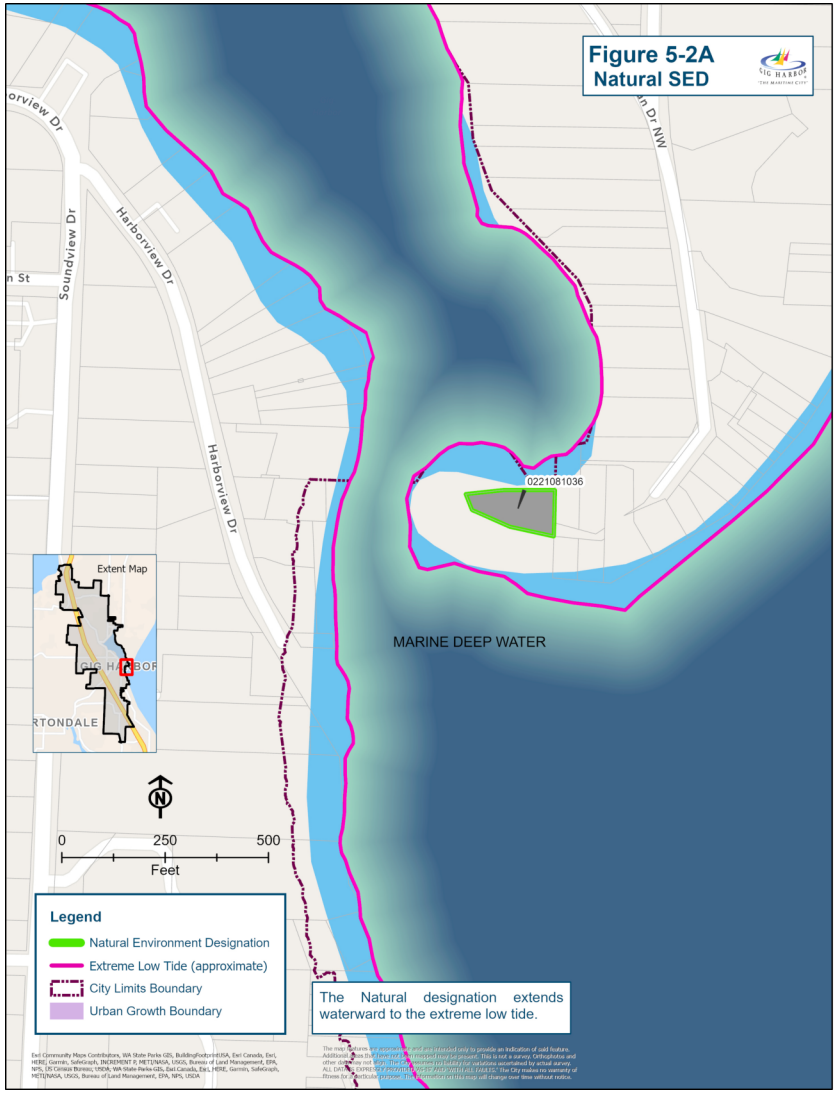
The Natural Environment designation applies to areas as shown on the Official Shoreline Map and described below:

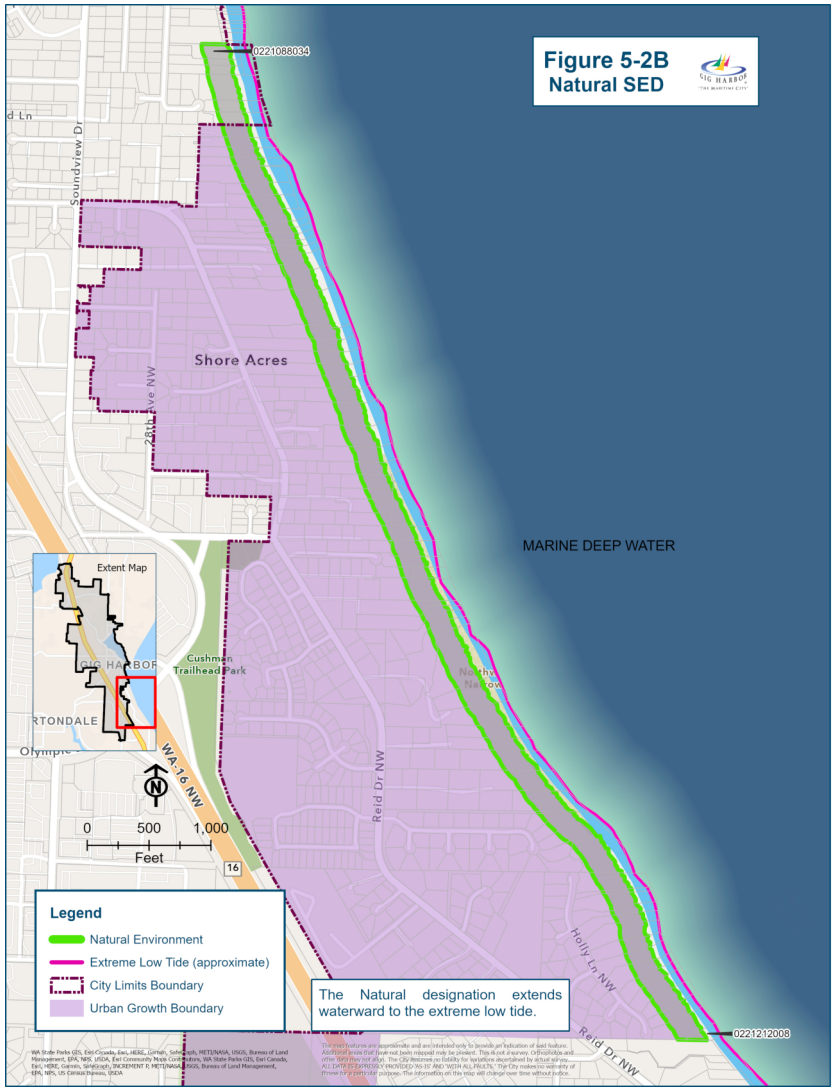
- Tacoma Narrows beginning at the ~~southernmost~~ northernmost property line of parcel ~~0221084059~~0221088034, extending south to the southernmost property line of parcel 0221212008.

- Gig Harbor Spit, designated as parcel 0221081036~~, currently owned by the U.S. Coast Guard.~~

Refer to Figure 5-2 below for a map of the Natural Environment designation boundaries.

Figure 5-2. Natural Shoreline Environment Designation





D. Management Policies

In addition to the other applicable policies and regulations of this Program, the following management policies should apply:

1) Any use or modification that would substantially degrade the ecological functions or natural character of the shoreline area should not be allowed.

2) The following new uses should not be allowed in the "natural" environment:

   a) Commercial uses.

   b) Industrial uses.

   c) Non-water-oriented recreation.

   d) Roads, utility corridors, and parking areas that can be located outside of "natural" designated shorelines.

   e) Scientific, historical, cultural, and educational research uses.

3) Single-family residential development may be allowed as a conditional use within the "natural" environment if the density and intensity of such use is limited as necessary to protect ecological functions and be consistent with the purpose of the natural environment designation.

4) Low-intensity water-oriented recreational access uses may be allowed provided that no significant ecological impact on the area will result.

5) New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed. Subdividing property in a configuration that, to achieve its intended purpose, will require significant vegetation removal or shoreline modification that adversely impacts ecological functions should not be allowed. That is, each new parcel must be able to support its intended development without significant ecological impacts to the shoreline ecological functions.

6) Overwater structures waterward of the ordinary high water mark should be prohibited except when associated with shoreline restoration.

5.2.3 Urban Conservancy Environment

A. Purpose

The purpose of the "Urban Conservancy" environment is to protect and restore ecological functions of open space, floodplain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

B. Designation Criteria

This designation should be applied to shoreline areas in city limits or in designated urban growth areas if any of the following characteristics apply:

- They are suitable for water-related or water-enjoyment uses.
- They are open space, floodplain or other sensitive areas that should not be more intensively developed.
- They have potential for ecological restoration.
- They retain important ecological functions, even though partially developed.
- They have the potential for development that is compatible with ecological restoration.

C. Shorelines Designated

The Urban Conservancy Environment designation applies to areas as shown on the Official Shoreline Map and described below:

- ~~Colvos Passage beginning at the northernmost property line of parcel 0221081130, south to southerly property line of Parcel # 0221081165.~~
- Gig Harbor Bay beginning at the ~~northernmost~~ southernmost property line of Parcel ~~0221052032~~ 0221056024 (Gig Harbor City Limits), extending west to the southernmost property line of Parcel 2260000461.
- Gig Harbor Bay beginning at the northernmost property line of Parcel 4097000020, extending south to southernmost upland property line of Parcel 0221068023, except Parcels 0221064138 and 4002990020.

- Henderson Bay beginning at southernmost city limit, extending north to northernmost property line of Parcel 0122256038.

Refer to Figures 5-3 and 5-4 below for maps of the Urban Conservancy Environment designation boundaries.

Figure 5-3. Urban Conservancy Shoreline Environment Designation – East

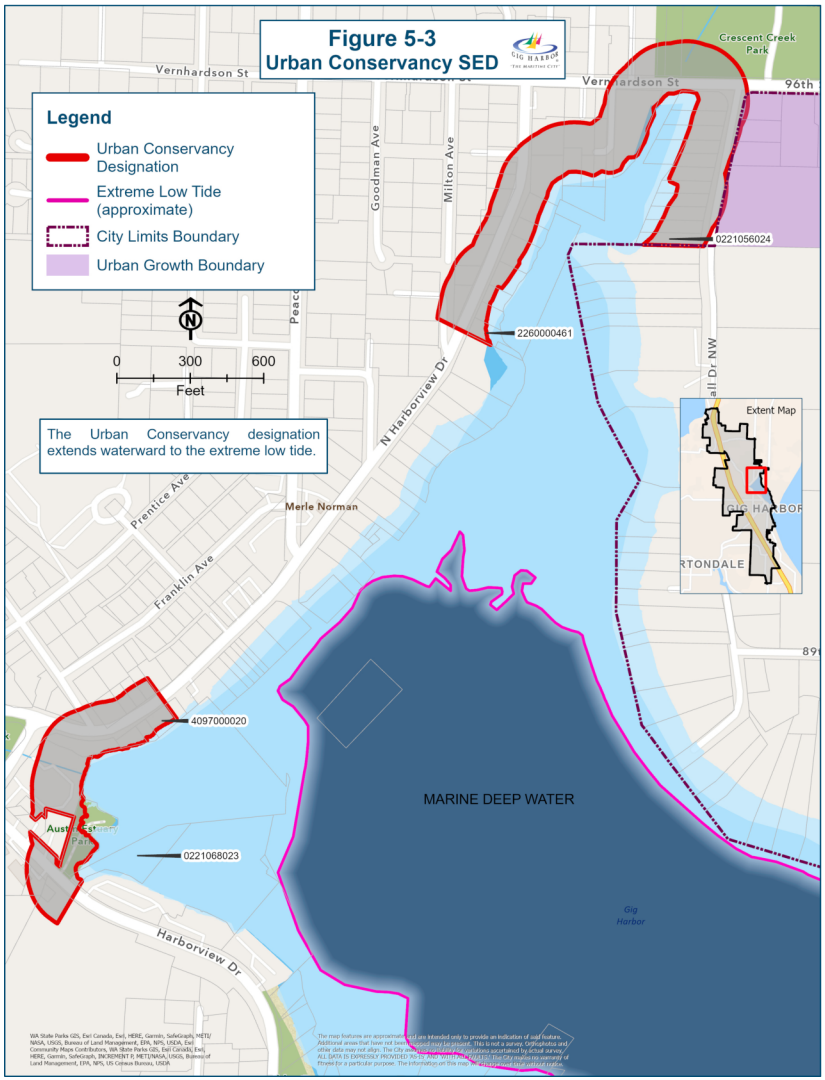
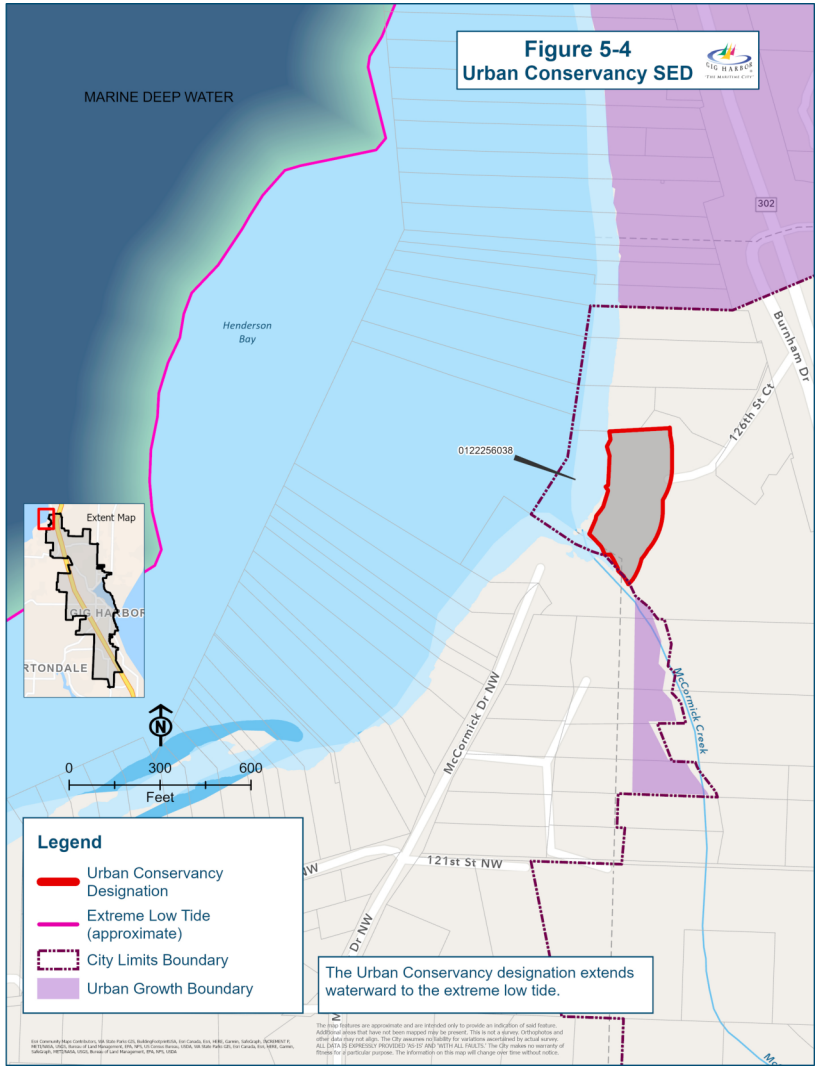


Figure 5-4. Urban Conservancy Shoreline Environment Designation – West



D. Management Policies

In addition to the other applicable policies and regulations of this Program, the following management policies should apply:

1) Uses that preserve the natural character of the area or promote preservation of open space, floodplain or sensitive lands either directly or over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.

2) Standards should be established for shoreline stabilization measures, vegetation conservation, water quality and shoreline modifications within the urban conservancy designation. These standards shall ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.

3) Low intensity public access should be provided whenever feasible and significant ecological impacts can be avoided or mitigated.

4) Water-oriented uses should be given priority over non-water oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.

5) Allow a variety of commercial and residential uses as established by the Comprehensive Plan and zoning code and when consistent with the policies of the Shoreline Management Act, where the development of such uses is done in a manner that protects or enhances ecological functions.

6) Restoration and protection of stream mouths and associated wetlands for Crescent, Donkey, and McCormick Creeks is a high priority.

7) New structures waterward of the ordinary high water mark should only be permitted for aquaculture facilities, water-dependent commercial uses, single-family moorage facilities, public access, or ecological restoration. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use. To reduce the impacts of shoreline development and increase effective use of water resources, multiple uses of the same over-water facility should be encouraged.

8) Shoreline uses and modifications located waterward of the ordinary high water mark should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

9) All developments and uses waterward of the ordinary high water mark should be located and designed to minimize interference with surface navigation, to minimize adverse visual impacts, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.

5.2.4 Low Intensity Environment

A. Purpose

The purpose of the "Low Intensity Environment" is to accommodate residential development in areas that are already developed with or planned primarily for residential uses. The Low Intensity Environment may also include water-oriented commercial and recreation uses and public access.

B. Designation Criteria

This designation should be applied to shoreline areas in city limits or in designated urban growth areas if any of the following characteristics apply:

- The Low Intensity Environment designation shall apply to areas planned for or already being used primarily for residential and commercial uses.
- The Low Intensity Environment designation should not include areas with high ecological value, including but not limited to: feeder bluffs, natural spits, lagoons, estuaries, mature forests, wetlands, or floodplains.

C. Shorelines Designated

The Low Intensity Environment designation applies to areas as shown on the Official Shoreline Map and described below:

- ~~Colvos Passage beginning at the easterly property line of Parcel #0221081036 east to the easterly property lines of Parcel #'s 0221081083 and 0221081184, and northeast to the northerly property line of Parcel # 0221081146.~~
- ~~Gig Harbor Bay beginning at the east line of Parcel 0221081184 northwest to northernmost property line of Parcel 0221052032 (Gig Harbor City Limits).~~
- Gig Harbor Bay beginning at northernmost property line of Parcel 2260000470, extending south to southernmost property line of Parcel 2260000560.

- Gig Harbor Bay beginning at northernmost property line of Parcel 0221081121, extending south along Tacoma Narrows to southernmost property line of Parcel 0221084059.

- Henderson Bay within the city limits beginning at the southerly most property line of Parcel 0122252114 and extending north to the northerly most property line of Parcel 0122252025.

Refer to Figures 5-5 and 5-6 below for maps of the Low Intensity Environment designation boundaries.

Figure 5-5. Low Intensity Shoreline Environment Designation – East

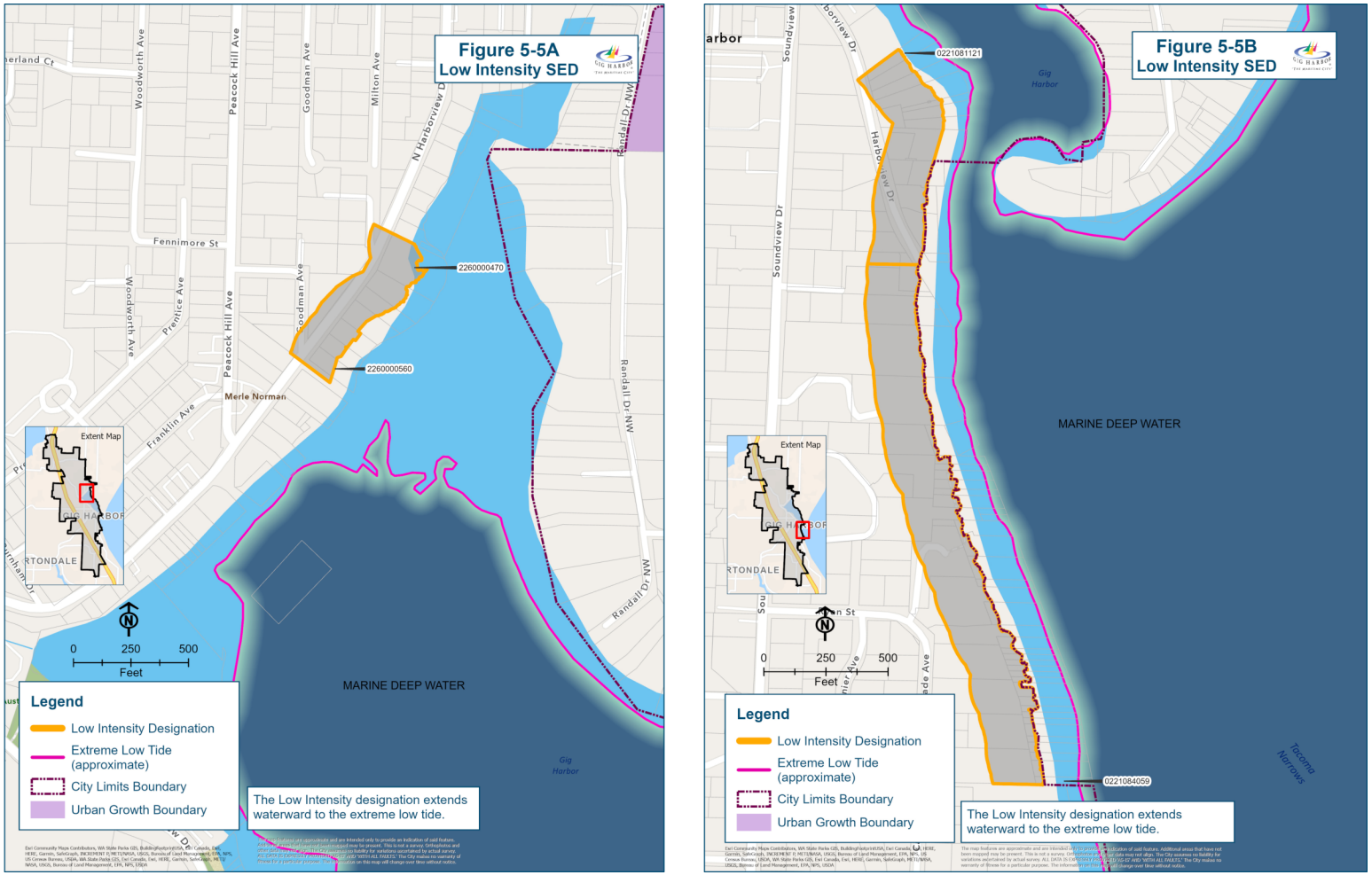
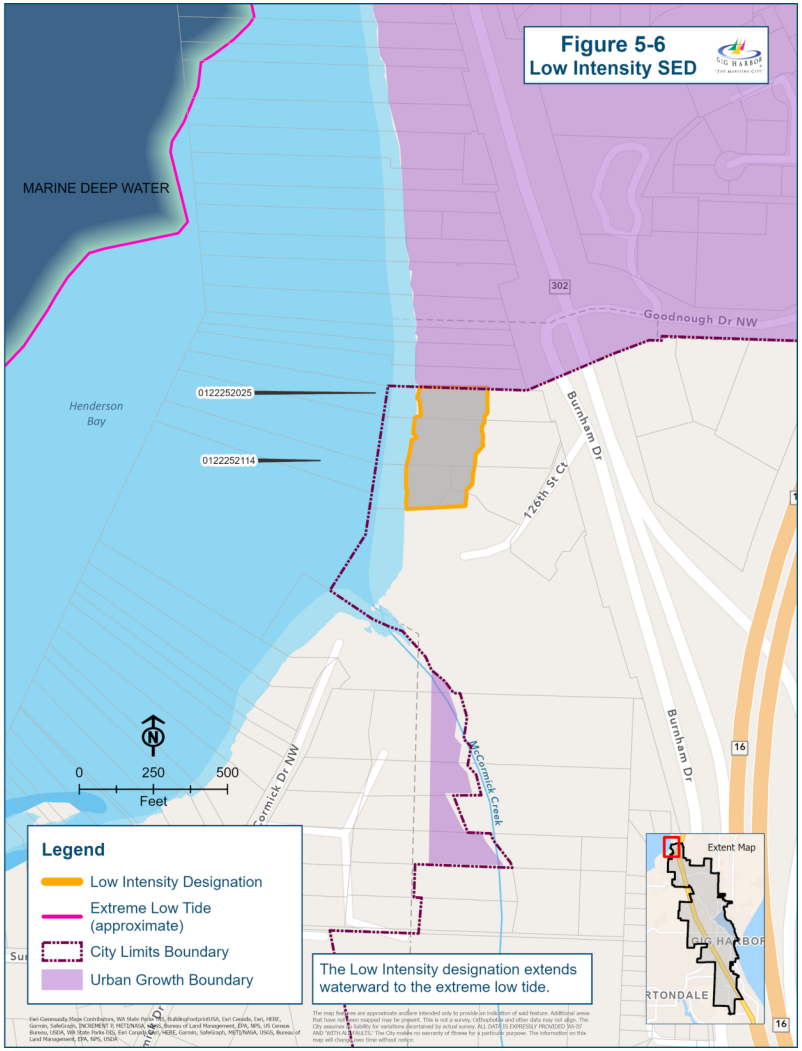


Figure 5-6. Low Intensity Shoreline Environment Designation – West



D. Management Policies

In addition to the other applicable policies and regulations of this Program, the following management policies should apply:

1) Priority should be given to residential and water-oriented commercial development where such development can be accommodated with no net loss of shoreline ecological functions.

2) Public or private recreation facilities should be encouraged if compatible with surrounding uses. Preferred recreational uses include water-dependent and water-enjoyment recreation facilities that provide opportunities for substantial numbers of people to access and enjoy the shoreline.

3) Development should be designed to preserve and enhance the visual quality of the shoreline, including views over and through the development from the upland side, and views of the development from the water.

4) New commercial development should be limited to water-oriented uses. Expansion of existing non-water-oriented commercial uses may be permitted provided that, such uses should create a substantial benefit with respect to the goals and policies of this Program such as providing improved public access or restoring degraded shorelines.

5) New structures waterward of the ordinary high water mark should only be permitted for water-dependent uses or public access. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use. To reduce the impacts of shoreline development and increase effective use of water resources, multiple uses of the same over-water facility should be encouraged.

6) Standards for density, setbacks, lot coverage, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality should be applied to assure no net loss of shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.

7) Shoreline uses and modifications located waterward of the ordinary high water mark should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

8) All developments and uses waterward of the ordinary high water mark should be located and designed to minimize interference with surface navigation, to

minimize adverse visual impacts, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.

5.2.5 City Waterfront Environment

A. Purpose

The City Waterfront areas comprise an important portion of the historic downtown commercial area of Gig Harbor. Together with those commercial areas in the view basin located outside the jurisdiction of the master program, they serve as the traditional and emotional center of the city. These areas include many non-water oriented commercial uses that have historically provided essential goods and services to the nearby residential neighborhoods within the city's view basin, and continue today to support those neighborhoods and residential areas outside the view basin, and are an integral part of a significant tourism industry. The City Waterfront is a place where people can live, work, walk, play, shop and worship all in one location. Important factors that continue to support this mix of land uses include: proximity to downtown residential areas that allows residents to walk to a local retail store, office or other destination rather than drive; availability of places for people to gather and socialize; presence of old buildings that give the area authenticity and charm; accessibility to areas to stroll and relax; and existence of a series of public spaces owned, controlled and actively used by the public.

The purpose of the City Waterfront designation is to accommodate and foster the unique mix of uses and activities that characterize the Gig Harbor Bay waterfront. The City Waterfront Environment is an area of intensive and diverse land use. Current zoning (WC Waterfront Commercial and WM Waterfront Millville) allows for professional services such as legal, medical, and architectural offices; business services, such as postal services, financial institutions and photocopying businesses; sales level 1 such as grocery stores, hardware stores and flower shops; product services level 1 such as the servicing, repair and maintenance of small personal items such as shoes, computers, watches and jewelry; restaurants, taverns, hotels and marinas.

This environment should protect and preserve the waterfront locations for water-dependent uses, including commercial fishing, boatyards and marinas; allow for the continued mix of both water oriented and non-water oriented uses as allowed by the City's Zoning Code and Comprehensive Plan in recognition of historic and existing land use patterns and to maintain balance between the various land uses; protect historic resources such as overwater net shed structures; promote public access and knowledge of Gig Harbor's history; and support tourism, while

protecting existing ecological functions, restoring ecological functions that have been previously degraded, and enhancing public access to the shoreline.

B. Designation Criteria

With the exception of the Donkey Creek and Crescent Creek estuarine areas this designation should be applied to the southerly central and north waterfront of Gig Harbor Bay within city limits. This area contains a mix of waterfront, residential, and commercial uses and includes the historic "Millville" District and the Downtown and Finholm Business Districts.

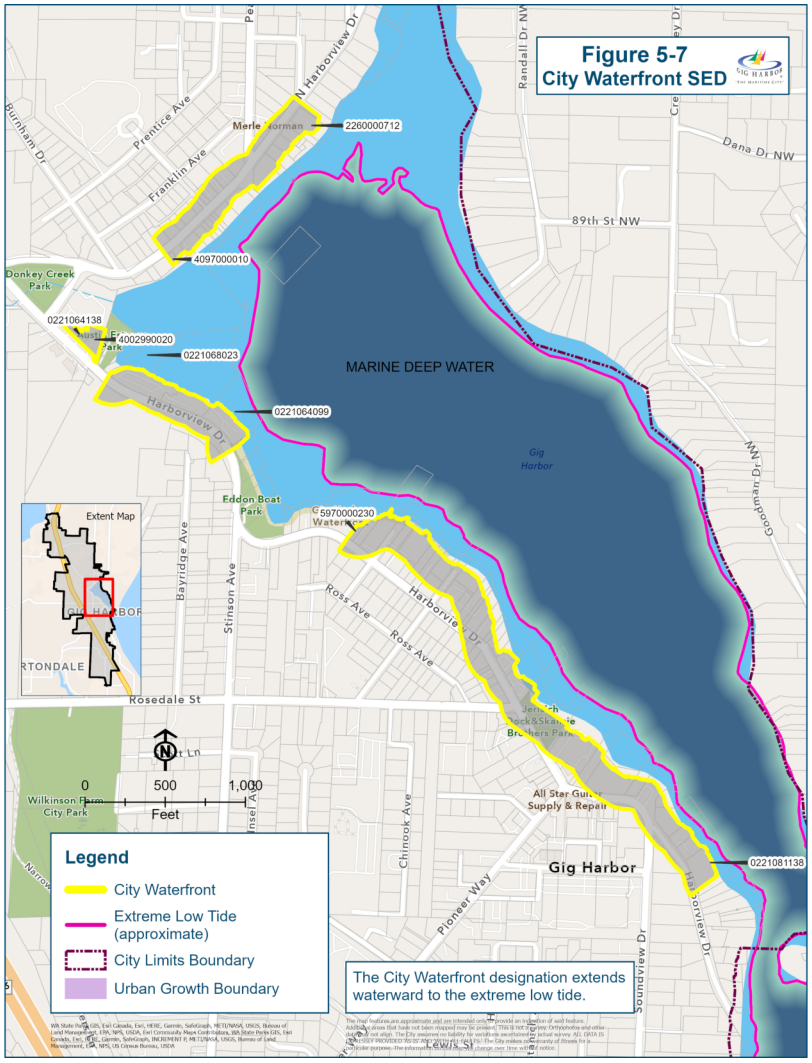
C. Shorelines Designated

The City Waterfront Environment designation applies to areas as shown on the Official Shoreline Map and described below:

- Gig Harbor Bay beginning at the northernmost property line~~s~~ of Parcel~~s~~ ~~2260000711~~ 2260000712 ~~and 2260000850,~~ extending south to the southernmost property line of Parcel 4097000010.
- Gig Harbor Bay-Parcels 0221064138 and 4002990020.
- Gig Harbor Bay beginning at the ~~northerly most~~southernmost upland property line of Parcel 0221068023 and extending south to the southerly most property line of Parcel 0221064099.
- Gig Harbor Bay beginning at the westernmost~~easternmost~~ property line of Parcel ~~5970000243~~5970000230, extending southeast to southernmost property line of Parcel 0221081138.

Refer to Figure 5-7 below for a map of the City Waterfront Environment designation boundaries.

Figure 5-7. City Waterfront Shoreline Environment Designation



D. Management Policies

In addition to the other applicable policies and regulations of this Program, the following management policies should apply:

1) In this environment as well as others, preserve the cultural heritage of Gig Harbor as a fishing village by supporting commercial fishing activities and accessory facilities, and by encouraging adaptive reuse of historic net sheds when water-dependent uses for those structures are no longer economically viable.

2) Redevelopment should occur in a manner that avoids impacts to critical areas and natural shoreline processes.

3) Commercial and recreational development should serve both the citizens of Gig Harbor and tourists.

4) Public access and education should be enhanced through interpretive signage, viewpoints and overlooks, and physical access to the water when feasible.

5) Degraded shoreline ecological functions should be restored by removing unnecessary shoreline armoring, derelict structures, and unused pilings or pilings treated with toxic materials wherever possible.

6) New structures waterward of the ordinary high water mark should only be permitted for water-dependent uses, public access, or ecological restoration. Water-related and water-enjoyment commercial uses may be allowed waterward of the ordinary high water mark provided they are located in existing overwater structures. Decks located waterward of the ordinary high water mark may be allowed provided they are appurtenant to a permitted upland water-oriented or water-enjoyment use. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use. To reduce the impacts of shoreline development and increase effective use of water resources, multiple uses of the same over-water facility should be encouraged.

7) Shoreline uses and modifications located waterward of the ordinary high water mark should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

8) All developments and uses waterward of the ordinary high water mark should be located and designed to minimize interference with surface navigation, to minimize adverse visual impacts, and to allow for the safe passage of fish and wildlife, particularly those species dependent on migration.

5.2.6 Historic Working Waterfront Environment

A. Purpose

The purpose of the Historic Working Waterfront designation is to recognize and preserve two of Gig Harbor's most notable historic industries: commercial fishing and boatbulding. The area possesses a significant concentration of historic uses and structures. This concentration of contiguous net sheds and commercial fishing vessel moorage facilities on either side of the historic Eddon Boat Building facility and Eddon Boat Park, have aesthetic, architectural, historical and cultural significance that characterize the community's regional maritime identity.

This designation allows a limited range of non-water oriented uses as a means of promoting the preservation and rehabilitation of the historic structures. Current zoning (WC - Waterfront Commercial and WM - Waterfront Millville) allows for professional services. The preferred and best uses for this area are commercial fishing services/moorage and boatbuilding. Those properties that have been listed on the City's Register of Historic Places shall be eligible for conditional non-water oriented uses such as offices and sales, and water-enjoyment uses such as restaurants and small-scale marina trades businesses.

This environment should recognize historic resources such as overwater net shed structures; promote public access and knowledge of Gig Harbor's history; and support tourism, while protecting existing ecological functions, restoring ecological functions that have been previously degraded, and enhancing public access to the shoreline.

B. Designation Criteria

This designation should be applied to 14 parcels along the northwest section of waterfront on Gig Harbor Bay within the city limits just south of Donkey Creek and Austin Estuary. This area contains a mix of waterfront, residential, and commercial uses and includes a portion of the historic "Millville" District.

C. Shorelines Designated

The Historic Working Waterfront Environment designation applies to areas as shown on the Official Shoreline Map and described below:

- Gig Harbor Bay beginning at the northernmost property lines of Parcel 0221053054, extending south to the southernmost property line of Parcel ~~5970000243~~5970000244.

Refer to Figure 5-8 below for a map of the Historic Working Waterfront Environment designation boundaries.

Figure 5-8. Historic Working Waterfront Shoreline Environment Designation



D. Management Policies

In addition to the other applicable policies and regulations of this Program, the following management policies should apply:

1) Uses that preserve the historic integrity of the area and/or promote the preservation and rehabilitation of historic structures should be the primary allowed uses.

2) The City shall investigate ways to maintain the District's integrity, character and economic viability.

3) The City will consider development allowances and incentives that contribute to the structural rehabilitation and continued industrial uses of the District.

4) Standards should be established that promote the health and economic viability of the District.

5) The cultural benefit and historic relevance of the District should be promoted and publicized whenever possible.

6) Education should be enhanced through interpretive signage and viewpoints where feasible.

7) Water-dependent historic uses should be given priority over non-water oriented uses.

8) All development and uses waterward of the ordinary high water mark should be located and designed to minimize interference with surface navigation and to minimize adverse visual impacts, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.

9) All development and uses landward of the ordinary high water mark should be located and designed to minimize adverse visual impacts, be compatible and consistent with historic district design details, and conform to the existing patterns of development in scale, materials and character of the historic structures within the District.

10) The City should investigate and encourage use and development allowances that promote the preservation of the Millville District as a whole.

11) Redevelopment should occur in a manner that avoids impacts to critical areas and natural shoreline processes.

12) Shoreline uses and modifications located waterward of the ordinary high water mark should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

5.2.8 Marine Deepwater Environment

A. Purpose

The purpose of the Marine Deepwater Environment is to protect, restore, and manage the unique characteristics and resources of the marine waters in Gig Harbor.

B. Designation Criteria

This designation should be applied to shoreline areas in city limits or in designated urban growth areas if any of the following characteristics apply:

- Marine Deepwater areas include all marine waters and underlying submerged lands waterward of extreme low tide level.

C. Shorelines Designated

The Marine Deepwater Environment designation applies to areas as shown on the Official Shoreline Map and described below:

- Marine waters and underlying submerged lands waterward of extreme low tide level.

D. Management Policies

In addition to the other applicable policies and regulations of this Program the following management policies should apply:

1) All developments and uses on navigable waters and submerged lands should be located and designed to minimize interference with surface navigation, to reduce impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.

2) Uses that adversely impact the ecological functions of critical saltwater habitats should not be permitted except where necessary to achieve the objectives of RCW 90.58.020, and then only when all potential impacts are mitigated as necessary to assure maintenance of shoreline ecological functions and processes.

3) Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural conditions. New over-

water structures should only be permitted for water-dependent uses or public access. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use. To reduce the impacts of shoreline development and increase effective use of water resources, multiple uses of the same over-water facility should be encouraged.

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

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.

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.

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

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

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;

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

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

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.

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

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

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

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

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

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

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

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.

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.

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:

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

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

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

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

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:

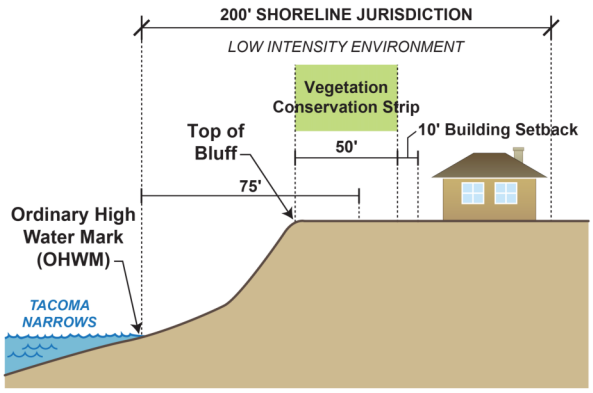
        i) The net increase is 1 percent or less of the property's shoreline jurisdiction area or 50 square feet, whichever is greater; or

        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.

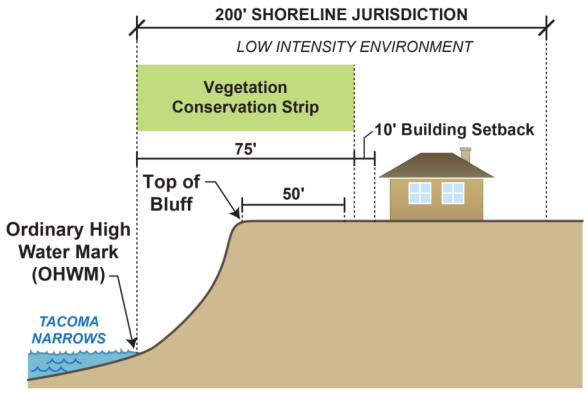
5) A building setback from the upland edge of the vegetation conservation strip shall be established to limit construction impacts unless development exceptions are utilized pursuant to Section 6.2.3.3, Regulations #1-3.

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;

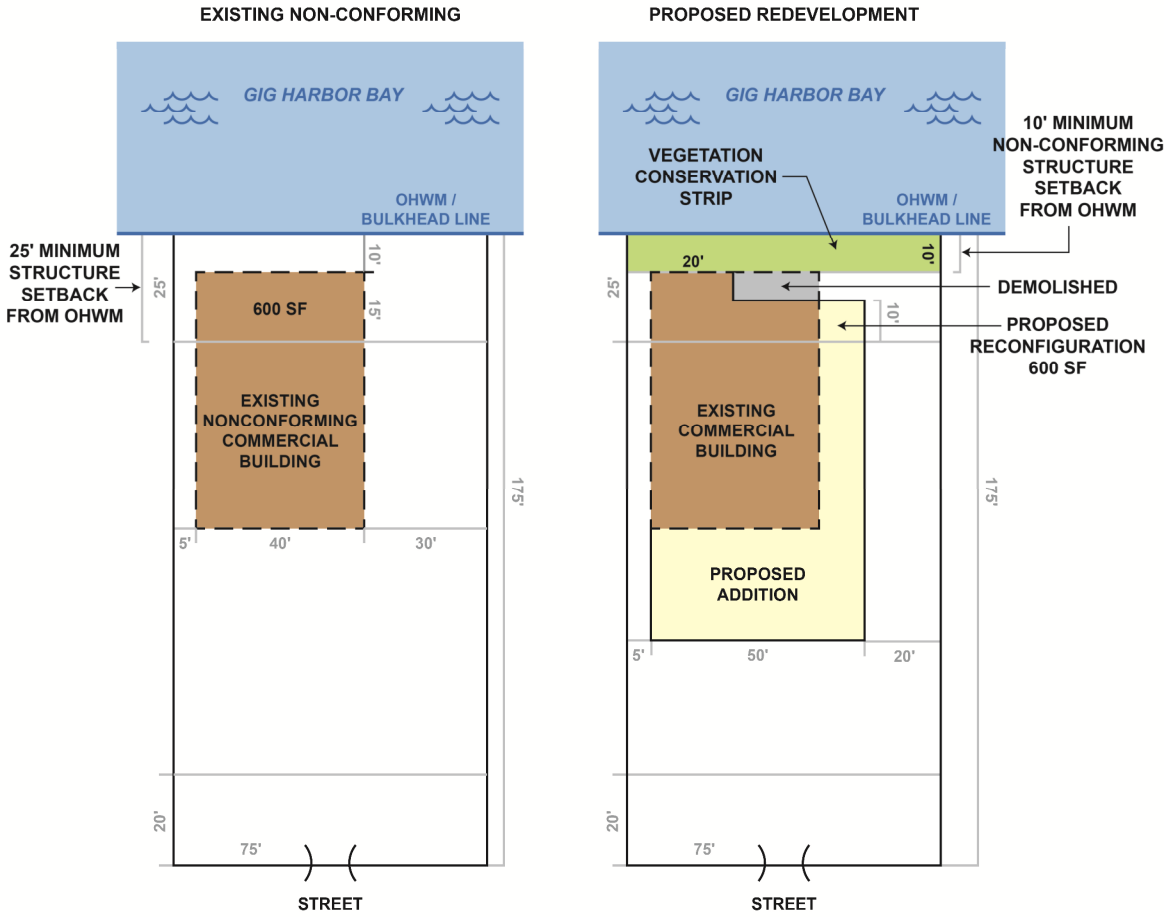
      ii) No increase in building footprint square footage within the *minimum structure setback* occurs; and

      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)

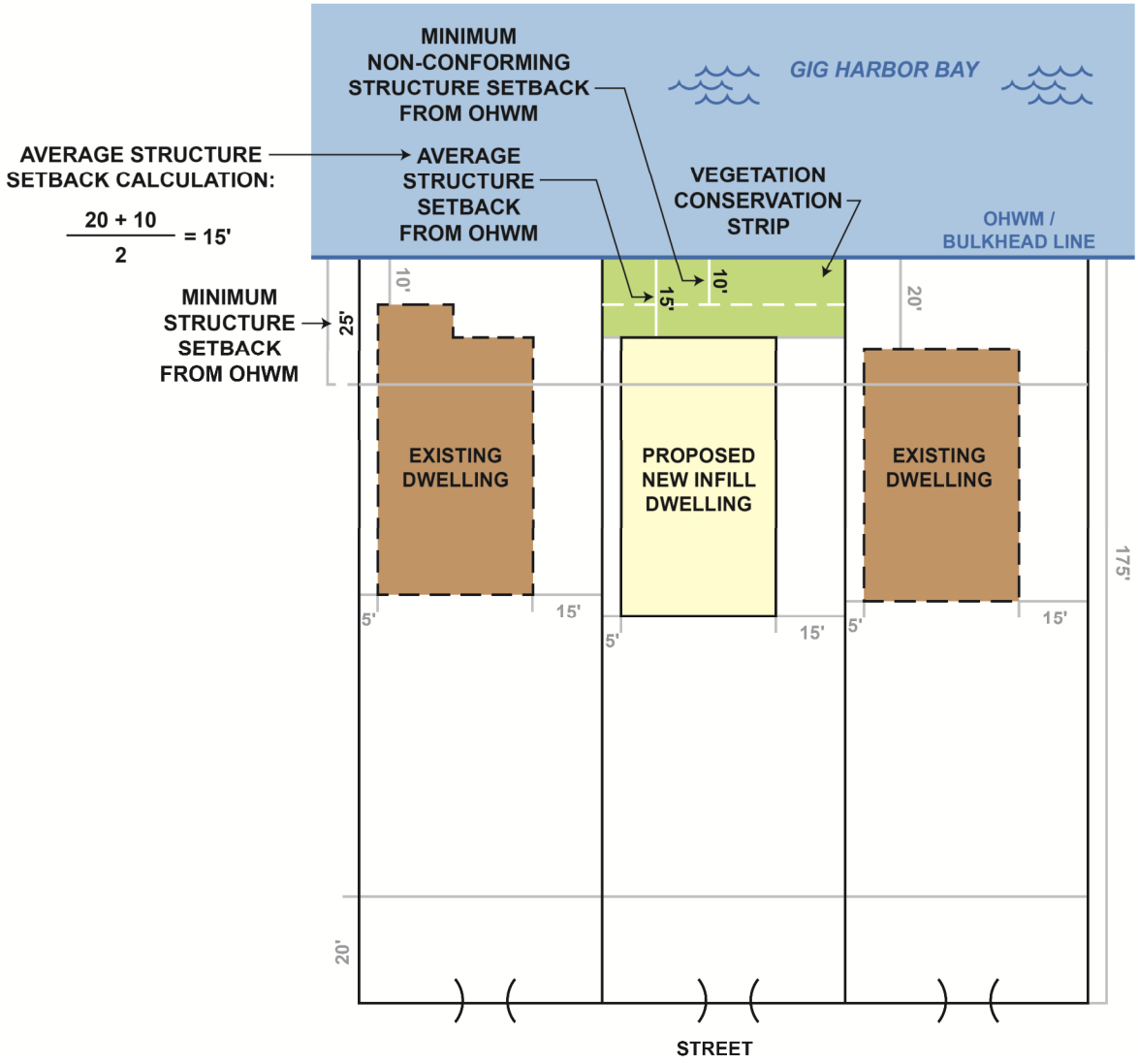
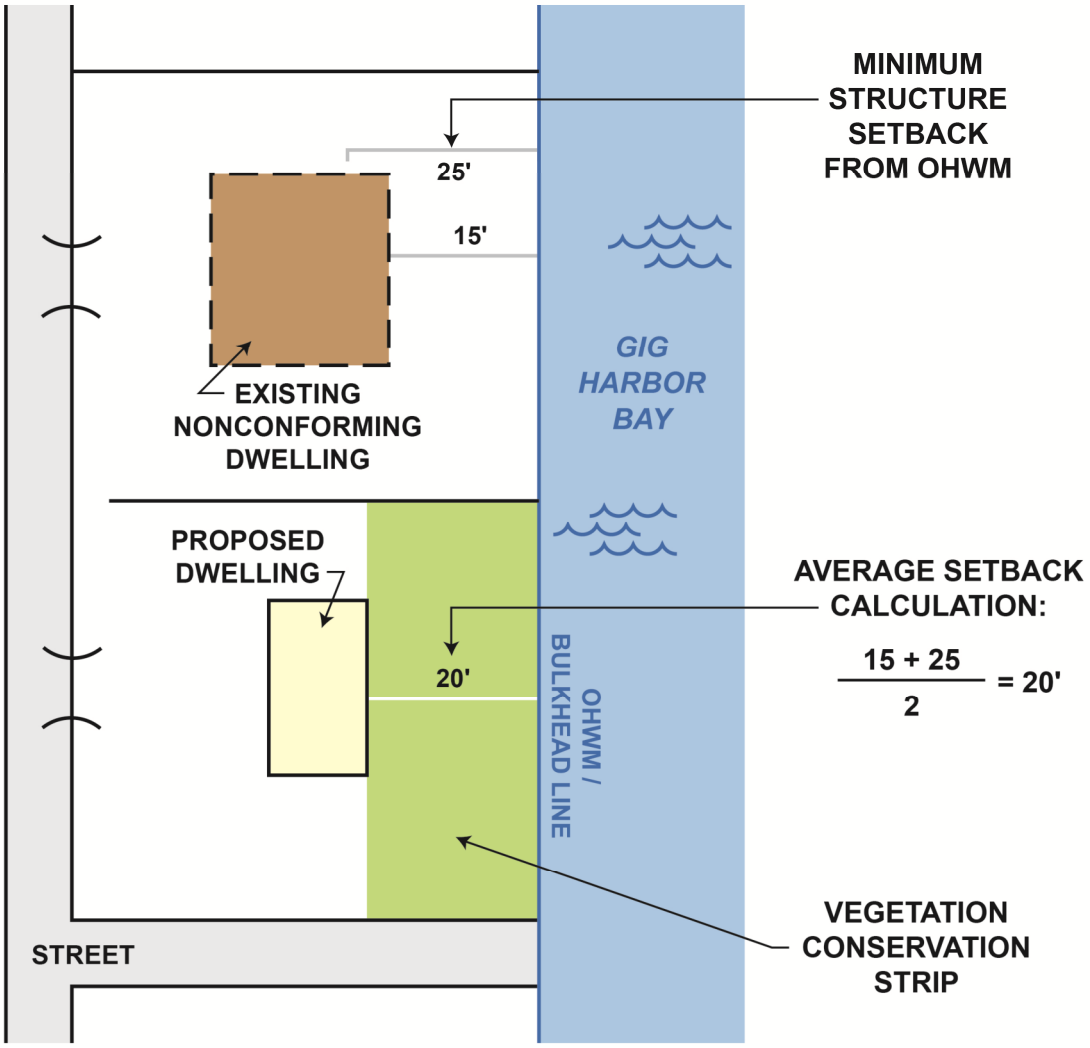


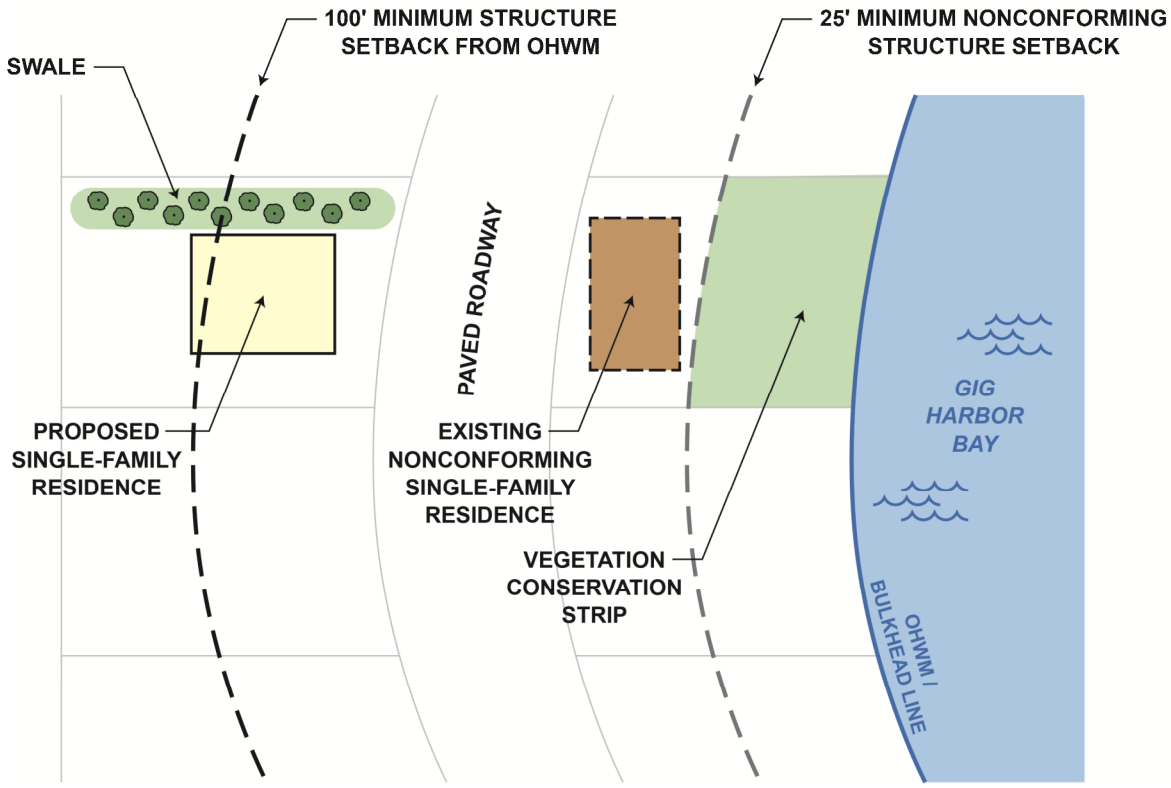
Figure 6-4 Setback Averaging on Corner Lot (Example in City Waterfront SED)



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

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.

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.

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.

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

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.

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.

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)

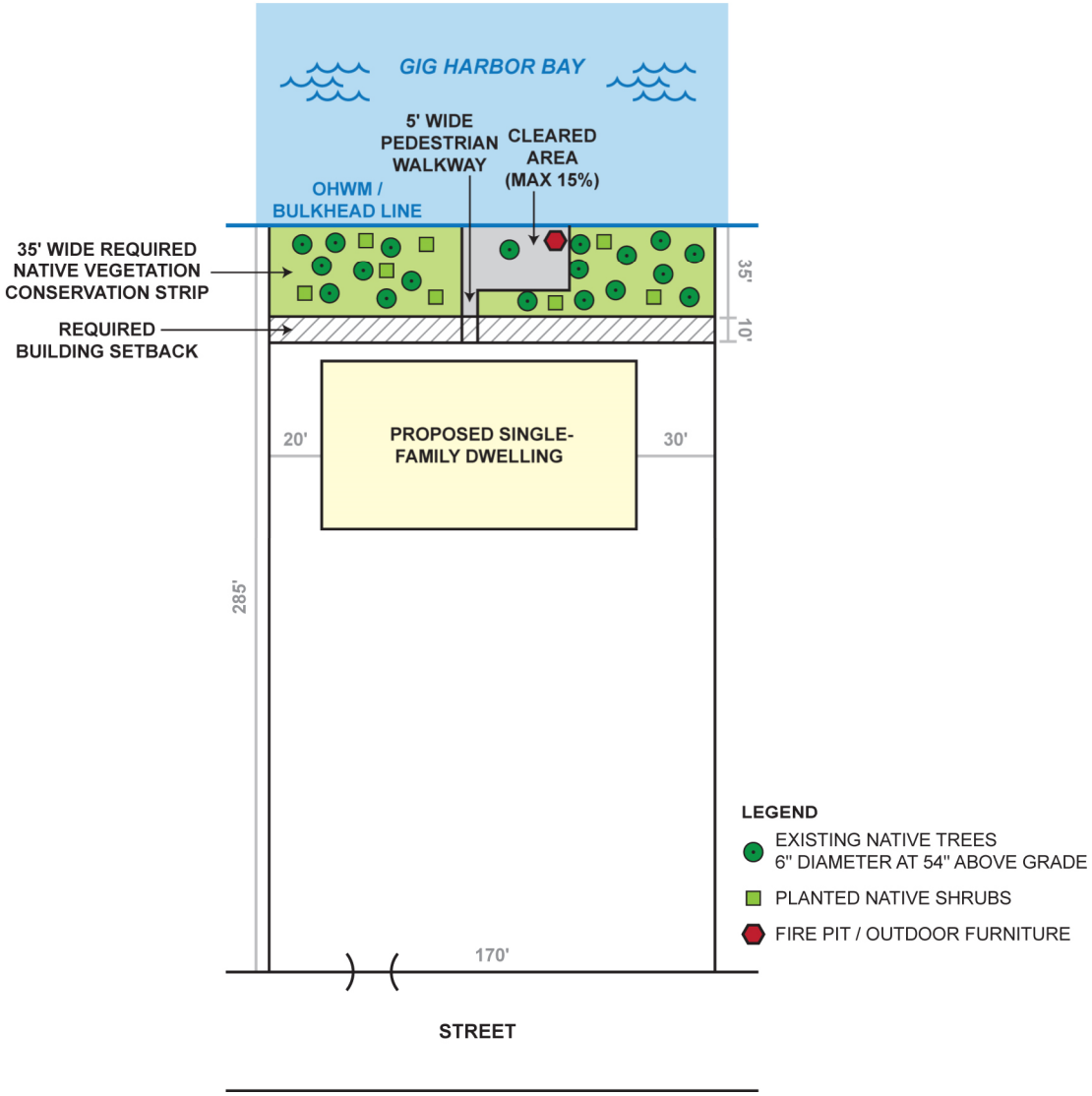
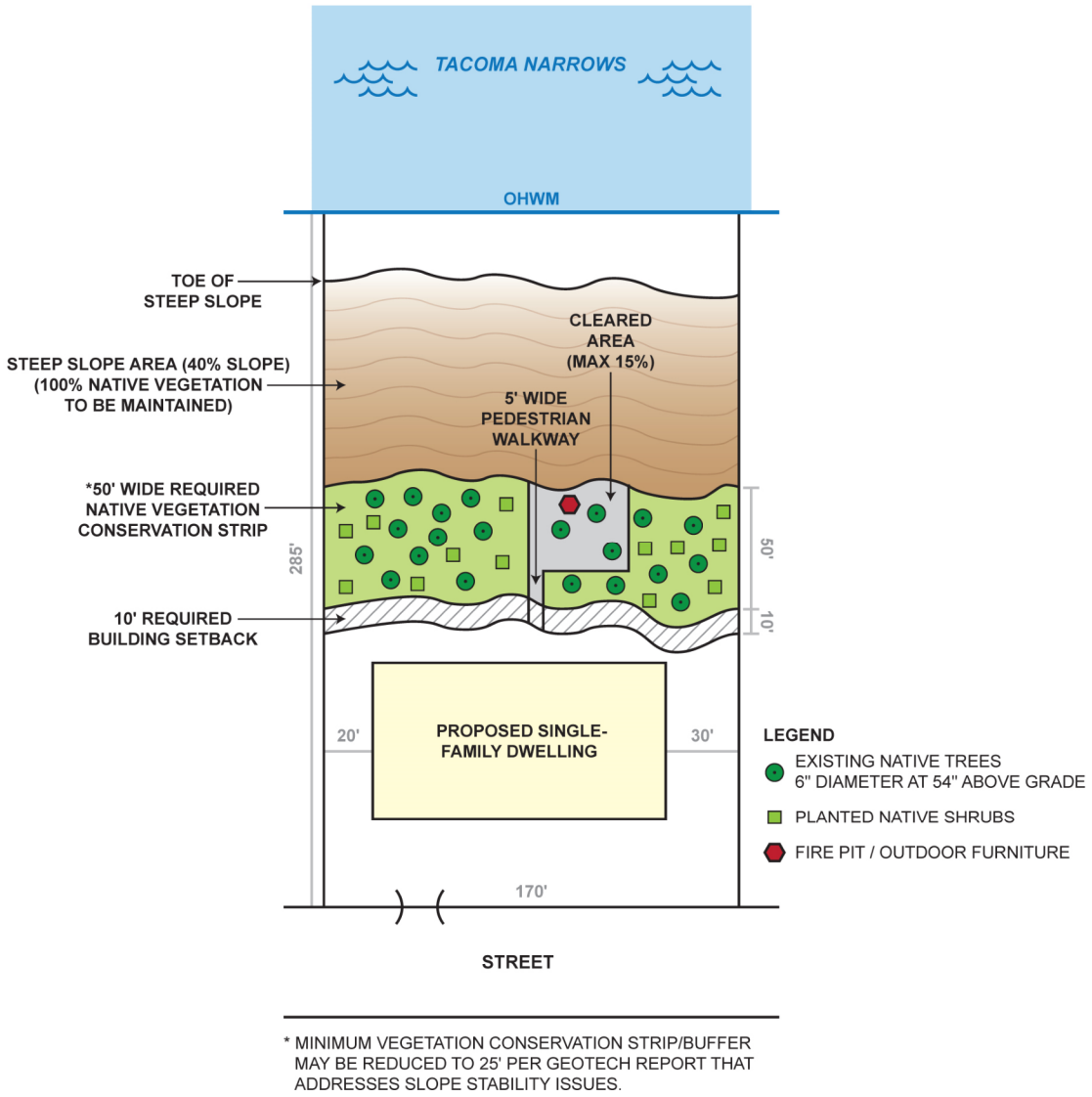


Figure 6-7. Minimally Disturbed Areas (Example in Low Intensity SED with top-of-bluff measurement)



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:

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.

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.

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.

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)

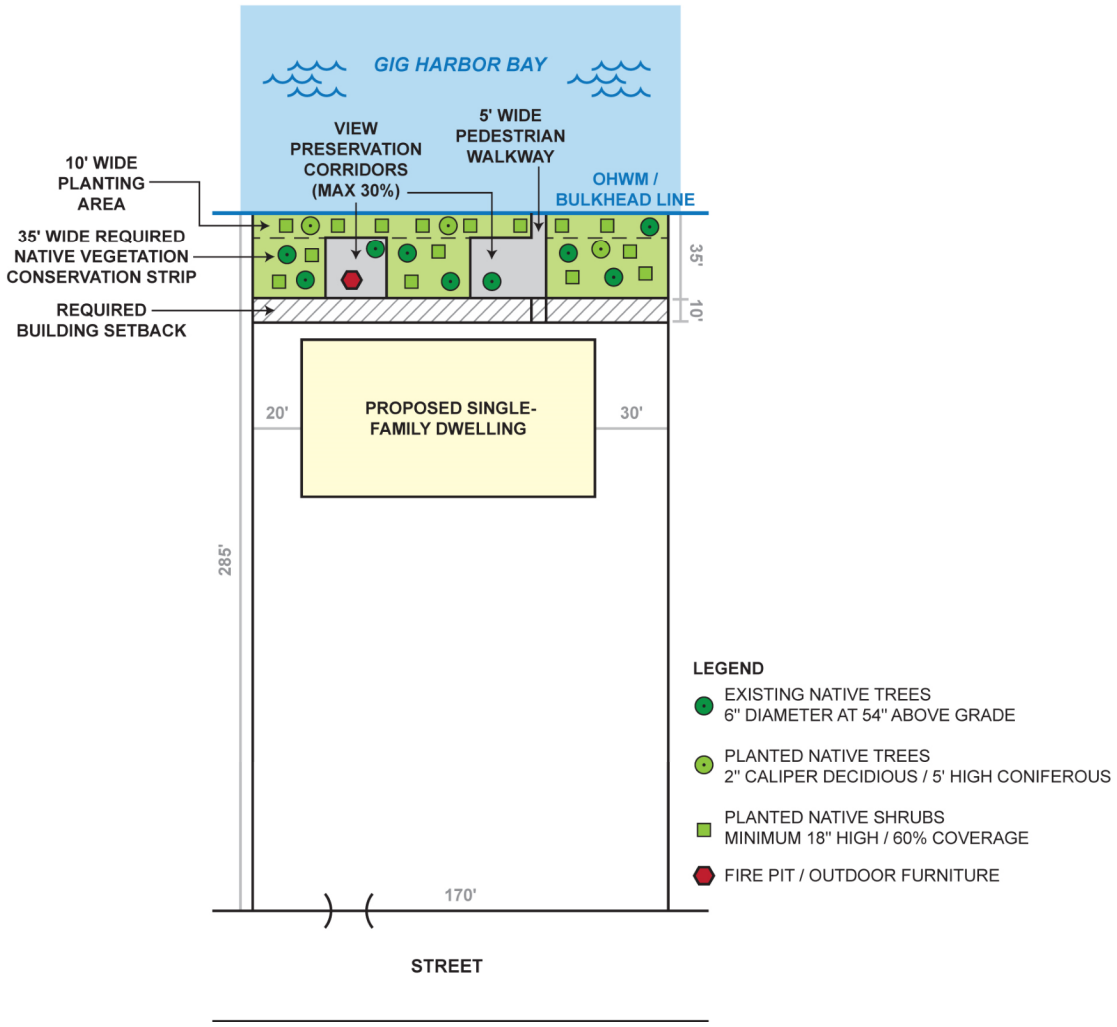
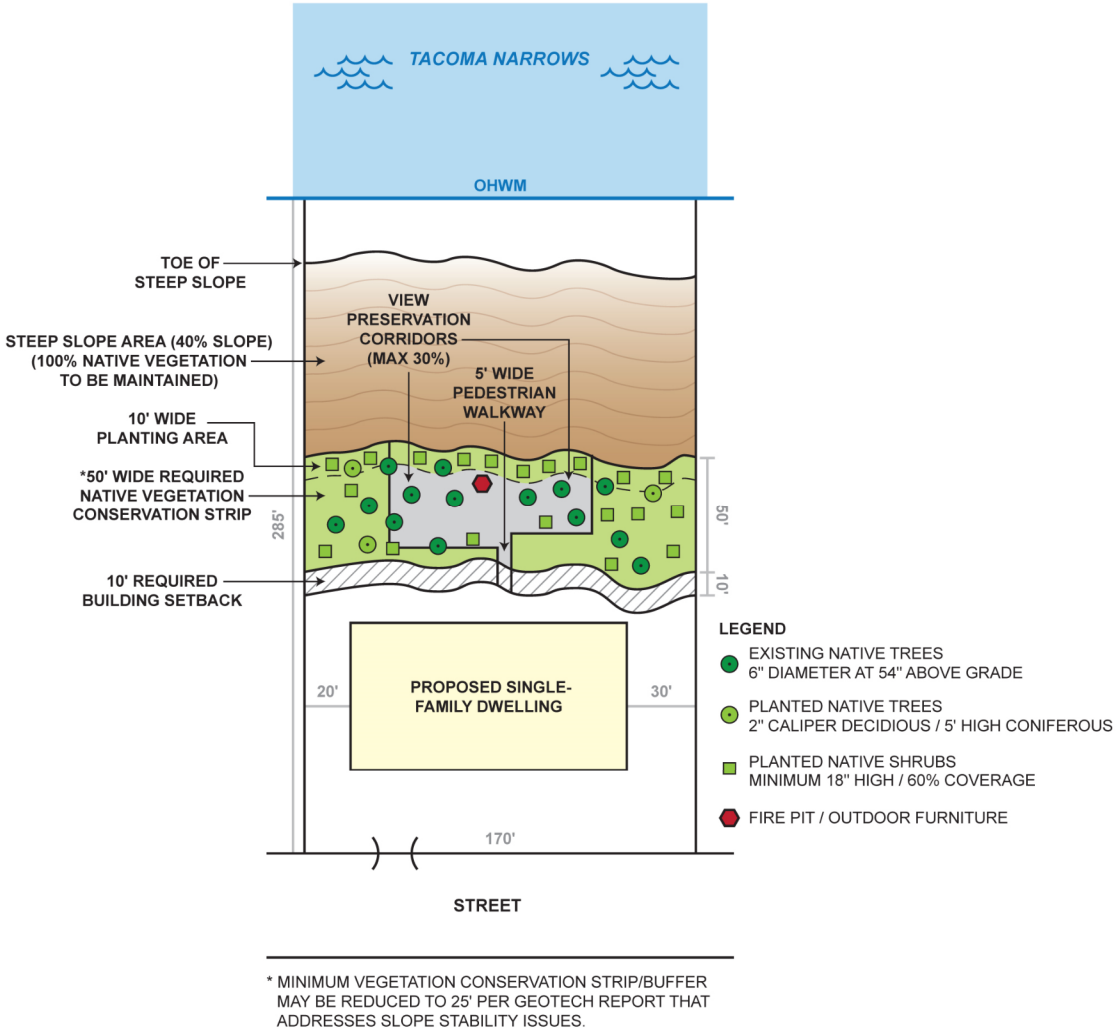


Figure 6-9. Extensively Disturbed Areas (Example in Low Intensity SED with top-of-bluff measurement)



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.

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.

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.

Public art consistent with Section 7.22 of this Program may be located in the required vegetation conservation strip or critical area buffer. The area required for installation of the public art shall be applied to the maximum 15% clearing allowed for the marine vegetation conservation strip or critical area buffer as set forth in Subsection 6.2.4.4 above.

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.

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.

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.

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.

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

~~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.

2) Public art, consistent with Section 7.22 and subsection 6.2.4, is allowed within the regulated vegetation conservation strip and 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. Encroachment into a Category I wetland buffer must be consistent with 6.2.5.~~13~~14.2.

~~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.

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.

~~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, consistent with the requirements of GHMC Chapter 18.10, the city's Flood Hazard Construction Standards ordinance.

~~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.

2) Public art is permitted within the wetland buffer; provided, that the location of such public art will not degrade the functions and values of the wetland, and any impacts are mitigated through the requirements of Section 6.2.5. In the case of Category I wetlands, the minimum distance from the wetland edge is not less than 75 percent of the Category I buffer width established in Section 6.2.5.~~11~~12. Public art subject to this provision is permitted only when consistent with Chapter 7.22.

~~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, consistent with the requirements of GHMC Chapter 18.10, the city's Flood Hazard Construction Standards ordinance.

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

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

~~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);

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 (HAMP) shall be prepared by a qualified wildlife biologist. The ~~habitat assessment~~HAMP 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~~;~~.

~~iii) 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:~~

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

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

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

~~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:~~

iv) ~~A~~Aanalysis and discussion on the project's effects on critical fish and wildlife habitat;

v) If compliance with the Endangered Species Act is required pursuant to GHMC 18.10.100 and 18.10.110, the HAMP shall also include, but may not be limited to, the analysis requirements found therein, as follows:

(1) A determination that the regulated activity meets the standards of "no effect" (NE) or "may affect, 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.~~;~~

~~vii)~~vi) 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;

~~viii)~~vii) Proposed mitigation measures which could minimize or avoid impacts;

~~ix)~~viii) Assessment and evaluation of the effectiveness of mitigation measures proposed;

~~x)~~ix) ~~-~~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;

~~xi)~~x) 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 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, a~~n 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 biologistthe review of scientific and technical information but, in no case, shall exceed 150 feet, nor be less than 25 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 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 requirements of GHMC Chapter 18.10, the city's Flood Hazard Construction Standards.

~~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

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

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:

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

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

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

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:

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.

Proposed water-enjoyment, water-related and non-water-dependent commercial or industrial shoreline developments.

Residential developments involving the creation of more than four (4) lots or the construction of multiple-family dwellings.

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.

Where a use or development will interfere with a public use of land or waters subject to the public trust doctrine.

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.

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.

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.).

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

New development shall provide stormwater management facilities designed, constructed, and maintained in accordance with the current stormwater management standards.

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.

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).

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.

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.

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.

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.

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.

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

0) 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.

1) 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.

2) Utilities shall be located within roadway and driveway corridors and right-of-ways wherever feasible.

3) 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.

4) 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.

5) Public recreation activities such as fishing, boating, and water related recreation shall be protected.

6) 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.

7) 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.

8) 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

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.

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.

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 7 SHORELINE USE AND MODIFICATION – POLICIES AND REGULATIONS

7.1 Permitted Use Tables and Bulk Standards

7.1.1 Permitted Use Tables

The following tables illustrate which shoreline uses and shoreline modifications are allowed and under what circumstances, and which uses or modifications are prohibited, in each shoreline environment. Refer to text sections of the SMP for all applicable provisions related to specific uses and modifications. Uses or activities are noted for each shoreline environment as "P," "C," "X," or "N/A." In the event of a conflict between Tables 7-1 and 7-2 and the applicable text, the text will govern.

P = Permitted - Permitted uses may require Shoreline Exemption letters or Shoreline Substantial Development Permits, and any other permits required by the Gig Harbor Municipal Code and/or other regulatory agencies.

C = Conditional Use - Conditional uses require Shoreline Conditional Use Permits and may require other permits required by the Gig Harbor Municipal Code and/or other regulatory agencies. Some uses that are considered exempt from a Shoreline Substantial Development Permit per Section 8.3 may still be required to obtain a Shoreline Conditional Use Permit.

X = Prohibited - Prohibited uses and activities are those which are not allowed to be developed or conducted within the shoreline jurisdiction.

N/A = Not Applicable – Not applicable refers to activities that do not occur in Gig Harbor. Activities that are considered not applicable are prohibited.

Table 0-1. Shoreline Modification Matrix

Shoreline Modification	*Shoreline Environment Designations*					
	Natural[2]	***Urban Conservancy***	***Low Intensity***	***City Waterfront***	***Historic Working Waterfront***	***Marine Deepwater[2]***
Breakwaters, jetties, groins, and weirs (Section 7.9.5)	X	C – only for groins in Gig Harbor Bay	C – only for groins in Gig Harbor Bay	C - groins only	C-groins only	C: groins only
Clearing and Grading (Section 7.3)	P - only for: 1) activities associated with shoreline restoration; 2) public access improvement with conditions and, 3) in association with an approved shoreline development	P - only in association with an approved shoreline development	P - only in association with an approved shoreline development	P - only in association with an approved shoreline development	P - only in association with an approved shoreline development	N/A
Dredging and Dredge Material Disposal (Section 7.4)	P – dredging at entrance to Gig Harbor Bay and to maintain navigational channel P – dredging for shoreline restoration purposes P – dredge disposal for restoration, remediation and water-dependent utilities	P - for shoreline restoration purposes and stream culvert maintenance only	P - at entrance to Gig Harbor Bay and to maintain navigational channel; P - for shoreline restoration purposes; P- for maintaining location, depth, and width in previously dredged areas as authorized under this program.	P	P	P
Dune modification	N/A	N/A	N/A	N/A	N/A	N/A

Shoreline Modification	***Shoreline Environment Designations***					
	Natural[2]	***Urban Conservancy***	***Low Intensity***	***City Waterfront***	***Historic Working Waterfront***	***Marine Deepwater[2]***
Fill and excavation (upland areas) (Section 7.5)	P -1) activities associated with shoreline restoration, 2) public access improvements and 3) for allowed shoreline use	P -1) activities associated with shoreline restoration, 2) public access improvements and 3) for allowed shoreline use	P -1) activities associated with shoreline restoration, 2) public access improvements and 3) for allowed shoreline use	P -1) activities associated with shoreline restoration, 2) public access improvements and 3) for allowed shoreline use	P -1) activities associated with shoreline restoration, 2) public access improvements and 3) for allowed shoreline use	N/A
Fill (waterward of OHWM) (Section 7.5)	P - for activities associated with shoreline restoration and City utility activities[1]	P - for activities associated with shoreline restoration and City utility activities[1] C - water-dependent uses and public access	P - for activities associated with shoreline restoration and City utility activities[1] C - water-dependent uses and public access	P - for activities associated with shoreline restoration and City utility activities[1] C - water-dependent uses and public access	P - for activities associated with shoreline restoration and City utility activities[1] C - water-dependent uses and public access	P - for activities associated with shoreline restoration and City utility activities[1]
In-stream Structures (Section 7.6)	P-only as part of City of Gig Harbor surface water management activities	P - only as part of fishery and fish habitat enhancement and City of Gig Harbor surface water management activities	P- only as part of City of Gig Harbor surface water management activities	P- only as part of City of Gig Harbor surface water management activities	P- only as part of City of Gig Harbor surface water management activities	P-only as part of City of Gig Harbor surface water management activities
Public Art (Section 7.22)[3]	X	P	P	P	P	X
Pedestrian Beach Access Structures (paths, stairs) (Section 7.7)	X: Private beach access structures are prohibited. See subsection 7.7.2 regarding public beach access structures	P - public or joint-use/shared access C - private access	P - public or joint-use/shared access C - private access	P	P	X

Shoreline Modification	*Shoreline Environment Designations*					
	Natural[2]	*Urban Conservancy*	*Low Intensity*	*City Waterfront*	*Historic Working Waterfront*	*Marine Deepwater*[2]
Shoreline Habitat and Natural Systems Restoration and Enhancement Projects, Environmental Remediation (Section 7.8)	P	P	P	P	P	P
Shoreline Stabilization (Bulkheads and Revetments) (Section 7.9.2 & 7.9.4)	X	**All waterbodies:** P - normal maintenance of existing shoreline stabilization **Colvos Passage:** P - replacement or rehabilitation of existing shoreline stabilization; C - new shoreline stabilization along Colvos Passage. **Gig Harbor Bay and Henderson Bay:** P - soft-shore stabilization; X - hard shoreline armoring.	P - normal maintenance of existing shoreline stabilization. P - soft-shore stabilization C - hard shoreline armoring	P - normal maintenance of existing shoreline stabilization. P - soft-shore stabilization C - hard shoreline armoring	P - normal maintenance of existing shoreline stabilization. P - soft-shore stabilization C - hard shoreline armoring	X

Shoreline Modification	*Shoreline Environment Designations*					
	Natural[2]	*Urban Conservancy*	*Low Intensity*	*City Waterfront*	*Historic Working Waterfront*	*Marine Deepwater*[2]
Structural flood hazard reduction (dikes and levees) (Chapter 6, Section 6.3)	P-municipal surface water management activities C-structural & non-structural flood hazard reduction measures	P-municipal surface water management activities C-structural & non-structural flood hazard reduction measures	P-municipal surface water management activities C-structural & non-structural flood hazard reduction measures	P-municipal surface water management activities C-structural & non-structural flood hazard reduction measures	P-municipal surface water management activities C-structural & non-structural flood hazard reduction measures	N/A

[1]City utility activities are limited to: fill associated with City owned piped utilities, the maintenance of City owned piped utilities, stormwater pipe outfalls that feature flow energy dissipaters, and the maintenance of existing shoreline stormwater pipe outfall energy dissipaters.
[2]Modifications not specifically permitted or conditionally permitted are prohibited.
[3]Public art is permitted only on City-owned lots or the public right-of-way.

Table 0-2. Shoreline Use Matrix

Shoreline Use		*Shoreline Environment Designations*					
		***Natural*[5]**	***Urban Conservancy***	***Low Intensity***	***City Waterfront***	***Historic Working Waterfront***	***Marine Deepwater*[5]**
Agriculture		X	X	X	X	X	X
Aquaculture (Section 7.10)							
Method Type[1]	Fish hatcheries & net pens/finfish	X: net pens/finfish	P: Donkey Creek for fish hatchery facilities only C: Colvos Passage X:net pens/finfish-Gig Harbor Bay& Henderson Bay	C: net pens/finfish – Colvos Passage & Tacoma Narrows X: net pens/finfish-Gig Harbor Bay & Henderson Bay	X: net pens/finfish	X net pens/finfish	C: net pens/finfish – Colvos Passage & Tacoma Narrows X: net pens/finfish-Gig Harbor Bay& Henderson Bay
	Bottom Culture: on-bed and on-cultch.	X	C: Henderson Bay & Colvos PassageX: Gig Harbor Bay	C: Henderson Bay, Colvos Passage & Tacoma Narrows X: Gig Harbor Bay,	X	X	C: Henderson Bay, Colvos Passage, & Tacoma Narrows X: Gig Harbor Bay
	Bag, Rack & Bag, Stake, and Long-line	X	C: Henderson Bay & Colvos Passage X: Gig Harbor Bay	C: Henderson Bay, Colvos Passage & Tacoma Narrows X: Gig Harbor Bay	X	X	C: Henderson Bay,Colvos Passage & Tacoma Narrows X: Gig Harbor Bay

Shoreline Use		Shoreline Environment Designations					
		***Natural*[5]**	***Urban Conservancy***	***Low Intensity***	***City Waterfront***	***Historic Working Waterfront***	***Marine Deepwater*[5]**
	Floating Culture: mussel rafts	X	C: Henderson Bay & Colvos Passage	C: Henderson Bay, Colvos Passage & Tacoma Narrows	X	X	C: Henderson Bay, Colvos Passage & Tacoma Narrows X: Gig Harbor Bay
	Hydraulic Harvest Methods[2]	X	C: Henderson Bay & Colvos Passage X: Gig Harbor Bay	C: Henderson Bay, Colvos Passage & Tacoma Narrows X: Gig Harbor Bay	X	X	C: Henderson Bay, Colvos Passage & Tacoma Narrows X: Gig Harbor Bay
Boat Launch Facilities, Private (Section 7.11)		X	P - hand launch only. Concrete ramps prohibited.	P - hand launch only. Concrete ramps prohibited.	P - hand launch only. Concrete ramps prohibited.	P - hand launch only. Concrete ramps prohibited.	X
Boat Launch Facilities, Public (Section 7.11)		X	P - hand launch only. Ramp made of rails or graded slope only. Concrete and planks prohibited.	P - hand launch or licensed trailer. Ramp made with concrete, rails or graded slope.	P - hand launch or licensed trailer. Ramp made of concrete, planks, rails or graded slope.	P - hand launch or licensed trailer. Ramp made of concrete, planks, rails or graded slope.	P - hand launch or licensed trailer. Ramp made of concrete, planks, rails or graded slope
Boating, Marinas, and Marine Fueling: Piers, Docks and Moorage (Section 7.11)							

Shoreline Use		***Shoreline Environment Designations***					
		Natural[5]	***Urban Conservancy***	***Low Intensity***	***City Waterfront***	***Historic Working Waterfront***	***Marine Deepwater[5]***
Boating Use Types	Non-Residential & Non-Single-Family Residential (Section 7.11)	X	X	P	P	P	P
	Single-Family Residential (Section 7.11)	X	P	P	P	P	P
Commercial Uses (Section 7.12)		X	P - water-oriented and non-water oriented uses landward of OHWM[3] P - water-dependent uses waterward of OHWM X - non-water oriented,	P - water-oriented and non-water oriented uses landward of OHWM [3] P - water-	P - water-oriented and non-water-oriented uses landward of OHWM P - water-	P - water-oriented and non-water-oriented uses landward of OHWM P - water-dependent uses	X

Shoreline Use	Shoreline Environment Designations					
	Natural[5]	Urban Conservancy	Low Intensity	City Waterfront	Historic Working Waterfront	Marine Deepwater[5]
Commercial Uses (Section 7.12)		water-related and water-enjoyment uses waterward of OHWM	dependent uses waterward of OHWM X: Non-water-oriented, water-related & water-enjoyment uses waterward of OHWM	dependent uses waterward of OHWM C - water-related and water-enjoyment uses waterward of OHWM only in existing structures C –Water-related and water-enjoyment uses on deck structures located waterward of the OHWM C – non-water oriented uses waterward of the OHWM in existing structures	waterward of OHWM C – water-related and water enjoyment uses waterward of OHWM only in existing structures C - non-water oriented uses waterward of the OHWM in existing structures for those properties listed on the City's Register of Historic Places	
Commercial Fishing – Sales and Services (Section 7.13)	X	X	X	P	P	P
Commercial Fishing Moorage (Section 7.11.11)	X	P	P	P	P	P

Shoreline Use		*Shoreline Environment Designations*					
		***Natural*[5]**	***Urban Conservancy***	***Low Intensity***	***City Waterfront***	***Historic Working Waterfront***	***Marine Deepwater*[5]**
Educational facilities (Scientific, historical, cultural, educational research uses) (Section 7.14)		X	P	P	P	P	X
Forest Practices		X	X	X	X	X	X
Industrial Development (Section 7.15)							
Industrial Use Types	Industrial, Levels 1 & 2	X	X	X	X	X	X
	Marine boat sales, levels 1 & 2	X	X	X	P	P	X
	Marine sales and service	X	X	X	P	P	X
	Marine Industrial	X	X	X	P	P	P
Mining		X	X	X	X	X	X
Net sheds, historic[4] (Section 7.16)		X	X	P	P	P	X
Parking, Principal Use (Section 7.20)		X	X	X	~~X~~ C	X	X
Permanent Solid Waste Storage or Transfer Facilities		X	X	X	X	X	X
Railroads		X	X	X	X	X	X

Shoreline Use	*Shoreline Environment Designations*					
	Natural[5]	***Urban Conservancy***	***Low Intensity***	***City Waterfront***	***Historic Working Waterfront***	***Marine Deepwater***[5]
Recreation (Section 7.17)	P - limited to low intensity, passive uses X - non-water oriented recreation uses	P - only low intensity, passive uses	P - water-dependent uses waterward of OHWM P - water-oriented uses landward of OHWM X - non-water-dependent uses waterward of OHWM	P - water-oriented uses	P - water-oriented uses	P - water-oriented uses
Residential Development (Section 7.18)	P - remodels and additions C - new development X - new development waterward of OHWM	P X - new development waterward of OHWM	P X - new development waterward of OHWM	P X - new development waterward of OHWM	P X - new development waterward of OHWM	X
Signs and Outdoor Advertising (Section 7.19)	P - educational/ interpretive/ or wayfinding only	P	P	P	P	X[6]

Shoreline Use	*Shoreline Environment Designations*					
	***Natural*[5]**	***Urban Conservancy***	***Low Intensity***	***City Waterfront***	***Historic Working Waterfront***	***Marine Deepwater*[5]**
Transportation Facilities (Roads, Bridges, Parking) (Section 7.20)	X	C	P	P	P	X
Utilities (primary facilities for treatment or generation) (Section 7.21)	P - underground facilities and utilities accessory to a primary permitted use C – above ground facilities	P - underground facilities P - if accessory to primary permitted use C – above ground facilities	P – above ground and underground and water-dependent facilities P – if accessory to primary permitted use	P – above ground and underground and water-dependent facilities P – if accessory to primary permitted use	P – above ground and underground and water-dependent facilities P – if accessory to primary permitted use	P - underwater or underground facilities P – if accessory to primary permitted use
Unclassified Uses	C	C	C	C	C	C

1 Any method involving vehicles upon the shoreline, whether for access or harvest, shall be prohibited within the Natural Environment

2 Hydraulic harvest utilizing water jets should use low-pressure jets with an inside tip diameter of 5/8 inch or less. The jets shall be hand held and under the control of the operator and nozzle pressure should be limited to 100 psi, measured at the pump.

3 Refer to subsection 7.12.2 for limitations on commercial development within the Urban Conservancy and Low Intensity SED's

4 See section 7.16 for additional requirements that apply to historic net sheds

5 Uses not specifically permitted or conditionally permitted are prohibited.

6 See subsection 7.19.2.5 for allowable signs in the Marine Deepwater SED

7.1.2 Bulk and Dimensional Standards

Table 7-3 establishes side and rear property tideland and aquatic lease line setback standards for boating facilities, maximum impervious lot coverage, maximum building height, and maximum densities by shoreline environment designation.

Table 0-3. Bulk Dimensional Standards Matrix *

***See GHMC Title 17 for applicable zoning districts in Gig Harbor city limits and Title 18A Pierce County Development Regulations – Zoning for applicable zoning districts in Gig Harbor's urban growth areas**

Waterbody	*Setback for Boating Facilities[1]*	*Maximum Impervious Lot Coverage*	*Maximum Building Height*	*Maximum Dwelling Units per Acre[5]*
City Waterfront				
Gig Harbor Bay	12 feet	Single-Family: 50% <5 units: 55% Nonresidential: 70%	16-27 feet[2]	4 du/ac
Historic Working Waterfront				
Gig Harbor Bay	12 feet	Single-Family: 50% <5 units: 55% Nonresidential: 70%	16-27 feet[2]	4 du/ac
Low Intensity				
Colvos Passage	12 feet	40%	35 feet	4 du/ac
Gig Harbor Bay (UGA)		40%	35 feet	4 du/ac
Gig Harbor Bay		40%	18 feet[2]	4 du/ac
Tacoma Narrows North (south line of City Waterfront designation south to Old Ferry landing-south line of parcel #0221085019)		Single-family: 40% Duplex: 45% Nonresidential: 50%	18 feet historic district[2]	4 du/ac
Tacoma Narrows South (south line of parcel #0221085019 to south line parcel #0221084059)		R-1 zoning district: 40% R-2 zoning district: 60%	16 feet in height restriction area[3] 18 feet in historic district[2] 35 feet in UGA[4]	4 du/ac in R-1 zoning district Minimum 4 du/ac, maximum 6 du/ac in R-2 zoning district
Henderson Bay		40%	35 feet	4 du/ac

Waterbody	*Setback for Boating Facilities*[1]	*Maximum Impervious Lot Coverage*	*Maximum Building Height*	*Maximum Dwelling Units per Acre*[5]
Urban Conservancy				
Colvos Passage	12 feet	40%	35 feet	4 du/ac
Gig Harbor Bay (UGA)		40%	35 feet	4 du/ac
Gig Harbor Bay		Single-Family: 40%-Duplex: 45% Nonresidential: 50%	16 feet in height restriction area[3] 16-27 feet in historic district[2]	4 du/ac in R-1 and WR zoning districts 4 du/ac in C-1 zoning district[6]
Henderson Bay		40%	35 feet	4 du/ac in SF zoning district
Natural				
Gig Harbor Spit	N/A	40%	35 feet	4 du/ac
Tacoma Narrows		40%	16 feet in city limits[3] & 35 feet in UGA	4 du/ac
Marine Deepwater				
Colvos Passage	12 feet	N/A	Per adjacent upland designation height limit	N/A
Gig Harbor Bay (UGA)				
Gig Harbor Bay				
Tacoma Narrows				
Henderson Bay				

1 See Section 7.11.4, Regulation #2.
2 See specific height allowed per zoning district. Also, see GHMC 17.99.510.A & B building massing and height – Historic District
3 See GHMC 17.99.370.D
4 See GHMC Chapter 17.05-Density in Residential Zones
5 See GHMC Chapter 17.05-Density in Residential Zones
6 See GHMC Subsections 17.40.065 and 17.50.040.H for C-1 District residential density requirement

7.2 Prohibited and Allowed Modifications and Uses

7.2.1 Prohibited

The following modifications and uses are prohibited in all shoreline environments. See Chapter 2 for definitions of the following modifications and uses:

1) Agriculture

2) Forest Practices

3) Mining

4) Parking as a Principal Use

5) Permanent Solid Waste Storage or Transfer Facilities

6) Railroads

7.2.2 Allowed Modifications and Uses

The following sections provide policies and regulations for shoreline modifications and uses allowed in one or more shoreline environments.

Shoreline modifications are generally related to construction of a physical element such as a bulkhead or pier at or near the water's edge or extending into and over the water. Other shoreline modification actions include dredging, filling, or vegetation clearing in the shoreline jurisdiction. Modifications are usually undertaken in support of or in preparation for an allowed shoreline use or development.

Shoreline uses are developments or activities that are located in a shoreline jurisdiction, such as marinas, parks, homes, and businesses.

Each proposed development within the Shoreline Master Program's jurisdiction will be evaluated to determine its conformance with the modification and use activity policies and regulations, as well as the Shoreline Management Element goals and policies, the SMA, and the SMP. Uses and activities that are exempt from the requirement to obtain a Shoreline Substantial Development Permit (see Chapter 8,

Administrative Procedures) must be consistent with the policies and regulations of the SMP. All shoreline development, modifications and uses must also comply with policies and regulations in Chapter 6 of the SMP.

7.3 Clearing and Grading

It is the goal of the City of Gig Harbor to limit clearing and grading activities to the minimum necessary and only as part of allowed shoreline developments.

7.3.1 Policies

A. Clearing and grading as part of allowed use

Clearing and grading activities should only be allowed as part of an allowed shoreline development, use or shoreline restoration activity.

7.3.2 Regulations

1) Clearing and grading activities shall only be allowed in association with an allowed shoreline development, use or restoration activity and in accordance with GHMC Chapters 14.20, Stormwater Management, 14.40 Grading and 17.94 Land Clearing.

2) Clearing and grading activities shall be limited to the minimum necessary for the intended development, including any clearing and grading approved as part of a landscape plan pursuant to GHMC 17.78 and 17.99.240.

3) Clearing and grading activities shall adhere to a prepared schedule and mitigation plan as approved by the Administrator. This schedule and mitigation plan shall include, but not be limited to, limits of clearing and grading activities and the design, implementation, maintenance, and monitoring of mitigation requirements to prevent erosion, siltation, and destruction of vegetation.

4) With the exception of City Public Works Department emergency repair of essential utilities and transportation facilities, all grading shall be completed or stabilized by October 31st of each year unless the proponent provides technical analysis that demonstrates to the satisfaction of the Administrator that no harm to the shoreline environment or safety problems would result from grading between October 31st and April 1st.

5) Between October 31st and April 1st, clearing may be conducted provided the areas to be cleared are identified when leaf is present.

7.4 Dredging and Dredge Material Disposal

It is the goal of the City of Gig Harbor to limit dredging activities to the maintenance of navigability for watercraft in Gig Harbor Bay, new marina development, utility development, water-dependent industries, public access, and for ecological restoration, enhancement projects and environmental remediation.

7.4.1 Policies

A. Dredging in navigation channels and basins

Dredging for the purpose of maintaining navigation channels and basins should be allowed where necessary for assuring safe and efficient accommodation of existing navigational uses and then only when significant ecological impacts are minimized and when mitigation is provided. Maintenance dredging of established navigation channels, such as the entrance to Gig Harbor Bay, and basins, should be restricted to maintaining previously dredged and/or existing authorized location, depth and width.

B. Bottom materials

Prohibit dredging of bottom materials for the primary purpose of obtaining material for landfill or construction.

C. Restoration or enhancement

Allow minor dredging to facilitate ecological restoration, enhancement or environmental remediation if the proposed activity is consistent with this Program.

D. Dredge disposal

Discourage dredge material disposal in water bodies or on shorelands, except as part of a shoreline restoration or habitat improvement project. Where open-water dredge disposal is necessary, it should go through the Puget Sound Dredged Material Management Program process.

E. Ecological impacts

Dredging and dredge material disposal should be done in a manner which avoids or minimizes significant ecological impacts. Where impacts cannot be avoided, mitigation measures are required that result in no net loss of shoreline ecological functions.

7.4.2 Regulations - Dredging

1) Dredging for the primary purpose of obtaining material for landfill, upland construction, or beach nourishment shall be prohibited.

2) Maintenance dredging of established navigation channels and basins shall be restricted to maintaining location, depth, and width previously authorized under this program.

3) Proponents of new development shall locate and design such development to avoid or, if avoidance is not possible, to minimize the need for new dredging and maintenance dredging.

4) The City may permit dredging only when the project proponent demonstrates the activity is consistent with this Program and that there are no feasible alternatives to dredging.

5) Dredging shall only be allowed when necessary to support the following uses and developments:

    a) Approved marinas and water-dependent industries;

    b) Development or maintenance of essential public infrastructure and facilities;

    c) Environmental clean-up activities required by the Model Toxics Control Act or Comprehensive Environmental Response, Compensation, and Liability Act;

    d) Underground utility installation requiring trenches when boring, directional drilling, and other installation methods are not feasible;

    e) Maintenance dredging for the purpose of restoring a lawfully established use or development;

f) Establishing, expanding, relocating or reconfiguring navigation channels and basins where necessary to assure the safety and efficiency of existing navigational uses;

g) Ecological restoration and enhancement projects benefiting water quality and/or fish and wildlife habitat; or

h) Public access and public water-oriented recreational developments/uses, including construction of public piers and docks that benefit substantial numbers of people.

6) When conducting reviews of dredging proposals, the City shall first consider how the proposed activity has been regulated by other agencies, and then establish what further information is needed for local review. The City may require information to ensure:

a) The project is designed, located, and timed to mitigate impacts on legally established neighboring uses and developments; and

b) Appropriate measures are taken to ensure the activity will not interfere with fishing or shellfishing; and

c) Appropriate measures are taken to minimize adverse effects on recreation, public access, and navigation; and

d) The activity shall not adversely impact natural processes such as marine bluff erosion and/or net-shoreline drift; and

e) Appropriate best management practices are employed to prevent water quality impacts or other forms of environmental degradation; and

f) Appropriate measures are employed to protect public safety and prevent adverse impacts on other approved shoreline uses; and

g) The proposed activity complies with applicable federal, state, and other local regulations.

7.4.3 Regulations – Dredging Disposal

1) The City may permit disposal of dredge material only when the project proponent demonstrates the activity is consistent with this Program.

2) When dredge material is deposited on land it shall be considered fill and subject to all applicable fill regulations.

3) All unconfined, open water dredge disposal activities shall comply with the Puget Sound Dredged Material Management Program (DMMP) for the interagency program that oversees the marine disposal of dredge material (formerly known as PSDDA) criteria and guidelines and other applicable local, state and federal regulations.

4) When consistent with this Program, disposal of dredged materials in water areas other than sites authorized under the DMMP may only be allowed in approved locations for the following reasons:

   a) To restore or enhance habitat; or

   b) To reestablish substrates for fish and shellfish resources; or

   c) To nourish beaches that are starved for sediment; or

   d) To remediate contaminated sediments.

5) Proposals for dredged material disposal shall be evaluated for their potential to cause adverse environmental impacts. Dredged material disposal shall be permitted only when the proponent demonstrates all of the following:

   a) The proposed action will not cause significant and/or ongoing damage to water quality, fish, shellfish and/or other biological resources; and

   b) The proposed action will not adversely alter natural drainage, water circulation, sediment transport, currents, or tidal flows or significantly reduce floodwater storage capacities; and

   c) The proposed action includes all feasible mitigation measures to protect marine, estuarine, freshwater and terrestrial species and habitats.

7.5 Fill & Excavation

It is the goal of the City of Gig Harbor to avoid fill and excavation activities along the shoreline, except when necessary to accommodate an approved shoreline use or development, or when associated with enhancement or restoration of shoreline habitat and landforms

7.5.1 Policies

A. Location, design and construction

Design and implement approved fill or excavation actions to avoid or minimize impacts to ecological functions and processes. In evaluating projects requiring fill or excavation, such factors as water quality, hydrologic and runoff patterns, navigation restriction, and habitat preservation should be considered.

B. Shoreline stabilization

Prohibit fill activity that would result in a subsequent need for armoring, riprap, or other hard shoreline stabilization structures to maintain the fill, with the exception of stormwater pipe outfalls that feature flow energy dissipaters and the maintenance of existing shoreline stormwater outfall energy dissipaters.

C. Erosion and sedimentation

Design and manage fill and excavation activities to avoid or eliminate erosion and sedimentation impacts, both during construction and over time.

D. Fill waterward of the OHWM

Fill placed waterward of the OHWM should only be allowed to facilitate restoration, environmental remediation projects, water-dependent uses, public access, fill associated with City owned piped utilities, the maintenance of City owned piped utilities, stormwater pipe outfalls that feature flow energy dissipaters, and the maintenance of existing shoreline stormwater pipe outfall energy dissipaters.

E. Fill limited

Where permitted, fill should be the minimum necessary to provide for the proposed use and should be permitted only when tied to a specific development proposal that is permitted by the Shoreline Master Program.

7.5.2 Regulations

1) Fill shall be minimized to the maximum extent practicable and allowed only along with approved shoreline use and development activities that are consistent with this Program.

2) Fill waterward of the ordinary high water mark shall be permitted for ecological restoration or enhancement such as beach nourishment, habitat creation, or bank restoration when consistent with an approved restoration plan.

3) Fill waterward of the ordinary high water mark shall be permitted when associated with City owned piped utilities, maintenance of City owned piped utilities, stormwater pipe outfalls that feature flow energy dissipaters, and maintenance of existing shoreline stormwater pipe outfall energy dissipaters.

4) Fill waterward of the ordinary high water mark is allowed as a conditional use for water-dependent uses and public access in all shoreline environment designations except for Natural.

5) Fill shall not be located where shore stabilization will be necessary to protect materials placed or removed with the exception of stormwater pipe outfalls that feature flow energy dissipaters and the maintenance of existing shoreline stormwater outfall energy dissipaters. Disturbed areas shall be immediately stabilized and revegetated, as applicable.

6) Fills, beach nourishment and excavation shall be designed to blend physically and visually with existing topography whenever possible, so as not to interfere with long term appropriate use including lawful access and enjoyment of scenery.

7) A temporary erosion and sediment control (TESC) plan shall be provided for all proposed fill activities.

7.6 In-stream Structures

It is the goal of the City of Gig Harbor to limit in-stream structures to projects for fish habitat enhancement and surface water management.

7.6.1 Policies

A. Fish habitat and surface water management

In-stream structures should only be allowed as part of fish habitat enhancement projects and as part of the City of Gig Harbor surface water management activities.

7.6.2 Regulations

1) In-stream structures shall only be allowed as part of fishery and fish habitat enhancement projects, and as part of City of Gig Harbor surface water management activities. Surface water management activities shall include the operation, repair, maintenance, improvement, replacement and reconstruction of existing storm drainage facilities; and the construction of new storm drainage facilities. In all instances, in-stream structures shall provide for the protection and preservation of ecosystem-wide processes and ecological functions.

2) Construction of an in-stream structure may not commence until the proponent obtains all applicable federal, state, and local permits and approvals, including but not limited to a Hydraulic Project Approval (HPA) from the State Department of Fish and Wildlife.

7.7 Pedestrian Beach Access Structures

It is the goal of the City of Gig Harbor to allow pedestrian beach access structures in a manner that avoids risks to human health and safety and minimizes adverse effects on shoreline functions and processes.

7.7.1 Policies

A. Location and configuration

Beach access structures should conform to the existing topography, minimize adverse impacts on shoreline aesthetics, and minimize clearing and grading to the maximum extent feasible. Beach access structures should not be allowed if there is a reasonable likelihood that they will require erosion control structures or armoring in the future.

B. Public access and shared use

Structures that provide public access to the beach or shoreline should be allowed. Private beach access structures serving only one property should be limited. Neighboring property owners are encouraged to combine resources to collectively propose beach access structures in appropriate locations for shared use.

C. Protection of resources and neighboring properties

Beach access structures should not be permitted until effects on marine shoreline functions and processes, including any significant adverse effects on adjoining lands and properties, are fully evaluated and a mitigation plan approved. The City should not permit these structures in areas where there are potential risks to human health and safety or adverse effects on shoreline functions and processes.

7.7.2 Regulations

1) Private beach access structures are prohibited in the Natural shoreline environment designation. Publicly-owned structures are allowed subject to consistency with the regulations set forth in this section and subsection 6.2.4.8.

2) Beach access structures shall only be allowed where it provides access to a publicly-owned beach or the same party owns both the uplands and adjoining tidelands or an easement is granted by the tideland owner to the upland owner for access.

3) Beach access structures that are shared by adjacent property owners are preferred over individual structures. In such cases, the structure may be located within a regulated setback area or upon a shared property line provided a covenant that addresses the location and shared use of the structure is executed between parties, recorded with the Pierce County Auditor and submitted to the City.

4) When allowed, beach access structures may be located within the shoreline buffer or required setback area, provided that:

   a) The width of any walkway or staircase shall not exceed five (5) feet.

   b) Structures shall follow the existing topography to the maximum extent possible.

   c) The width and number of beach access structures allowed on any site shall be subject to the requirements of subsection 6.2.4.8.

   d) Stairs or other permitted pedestrian access structures may be recessed into a bulkhead but shall not extend waterward of the OHWM. Existing lawfully constructed nonconforming beach access structures may be repaired or replaced in kind as a nonconforming use as consistent with other provisions of this Program.

5) New beach access structures shall be prohibited if any of the following apply:

   a) The structure would adversely impact a critical area or marine feeder bluff, or increase landslide or erosion hazards; or

   b) The structure is likely to interfere with natural erosion and accretion processes; or

   c) The bank slope where the structure is placed is likely to require shoreline stabilization/shoreline defense works in the future; or

   d) Substantial bank or slope modification is required.

6) Prior to approving a permit for a beach access structure, the City shall require the project proponent to demonstrate that the project is consistent with the

Program, including Section 6.2.5. Information to be provided by the proponent will include, but not be limited to:

a) Existing conditions at the site related to erosion, slope stability, drainage, vegetation, and coastal processes; and

b) Probable effects of the access structure on the stability of the site over time; and

c) Potential effects of the access structure on shoreline processes such as net-shoreline drift, sediment transport, mass wasting, and erosion; and

d) Methods for maintaining the structure over time that will preclude the need for a bulkhead or other type of stabilization in the future; and

e) Potential effects on fish and wildlife habitats and other shoreline ecological functions; and

f) Measures needed to ensure/maintain slope stability, maintain coastal processes, and prevent erosion in the long term.

7) The City may require proposals for pedestrian beach access structures to include geotechnical analysis prepared by a licensed professional engineer or geologist and/or biological analysis prepared by a qualified biologist.

7.8 Shoreline Habitat and Natural Systems Enhancement Projects

It is the goal of the City of Gig Harbor to encourage shoreline habitat and natural systems enhancement projects found to be consistent with the City's Shoreline Restoration Plan.

7.8.1 Policies

A. Identified restoration needs

All proposed shoreline habitat and natural systems enhancement projects should assure that the activities associated with each project address legitimate restoration needs and priorities and facilitate implementation of the Restoration Plan developed with this Shoreline Master Program pursuant to WAC 173-26-201(2)(f).

7.8.2 Regulations

1) All shoreline habitat and natural systems enhancement projects shall be developed consistent with the applicable provisions of the City's Shoreline Restoration Plan.

2) A shoreline habitat or natural systems enhancement project involving environmental remediation activities shall not harm human health or the environment. Cleanup methods shall not have significant negative impacts on adjacent and existing land uses in the area.

3) Where possible, habitat improvement projects shall be protected through a recorded easement, covenant, or other restriction that runs with the land.

4) Habitat improvements shall use an ecosystem, or landscape approach, integrate projects into their surrounding shoreline environments, and include means for species movement and use.

7.9 Shoreline Stabilization

It is the goal of the City of Gig Harbor to avoid or minimize the need for shoreline armoring along the City's shorelines.

7.9.1 Policies

A. Shoreline stabilization preference order

Use structural shoreline stabilization measures only when more natural, non-structural methods, such as vegetative stabilization, beach nourishment and bioengineering have been determined infeasible. Alternatives for shoreline stabilization should be based on the following hierarchy of preference using Best Management Practices:

1) No action (allow the shoreline to retreat naturally), increase building setbacks, and relocate structures.

2) Flexible defense works constructed of natural materials including soft shore protection, bioengineering, beach nourishment, protective berms, or vegetative stabilization.

3) Failing structures may be replaced but not expanded if no other practical alternative exists.

4) Rigid works constructed of artificial materials such as riprap or concrete when alternative methods have been determined infeasible.

5) Larger works such as jetties, breakwaters, or groin systems should not be permitted unless no other practical alternatives exist.

B. Materials

Select materials for shoreline stabilization based on long term durability, ease of maintenance, compatibility with local shore features and habitat, aesthetic values, and flexibility for future uses.

C. New or expanding structural stabilization

Allow new or expanded structural shore stabilization, including bulkheads, only where it is demonstrated to be necessary to protect an existing primary structure that is in danger of loss or substantial damage, and where such structures and structural stabilization would not cause a net loss of shoreline ecological functions and processes.

D. Coordination

Coordinate shore stabilization projects among affected property owners and public agencies for a shoreline reach where feasible to ensure ecological processes such as littoral drift and sediment transport, are understood and considered in the design of such projects.

E. Removal of shoreline stabilization

Where feasible, remove failing, harmful, unnecessary, or ineffective shore stabilization structures and replace with non-structural methods to restore shoreline ecological functions and processes.

F. Incentive programs

Develop incentive programs to encourage property owners to choose alternative, habitat friendly erosion control designs such as soft-shore protection to reduce adverse impacts of existing shore modifications (that may need maintenance or repair) or to remove unnecessary shore armoring where possible.

7.9.2 Regulations/Demonstration of Need – New, Expanded or Replaced Shoreline Stabilization Structures

1) New bulkheads and expansions of existing bulkheads shall incorporate features that minimize adverse effects on nearshore habitat, salmon spawning and migration, and water quality. Such features shall include native vegetation, beach coves, incline gravel fill, large wood, rocks and other techniques that have been shown to mitigate the effects of bulkheads on shoreline ecology. 'Green Shoreline' approaches consistent with Army Corps of Engineers (ACOE) shoreline protection alternatives guidance (SPAG) or National Marine Fisheries

Service (NMFS) standards should be utilized for the design of new or expanded bulkheads.

2) New structural stabilization measures shall not be allowed except when necessity is demonstrated in the following manner:

   a) To protect existing primary structures:

      i) New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, should not be allowed unless there is conclusive evidence, documented by a geotechnical analysis that the structure is in danger from shoreline erosion caused by tidal action, currents, or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization. Geotechnical analysis reports shall be prepared by a Washington State licensed engineer and/or a qualified coastal geologist as appropriate.

      ii) The erosion control structure will not result in a net loss of shoreline ecological functions.

   b) In support of new non-water-dependent development, including single-family residences, when all of the conditions below apply:

      i) The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.

      ii) Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

      iii) The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as tidal action, currents, and waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization. Geotechnical analysis reports shall be prepared by a Washington State licensed engineer and/or a qualified coastal geologist as appropriate.

iv) The erosion control structure will not result in a net loss of shoreline ecological functions.

c) In support of water-dependent development when all of the conditions below apply:

i) The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.

ii) Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

iii) The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization. Geotechnical analysis reports shall be prepared by a Washington State licensed engineer and/or a qualified coastal geologist as appropriate.

iv) The erosion control structure will not result in a net loss of shoreline ecological functions.

d) To protect projects for the restoration of ecological functions or hazardous substance remediation projects pursuant to chapter 70.105D RCW when all of the conditions below apply:

i) Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

ii) The erosion control structure will not result in a net loss of shoreline ecological functions.

3) An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents, tidal action, or waves.

a) The replacement structure should be designed, located, sized, and constructed to assure no net loss of ecological functions.

b) Replacement walls or bulkheads shall not encroach waterward of the ordinary high-water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there is overriding safety or

environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization.

c) Where a net loss of ecological functions associated with critical saltwater habitats would occur by leaving the existing structure, remove it as part of the replacement measure.

d) Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high-water mark.

e) For purposes of this section standards on shoreline stabilization measures, "replacement" means 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.

4) Geotechnical reports pursuant to this section that address the need to prevent potential damage to a primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation. As a general matter, hard armoring solutions should not be authorized except when a report confirms that there is a significant possibility that such a structure will be damaged within three years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on ecological functions. Thus, where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, that report may still be used to justify more immediate authorization to protect against erosion using soft measures.

5) When any structural shoreline stabilization measures are demonstrated to be necessary, pursuant to above provisions.

a) Limit the size of stabilization measures to the minimum necessary. Use measures designed to assure no net loss of shoreline ecological functions. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses.

b) Ensure that publicly financed or subsidized shoreline erosion control measures do not restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions. See public access

provisions; WAC 173-26-221(4). Where feasible, incorporate ecological restoration and public access improvements into the project.

c) Mitigate new erosion control measures, including replacement structures, on feeder bluffs or other actions that affect beach sediment-producing areas to avoid and, if that is not possible, to minimize adverse impacts to sediment conveyance systems.

6) For erosion or mass wasting due to upland conditions, see WAC 173-26-221 (2)(c)(ii).

7.9.3 Regulations - Subdivisions

1) Subdivisions shall be designed to assure that future development of the established lots will not require structural shoreline stabilization. Use of a bulkhead or similar structure to protect a proposed new or reconfigured lot where no structure presently exists shall be prohibited.

7.9.4 Regulations – Construction Standards for Shoreline Stabilization Structures

1) Shoreline stabilization shall be designed and constructed with gravel backfill and weep holes so that natural downward movement of surface or ground water may continue without ponding or saturation.

2) Stairs or other permitted pedestrian access structures may be recessed into a bulkhead but shall not extend waterward of the OHWM.

3) Gabions shall not be used to stabilize shorelines because of their limited durability and the potential hazard to shoreline users and the shoreline environment.

4) When allowed pursuant to the provisions of this Program, structural shoreline stabilization must meet all of the following requirements:

a) The impacts can be mitigated in accordance with the mitigation sequencing prescribed by Section 6.2.2, Regulation #3 such that there is no net loss of shoreline ecological functions or processes; and

b) The size of shoreline stabilization structure shall be limited to the minimum necessary to protect the primary structure/use. Shoreline stabilization shall be designed by a state licensed professional geotechnical engineer and/or engineering geologist and constructed according to applicable state and federal laws; and

c) The shoreline stabilization shall be constructed and maintained in a manner that does not degrade the quality of affected waters; and

d) No motor vehicles, appliances, similar structures nor parts thereof, nor structure demolition debris, nor any other solid waste shall be used for shoreline stabilization.

7.9.5 Regulations – Jetties, Breakwaters, Groin Systems

1) Jetties and breakwaters are prohibited in all environment designations. Groin systems are conditionally allowed when they are an integral component of a professionally designed harbor, marina, or port. Where permitted, groin structures shall be designed in a manner to allow fish passage and minimize impacts to the aquatic environment. Defense works that substantially reduce or block littoral drift and cause erosion of downdrift shores, shall not be allowed unless an adequate long-term professionally engineered beach nourishment program is established and maintained.

7.10 Aquaculture

It is the goal of the City of Gig Harbor to allow aquaculture, as a preferred use, in areas where adverse environmental impacts can be avoided or minimized.

7.10.1 Policies

A. Aquaculture as a water-dependent use

Aquaculture is a water-dependent use and, when consistent with control of pollution and avoidance of adverse impacts to the environment and preservation of habitat for resident native species, is an accepted use of the shoreline.

B. No net loss

Development of aquaculture facilities and associated activities should assure no net loss to shoreline ecological functions or processes. Aquaculture facilities should be designed and located so as not to spread disease to native aquatic life, establish new non-native species which cause significant ecological impacts, or significantly impact the aesthetic qualities of the shoreline.

C. Types of aquaculture

The City should support aquaculture uses and developments that:

1) Protect and improve water quality; and

2) Avoid and minimize damage to important nearshore habitats; and

3) Minimize interference with navigation and normal public use of surface waters; and

4) Minimize the potential for cumulative adverse impacts, such as those resulting from in-water structures/apparatus/equipment, land-based facilities, and substrate disturbance/modification (including rate, frequency and spatial extent).

D. Location

Aquaculture use and development should locate in areas where biophysical conditions, such as tidal currents, water temperature and depth, will minimize adverse impacts to shoreline ecological functions. Individual aquaculture uses and developments should be separated by sufficient distance to ensure that significant adverse cumulative effects do not occur.

7.10.2 Regulations - General

1) Commercial shellfish and net pen/finfish aquaculture is prohibited in Gig Harbor Bay, including the City's Urban Growth Area within the Bay. Net pen/finfish aquaculture is prohibited in the Henderson Bay Urban Conservancy shoreline environment designation, the Henderson Bay Low Intensity designation, the Natural designation and the Henderson Bay Marine Deepwater designation. Fish hatchery facilities are a permitted use in the Urban Conservancy shoreline environment within Donkey Creek. In all other instances, commercial aquaculture shall be a conditional use activity.

2) When a shoreline permit is issued for new aquaculture use or development, that permit shall apply to the initial siting, construction, and/or planting or stocking of the facility or farm. If the initial approval is a Shoreline Substantial Development Permit, it shall be valid for a period of five (5) years with a possible one-year extension. If the initial approval is a Conditional Use Permit, it shall be valid for the period specified in the permit.

3) Ongoing maintenance, harvest, replanting, restocking or cultivating in any existing or permitted aquaculture operation shall not require a new permit unless or until:

    a) The physical extent of the facility or farm is expanded by more than twenty-five percent (25%) or more than twenty-five percent (25%) of the facility/farm changes operational/cultivation methods compared to the conditions that existed as of the effective date of this Program or any amendment thereto. If the amount of expansion or change in cultivation method exceeds twenty-five percent (25%) in any ten year period, the entire operation shall be considered new aquaculture and shall be subject to the applicable permit requirements of this section;

4) Aquaculture uses and activities involving hatching, seeding, planting, cultivating, raising and/or harvesting of planted or naturally occurring shellfish shall not be considered development as defined in Chapter 2 of the Program, and shall not require a Shoreline Substantial Development Permit, unless:

a) The activity substantially interferes with normal public use of surface waters; or

b) The activity involves placement of any structures defined in Chapter 2; or

c) The activity involves dredging using mechanical equipment such as clamshell, dipper , or scraper; or

d) The activity involves filling of tidelands or bedlands.

5) The City shall assess the potential for interference described in 7.10.2.4.a above on a case by case basis. All proposed new aquaculture uses or developments shall submit a Joint Aquatic Resource Permit Application (JARPA) and a SEPA checklist to enable assessment by the City. Activities shall not be considered to substantially interfere with normal public use of surface waters unless:

a) They occur in, adjacent to or in the immediate vicinity of public waters including public tidelands; and

b) They involve the use of floating ropes, markers, barges, floats, or similar apparatus on a regular basis and in a manner that substantially obstructs public access, or passage from public facilities such as parks or boat ramps; or they exclude the public from more than one acre of surface water on an ongoing or permanent basis.

6) Aquaculture activities not listed in 7.10.2.4 and listed activities that fail to meet any of the criteria of 7.10.2.5 shall require a Shoreline Substantial Development and/or a Conditional Use Permit and shall be subject to the following regulations:

a) Upland structures accessory to an aquaculture use that do not require a waterside location or have a functional relationship to the water shall be located landward of the required vegetation conservation strip or critical area buffer.

b) Upland structures accessory to an aquaculture use shall be screened from view from adjacent residential, commercial or recreational areas by fences, berms, and/or vegetative buffers.

c) Overwater work shelters and sleeping quarters accessory to aquaculture use/development shall be prohibited.

d) Floating/hanging aquaculture structures and associated equipment shall not exceed six (6) feet in height above the water's surface. The Administrator may approve hoists and similar structures greater than six (6) feet when

there's a clear demonstration of need. The six foot height limit shall not apply to vessels.

e) Floating/hanging aquaculture structures and associated equipment, except navigational aids, shall use colors and materials that blend into the surrounding environment in order to minimize visual impacts.

f) Reflected glare or direct light generated by aquaculture developments shall be minimized to the greatest extent possible. Lighting fixtures shall be designed and hooded to prevent the light source from being directly visible from outside the boundaries of the property.

g) The operators of aquaculture developments shall control odor through the proper storage and disposal of feed and other organic materials and by maintaining a clean operation, except that disposal of salmon carcasses may occur on site provided disposal complies with 7.10.2 Regulation #8. A specific plan for identifying and controlling odors shall be developed and approved as part of the Shoreline Substantial Development and/or Conditional Use Permit approval process.

h) Aquaculture that involves significant risk of cumulative adverse effects on water quality, sediment quality, benthic and pelagic organisms, and/or wild fish populations through potential contribution of antibiotic resistant bacteria, or escapement of nonnative species, or other adverse effects on ESA-listed species shall not be permitted.

i) Aquaculture use and development shall not materially interfere with navigation, or access to adjacent waterfront properties, public recreation areas, or tribal harvest areas. Mitigation shall be provided to offset such impacts where there is a high probability that adverse impact would occur. This provision shall not be interpreted to mean than an operator is required to provide access across owned or leased tidelands at low tide for adjacent upland property owners.

j) Aquaculture use and development shall employ non-lethal, non-harmful measures to control birds and mammals. Control methods shall comply with existing federal and state regulations.-

7) Facilities that support fish hatcheries located on freshwater streams in Gig Harbor may be allowed.

8) Aquaculture wastes, including salmon carcasses, shall be disposed of in a manner that will ensure strict compliance with all applicable governmental waste disposal standards, including but not limited to the Federal Clean Water

Act, Section 401, and the Washington State Water Pollution Control Act (RCW 90.48).

7.10.3 Regulations – Geoduck

1) Conditional use permit requirements for commercial geoduck aquaculture are as follows:

   a) A conditional use permit is required for new commercial geoduck aquaculture and the conversion of an existing nongeoduck aquaculture operation to geoduck aquaculture.

   b) All subsequent cycles of planting and harvest shall not require a new conditional use permit.

   c) A single conditional use permit may be submitted for multiple sites within an inlet, bay or other defined feature, provided the sites are all under control of the same applicant and within the same shoreline permitting jurisdiction.

   d) In addition to complying with the requirements of chapter 173-27 WAC, the application must contain:

      i) A narrative description and timeline for all anticipated geoduck planting and harvesting activities. Documentation submitted to state and/or federal permit agencies for the proposal may be used to satisfy this requirement.

      ii) A baseline ecological survey of the proposed site to allow consideration of the ecological effects associated with the proposal. Documentation submitted to state and/or federal permit agencies for the proposal may be used to satisfy this requirement.

      iii) Measures to achieve no net loss of ecological functions consistent with the mitigation sequence described in WAC-173-26-201 (2)(e).

      iv) Management practices that address impacts from mooring, parking, noise, lights, litter, and other activities associated with geoduck planting and harvesting operations.

   e) On-site work is allowed during low tides, which may occur at night or on weekends. Measures to reduce impacts, from such sources as noise from equipment and glare from lighting, to adjacent existing uses shall be identified.

f) All commercial geoduck aquaculture operations authorized by conditional use permit shall be reviewed by the City after the first year of operation to confirm compliance with the terms and conditions of the permit. In reviewing the permit, the City shall solicit comments from all parties of record to the approved conditional use permit.

g) Conditional use permits shall be reviewed using the best scientific and technical information available.

h) Best management practices to accomplish the intent of the limits and conditions.

i) In order to avoid or limit impacts from geoduck aquaculture siting and operations and achieve no net loss of ecological functions, the following should be addressed:

   i) The practice of placing nursery tanks or holding pools or other impervious materials directly on the intertidal sediments.

   ii) Use of motorized vehicles, such as trucks, tractors and forklifts below the ordinary high water mark.

   iii) Specific periods when limits on activities are necessary to protect priority habitats and associated species. The need for such measures should be identified in the baseline ecological survey conducted for the site.

   iv) Alterations to the natural condition of the site, including significant removal of vegetation or rocks and regrading of the natural slope and sediments.

   v) Installation of property corner markers that are visible at low tide during planting and harvesting.

   vi) Mitigation measures such as buffers between commercial geoduck aquaculture and other fish and wildlife habitat conservation areas as necessary to ensure no net loss of ecological functions.

   vii) Use of predator exclusion devices with minimal adverse ecological effects and requiring that they be removed and disposed of at an approved upland location as soon as they are no longer needed for predator exclusion.

   viii) Use of the best available methods to minimize turbid runoff from the water jets used to harvest geoducks.

ix) Number of barges or vessels that can be moored or beached at the site as well as duration limits.

x) Public rights to navigation over the surface of the water.

xi) Good housekeeping practices at geoduck aquaculture sites, including worker training and regular removal of equipment, tools, extra materials, and all wastes.

xii) Where the site contains existing public access to publicly owned lands, the City shall consider recommendations from the Department of Natural Resources regarding protection of the existing public access.

7.11 Boating and Marinas: Piers, Docks, and Moorage

It is the goal of the City of Gig Harbor to allow and encourage uncovered moorage and docking facilities serving a variety of uses, including commercial fishing, visiting vessels, and water-oriented recreational opportunities. Facilities should be developed in a manner that retains open surface water area for low-speed watercraft circulation and preserves shoreline ecological functions.

7.11.1 General Policies

A. Avoidance of critical saltwater habitat

New or expanded boating facilities and accessory uses should be clustered with similar facilities along the waterfront, to avoid impacts to critical saltwater habitat, the Donkey and Crescent Creek estuaries, and the stream mouth of McCormick Creek.

B. Avoidance of coastal and nearshore processes

Locate and design boating facilities to avoid adverse effects on coastal and nearshore processes such as erosion, sediment transport, and accretion (i.e., littoral drift).

C. Navigation and recreational opportunities

Locate and design boating facilities that do not obstruct navigable waters or create significant adverse effects to recreational opportunities.

D. Provision of public access

Design new boating facilities so as not to interfere with lawful public access to, or use of, shorelines. Boating facilities associated with commercial, industrial, residential subdivisions and multifamily housing should be encouraged to provide physical or visual public access to shorelines whenever safe and compatible with the primary use and shore features.

E. Single-family residential uses

Allow single-family residences moorage as a water-dependent use provided that it is designed and used as a facility to access watercraft, and other moorage facilities are not available or feasible.

F. Community moorage

Allow community moorage for large subdivisions, use by patrons of a public park or quasi-public recreation area, multifamily uses or as part of a mixed use development when public access is provided.

G. Joint moorage

Whenever possible, encourage the use of joint moorage to serve the needs of single-family uses and minimize the number of overwater and floating structures.

H. Preferred types of moorage and boat launch ramps

Mooring buoys, including buoy fields for small craft, are preferred over docks or floats. Shared moorage facilities are preferred over single-user moorage where feasible. Public boat launches are preferred over private launch facilities.

I. Location of buoys

Prohibit mooring buoys where such installations will significantly interfere with navigation.

J. Size of piers and docks

Restrict the size of piers and docks to the minimum necessary to meet the needs of the proposed use. The length, width and height of piers and docks should be no greater than that required for safety and practicality for the primary use to minimize adverse effects on ecological functions.

K. Pilings

Replace existing piling with non-toxic materials, including but not limited to steel, concrete and non-toxic wood. The replacement of piling that support historic structures listed on the City's Register of Historic Places should be exempt from this

provision. New piling should be made of non-toxic material approved by applicable state agencies.

L. Moorage design elements

Encourage design elements that increase light penetration to the water below an existing or new boating facility, such as increasing the structure's height above the water; modifying orientation and size; and using grating as a surface material. No new covered moorage facilities should be allowed on or over the surface waters within the City of Gig Harbor or its UGA.

M. Marine fueling facilities

Special attention should be given to the design and development of operational procedures for fuel handling and storage in order to minimize accidental spillage and provide satisfactory means for handling those spills that do occur.

7.11.2 Policies for Marinas

A. Public access and enjoyment

Marinas are water dependent uses and should contribute to public access and enjoyment of the waters of the state.

B. Upland marina uses

Encourage upland uses at marinas to have water-related uses and water-enjoyment uses, or uses that provide physical or visual shoreline access to the general public.

C. Other water-dependent uses

Marinas should be located, designed and operated so that other appropriate water-dependent uses are not adversely impacted.

D. Live-aboard vessels

Protect shoreline resources and water quality from over use by boaters living on vessels (live-aboards). Restrict live-aboards to existing and new marinas with facilities to provide waste handling and other sanitary services.

7.11.3 Policies for Commercial Fishing Vessel Moorage

A. Priority for commercial fishing moorage

Commercial fishing is an important water dependent use and facilities that support the commercial fishing industry, including moorage, should be allowed.

B. Overwater parking

Overwater parking should not be permitted, except for temporary loading and unloading of commercial fishing equipment, supplies, or products.

C. Joint moorage facilities

Establish flexible regulatory standards to encourage private-public joint moorage facilities for commercial fishing and recreational vessels in locations which are appropriate and capable of supporting such a facility.

7.11.4 Regulations – General

1) Boating facilities shall not be permitted within the following marine shoreline habitats because of their scarcity, biological productivity and sensitivity unless no alternative location is feasible, the project would result in a net enhancement of shoreline ecological functions, and the proposal is otherwise consistent with this Program:

    a) Critical saltwater habitats; and

    b) Marshes, estuaries and other wetlands.

2) Boating facilities shall be located no closer than twelve feet from the property line, either private property or state lease land. Location closer than twelve feet from the property line may be permitted upon the submission to the City of a covenant executed between the property owner/applicant and the adjacent property owner covering the agreement for the joint use of common lot lines, which covenant shall run with the land and be filed with the Pierce County Auditor as a covenant with the land. The intent of this regulation is to provide a minimum ingress/egress of twenty-four feet. The provision of an ingress/egress greater than twenty-four feet in width may be voluntarily provided by the

property owner/applicant, or through an agreement with the adjacent property owner/lessee.

7.11.5 Regulations – Mooring Buoys

1) Mooring buoys and buoy fields shall not be allowed within designated navigation channels where established by Washington Department of Natural Resources or the U.S. Coast Guard. A minimum 50-foot wide navigation channel shall be maintained between the Outer Harbor Line and any mooring buoy or buoy field located on the water ward side of the Outer Harbor line.

2) Mooring buoys and buoy fields shall be located to:

   a) Avoid critical saltwater habitat areas; and

   b) Prevent obstruction to navigation.

3) Mooring buoys shall use neutral buoyancy rope, mid-line float, helical anchors, or other state-approved designs that have minimal adverse effects on aquatic ecosystems.

4) Single-family residences located on waterfront parcels may be allowed no more than one mooring buoy per residential lot.

5) Mooring buoys shall be clearly marked and labeled with the owner's name, contact information and permit number(s).

7.11.6 Regulations – Boat Launch Ramps

1) Private boat launch ramps for motorized watercraft shall not be allowed in any shoreline environment.

2) Preferred ramp designs, in order of priority, are:

   a) Open grid designs with minimum coverage of beach substrate.

   b) Seasonal ramps that can be removed and stored upland.

   c) Structures with segmented pads and flexible connections that leave space for natural beach substrate and can adapt to changes in beach profile.

3) Ramps shall be placed and maintained near flush with the foreshore slope.

4) Boat launches shall be designed and constructed using methods/technology that have been recognized and approved by state and federal resource agencies as the best currently available. Rail and track systems shall be preferred over concrete ramps or similar facilities.

5) Launch access for non-motorized watercraft shall use gravel or other permeable material. Removal of vegetation for launch access should be limited to eight (8) feet in width.

6) Before granting approval of a permit to allow a boat launch ramp, the proponent must satisfactorily demonstrate that:

   a) Adequate facilities for the efficient handling of sewage and litter will be provided;

   b) The boating facilities will be designed so that structures are aesthetically compatible with, or enhance shoreline features and uses; and

   c) The boating facilities will be designed so that existing or potential public access along beaches is not blocked or made unsafe, and so that public use of the surface waters is not unduly impaired.

7.11.7 Regulations – Piers, Docks, Floats, and Lifts – Non-Residential

1) Covered moorage associated with non-residential docks, piers, and floats shall be prohibited.

2) Piers, docks, floats and lifts associated with commercial, industrial, or public recreational developments are allowed only when ecological impacts are mitigated in accordance with the program, and:

   a) The dock/pier/float is required to accommodate a water-dependent use; or

   b) The dock/pier/float provides opportunities for a substantial number of people to access the shoreline.

3) New commercial, industrial or public recreational docks, piers, floats and lifts shall be designed and constructed to avoid or, if that is not possible, to minimize the impacts to nearshore habitats and processes.

4) The length, width and height of non-residential docks, piers, floats and lifts shall be no greater than that required for safety and practicality for the primary use.

5) New and substantially expanded non-residential docks, piers, floats and lifts shall be constructed of materials that will not adversely affect water quality or aquatic plants and animals over the long term. Materials for any portions of the dock, pier, float, lifts, framing, or decking that come in contact with water shall be approved by applicable state agencies for use in water.

6) To minimize adverse effects on nearshore habitats and species caused by overwater structures that reduce ambient light levels, the following shall apply:

    a) The width of docks, piers, floats and lifts shall be the minimum necessary, and in no case shall be wider than eight (8) feet unless grating is used in accordance with, and authorized by, state resource agency regulations.

    b) Materials that will allow light to pass through the deck may be required where the width exceeds eight (8) feet.

    c) Grating to allow light passage or reflective panels to increase light refraction into the water shall be used on piers, docks, floats and gangways in nearshore areas.

    d) Use of non-toxic materials, including, but not limited to, steel, concrete and non-toxic wood shall be approved by applicable state agencies.

7) Commercial, industrial or public recreational docks, piers, floats and lifts shall be spaced and oriented to the shoreline in a manner that avoids or minimizes:

    a) Hazards and obstructions to navigation, fishing, swimming and pleasure boating; and

    b) Shading of beach substrate below; and

    c) Any 'wall' effect that would block or baffle wave patterns, currents, littoral drift, or movement of aquatic life forms.

8) Commercial, industrial or public recreational docks, piers, floats and lifts shall be designed and located to ensure that such structures and the vessels moored to them do not ground out during low tidal cycles.

7.11.8 Regulations – Piers, Docks, Floats, and Lifts – Accessory to Residential Use

1) In-water fixed platform structures supported by piles that do not abut the shoreline shall be prohibited.

2) Covered moorages are prohibited.

3) Joint moorage with four or fewer slips is allowed. A covenant executed between all property owners sharing the joint moorage docks shall be submitted to the City that covers the agreement for the joint use of common lot lines, shall run with the land, and be filed with the Pierce County Auditor as a covenant with the land.

4) Residential subdivisions may be allowed a community moorage dock that is shared by at least four shoreline property owners. A covenant executed between all property owners sharing the community moorage docks shall be submitted to the City that covers the agreement for the joint use of common lot lines, shall run with the land, and be filed with the Pierce County Auditor as a covenant with the land.

5) Storage of fuel, oils, and other toxic materials is prohibited on residential docks, piers and floats.

6) Docks, piers, floats and lifts accessory to residential development/use shall only be allowed when:

    a) Ecological impacts are mitigated in accordance with the Program; and

    b) The moorage platform is designed for access to private watercraft.

7) No more than one (1) dock/pier or one (1) float may be permitted on a single lot owned for residential use or private recreational use.

8) To minimize adverse effects on nearshore habitats and species caused by overwater structures that reduce ambient light levels, the following shall apply:

    a) The width of docks, piers and floats shall be the minimum necessary, and in no case shall be wider than six (6) feet unless authorized by state resource agencies;

    b) Materials that will allow light to pass through the deck may be required where the width exceeds six (6) feet;

c) Grating to allow light passage or reflective panels to increase light refraction into the water shall be used on piers, docks, floats and gangways in nearshore areas; and

d) Use of non-toxic materials, including, but not limited to, steel, concrete and non-toxic wood shall be approved by applicable state agencies.

9) Single-user docks/piers/floats shall meet the setbacks for boating facilities set forth in Table 7-3; however, a shared dock/pier may be located adjacent to or upon a shared side property line upon the filing of an agreement by the affected property owners.

10) No dock, pier, float, or watercraft moored thereto shall be used for a residence.

7.11.9 Regulations – Marinas

1) New covered moorage is prohibited. Expansion of existing covered moorage is prohibited.

2) Marinas may be permitted on marine shorelines when they are consistent with this Program and when the proponent demonstrates to the City's satisfaction that all of the following conditions are met:

a) The proposed location is the least environmentally damaging alternative; and

b) Potential adverse impacts on shoreline processes and ecological functions are mitigated to achieve no net loss; and

c) The area has adequate water circulation and flushing action; and

d) The proposed location will not require excavation/filling of wetlands; and

e) Suitable public infrastructure is available or can be made available by project completion to support the marina.

3) Where marinas are permitted they shall be designed, constructed and operated according to the following:

a) Shoreline armoring shall be limited to the minimum necessary to protect marina infrastructure and shall consist of soft-shore stabilization unless such stabilization is demonstrated by a geotechnical analysis to be infeasible or inadequate to protect the site. Also see Section 7.9.2-

Regulations/Demonstration of Need - New, Expanded or Replaced Bulkheads.

b) Floating structures shall be designed to prevent grounding on tidelands. Floats cannot rest on the substrate at any time. Stoppers on the piling anchoring the floats or stub piling must be installed such that the bottom of the floatation device is at least 1 (one) foot above the level of the substrate. The stoppers must be able to fully support the entire float.

c) Piers and other structures shall be located, sized and designed to minimize shading of nearshore aquatic habitats and species.

d) Solid structures shall be designed to provide fish passage through and along the shallow water fringe.

e) Marina development shall be required to include public access amenities. Consistent with Section 6.5 (Public Access) of this Program. Public access shall be designed to be environmentally sound, aesthetically compatible with adjacent uses, and safe for users.

f) Live-aboard vessels are allowed in marinas provided that adequate facilities and programs to address waste and sanitary disposal are in place.

4) Fill waterward of OHWM shall be limited to the minimum necessary to match the upland with the elevation of the marina when consistent with Section 7.5 (Fill and Excavation) of this Program.

5) Dredging shall be limited to the minimum necessary to allow boat access to a marina when consistent with Section 7.4 (Dredging) of this Program.

6) New or expanded upland development appurtenant to marinas shall be designed and constructed to avoid and, where avoidance is not possible minimize, impacts on shoreline functions and processes.

7) To meet the requirements in Section 7.11.9 Regulation #3 above, the following standards shall apply to new or expanded development appurtenant to marinas:

a) Accessory uses at marinas shall be limited to those necessary to support the marina including, but not limited to, office space, parking, open air storage, waste storage and treatment, stormwater management facilities, utilities, and upland transportation facilities.

b) Parking shall be located away from the water's edge and landward of any applicable buffers recommended by a critical areas study, or required setback area from the ordinary high water mark. This shall not preclude the

development of a loading space in proximity to the walkway for temporary parking.

c) Parking areas shall meet City stormwater management standards and shall, where feasible, incorporate low impact development practices such as pervious surfaces and bioswales.

d) Dry moorage and other storage areas shall be landscaped with native vegetation consistent with the requirements of GHMC 17.78 to provide a visual and noise buffer for adjoining uses.

e) Pump-out, holding, and/or waste treatment facilities and services shall be provided at all marinas. Pump-out facilities shall be conveniently located and sited to ensure easy access, prevent lengthy queues and allow full compliance with waste disposal regulations. Vessel mounted pump-out services and hard-plumbed stations accessible by all marina patrons shall be preferred over portable pump-out equipment. Pump-out facilities shall be an approved system that meets state and local water quality regulations and Tacoma Pierce County Health Department regulations.

f) Marinas with live-aboards shall provide permanent restrooms and sewage disposal facilities in compliance with applicable health regulations.

g) Garbage and recycling receptacles, including those required for waste oil and solvents, shall be provided and maintained by the marina operator at upland locations convenient to users.

h) Marina operators shall post the following signs where they are readily visible to all marina users;

   i) Regulations pertaining to handling and disposal of waste including gray water, sewage and toxic materials;

   ii) Regulations prohibiting the use of marine toilets while moored unless these toilets are self-contained or have an approved treatment device;

   iii) Regulations prohibiting the disposal of fish and shellfish cleaning wastes, scrap fish, viscera or unused bait in or near the marina waters;

   iv) Rules and BMP's for boat maintenance and repairs in the marina.

8) New marina facilities, and alterations to existing facilities, shall submit the following information as part of their application for a Shoreline Substantial Development Permit:

a) The number of users;

b) The size of water-craft which will be moored in the new facility;

c) The number of live-aboard vessels or slips allocated for live-aboard vessels;

d) A general plan showing water supply lines, pump-out facilities, solid waste collection points, and outdoor lighting; and

e) In addition to the application requirements described in Chapter 8, the application shall include a site plan drawn to scale showing adjacent property structures and uses, including existing and proposed state lease land boundaries.

7.11.10 Regulations – Marine Fueling Facilities

1) Marine fueling facilities shall be equipped with fire-protection equipment consistent with GHMC Chapter 15.16 Amendments to the International Fire Code (IFC), Section 15.16.190 Amendment to IFC Chapter 45.

2) A management plan shall be developed for new marine fueling facilities for the safe handling of fuel to prevent them from entering aquatic waters, surface or ground water. Specific provisions shall address prompt and effective clean up of spills that may occur. Management plans shall be coordinated with state or federal spill response plans. Where a spill management/response plan has been approved by the State, said plan may be used to satisfy the requirements of this section. Rules for spill prevention and response, including reporting requirements, shall be posted on site.

7.11.11 Regulations – Commercial Fishing Moorage

1) New or existing marinas or moorage facilities which provide moorage and support facilities for active commercial fishing vessels shall be exempt from the parking requirements of Gig Harbor Municipal Code Title 17 for those commercial fishing vessels which have an active license or a contract from the previous fishing season or the next fishing season, provided the following requirements are met:

a) One load/unloading parking space on the marina property is continuously provided.

b) Proof of an active license for commercial fishing vessels or an active contract for commercial fishing boat tenders shall be provided to the City to qualify initially for this exemption. The City may request from the marina owner and/or operator in future years that the applicant affirm within thirty (30) calendar days of written request by the City the status of each active commercial fishing vessel on the site by providing copies of the appropriate license or contract.

c) Development activities associated with pleasure craft or other non-active commercial fishing vessels shall comply with the other relevant sections of this Shoreline Master Program including but not limited to the parking requirements of Gig Harbor Municipal Code Title 17.

7.12 Commercial Uses

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

7.12.1 Policies

A. Preferred uses

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

B. Public access

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

C. Low impact development techniques

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

7.12.2 Regulations

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

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

2) In the City Waterfront and Historic Working Waterfront shoreline environmental designations, non-water oriented uses located landward of the ordinary high water mark on shorelines shall be allowed pursuant to the use matrix set forth in GHMC Chapter 17.14 Land Use Matrix.

3) In the Low Intensity and Urban Conservancy shoreline environment designations, non-water oriented uses located landward of the ordinary high water mark on shorelines shall not be allowed unless they meet the following criteria:

   a) The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or

   b) Navigability is severely limited at the proposed site; and the commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.

   c) In areas designated for commercial use, nonwater-oriented commercial development may be allowed if the site is physically separated from the shoreline by another property or public right of way.

4) Commercial use and development, including deck structures located waterward of the OHWM that are appurtenant to permitted upland water-related and water-enjoyment uses, shall be allowed when the proponent demonstrates that it will not result in a net loss of shoreline ecological functions or processes, or have significant adverse impact on other shoreline uses, resources and/or values such as navigation, recreation and public access.

~~4)~~5) Deck structures located waterward of the OHWM that are appurtenant to permitted upland water-related and water-enjoyment uses shall consist of a cantilevered design without the need for piling support, shall not exceed a maximum size of 750 square feet of floor area and shall be dedicated to uses that attract the general public to the shoreline. No storage of tables, chairs or other materials shall be permitted within the deck area during non-use, "out-of-season" time periods. Last, the deck area shall be posted with a sign that addresses the prohibition on storage. The sign shall be reviewed and approved by the Administrator prior to installation.

~~5)~~6) All commercial uses shall comply with the development regulations set forth in Section 7.1.2, Table 7-3 of this program and the Gig Harbor Municipal Code including, but not limited to, height, setbacks, impervious coverage and off-street parking.

~~6)~~7) In the Historic Working Waterfront Shoreline Environment Designation, non-water oriented commercial uses are allowed as a conditional use within existing overwater structures for those properties listed on the City's Register of Historic Places pursuant to GHMC Section 17.97.040 Register of historic places.

~~7)~~8) All commercial uses shall provide public access as required by Section 6.5-Public Access.

7.13 Commercial Fishing Sales & Services

It is the goal of the City of Gig Harbor to preserve the commercial fishing fleet as a significant cultural and economic resource, encourage important fleet supporting services and promote development or rehabilitation of facilities consistent with the fleet's needs, including the retention and redevelopment of waterfront parcels that provide a substantial and direct contribution to the commercial fishing industry.

The commercial fishing industry consists of the vessels, the moorage facilities and the upland facilities and structures that provide direct support to the industry. It is the historical backbone of the Gig Harbor community and its waterfront environment and has been the focus of the city's development since its incorporation in 1946. The value of the fleet is recognized as a very important component of the cultural and community environment. Preservation of the fishing character of the City is a primary consideration in evaluating effects of a shoreline proposal.

7.13.1 Policies

A. Developments waterward of the ordinary high water mark

Allow over-water, water-dependent development that directly supports the commercial fishing industry such as net sheds and loading/unloading docks.

B. Sales and services

Allow and encourage commercial sales and services directly related to or supportive of the commercial fishing industry, such as marine fueling facilities and direct dock sales of sea food products, consistent with the environment designation and zoning regulations applicable to the site.

7.13.2 Regulations

1) Developments which are water-dependent and directly supportive of commercial fishing activities may be permitted waterward of ordinary high water mark.

2) The sale of processed or semi-processed commercial fish products and provision of supportive services such as fueling facilities at moorage facilities which accommodate commercial fishing vessels is permitted, consistent with the underlying zoning code district for the site and applicable health codes of the State.

7.14 Educational Facilities / Scientific, Historical, Cultural, Educational Research Uses

It is the goal of the City of Gig Harbor to allow for educational, scientific or historical facilities in the shoreline.

7.14.1 Policies

A. Maritime facilities in Gig Harbor Bay

Encourage public-private partnerships in Gig Harbor Bay for purposes of educating the public and promoting tourism related to boat building, commercial fishing, and other maritime activities with historic significance to the community.

7.14.2 Regulations

1) Museums, cultural centers, training centers, and other facilities open to the public and whose primary purpose is education or the preservation of local history in Gig Harbor shall be allowed landward of ordinary high water in all shoreline environments except Natural and Marine Deepwater, provided such facilities are permitted by the underlying zoning designation.

7.15 Industrial Development

It is the goal of the City of Gig Harbor to support the commercial fishing fleet and recreational boating community of Gig Harbor, allow for the continuation of boat repair, building and sales, and the development and sales of marine-related products in appropriate shoreline areas.

7.15.1 Policies

A. Prohibition on industrial levels 1 & 2

Industrial Level 1 and 2 type development within Gig Harbor is not considered appropriate due to the severe environmental constraints and physical limitations of the harbor.

B. Preference for marine related industrial

Recognizing the importance of commercial fishing, boat building and production and sale of boats and related marine supplies, marine industrial uses should be considered a preferred use along the city's shoreline where allowed by the Comprehensive Plan and Zoning Code.

C. Restoration

Restoration of impaired shoreline ecological functions and processes should be encouraged as part of marine industrial and other permitted industrial development.

D. Incompatible uses

Marine industrial development should be protected from encroachment or interference by incompatible uses such as residential or commercial uses, which have less stringent siting requirements.

7.15.2 Regulations

1) Industrial Level 1 and Industrial Level 2 uses shall not be permitted within the shoreline areas of the City of Gig Harbor.

2) Developments shall be required to include the capability to contain and clean up spills, discharges, or pollutants, and shall be responsible for any water pollution which they cause.

3) Industrial uses and redevelopment projects are encouraged to locate where environmental cleanup and restoration can be accomplished.

7.16 Historic Net Sheds

Net sheds represent one of Gig Harbor's most notable and colorful industries: commercial fishing. Around the beginning of the 20th Century, Croatian immigrants, who lived in Gig Harbor and pioneered the salmon purse seine fishing industry in Puget Sound, began building modest docks covered with sheds on wood piling along the shoreline of Gig Harbor Bay. The net sheds provided easy access for the fisherman to load and unload their nets and gear, as well as a covered location to dry the nets out and work on them and other gear out of the weather. Today, the largest inventory of historic net sheds remaining in Puget Sound, are located within the City of Gig Harbor. A total of 17 net shed structures remain, with approximately one-third of them utilized for the storage of nets and other commercial fishing gear. It is the goal of the City of Gig Harbor to encourage the preservation and adaptive re-use of historic net sheds in Gig Harbor Bay recognizing their historic and cultural importance to Gig Harbor's commercial fishing industry.

7.16.1 Policies

A. Historic net sheds with water-dependent uses

As an iconic form of development along the city's shoreline, the continued use of historic net sheds in support of commercial fishing should be the top priority for such structures. Other water-dependent uses in historic net sheds are preferred to non-water oriented uses. Converting a non-water oriented use to a water-dependent use in a historic net shed is encouraged.

B. Adaptive re-use of historic net sheds

Allow adaptive re-use of historic net shed structures listed on the Gig Harbor Register of Historic Places with non-water oriented uses, including single-family residential uses, only when a water-dependent use is no longer economically viable, when designed to preserve the architectural integrity of the structure, and when educational or interpretive signage is provided.

C. Expansion of net sheds for non-water dependent uses

The overwater expansion of net shed structures for any non-water dependent use should be prohibited.

7.16.2 Regulations

1) Non-water-oriented uses are allowed in net sheds when the following criteria are met:

    a) The property owner/applicant demonstrates that a water-oriented use is no longer economically viable.

    b) The property has been listed on the Gig Harbor Register of Historic Places.

    c) Net sheds associated with a single-family dwelling on a residential lot may be utilized as an extension of the residential use but are prohibited from having sleeping accommodations or being utilized as an accessory apartment. Net sheds used as extension of an existing single-family dwelling shall provide educational or interpretive signage that address the historical significance of the structure and its use.

    d) The property owner has entered into a contractual agreement with the City that addresses the approved use of the net shed, its continued consistency with the requirements of GHMC 17.97Historic Preservation and enforcement procedures and potential penalties for noncompliance with the terms of the agreement. The agreement shall be recorded with the Pierce County Auditor's office and a copy of the recorded agreement provided to the City's Shoreline Administrator prior to approval of the occupancy permit for the net shed structure.

2) When permitted pursuant to 7.16.2 Regulation #1, non-water-oriented uses shall provide ecological restoration (e.g., bulkhead removal, planting of riparian vegetation, replacement of creosote pilings) in compliance with Section 6.8 Restoration and Remediation and 7.8 Shoreline Habitat and Natural Systems Enhancement Projects. In addition, commercial non-water-oriented uses shall provide public access pursuant to section 6.5 and educational or interpretive signage.

3) When permitted pursuant to 7.16.2 Regulation #1, the conversion of a net shed from a water-dependent use to a non-water oriented use shall require listing of the structure on the City's Register of Historic Places and be consistent with the requirements of GHMC 17.97. A change in use or expansion of an existing use in a net shed designated on the Gig Harbor Register of Historic Places must maintain the historic architectural integrity of the structure through compliance with the provisions of GHMC 17.97.

4) The conversion of a net shed to a non-water oriented use shall require a Shoreline Conditional Use Permit.

5) No expansion of the existing net shed building footprint shall be allowed.

6) No increase in the height of a net shed structure shall be allowed.

7) The conversion of a net shed located on state owned aquatic lands managed by the Washington State Department of Natural Resources to a non water-dependent use shall follow the requirements listed under WAC 332-30-137.

    a) The property owner shall contact the State Department of Natural Resources prior to any development.

    b) The Department of Natural Resources will conduct an analysis on a case-by-case basis to include specific circumstances to determine if the proposed use is consistent with WAC 332-30-137.

7.17 Recreation Uses and Development

It is the goal of the City of Gig Harbor to protect and enhance recreational opportunities in the shoreline area by promoting a mixture of passive use facilities that provide enjoyment of the shoreline without impacting sensitive habitat or shoreline ecology.

7.17.1 Policies

A. Location

Give preference for recreational development located on the shoreline to facilitate the public's ability to reach and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline. Where appropriate, such facilities should be dispersed along the shoreline to support frequent recreational access and aesthetic enjoyment of the shoreline for the public.

B. Enhance natural character

Development of recreational facilities should enhance the natural character of an area or incorporate shoreline restoration elements, while providing, where appropriate, for both active and passive forms of recreation.

C. Recreation improvements

Locate recreational development on the shoreline in a manner that minimizes extensive structures, utilities, roads, and/or substantial modifications of topography or vegetation removal.

D. Consistency with other plans

Plan, design and implement shoreline recreational development consistent with growth projections, level-of-service standards, and goals established in the City's Comprehensive Plan and Parks, Recreation and Open Space Plan.

E. Potential opportunities

Identify shoreline areas with the potential for providing recreation or public access opportunities and acquire such areas for incorporation into the public park and open space system.

F. Linking recreation areas

Encourage the linkage of shoreline parks, recreation areas and public access points with linear systems, such as trails, sidewalks, bicycle paths, easements and/or scenic drives.

G. Education

Recreation facilities should incorporate public education and interpretive installations regarding shoreline ecological functions and processes, historic and cultural heritage.

H. Street-ends

Existing public rights-of-way generally perpendicular to the shoreline (street-ends) should be developed, as feasible, into passive public recreational areas consistent with this Program.

7.17.2 Regulations

1) Non-water-oriented, active-use recreational facilities such as playing fields or facilities with extensive impervious surfaces are prohibited.

2) Water-oriented recreational use/development, including trails and pathways, is a preferred use of the shoreline and shall be allowed when the proponent demonstrates that it will not result in a net loss of shoreline ecological functions or processes or have significant adverse impact on other shoreline uses, resources and/or values such as navigation and public access.

3) Recreation areas or facilities on the shoreline shall provide physical or visual public access consistent with Section 6.5 (Public Access) of this Program.

4) New recreational use/development shall be located landward of the shoreline vegetation conservation area required by Section 6.2.4 (Vegetation Conservation) except that components of the recreational use or development

that are water-dependent or water-related may be allowed within the shoreline vegetation conservation area.

5) Signs indicating the public's right to access shoreline areas shall be installed and maintained in conspicuous locations at recreational facility points of access and entrances.

6) When a public recreation site abuts private property/tidelands, signs and other similar markers shall indicate geographic limits of public access to minimize conflicts with adjacent use/development.

7) Where appropriate, recreation development proposals shall include provisions for non-motorized access to the shoreline from both the uplands and the water (e.g. pedestrian boat access, bike paths, and water access.)

8) Proposals for recreational use and development that involve any clearing, grading or impervious surface shall include a landscape plan. Native, self-sustaining vegetation shall be used as often as possible. The removal of on-site native vegetation shall be limited to the minimum necessary for the development of selected view-points or other permitted structures or facilities and shall be subject to Section 6.2.4 (Vegetation Conservation) of this Program.

9) Proposals for recreational development shall include adequate facilities for water supply, sewage and garbage disposal, and recycling commensurate with the intensity of the proposed use.

10) Recreational use and development shall incorporate appropriate mitigation to minimize light and noise impacts on adjoining land uses. Such measure shall include, but not be limited to, fencing, screening, and related measures.

7.18 Residential

It is the goal of the City of Gig Harbor to provide for residential uses that preserve the character of the waterfront and avoid ecological impacts.

7.18.1 Policies

A. Single-family as a priority use

Give preference to single-family residences as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the shoreline environment.

B. Over-water residential uses

New over-water residential development or expansion of existing over-water residences should not be allowed. Remodel and reconstruction of existing over-water residential structures should be allowed consistent with provisions for legal nonconforming uses.

C. Residential design and stabilization structures

Require sufficient setbacks from steep slopes and shorelines vulnerable to erosion by designing new residential subdivisions and structures so that structural improvements and other stabilization are not required initially or in the future.

D. Site design

Site design and the configuration of improvements should incorporate existing topography, critical areas and vegetation to the extent feasible

E. Residential structures or development

Locate and design structures or development for residential uses outside of required setbacks or required buffers

F. Protect, enhance and restore shoreline resources

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

7.18.2 Regulations

1) New and expanded overwater residential development including garages, accessory buildings, boathouses, house boats, floating homes and house barges shall be prohibited unless otherwise specified in this chapter. Residential live-aboard vessels are permitted within marinas per the requirements of Subsection 7.11.9.3.f.

2) Existing overwater residences, including those located within the overwater residential community of Nesika Beach may be maintained consistent with the regulations set forth in Section 8.11-Nonconforming Uses and Structures.

3) New residential lots created through land division shall be allowed provided they are consistent with Subsection 7.9.3.1.

4) A primary residence shall be allowed on each lot provided none of the following are necessary:

    a) New structural shoreline stabilization measures that would cause significant impacts to other properties or public improvements or a net loss of ecological functions;

    b) New improvements proposed within the required vegetation conservation area, the required setback from the OHWM or critical area buffer, except as provided in Section 6.2-Marine Shorelines, Vegetation Conservation and Critical Areas Protection;

    c) Removal of significant vegetation that adversely impacts ecological functions;

    d) Site work that creates significant erosion or reduction in slope stability; and

    e) Site work that creates increased erosion in the new development or to other properties.

5) New residential lots shall also demonstrate the following:

a) Adequate sewer, water, access, and utilities can be provided at the time of final plat or short plat approval subject to the requirements of Gig Harbor Municipal Code Title 16.

b) The intensity and type of development is consistent with the Gig Harbor Comprehensive Plan and the associated development regulations set forth in Gig Harbor Municipal Code Title 17.

c) Potential significant adverse environmental impacts can be avoided or mitigated to achieve no net loss of ecological functions, taking into consideration temporal loss due to construction and potential impacts to the environment.

d) The development is consistent with the development standards required by the underlying zoning designation.

6) Prior to the granting of a Shoreline Permit Exemption, Substantial Development Permit, Shoreline Conditional Use Permit, Shoreline Variance Permit or Building Permit, the City shall make a determination that the proposed project is consistent with the policies and regulations of the Shoreline Master Program including the following standards:

   a) The proposed development site is suited for residential use and is not located in areas having significant hazard to life and property and likely to require future public funds to protect and rehabilitate;

   b) Adequate methods of erosion control shall be utilized during and after project construction; and

   c) Disturbance of established, native shoreline vegetation will be minimized.

7) New multiple family residential development and subdivisions containing more than four lots shall include public access in conformance with the Public Access Standards set forth in Chapter 6 of the Shoreline Master Program.

8) Natural site areas shall be maintained, enhanced, and preserved to the greatest extent possible consistent with the provisions of Section 7.3 Clearing and Grading, and Gig Harbor Municipal Code Chapters 17.94 and 17.99. To this end, the City may limit grading and clearing to the extent deemed necessary for the reasonable and necessary use of the site or tract.

9) Residential structures shall comply with the height requirements set forth in subsection 7.1.2, Table 7-3-Bulk and Dimensional Standards. The maximum

height above average grade level of any residential structure shall not exceed 35 feet.

10) In the Natural Shoreline Environment Designation, existing residential development may be remodeled within the "footprint" of the existing structure. No expansion of existing residential structures is allowed within the required vegetation conservation strip or critical area buffer without the authorization of a variance.

7.19 Signs and Outdoor Advertising

It is the goal of the City of Gig Harbor to limit waterfront signage to minimize visual obstruction of the shoreline and marine waters and ensure compatibility with the shoreline environment and allowed uses.

7.19.1 Policies

A. Visual obstruction

Design and locate signs in such a manner that they minimize visual obstruction of the shoreline and marine waters. Low profile, on-premise, wall signs are strongly preferred over free-standing signs or off-premise wall signs to minimize negative visual impacts and obstructions to shoreline access and use.

B. Compatibility

Signs should be designed, constructed and placed so that they are compatible with the natural aesthetics of the shoreline environment and adjacent land and water uses. Moving or flashing signs should be prohibited in shoreline jurisdiction.

C. Interpretive signs

Encourage private and public waterfront development to integrate educational interpretive signs at public access locations and viewpoints.

D. Gateway signs

Encourage the use of single, common-use gateway signs for communities, districts, public transient moorage facilities, and/or multi-use or multi-tenant commercial developments to identify and give directions to local premises and public facilities.

E. Free-standing signs

Where possible, locate free-standing signs on the landward side of development and avoid blocking scenic views.

7.19.2 Regulations

1) The type, size, location, installation and maintenance of all signs must comply with the City of Gig Harbor Sign Code (GHMC 17.80).

2) All signs shall be located in such a manner that they minimize interference with public views. Free standing signs which may disrupt views to the water shall be placed on the landward side of development.

3) Signs in shoreline areas shall be located against existing buildings wherever feasible.

4) Public transient moorage facilities may utilize one "portal" type sign located no closer to the water than the land ward side of the ramp/gangway that provides access to the moorage facility. The one permitted portal sign may have a maximum height of 12 feet and shall comply with all other requirements of GHMC 17.80.

5) Private transient moorage facilities may utilize one (1) six square-foot directional type sign mounted on a single piling on the waterward side of the marina for business identification purposes. The one permitted directional sign may have a maximum height of 6 feet and shall comply with all other requirements of GHMC 17.80.

7.20 Transportation Facilities

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

7.20.1 General Policies

A. Arterial roads

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

B. Local roads

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

C. Pedestrian trails and bicycle routes

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

D. Foot passenger ferry service in Gig Harbor Bay

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

7.20.2 Parking Policies

A. Location and shared use

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

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

B. Aesthetic

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

C. Parking impacts

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

7.20.3 Roadway Regulations

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

    a) The need for a shoreline location and that no reasonable upland alternative exists.

    b) That construction is designed to protect the adjacent shorelands against erosion, uncontrolled or polluting drainage, and other factors detrimental to the environment both during and after construction.

    c) That the project will be planned to fit the existing topography as much as possible thus minimizing alterations to the natural environment.

    d) That all debris, overburden and other waste materials from construction will be disposed of in such a way as to prevent their entry by erosion from drainage into water body.

    e) That when new roads will afford scenic vistas, viewpoint areas will be provided. Scenic corridors shall have sufficient provision for safe pedestrian and non-motorized vehicular travel.

2) Roads should be located on grade rather than elevated except when crossing wetlands or streams. Road designs must provide appropriate pedestrian and non-motorized vehicular crossings where public access to shorelines is intended.

3) All cut and fill slopes shall be stabilized and planted with native and/or appropriately introduced grasses, shrubs and/or trees which shall be maintained by the installing agency or developer until established.

4) Non-emergency construction and repair work shall be scheduled for that time of year when seasonal conditions permit optimum feasible protection of shoreline ecological functions and processes.

5) Maintenance activity including vegetation control and erosion control shall be carried out consistent with this Program. Necessary resurfacing of existing roadways, including roadway overlays, sub-grade replacements and repair may be exempt from Substantial Development Permit requirements as provided by Section 8.3.

6) RCW 35.79.035 prohibits the City from vacating any City road that abuts a body of saltwater except for recreational, educational or industrial purposes. Therefore, development, abandonment, or alteration of undeveloped City road ends within SMP jurisdiction is prohibited unless approved in accordance with this Program.

7.20.4 Parking Regulations

1) Parking as a ~~primary~~ principal use shall be prohibited in the shoreline jurisdiction, except in those portions of the City Waterfront SED located land ward of Harborview Drive and North Harborview Drive. Where off-street parking is allowed, best management practices that include low impact development techniques shall be employed in the design and operation of off-street parking areas consistent with the requirements of GHMC Chapter 14.20-Stormwater Management.

2) Parking or storage of recreational vehicles or travel trailers as a primary use shall be prohibited in the shoreline jurisdiction.

3) Parking in shoreline areas must directly serve an approved shoreline use.

4) Parking areas shall be located no closer to the site's OHWM than allowed for structures on the site. Where feasible, parking areas shall be located on the landward side of proposed structures. Parking and loading areas shall be allowed pursuant to subsections 7.11.9.7.b and 7.11.11.1.a.

7.21 Utilities

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

7.21.1 Policies

A. Production and processing facilities

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

B. Transmission facilities

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

C. Development on aquatic lands and tidelands

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

D. Views and aesthetics

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

E. Stormwater detention and treatment facilities

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

F. Shoreline protection

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

G. Stormwater and sanitary sewer pipeline outfall locations

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

H. Maintenance of stormwater pipeline outfalls

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

7.21.2 Regulations

1) Shoreline permit applications for installation of utility production and processing facilities shall include the following:

    a) Demonstration why utility facility requires a shoreline location;

    b) Alternative locations considered and reasons for their elimination;

    c) Location of other utility facilities in the vicinity of the proposed project including facilities of other types of utilities;

    d) Plans for reclamation of areas disturbed during construction;

    e) Plans for control of erosion and turbidity during construction;

f) Possibility for consideration of the proposed facility within existing utility right-of-way.

2) The State of Washington Departments of Fish and Wildlife and Ecology shall be notified of any utility proposal which would require withdrawals of water from any body of water under shoreline management jurisdiction.

3) Upon completion of utility projects, shorelines shall, at a minimum, be restored, replanted and provided with maintenance care until the newly planted vegetation is fully established. Plantings shall be native species and/or be similar to vegetation in the surrounding area.

4) Where utilities must be placed in a shoreline area, obstruction of scenic views shall be minimized to the greatest extent possible.

5) Where overhead transmission lines must parallel the shoreline, they shall be outside of the shoreline jurisdiction unless topography or safety factors would make it unfeasible.

6) Accessory utility facilities, such as those typical and normal to support and serve a permitted shoreline use, shall be permitted in all environments. This will typically consist of distribution lines and individual service lines. Such utility facilities may be new or may be relocated facilities,

7) Storm water management facilities, limited to detention / retention / treatment ponds, media filtration facilities, and lagoons or infiltration basins, within the shoreline jurisdiction shall only be permitted when the following provisions are met:

   a) Construction of the storm water facility does not displace or impact a critical area;

   b) There is no other feasible location for the storm water facility and the facility is located, constructed, and maintained in a manner that minimizes adverse effects to shoreline ecological functions;

   c) The storm water facility is designed to resemble natural wetlands and meets applicable storm water management standards and the discharge water meets state water quality standards;

   d) Low impact development approaches have been considered and implemented to the maximum extent feasible.

8) Conveyance facilities, including storm water, wastewater, or water supply pump stations; and storm water discharge facilities such as dispersion trenches, level

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

a) Due to topographic or other physical constraints there are no feasible locations for these facilities outside the shoreline;

b) The discharge outlet is sited in a manner that minimizes disturbance of soils and vegetation;

c) The discharge outlet is designed to prevent erosion and promote infiltration.

~~c)~~d) The conveyance facilities, including discharge outlets, shall be designed consistently with the city's Storm Water Manual, GHMC Chapter 14.20.

9) Construction of stormwater facilities in the shorelines shall be timed to avoid fish and wildlife migratory and spawning periods.

10) Construction of underwater utilities or those crossing streams or wetlands shall be timed to avoid major fish migratory runs.

11) Proposal for all new storm water facilities shall include landscaping plans that enhance the aesthetic quality of the shoreline, utilize native vegetation, and provide for maintenance care until newly planted vegetation is established.

7.22 Public Art

It is the goal of the City of Gig Harbor to encourage the public enjoyment and education of memorialized historic, cultural, and archeological significance to Gig Harbor's heritage by allowing the installation of public art on city-owned lots or public right-of-way within certain shoreline environment designations.

7.22.1 Policies

A. Visual obstruction

Design and locate public art in such a manner that it minimizes visual obstruction of the shoreline and marine waters.

B. Location

Encourage the placement of public art located on or near the shoreline to facilitate the public's ability to reach and enjoy the water's edge and to view the water and the shoreline. Where appropriate, public art should be dispersed along the shoreline to support the public's recreational or beach access and aesthetic enjoyment of the shoreline.

C. No net loss

Installation of public art should ensure no net loss to shoreline ecological functions and processes.

D. Materials

Public art should select materials based on long-term durability, ease of maintenance, compatibility with local shore features and habitat, and aesthetic values.

E. Coordination

Coordinate proposals for the installation of public art with affected property owners and with the City of Gig Harbor Arts Commission to ensure it is consistent with the goals of this section and the overall goals of this Program.

F. Consistency with other plans

Public art shall be planned, designed, and implemented consistent with the goals established in the City's Comprehensive Plan and Parks, Recreation and Open Space Plan, as applicable.

7.22.2 Regulations

1) Public art shall be limited to a maximum impervious lot coverage of 200 square feet or 1% of the lot size, whichever is less. Public art shall otherwise conform dimensionally to the requirements of Table 7-3, Bulk Dimensional Standards Matrix, and Table 6-1, Vegetation Conservation Strip Setbacks for Marine Shorelines, as applicable. Public art is prohibited waterward of the Ordinary High-Water Mark.

2) Proposals for the installment of public art that involve any clearing, grading, or impervious surface shall include a landscape plan. Native, self-sustaining vegetation shall be used as often as practicable. The removal of on-site native vegetation shall be limited to the minimum necessary for the development of selected viewpoints and shall be subject to Section 6.2.4 (Vegetation Conservation) of this Program.

3) Public art shall incorporate appropriate mitigation to minimize light and noise impacts on adjoining land uses, as applicable.

4) Public art may include associated amenities, including, but not limited to: pedestrian paths, benches, and interpretive signs.

5) Public art shall be subject to Section 6.2.2 (No Net Loss and Mitigation) of this Program.

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).[1]

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.

[1] Visit the City of Gig Harbor's web site for current information on the dollar threshold amount.

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),[2] 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

[2] Visit the City of Gig Harbor's web site for current information on the dollar threshold amount.

on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials;

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

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

d) Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the

appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or the local master program, obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and the local master program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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:

(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.

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.

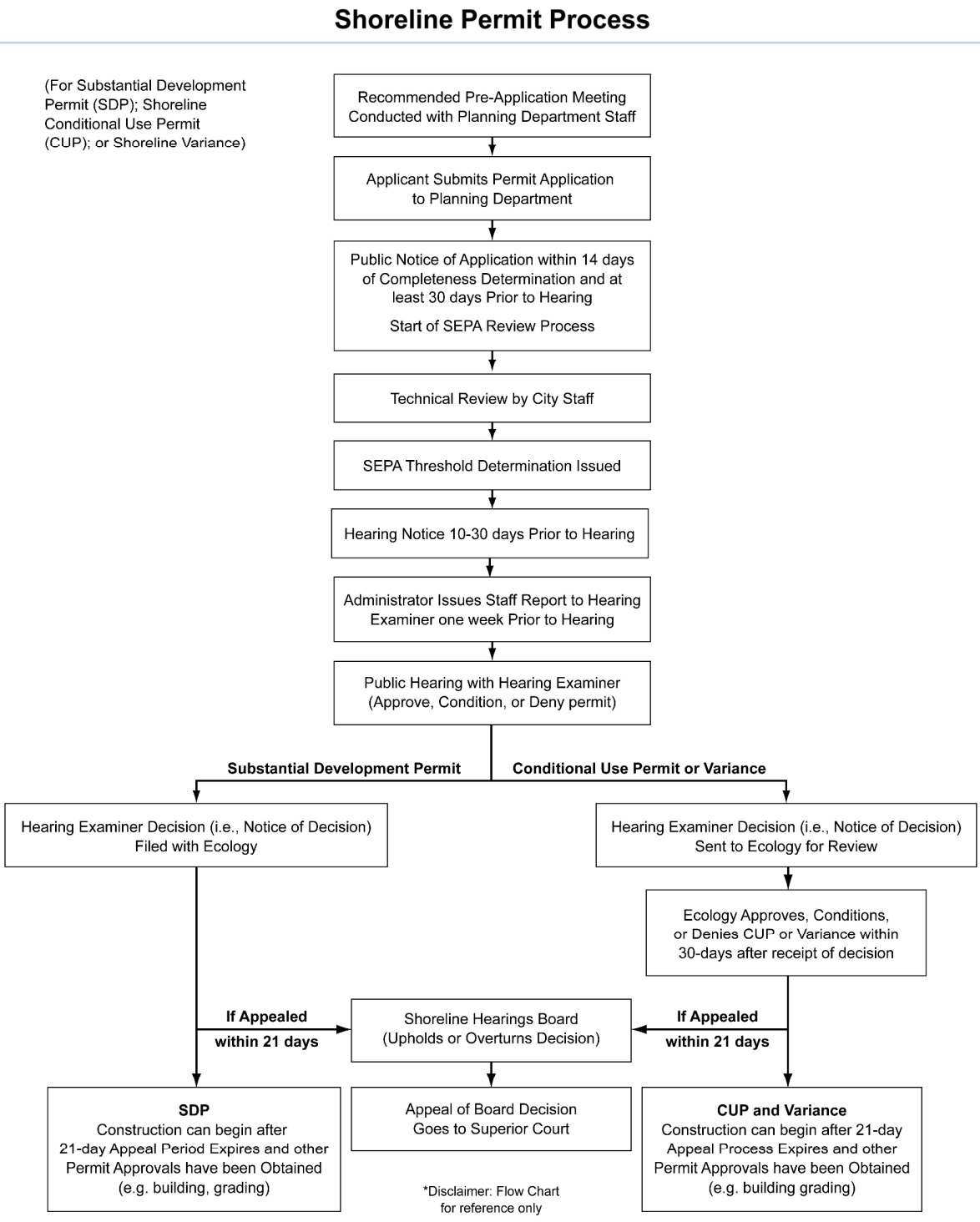
5) The revision approval, including the revised site plans and text consistent with the provisions of WAC 173-27-180 as necessary to clearly indicate the authorized changes, and the final ruling on consistency with this section shall be filed by the city with the Department of Ecology. In addition, local 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.

Periodic Review Checklist – City of Gig Harbor

Introduction

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

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

How to use this checklist

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

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

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

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

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

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

Row	Summary of change	Review	Action
d.	The Legislature authorized a new **option to classify existing structures as conforming**.	**See Subsection 8.11.8.d- currently addressed by existing SMP**	**none**
2010			
a.	The Legislature adopted **Growth Management Act – Shoreline Management Act clarifications**.	**N/A**	**N/A**
2009			
a.	The Legislature created new "relief" procedures for instances in which a **shoreline restoration project within a UGA** creates a shift in Ordinary High Water Mark.	**Section 8.6 Relief from Development Standards and Use Regulations**	**Added clarity to Subsection 8.6.1 with reference to RCW 90.58.580**
b.	Ecology adopted a rule for certifying **wetland mitigation banks**.	Subsection 6.2.5.16.2	Add new Subsection 6.2.5.16.2.d that allows credits from a certified mitigation bank to be used to compensate for unavoidable impacts
c.	The Legislature added **moratoria authority** and procedures to the SMA.	**N/A**	**N/A**
2007			
a.	The Legislature clarified **options for defining "floodway"** as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA.	Chapter 2-Definitions	Revise per Ecology "option 1" example language
b.	Ecology amended rules to clarify that comprehensively updated SMPs shall include a **list and map of streams and lakes** that are in shoreline jurisdiction.	**N/A**	**N/A**
c.	Ecology's rule listing statutory exemptions from the requirement for an SDP was amended to include **fish habitat enhancement projects** that conform to the provisions of RCW 77.55.181.	**N/A**	**N/A**
2018 (Proposed City of Gig Harbor Revisions)			
a.	Add shoreline permit application requirements addressed by WAC 173-27-180 GHSMP Section 8.3 (application requirements).	Section 8.3 (application requirements)	Revise Section 8.3 by providing a reference to the application requirements of WAC 173-27-180

Row	Summary of change	Review	Action
b.	Amend GHSMP 7.18 (Residential Section) to reference liveaboards as a permitted use per marina section	Section 7.18 (Residential) and provide reference to Section 7.11 (Boating & Marinas: Piers, Docks & Moorage)	Revise existing subsection 7.18.2.1 to note that liveaboards are allowed per subsection 7.11.9.3.f
c.	Amend GHSMP Subsection 7.1.1 (Permitted Use Tables) and Table 7-2 (use matrix) by adding water-related and water-enjoyment uses located waterward of OHWM in new structures to use matrix as a conditionally listed use in the City Waterfront & Historic Working Waterfront S.E.D.'s.	Subsection 7.1.1, Table 7-2-Shoreline Use Matrix, and GHSMP Section 7.12 (Commercial Uses)	Revise existing regulation by eliminating the limitation that water-related and water-enjoyment uses only be allowed in "existing structures" as a listed conditional use. Consider limiting the use and size of structures located water ward of the OHWM and the addition of additional review criteria for such structures. In the alternative, consider adding a prohibition symbol to the use matrix if the Planning Commission and City Council do not approve of such a revision to clarify the table. Added overwater decks to Table 7-2 Shoreline Use Matrix; revised Subsection 7.12.4 to allow overwater decks appurtenant to permitted upland water-orented and water-enjoyment uses; and added new Subsection 7.12.2.5 to address design, max. size and use of decks. Revised management policy D.6 for the City Waterfront SED to address overwater decks.
d.	Amend GHSMP Subsection 7.1.1 (Permitted Use Tables), Table 7-2 (Use Matrix) & Subsection 7.20.4 (Parking Regulations) by adding principal use public parking areas as a conditionally listed use in the City Waterfront SED.	Review GHSMP Chapter 2 (definitions), Subsection 7.1.1-Table 7-2 Use Matrix and GHSMP subsection 7.20.4 (parking regulations).	Create a definition in GHSMP Chapter 2 for principle use public parking areas, amend Subsection 7.1.1-Table-2, Use Matrix and Subsection 7.20.4, Parking Regulations, to allow principle use public parking areas as a conditionally

Row	Summary of change	Review	Action
			allowed use in the City Waterfront SED. Revised parking policy in GHSMP Subsection 7.20.2.A to support proposed regulation in Subsection 7.20.4(1) that allows principal use parking areas in City Waterfrongt SED landward of Harborview and North Harborview Drive.
e.	Amend Subsections 6.2.5.11, 6.2.5.21, 6.2.5.22, and6.2.5.24 (Critical Fish & Wildlife Habitat Areas) consistent with revisions to GHMC Chapter18.10 to address proposed FEMA NFIP Door 2 approach to ESA compliance.	Review Subsections 6.2.5.11(2) (Wetland Analysis Report Requirements), 6.2.5.21(2) (Streams Critical Area Reports), 6.2.5.22(3)(h) (Streams Performance Standards, General), 6.2.5.24.4 (Habitat Assessment & Habitat Management Plan regs) & 6.2.5.24.5 & 9 (buffer requirements & specific habitats) for consistency with GHMC Chapter 18.10 to address FEMA NFIP Door 2 programmatic approach to ESA compliance.	Revise Subsections 6.2.5.11(2) (Wetland Analysis Report Requirements), 6.2.5.21(2) (Streams Critical Area Reports), 6.2.5.22(3)(h) (Streams Performance Standards, General), 6.2.5.24.C.2 & 3 (Habitat Assessment & Habitat Management Plan regs) & 6.2.5.24.D (buffer requirements) to streamline agency review process and create consistency with GHMC Chapter 18.10, Flood Hazard Construction Standards.
f.	Amend Subsection 6.5.2.4 (Public Access) to address conditions that don't require public access	Review Subsection 6.5.2.2, 6.5.2.3 & 6.5.2.4	Revise Subsection 6.5.2.4 to reference Subsection 6.5.2.3, not Subsection 6.5.2.2.
g.	Amend Subsection 6.2.5.13(1)(b) (Wetlands-Permitted Uses in Buffer Areas) to clarify where pervious trails and viewing platforms can be located within a wetland buffer. See GHMC 18.08.120.B for correct citation.	Review Subsection 6.2.5.13(1)(b)	Revise Subsection 6.2.5.13(1)(b) to clarify that it only applies to category 1 wetlands
h.	Amend Subsection 6.2.5.13 (Wetlands-Permitted Uses in Buffer Areas) to reference subsection 6.2.5.11, not 6.2.5.10 (see 1.1.ii, 1.3, & 1.h)	Review Subsection 6.2.5.13 for inaccurate reference to wetland report, not wetland buffer requirement	Revise subsection to reference GHSMP subsection 6.2.5.11

Row	Summary of change	Review	Action
i.	Amend GHSMP subsection 6.2.3.2(2) (Marine-Vegetation Conservation Strip) to address structures & "uses and associated structures"	Review GHSMP subsection 6.2.3.2	Revise to clarify the applicability of the requirement to uses and structures.
j.	Amend GHSMP subsection 7.20.4(1) (Parking Regulations) for consistency with definition for "principal use parking"	Review Chapter 2 (definitions) and subsection 7.20.4(1) for consistent use of terms	Revise subsection 7.20.4(1) consistently with definition for "principal use parking" set forth in GHSMP Chapter 2.
k.	Amend GHSMP Chapter 2 (definitions) to correct "development" definition for proper spelling of "Shoreline" not "Shorelines" as in Shoreline Management Act of 1971.	Review Chapter 2 (definitions) and definition for development for correct spelling of "Shoreline"	Revise spelling for Shoreline set forth in the definition for development in GHSMP Chapter 2
l.	Amend GHSMP Chapter 2 (definitions) to revise the existing definition for "Utilities" to include storm water.	Review GHSMP Chapter 2 and Section 7.21 (Utilities) for consistency	Revise Utilities definition in GHSMP Chapter 2 to include storm water
m.	Amend GHSMP Chapter 2 (definitions) by adding a new definition for "navigational aids"	Review WAC 352-66-050 (Aids to Navigation), WAC 173-27-040(2)(f) and Ecology guidance.	Create new definition for "navigational aids." Navigational aids include lights, channel markers and anchor buoys placed in accordance with Coast Guard Standards & requirements of WAC 352-66-050 and not moorage buoys or dolphins used for the moorage of commercial or recreational vessels.
n.	Amend GHSMP Chapter 2 (definitions) to revise the definition for "Substantial Development" to create consistency with Shoreline Management Act definition, RCW 90.58.030.	Review GHSMP Chapter 2 (definitions) and definition for Substantial Development for consistency with RCW 90.58.030 definition.	Revise the definition for "substantial development" consistent with RCW 90.58.030 definition.
o.	Amend GHSMP Chapter 2 (definitions) by adding a new definition for "Harbor Area."	Review Wa. DNR definitions in RCW 79.105.060	Create new definition for "Harbor Area" consistent with DNR definition for same in RCW 79.105.060
p.	Amend GHSMP Chapter 2 (definitions) to revise the definition for "Administrator" to accurately refer to the "Community Development Director," rather than	Review GHSMP Chapter 2 (definitions) and definition for "Administrator" for consistency with local agency position title.	Revise the definition for "Administrator" consistent with current position title with local agency.

Row	Summary of change	Review	Action
	the "Planning Director," for consistency with local agency position titles.		
q.	Amend GHSMP Chapter 2 (definitions) to revise definition for "floodplain hazard permit" and add definitions for "riparian buffer zone," "special flood hazard zone," "biological opinion," "no effect," "not likely to adversely affect," and "likely to adversely affect" consistent with terminology referenced in GHMC Chapter 18.10.	Review GHSMP Chapter 2 (definitions) and definitions for "riparian buffer zone," "special flood hazard zone," "floodplain hazard permit," "biological opinion," "no effect," "not likely to adversely affect," and "adversely affect" for consistency with definitions set forth in GHMC Section 18.10.040.	Revise definition for "floodplain hazard permit" and create definitions for "riparian buffer zone," "special flood hazard zone," "biological opinion," "no effect," "not likely to adversely affect," and "adversely affect" consistent with GHMC 18.10 definitions.
r.	Amend GHSMP Subsection 7.21.2(8) (Utilities-Regulations) to add additional review criterion for utility conveyance systems.	Review GHSMP Section 7.21 for consistency with the city's Ecology approved storm water manual requirements	Revise subsection 7.21.2(8) to include consistency with Ecology approved storm water manual as one of applicable review criteria for storm water conveyance systems located within shoreline jurisdiction.
s.	Amend Chapter 5 Figures (5-1 – 5-8) and "Designation Criteria" and "Shorelines Designated" subsections to reflect the change to the City's Urban Growth Area per City of Gig Harbor Resolution 1124 and Pierce County Ordinance 2019-15s.	Review Chapter 5 for consistency with Pierce County Ordinance 2019-15s	Revise Figures 5-1 – 5-8 and the associated subsections describing and referencing the geographic area of the SED.
t.	Amend GHSMP Section 1.7 to reflect the accurate shoreline jurisdiction mileage resultant of change to the City's Urban Growth Area per City of Gig Harbor Resolution 1124 and Pierce County Ordinance 2019-15s.	Review GHSMP Section 1.7 for consistency with revised shoreline jurisdiction mileage resultant of Pierce County Ordinance 2019-15s.	Revise shoreline jurisdiction encompassed mileage from "6.7" miles of the Puget Sound shoreline and "3.16" miles of shoreline within the City limits to "5.12" miles and "3.32" miles, respectively.
u.	Move wetland "notice and title" provisional language from GHSMP Subsection 6.2.5.10(2) to earlier standalone subsection; unrevised language now referenced as GHSMP Subsection 6.2.5.1.	Review GHSMP Subsections 6.2.5.1 and 6.2.5.10(2) for relocated language to earlier reference in GHSMP.	Moved wetland "notice and title" provisional language, without revision, from GHSMP Subsection 6.2.5.10(2) to Subsection 6.2.5.1.

Row	Summary of change	Review	Action
v.	Amend GHSMP Subsection 6.2.5.4(2) to accurately reference GHSMP Subsection 6.2.5.14.2 as it relates to Category I wetland encroachments, rather than the incorrect reference to GHSMP Subsection 6.2.5.13.2.	Review GHSMP Subsection 6.2.5.4(2) for accuracy in reference to GHSMP Subsection 6.2.5.14.2.	Revise inaccurate reference (GHSMP Subsection 6.2.5.13.2) to accurate reference (GHSMP Subsection 6.2.5.14.2,) as appropriate in GHSMP Subsection 6.2.5.4(2) discussion of Category I wetland encroachments.
w.	Correct references throughout GHSMP Subsection 6.2.5.14 for accuracy.	Review GHSMP Subsections 6.2.5.14(1)(a)(ii), 6.2.5.14(1)(b), 6.2.5.14(1)(e), 6.2.5.14(1)(h), and 6.2.5.14(2) for revised GHSMP references to accurately reflect correct material.	Revise inaccurate references discussed in GHSMP Subsections 6.2.5.14(1)(a)(ii), 6.2.5.14(1)(b), 6.2.5.14(1)(e), 6.2.5.14(1)(h), and 6.2.5.14(2).
Additional Review for Consistency			
a.	Comprehensive Plan Consistency	The Harbor Element-Chapter 3	No action required-existing and proposed revisions remain consistent with the element.

Periodic Review Checklist Guidance

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Introduction

This document provides guidance for local governments on using the checklist required as part of the periodic reviews of Shoreline Master Programs (SMPs) under the Shoreline Management Act (SMA). The checklist and this guidance document will be amended regularly to stay current with amended laws and rules. Check to see if you have the most current version before starting your review. Work closely with the Ecology regional shoreline planner assigned to your jurisdiction throughout the review process.

The checklist is available as an MS Word document on Ecology's webpage. For each year between 2007 and 2017 it provides a summary of state laws, rules and applicable updated guidance that may trigger the need for local SMP amendments. If a given year is not listed here, there were no state laws or rules or other applicable documents adopted or published during that year that would trigger a periodic review obligation.

Each item starts with a description of the item and a link to the relevant law, rule or document. This is followed by "Review Considerations" with general observations to aid local review. In some cases we include Administrative tips related to the law or rule. The descriptions here are not intended as a definitive or exhaustive analysis or interpretation of the item.

As described in Ecology's rules, the checklist is used throughout the review process:

At the **beginning of the periodic review**, use the Review column to document review considerations and determine if local amendments are needed to maintain compliance. See WAC 173-26-090(3)(b)(i).

At the end of the review process, use the Action column to indicate where the SMP addresses applicable amended laws, or where no action is needed. See WAC 173-26-090(3)(d)(ii)(D) and WAC 173-26-110(9)(b).

This guidance includes a sample checklist for a hypothetical city. When conducting reviews, we recommend filling out the checklist for all the years listed. Some statutes provide options, and your jurisdiction may decide to adopt one of these options even if elected officials chose not to do so during a previous review. If an item has already been addressed simply note that in the review column. If an item is not applicable, indicate N/A. If you have questions, or suggestions for improving this guidance document, contact your Ecology regional shoreline planner.

2017

2017a. Cost threshold for substantial development ($7,047)

The Office of Financial Management (OFM) revised the cost threshold above which a development will require a Substantial Development Permit (SDP) to **$7,047**. OFM is required to adjust the cost threshold for inflation every five years. (From 2012 – 2017 the amount was $6,416.) The new threshold was effective September 2, 2017.

Law: RCW 90.58.030(3)(e). State Register announcement: WSR 17-17-007.

Review considerations

Local governments are required to apply the new threshold of $7,047 starting September 2, 2017, regardless of the threshold amount that is included in their SMP.

If a local SMP includes a specific cost threshold, it should be revised to $7,047. If an SMP does not include an absolute number but relies on reference to statute, no change to the SMP is required.

ADMINISTRATIVE TIP: Revise permit application forms, websites or other administrative documents to reflect the new cost threshold. There is no need to wait for an SMP amendment to revise administrative documents.

2017 b. Definition of development

Ecology amended permit rules to clarify the definition of "development" does not include projects that involve only dismantling or removing structures without any associated development or re-development. This is not really a new interpretation, it simply codifies the primary holding of the 1992 WA State Supreme Court decision *Cowiche Canyon v Bosley (118 Wn.2d 801).* Ecology included the clarification in rule to address a question about applicability of the SMA that arises frequently.

Rule: WAC 173-26-241(3)(e), effective 9/7/2017.

Review considerations

It is not necessary to adopt this clarification into an SMP - local governments may look to the state rule to answer questions should they arise. However, if a jurisdiction finds the clarification helpful, it may be incorporated into the SMP.

Example language

If a local government chooses to incorporate this clarification, one option is to add a sentence in the SMP definition of development. For example:

> (XX) "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 re-development.

2017 c. Exceptions to local review under the SMA

Ecology adopted WAC 173-27-044 to consolidate three separate laws that create special exceptions to applicability of local Shoreline Master Programs. The rule clarifies that requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review conducted by a local government to implement the SMA do not apply to:

- remedial hazardous substance cleanup actions (1994 law),
- boatyard improvements to meet NPDES requirements (2012 law), and
- certain WSDOT maintenance and safety projects and activities (2015 law).

Ecology also made housekeeping revisions to WAC 173-27-045, a separate rule that describes developments that are not required to meet SMA requirements. The revisions delete reference to RCW 90.58.390 (an emergency law that has since expired), and relocate the reference to the 1994 hazardous substance law to the new WAC 173-27-044.

Bills: ESSB 5994, effective 7/6/2015, EHB 2469, effective 6/7/2012. Laws: RCW 90.58.355; RCW 90.58.356; also see RCW 90.58.045; RCW 80.50. Rule: WAC 173-27-044 & WAC 173-27-045, effective 8/7/2017

Review considerations

The exceptions to SMP review covered under the statutes in these two rules apply whether or not they are included in local SMPs. However, to ensure the statutory directives are implemented consistently, Ecology recommends maintaining a section in their SMP that addresses these exceptions.

> ***NOTE:*** We do not recommend the SMP combine these "exceptions" from SMA permit review directly into the list of "exemptions" from the requirement for a substantial development permit under WAC 173-27-040. Projects that are listed as "permit-exempt" still need to meet substantive standards of the SMA – whereas for these projects there is no local review.

Example language

A local SMP may consolidate all the SMA exceptions to incorporate Ecology's recently revised rules with all applicable statutes as follows:

> (XX) Developments not required to obtain shoreline permits or local reviews
>
> Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:
>
> (i) Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW.
>
> (ii) Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.
>
> (iii) WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review.
>
> (iv) Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.
>
> (v) Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

2017 d. Permit filing procedures

Ecology amended WAC 173-27-044 to incorporate a 2011 law relating to permit filing. These details are important because the date of filing establishes the start of the Shorelines Hearings Board appeal period. Changes include:

- "Date of filing" replaces "date of receipt" for shoreline permits sent to Ecology.
- Requires concurrent filing of permits if there are separate Substantial Development, Conditional Use Permits, and/or Variances.
- Ecology will notify local government and the applicant of the date of filing by telephone or electronic means followed by written communication.

The law clarified that local permit decisions shall be submitted to Ecology by return receipt requested mail. This intent is to bring consistency and predictability to the timing of the appeal period. Using return receipt mail allows local governments to calculate when the appeal period starts and ends without contacting Ecology on every permit. This also helps them administer other related

authorizations like building permits. Using return receipt mail allows local governments to control the timing of the SHB appeal for Shoreline Substantial Development Permits and creates a record of the transmittal, alleviating the scenario where a submittal is lost or delayed by the mail service.

Bill: SSB 5192, effective 7/22/2011. Law: RCW 90.58.140(6). Rule: WAC 173-27-130

Review considerations

The SMA amendment applied on its effective date in 2011, regardless of whether permit procedures are specifically outlined in local SMPs. However, if an SMP describes the permit filing process, it should be reviewed for consistency with the 2011 statutory amendments.

Example language

Below is an example of local permit filing procedures which incorporates the 2011 statute:

> (XX) After all local permit administrative appeals or reconsideration periods are complete and the permit documents are amended to incorporate any resulting changes, [COUNTY/CITY] will mail the permit using return receipt requested mail to the Department of Ecology regional office and the Office of the Attorney General. Projects that require both Conditional Use Permits and or Variances shall be mailed simultaneously with any Substantial Development Permits for the project.
>
> (i) The permit and documentation of the final local decision will be mailed together with the complete permit application; a findings and conclusions letter; a permit data form (cover sheet); and applicable SEPA documents.
>
> (ii) Consistent with RCW 90.58.140(6), the state's Shorelines Hearings Board twenty-one day appeal period starts with the date of filing, which is defined below:
>
> > (A) For projects that only require a Substantial Development Permit: the date that Ecology receives the [COUNTY/CITY] decision.
> >
> > (B) For a Conditional Use Permit (CUP) or Variance: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and [COUNTY/CITY].
> >
> > (C) For SDPs simultaneously mailed with a CUP or VAR to Ecology: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and the [COUNTY/CITY].

2017 e. Forestry use regulations

Ecology amended forestry use regulations to clarify that a forest practice that only involves timber cutting is not considered development under the SMA and does not require permits, but forestry activities other than timber cutting may require a Substantial Development Permit (SDP). Ecology adopted this housekeeping amendment to address a regularly recurring question which is partly answered in Forest Practices Board laws and rules but not addressed in SMA rules. Forest Practices rule WAC 222-50-020(2) states "A substantial development permit must be obtained prior to conducting forest practices which are "substantial developments" within the "shoreline" area as those terms are

defined by the Shoreline Management Act." The authority for that rule is RCW 76.09.240(6). Timber cutting alone is not development because it does not meet the statutory definition in RCW 90.58.030(3)(e)(a).

Rule: WAC 173-27-030(6), effective 9/7/2017.

Review considerations

It is not necessary to amend local SMP forestry regulations to reflect this clarification. However, it could be helpful for jurisdictions with extensive commercial forestry, if questions about applicability of forest practices laws and rules arise frequently.

Sample language

The language from the revised rule could be incorporated into forest use regulations:

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

2017 f. Lands under exclusive federal jurisdiction

Ecology amended a permit rule that addressed lands within federal boundaries to clarify that areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of the SMA. For example, exclusive jurisdiction is ceded to the United States in Rainier National Park (RCW 37.08.200), Olympic National Park (RCW 37.08.210), and for acquisition of land for permanent military installations (RCW 37.08.180).

Rule: WAC 173-22-070, effective 9/7/2017.

Review considerations

It is not necessary to amend local SMPs to reflect this clarification. However, it could be included if a jurisdiction faces questions about applicability of the SMP on lands with exclusive jurisdiction.

Sample language

The language from the revised rule could be incorporated as follows:

> (XX) Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of chapter 90.58 RCW.

Another option is to list the specific areas where the exclusive jurisdiction applies locally (e.g., National Park or military base).

2017 g. Nonconforming uses and development

Ecology revised its rules for nonconforming uses and development. The introductory paragraph of the rule was amended to clarify that unlike other permit and enforcement rules, this rule is a default rule that only applies if a local government has no provisions in their local SMP addressing nonconforming

uses. A primary goal of the revisions was to create separate sections for nonconforming uses, nonconforming structures, and nonconforming lots. Many of the clarifications in this default rule were borrowed from local government innovations developed during the comprehensive SMP updates.

Rule: WAC 173-27-080, effective 9/7/2017

Review considerations

For local governments that adopted their own tailored provisions for nonconforming use and development during the comprehensive update, Ecology's rule amendments will have no effect.

This rule will apply where a local government either has no provisions for nonconforming use and development or has adopted WAC 173-27-080 by reference. Local governments that adopt this WAC by reference or included its provisions within their SMP should review the new rule to determine whether or how to modify how nonconforming use and development is regulated in their jurisdiction.

If a local government has already addressed nonconforming use and development but is considering adopting clarifications, review the revised rule for ideas. Below is a summary of changes from Ecology's previous nonconforming use and development rule to help identify what is different:

(1) Definitions

This section creates separate definitions for nonconforming "use," "structure" and "lots." In the previous version "use" and "structure" were combined into one definition, and the definition of "lots" had been incorporated into the regulation itself rather than having a separate definition.

(2) Nonconforming structures

§ (2)(a) clarifies that existing legal nonconforming structures may continue. This addresses a concern raised during comprehensive updates about the legal rights of nonconforming structures.

§ (2)(b) provides a general rule for expansions of nonconforming structures. The amendments clarify that enlargement or expansions should meet applicable provisions of the SMP. (Many comprehensively updated SMPs created specific allowances for expansion of nonconforming structures, embedded within specific use regulations.) It also clarifies a general rule that a variance would be required for expansions that increase the nonconformity if the SMP does not provide a specific allowance.

§ (2)(c) was not amended from the previous rule. It retains the existing authorization for expansions of preferred single-family residences or addition of appurtenances through a conditional use permit.

§ (2)(f) adds a qualifier to a previous provision that required any nonconforming structure that is moved any distance to meet all applicable provisions of the SMP. This provision was potentially a disincentive to move structures away from the shoreline in circumstance where all dimensional standards (e.g., buffer width) could not be met because of existing constraints (e.g., lot width, presence of a road). The proposed change requires a nonconforming structure that is moved to move "as far as practical" from the shoreline. This allows for the realities of any given parcel to be taken into account.

§ (2)(g) extends the time period for obtaining permits to replace damaged development from 6 months to 2 years. Even in normal circumstances applications can take 6 months to prepare, so a longer timeframe is warranted where a development has been damaged.

§ 3. Nonconforming uses
§ (3)(a) preserves the existing regulation which clarifies that existing nonconforming uses may continue.

§ (3)(b) sets out the general rule that nonconforming uses shall not be enlarged or expanded without a CUP, unless more specific regulations in the SMP apply.

§ (3)(c) modified an existing rule that said nonconforming rights expire if the use is discontinued for 12 months, by clarifying the nonconforming uses may be re-established through a CUP. It was also modified to clarify that water-dependent uses that are episodically dormant or include phased or rotational operations should not be considered "discontinued."

Note the previous WAC 173-27-080(4) was deleted in its entirety. The rule had said if an updated SMP requires a CUP for an existing use, that use should be considered a nonconforming use. The previous rule was deleted because those uses should be treated no differently from other existing uses.

§ 4. Nonconforming lots
The only change was to move the definition into the definition section.

Example language

Local governments may incorporate the language from the revised rule either directly into their SMP, or by reference. If the provisions are incorporated directly they may be modified or tailored.

> **(1) Definitions**
>
> (a) "Nonconforming use" means an existing shoreline use that was lawfully established prior to the effective date of the act or the applicable master program,-but which does not conform to present use regulations due to subsequent changes to the master program.
>
> (b) "Nonconforming development" or "nonconforming structure" means an existing structure that was lawfully constructed at the time it was built but is no longer fully consistent with present regulations such as setbacks, buffers or yards; area; bulk; height or density standards due to subsequent changes to the master program.
>
> (c) "Nonconforming lot" means a lot that met dimensional requirements of the applicable master program at the time of its establishment but now contains less than the required width, depth or area due to subsequent changes to the master program.
>
> **(2) Nonconforming structures**
>
> (a) Structures that were legally established and are used for a conforming use but are nonconforming with regard to setbacks, buffers or yards; area; bulk; height or density may continue as legal nonconforming structures and may be maintained and repaired.
>
> (b) Nonconforming structures may be enlarged or expanded provided that said enlargement meets the applicable provisions of the master program. In the absence of other more specific regulations, proposed expansion shall not increase the extent of nonconformity by further encroaching upon or extending into areas where

construction would not be allowed for new structures, unless a shoreline variance permit is obtained.

(c) Nonconforming single-family residences that are located landward of the ordinary high water mark may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined in WAC 173-27-040 (2)(g) upon approval of a conditional use permit.

(d) A structure for which a variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.

(e) In the absence of other more specific regulations, a structure which is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a conditional use permit. A conditional use permit may be approved only upon a finding that:

(i) No reasonable alternative conforming use is practical; and

(ii) The proposed use will be at least as consistent with the policies and provisions of the act and the master program and as compatible with the uses in the area as the preexisting use.

In addition, such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of the master program and the Shoreline Management Act and to assure that the use will not become a nuisance or a hazard.

(f) A nonconforming structure which is moved any distance must be brought as closely as practicable into conformance with the applicable master program and the act.

(g) If a nonconforming development is damaged to an extent not exceeding seventy-five percent of the replacement cost of the original development, it may be reconstructed to those configurations existing immediately prior to the time the development was damaged, provided that application is made for the permits necessary to restore the development within two years of the date the damage occurred.

(3) Nonconforming uses

(a) Uses that were legally established and are nonconforming with regard to the use regulations of the master program may continue as legal nonconforming uses.

(b) In the absence of other more specific regulations in the master program, such uses shall not be enlarged or expanded, except upon approval of a conditional use permit.

(c) If a nonconforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, the nonconforming rights shall expire and

any subsequent use shall be conforming unless re-establishment of the use is authorized through a conditional use permit which must be applied for within the two-year period. Water-dependent uses should not be considered discontinued when they are inactive due to dormancy, or where the use includes phased or rotational operations as part of typical operations. A use authorized pursuant to subsection (2)(e) of this section shall be considered a conforming use for purposes of this section.

(4) Nonconforming lot

A nonconforming lot may be developed if permitted by other land use regulations of the local government and so long as such development conforms to all other requirements of the applicable master program and the act.

2017 h. Periodic reviews

Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews of SMPs required by RCW 90.58.080(4).

Rule: WAC 173-26-090, effective 9/7/2017.

Review considerations

This rule describes the process local governments must follow when conducting periodic reviews. It is not necessary to include any of these new provisions in local SMPs – they provide direction on how to undertake the periodic review process. If an SMP describes the periodic review scope and procedures, consider reviewing that section of code for consistency with the periodic review rule.

Example language

If an SMP includes a description of periodic review procedures, and would like to add further clarification, one option would be to cite Ecology's WAC by reference. For example:

> (X) The CITY/COUNTY will conduct the periodic review process consistent with requirements of RCW 90.58.080 and WAC 173-26-090.

2017 i. Optional SMP amendment process

This new rule establishes an optional SMP amendment process that allows for a shared local/state public comment period for efficiency.

Rule: WAC 173-26-104, effective 9/7/2017.

Review considerations

Local governments that want to use these provisions should review local amendment procedures to ensure there are no impediments to using this new option. (These provisions may be contained either in the SMP or elsewhere in the land use code.) A key consideration is coordinating with Ecology on the public comment period, as Ecology needs to send notice to the state interested parties list at the same time as the local governments notice. Note that the optional process also asks local governments to send a draft to Ecology for an initial determination before final local adoption. This has been a common practice on an informal basis for many years and can be done without amending the SMP.

2017 j. Submittal to Ecology of proposed SMP amendments

Ecology made a few minor amendments to WAC 173-26-110, the rule that describes what local governments provide to Ecology for final review of SMP amendments. The rule clarifies that submittals may be in digital form, and deleted the requirement to send two paper copies. It clarified that the submittal should include a summary of amendments made in response to public comments. It also clarified that local governments will submit their final periodic review checklist when taking action on the periodic review.

NOTE: Ecology also made a few housekeeping amendments to WAC 173-26-120, which describes the state process for reviewing SMPs. Those amendments should not trigger any amendments to SMPs. The one exception might be the clarification from statute that SMPs are effective 14 days after Ecology's approval letter - this was adopted by the Legislature as described under 2010 amendments.

Rule: WAC 173-26-110, WAC 173-26-120, effective 9/7/2017.

Review considerations

If a local SMP includes a description of the SMP submittal process, they should review the amendments for consistency.

2016

2016 a. Americans with Disabilities Act permit exemption

The legislature created a new shoreline permit exemption in 2016. Retrofitting an existing structure does not require a Substantial Development Permit (SDP) if the project is undertaken to comply with the Americans with Disabilities Act or otherwise provide physical access to a structure by individuals with disabilities. The amended law was incorporated into Ecology's rule in 2017.

Bill: SHB 2847, effective 6/9/2016. RCW 90.58.030(3)(e)(xiii), WAC 173-27-040(2)(q).

Review considerations

This SMA amendment applied on its effective date, regardless of whether the exemption is specifically listed in the SMP. For SMPs that simply cite the RCW list of exemption, no change is needed.

For SMPs that spell out all the statutory exemptions, add the new exemption to the list.

Example language

Local governments may incorporate the revised rule directly into exemption language:

> (xx) 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.

2016 b. Wetlands critical areas guidance

Ecology published a revised *Wetlands Guidance for Critical Areas Ordinance Updates* in 2016. The new guidebook replaces the former "Guidance for Small Cities." There are separate versions for Eastern and Western Washington. Ecology's rule directs local governments to consult the department's technical guidance documents on wetlands. The primary changes in this document are related to the new 2014 Washington state wetland rating system. Ecology's 2003 rule directs local governments to use either the state wetland rating system, or to develop their own scientifically based method for categorizing wetlands.

Other changes addressed include: addition of a buffer table to be used if minimizing measures are not used; emphasis on the requirement to provide wildlife corridors where possible in exchange for buffer reduction; guidance on using wetlands for stormwater management facilities; revisions to exemptions for small wetlands; recommended language addressing agricultural activities in non-VSP jurisdictions; and addition of recent mitigation documents and guidance.

Rule: WAC 173-26-221(2)(c)(i)(A) and (B); Guidance update: Wetlands guidance document, June 2016; 2014 Wetland rating system manuals.

Review considerations

The updated wetlands guidance is directed at updating critical areas ordinances (CAOs). The key provision is the updates to the 2014 Wetland Rating System. Other guidance in the 2016 guidance document may also be applicable. How this guidance applies to individual local government will vary widely depending on how critical areas are addressed in the SMP. Consult Ecology's regional planner for tailored assistance on potential SMP wetland revisions.

2015

2015 a. 90-day target for local review for WSDOT project

The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects. The law also allows WSDOT projects that address safety risks to begin 21 days after the date of filing if the project will achieve no net loss of ecological functions.

Bill: ESSB 5994, effective 7/6/2015. Laws: RCW 47.01.485; RCW 90.58.140. Rule: WAC 173-27-125

Review considerations

It is not necessary to include these provisions in SMPs, but a reference could help ensure SMPs are implemented consistent with the statute.

Example language

If a local governments chooses to incorporate this legislative direction into an SMP, one option is to use the following language from the revised rule.

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

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

2014

2014 a. Replacement docks on lakes and rivers

The Legislature revised the cost threshold for requiring a Substantial Development Permit (SDP) for replacement docks on lakes and rivers. The fair market value for purposes of an SDP exemption for a dock in fresh water is raised to $20,000 (from $10,000) in certain circumstances. To clarify how the new rule is different, here are the changes from the previous permit exemption law:

> "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) ~~t~~Ten thousand dollars ~~but~~ for all other docks constructed in fresh waters. 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."

NOTE: The Legislature also directed to OFM the dollar thresholds after July 2018. Ecology will revise the checklist and this guidance document to reflect this change when the new number is effective.

Bill: SHB 1090, effective 6/12/2014. RCW 90.58.030(3)(e). Rule WAC 173-27-040(2)(h).

Review considerations

This SMA amendment applied on its effective date, regardless of whether the exemption is specifically listed in the SMP. If an SMP simply cites the RCW for lists of exemption, no change is needed.

If an SMP repeats the WAC, modify the exemption section for consistency.

Example language

The new rule language could be incorporated directly into the SMP section on permit exemptions. For example:

> (XX) 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.

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

2014 b. Floating on-water residences

The Legislature created a new definition and policy for "floating on-water residences (FOWRs)." FOWRs that meet the new definition and were legally established before 7/1/2014 shall be considered a conforming use, and must be accommodated through SMP regulations that will not effectively preclude maintenance, repair, replacement, and remodeling. This bill responded to concerns raised in Seattle regarding preservation of the existing floating home community. *(See provisions for "floating homes" under 2011 statutes. The statutes are similar but slightly different.)*

Bill: ESSB 6450 effective 6/12/2014. Law: RCW 90.58.270. Rules: Definition: WAC 173-26-030(3)(d)(18); Use regulation: WAC 173-26-241(3)(j).

Review considerations

If a jurisdiction has no existing FOWRs, no amendments are needed.

If a jurisdiction has existing FOWRs, the SMP should include a reference to the statute, or a definition consistent with the statute, and a policy or regulation that clarifies the legal status of FOWRs. If the jurisdictions SMP specifically regulates FOWR's, then the regulations should be reviewed to make sure they appropriately recognize on-going maintenance of FOWR. Local governments may apply reasonable SMP regulations, permit conditions, or mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating on-water residences and their moorages by rendering these actions impracticable.

Example language

The new statutory definition can be included in the definition section or in the Residential Use section of the SMP together with the new policy clarification. SMPs should already include a prohibition on establishment of new overwater residences, as the Legislative amendments did not change this long-standing policy. Additional policies or general development standards specific to floating on-water residence can be added if existing floating on-water residences will be managed by a local SMP.

An example of how an SMP could incorporate the new statute in the context of the existing prohibition on new floating homes:

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

(XX) New over-water residential developments are prohibited. Existing floating on-water residences legally established and moored within a marina within the [COUNTY/CITY] prior to July 1, 2014 are considered a conforming use and should be accommodated through reasonable permit conditions, or mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating on-water residences and their moorages by rendering these actions impracticable.

2012

2012 a. SMP appeal procedures

The Legislature amended the SMA to clarify SMP appeal procedures. These provisions are not about appeals of individual permits. They describe the appeal pathway after Ecology's approval of a Shoreline Master Program. For jurisdictions "fully planning" under GMA, Ecology's approval of an SMP is to the Growth Management Hearings Boards. For jurisdictions "partially planning" (Critical Areas and Resource Lands only), appeals are to the Shorelines Hearings Board.

Bill: EHB 2671, effective 6/7/2012. Law: RCW 90.58.190

Review considerations

This law should not affect most SMPs, which do not typically outline the SMP appeal process. If an SMP does describe the appeal steps for amendments to shoreline master programs, it should be reviewed for consistency with RCW 90.58.190.

2011

2011 a. Federal wetlands delineation manual

Ecology repealed the State Delineation Manual rule and replaced it with a rule requiring that identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements.

Rule: WAC 173-22-035, effective 3/14/2011. Guidance: Wetland Delineation Manual guidance.

Review considerations

All SMPs should use language from the new WAC because the state delineation manual rule has been repealed. Consult Ecology's website for wetland delineation manual guidance.

Example language

The following language should be included in the applicable section of the SMP (or the applicable critical areas code if wetland delineation is addressed in a CAO adopted by reference):

> Identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements.

2011 b. Geoduck aquaculture

Ecology adopted extensive new rules for new commercial geoduck aquaculture. This rule was adopted with advice from a stakeholder committee consistent with Legislative requirements of RCW 43.21A.681.

Rules: WAC 173-26-020(2); WAC 173-26-241(3)(b), effective 3/14/2011.

Review considerations

If a local government has no saltwater shorelines, no SMP amendments are needed.

If a local government has saltwater shorelines, aquaculture regulations should be reviewed for consistency with the geoduck rules. Consult Ecology regional planner for recommendations.

Review for the following elements:

Review the **definition** of "aquaculture," to clarify it does not include wild geoduck harvest.

Review **siting considerations** to ensure commercial geoduck aquaculture is only allowed where sediments, topography, land and water access support geoduck aquaculture operations without significant clearing or grading.

Review **permit requirements**:

- Ensure that planting, growing, and harvesting of farm-raised geoducks requires a substantial development permit if a specific project or practice causes substantial interference with normal public use of the surface waters, but not otherwise. (The source of this provision was Attorney General Opinion 2007 No. 1.) This provision clarifies that even though new geoduck operations require a CUP, in some cases they may also need an SDP but only if the project causes substantial interference with public access or passage.
- Ensure that local permit process provides public notice to all property owners within 300 feet of the proposed project boundary, and notice to tribes with usual and accustomed fishing rights to the area.
- The SMP should minimize redundancy between federal, state and local commercial geoduck aquaculture permit application requirements. Measures to consider include accepting documentation that has been submitted to other permitting agencies, and using permit applications that mirror federal or state permit applications (such as the JARPA form). Permit application requirements should be reviewed to ensure they include the following:
    - A narrative description and timeline for all anticipated geoduck planting and harvesting activities,

  - A baseline ecological survey of the proposed site to allow consideration of the ecological effects,
  - Measures to achieve no net loss of ecological functions consistent with the mitigation sequence described in Ecology rules [WAC- 173-26-201 (2)(e)], and
  - A description of management practices that address impacts from mooring, parking, noise, lights, litter, and other activities associated with geoduck planting and harvesting operations.
- Ensure new geoduck aquaculture projects require a Conditional Use Permit (CUP). However, local governments have discretion to determine whether to require a CUP for projects that convert existing non-geoduck aquaculture to geoduck aquaculture. Review for the following:
  - Subsequent cycles of planting and harvest shall not require a new CUP.
  - Applicants may submit a single CUP for multiple sites within an inlet, bay or other defined feature, as long as all sites are under control of the same applicant and within the same local government jurisdiction.
  - Review permit requirements to ensure the SMP allows work during low tides. SMP have discretion to require limits and conditions to reduce impacts, such as noise and lighting, to adjacent existing uses.
  - Local governments should establish monitoring and reporting requirements necessary to verify that geoduck aquaculture operations are in compliance with shoreline limits and conditions set forth in CUPs and to support cumulative impacts analysis.
    - Conditional use permits should be reviewed using the best scientific and technical information available.
    - Review requirements to apply best management practices to accomplish the intent of limits and conditions.
    - Local governments should review the detailed considerations found in WAC 173-26-241(3)(b)(iv)(L)(I)-(XII).

2011 c. Floating homes

The Legislature declared floating homes permitted or legally established prior to January 1, 2011, must be classified as a "conforming preferred use." SMPs may only impose reasonable conditions and mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating homes and floating home moorages by rendering these actions impracticable. The law includes a definition of “floating homes.” This bill responded to concerns raised by the Seattle floating home community regarding preservation of historic floating homes.

Bill: SHB 1783, effective 7/22/2011. RCW 90.58.270(5 and 6). Rules: Definition: WAC 173-26-030(3)(d)(17); Use regulation: WAC 173-26-241(3)(j).

Review considerations

Local governments without floating homes need not amend their SMP to address this statute.

Jurisdictions with floating homes must include a definition consistent with the statute, and a policy or regulation that clarifies the legal status of floating homes. In addition, regulations that address floating homes should be reviewed to ensure the SMP only imposes reasonable conditions and mitigation that

will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating homes and floating home moorages by rendering these actions impracticable.

Example language

The example definition can be included in the definition section or in the Residential Use section with the example policy statement. Note that SMPs should already include a prohibition on establishment of new overwater residences, as the Legislative amendments did not change this long-standing policy. Additional policies or general development standards specific to floating homes can be added if existing floating homes will be managed by a local SMP.

> (XX) "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.
>
> (XXI) New over-water residences are not a preferred use and should be prohibited.
>
> (XXII) A floating home permitted or legally established prior to January 1, 2011 is considered a conforming preferred use. "Conforming preferred use" means that applicable development and shoreline master program regulations may only impose reasonable conditions and mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating homes and floating home moorages by rendering these actions impracticable. Floating homes should be accommodated to allow improvements associated with life safety matters and property rights to be addressed provided that any expansion of existing communities is the minimum necessary to assure consistency with constitutional and other legal limitations that protect private property.

2011 d. Option to classify existing structures as conforming

The Legislature created a new option: SMPs amended after September 1, 2011 may classify legally established residential structures as conforming, even if they do not meet updated standards for setbacks, buffers, or yards; area; bulk; height; or density. Redevelopment, expansion and replacement is allowed, so long as it is consistent with the local SMP and No Net Loss requirements. Appurtenant structures are included; bulkheads and other shoreline modifications and over-water structures are excluded.

Bill: SSB 5451, effective 7/22/2011. RCW 90.58.620. Rule: WAC 173-26-241(3)(j).

Review considerations

This law is optional. It is one way local government can address existing development. Local governments may also address existing structures by clarifying the existing rights and allowances for nonconforming use and development without changing the legal status.

2010

2010 a. Growth Management Act – Shoreline Management Act clarifications

Both the GMA and SMA were amended to resolve differing and occasionally contrary legal interpretations that had been issued at that time regarding the relationship between the laws.

The law included a number of provisions that clarified the applicability of SMA provisions during the interim period before Ecology approved a comprehensively updated SMP that are no longer applicable. For example, RCW 36.70A.480 clarifies that critical area regulations adopted under GMA apply within shorelines until Ecology approves a comprehensive SMP update. It also created special GMA provisions for existing "grandfathered" uses in the shoreline. The amendments clarified that critical areas in shorelines must be regulated to "assure no net loss of shoreline ecological function" as provided in Ecology's SMP Guidelines rules. This provision applies to Ecology's test for review of SMP amendments. The Legislature also amended the effective date for SMP amendments. The effective date is fourteen days from the date of Ecology's written notice of final action to the local government stating Ecology has approved or rejected the proposed SMP.

Bill: EHB 1653, effective 3/18/2010. Laws: RCW 90.58.610; RCW 36.70A.480. Rule: WAC 173-26-221(2)(a).

Review considerations

The statutory amendments were effective immediately upon adoption independent of local SMPs. Jurisdictions with comprehensive SMP updates that were adopted before this law went into effect may consider reviewing how their SMP address critical areas. Key considerations include clarifying what critical area provisions are adopted by reference and whether or not exclusions apply. Contact Ecology's regional planner for assistance.

If an SMP describes the "effective date" of SMP amendments, it should be revised to clarify SMPs are effective 14 days from Ecology's written notice of final action.

2009

2009 a. Shoreline restoration projects within a UGA

The Legislature created new "relief" procedures for instances in which a shoreline restoration project within an Urban Growth Area creates a shift in Ordinary High Water Mark, and this shift creates a hardship for properties subject to new or extra regulation. The Legislature was responding to concerns that SMP regulations on the Duwamish River in Seattle and other urban rivers have in some cases stopped habitat restoration projects or resulted in a redesign that reduced the restoration benefits.

In most locations, the land area where shoreline regulations apply is measured 200 feet landward from the Ordinary High Water Mark. The new law could be applied in cases where a habitat restoration projects changes the location of the ordinary high water mark and therefore shifts the 200-foot area where shoreline regulations apply. Property owners may request relief from shoreline regulations

triggered by a restoration project, if the regulations would "preclude or interfere with use of the property permitted by local development regulations, thus presenting a hardship to the project proponent."

Applications for relief are filed with the local government as part of a required permit such as a shoreline permit (or a building permit if no shoreline permit is required). The request must meet the criteria outlined in the Act. After local approval, the request is submitted to Ecology for review and approval. A 20-day public notice period is required prior to Ecology's decision, unless the relief issue is already addressed in an SMP. Ecology must act within 30 days of the close of the public notice period or within 30 days of receipt of the proposal if public notice is not required.

Bill: HB 2199, effective 7/26/2009. RCW 90.58.580. Rule: WAC 173-27-215

Review considerations

Local governments may want to include this option in local SMPs – though the process may be used even if the provision is not in the SMP.

Example language

Option 1. Adopt Ecology rule by reference. If a local government elects to incorporate Ecology's rule by reference, a simple reference to the rules could be inserted into an applicable section of SMP code. For example:

> (X) The [COUNTY/CITY] may grant relief from shoreline master program development standards and use regulations resulting from shoreline restoration projects within urban growth areas consistent with criteria and procedures in WAC 173-27-215.

Option 2. Incorporate Ecology's rule into an SMP. A more elaborate option is to incorporate the rule provisions into their SMP. For example:

> (X) Shoreline restoration projects—relief from shoreline master program development standards and use regulations.
>
> (1) Purpose of section. This section incorporates statutory direction from RCW 90.58.580. In adopting RCW 90.58.580, the legislature found that restoration of degraded shoreline conditions is important to the ecological function of our waters. However, restoration projects that shift the location of the shoreline can inadvertently create hardships for property owners, particularly in urban areas. Hardship may occur when a shoreline restoration project shifts Shoreline Management Act regulations into areas that had not previously been regulated under the act or shifts the location of required shoreline buffers. The intent of this section is to provide relief to property owners in such cases, while protecting the viability of shoreline restoration projects.
>
> (2) Conditions and criteria for providing relief. The [COUNTY/CITY] may grant relief from shoreline master program development standards and use regulations within urban growth areas when the following apply:

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

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

(ii) Additional regulatory requirements apply due to a landward shift in required shoreline buffers or other regulations of the applicable shoreline master program; and

(iii) Application of shoreline master program regulations would preclude or interfere with use of the property permitted by local development regulations, thus presenting a hardship to the project proponent;

(b) The proposed relief meets the following criteria:

(i) The proposed relief is the minimum necessary to relieve the hardship;

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

(iii) Granting the proposed relief is consistent with the objectives of the shoreline restoration project and consistent with the shoreline master program; and

(iv) 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

(c) The application for relief must be submitted to the department of Ecology for written approval or disapproval. This review must occur during Ecology's normal review of a shoreline substantial development permit, conditional use permit, or variance. If no such permit is required, then Ecology shall conduct its review when [COUNTY/CITY] provides a copy of a complete application and all supporting information necessary to conduct the review.

(i) Except as otherwise provided in subsection (3) of this section, Ecology shall provide at least twenty days notice to parties that have indicated interest to Ecology in reviewing applications for relief under this section, and post the notice on its web site.

(ii) Ecology shall act within thirty calendar days of the close of the public notice period, or within thirty days of receipt of the proposal from [COUNTY/CITY] if additional public notice is not required.

(3) The public notice requirements of subsection (2)(c) of this section do not apply if the relevant shoreline restoration project was included in the [COUNTY/CITY] shoreline master program, provided:

(a) The restoration plan has been approved by Ecology under applicable shoreline master program guidelines;

(b) The shoreline restoration project is specifically identified in the shoreline master program or restoration plan or is located along a shoreline reach identified in the shoreline master program or restoration plan as appropriate for granting relief from shoreline regulations; and

(c) The shoreline master program or restoration plan includes policies addressing the nature of the relief and why, when, and how it would be applied.

(4) A substantial development permit is not required on land within urban growth areas as defined in RCW 36.70A.030 that is brought under shoreline jurisdiction due to a shoreline restoration project creating a landward shift in the ordinary high water mark.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(6) For the purposes of this subsection, "Shoreline restoration project" means a project designed to restore impaired ecological function of a shoreline.

2009 b. Wetland mitigation banks

Pursuant to RCW 90.84, Ecology adopted a rule for certifying wetland mitigation banks. The purpose of the rules is to encourage banking by providing an efficient, predictable statewide framework for the certification and operation of environmentally sound banks. The goal of the rule is to (a) Provide timely review of bank proposals; (b) Establish coordination among state, local, tribal, and federal agencies involved in the certification of banks; (c) Ensure consistency with existing federal mitigation rules; and (d) Provide incentives to encourage bank sponsors (sponsors) to locate and design banks that provide the greatest ecological benefits.

The extensive rule includes an overview section, outlines the certification process, describes how to establish and operate banks and use bank credits, establishes certification compliance requirements, describes the roles of the parties involved in a bank, and establishes an appeals process.

Law: RCW 90.84. Rule: WAC 173-700, effective 10/4/2009, WAC 173-26-221(2)(c)(i)(F). Guidance: Ecology webpage on wetland mitigation banks.

Review considerations

Ecology recommends local governments include SMP provision authorizing use of mitigation banks.

Example language

It is not necessary to adopt the contents of the state rule into SMPs. If mitigation banking in not already allowed in a CAO adopted by reference, a simple statement could be incorporated into applicable SMP section addressing wetlands compensatory mitigation:

(x) Credits from a certified mitigation bank may be used to compensate for unavoidable impacts.

2009 c. Moratoria authority

This law adds moratoria authority and procedures to the SMA, including a maximum duration of 18 months at the local level, plus a six-month review period at Ecology for a local Shoreline Master Program amendment that is subject to a moratorium.

Review considerations

The moratoria procedures may be included in an SMP but it is not necessary – local governments can simply rely on the statute or adopt these provisions into other ordinances. Or local governments may incorporate statutory requirements into the SMP or other development regulations if desired, as long as they are consistent with the statute.

Bill: HB 1379, effective 7/26/2009. Law: RCW 90.58.590. Rule: WAC 173-27-085

Example language

If a local government elects to address moratoria authority, the following incorporates RCW 90.58.590:

> **(X) Moratoria authority and requirements**
>
> (1) [COUNTY/CITY] has authority to adopting a moratorium control or other interim control on development under RCW 90.58.590.
>
> (2) Before adopting the moratorium must:
>
> (i) Hold a public hearing on the moratorium or control;
>
> (ii) Adopt detailed findings of fact that include, but are not limited to justifications for the proposed or adopted actions and explanations of the desired and likely outcomes;
>
> (iii) Notify the department of Ecology of the moratorium or control immediately after its adoption. The notification must specify the time, place, and date of any public hearing.
>
> (b) The public hearing must be held within sixty days of the adoption of the moratorium or control.
>
> (3) A moratorium or control adopted under this section may be effective for up to six months if a detailed work plan for remedying the issues and circumstances necessitating the moratorium or control is developed and made available for public review.
>
> (4) A moratorium or control may be renewed for one or more six-month period if [COUNTY/CITY] complies with the requirements in subsection (2) above before each renewal.

2007

2007 a. Options for defining floodway

The Legislature clarified options for defining "floodway" as either the area that has been established in Federal Emergency Management Agency maps, or the floodway criteria set in the SMA. The “SMA floodway” described in the SMA is essentially a biological definition, unlike the FEMA floodway which is derived from a model.

Bill: HB 1413, effective 7/22/2007. Law: RCW 90.58.030.

Review considerations

Local governments should review their definition of “floodway” for consistency with the two options under this statute.

Example language

Option 1. If a local government elects to use FEMA maps to define the floodway, Ecology recommends the SMP include the following definition:

> "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.

The word “established” in this suggested definition is consistent with the SMA definition and “effective” indicates that the map is FEMA’s approved FIRM – not a preliminary or draft map – and also takes into account potential future changes to the maps. Reference to a specific dated version of the FIRM is not required.

Option 2. If the SMA floodway is used, the definition in the SMP should be consistent with RCW 90.58.030(2)(b)(ii).

> The SMA floodway “…consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually.”

2007 b. List and map of streams and lakes

These rule amendments clarify that comprehensively updated SMPs shall include a list and map of streams and lakes that are in shoreline jurisdiction. *(The SMP list and map will then supersede the list in Ecology rules).* The amendments also clarify that if a stream segment or lake is subsequently discovered to meet the SMA criteria, the SMP shall be amended within three years of the discovery.

Rules: WACs 173-18-044; 173-18-046; 173-20-044; 173-20-046; and 173-22-050, effective 2/2/2007

Review considerations

If a jurisdiction has identified any new streams or lakes since the comprehensive update, the lists and maps should be updated.

2007 c. Fish habitat enhancement projects

Ecology's rule listing statutory exemptions from the requirement for an SDP was amended to include fish habitat enhancement projects that conform to the provisions of RCW 77.55.181.

Review considerations

This SMA amendment applied on its effective date, regardless of whether the exemption is specifically listed in the SMP.

For SMPs that simply cite the RCW list of exemptions, no change is needed. For SMPs that list the exemptions in detail, review to ensure fish habitat enhancement projects are include.

Rule: WAC 173-27-040(2)(p), effective 2/2/2007.

Example language

SMPs can include the lengthy exemption language directly from WAC 173-27-040, or may include a simple reference to the relevant Ecology WAC and WDFW statute. For example:

> (x) Consistent with WAC 173-27-040, a public or private project designed to improve fish or wildlife habitat or fish passage, that conforms to the provisions of RCW 77.55.181

Other review elements

In addition to ensuring consistency with changes to state laws and rules, local governments will review changes to their comprehensive plan or development regulations since their last SMP amendment and revise the SMP for internal consistency, where necessary. For example, consider zoning code amendments, annexations of shoreline areas, and amendments to critical area regulations.

Local governments should also incorporate changes deemed necessary to address changing local circumstances, new information or improved data. This is an intentionally broad review category and circumstances will vary widely. For example, an issue that might trigger a close review is a levee setback project or natural channel migration that brought significant new areas into shoreline jurisdiction.

Local governments may also review implementation challenges that have arisen since the comprehensive SMP update. Consider insights learned from permit review that could improve the efficiency or effectiveness of the SMP. Consider reviewing Administrative Interpretations that have been issued as a potential source of ideas to clarify the SMP.

The table below is one simple option for documenting these kinds of revisions. This table is likely too simplistic for more complex amendments. This table may be revised and modified as needed, or local governments may present information in whatever format makes sense. See WAC 173-26-090(3)(b)(i).

SMP section	Summary of change	Review	Action

Example checklist

The following is an example checklist for a hypothetical City that comprehensively updated its SMP in 2015. This example illustrates how a checklist might look after final review and action at the end of the review process.

Review: The Review column is used at the beginning of the review process to document how the item applies to the city's SMP to determine if local amendments are needed to maintain compliance. In some cases the review may be iterative, if a review is extensive. This example checklist illustrates how the review column might be written at the end of the review process to capture the final city finding and recommendation for action.

Action: The Action column documents the City's final action, indicating a citation to where the SMP code addresses applicable amended laws, or indicates where no action is needed.

Row	*Summary of change*	*Review*	*Action*
2017			
a.	OFM adjusted the **cost threshold for substantial development** to $7,047.	2015 SMP includes reference to previous $6,416 cost threshold.	X.2.14: definition of Substantial Development amending SDP cost threshold to new inflation-adjusted amount of $7,047 *NOTE:* City website and permit application forms were revised with new cost thresholds.
b.	Ecology permit rules clarified the **definition of "development"** does not include dismantling or removing structures.	2015 SMP does not clarify that removing structures does not constitute "development." This issue has come up at the counter frequently enough that staff recommend adding this optional clarification to the SMP.	X.2.10: amended definition of development to include Ecology example code.
c.	Ecology adopted rules clarifying **exceptions to local review under the SMA.**	Ecology's revised rule addressing exceptions incorporated a 2015 Legislative statutory exceptions for WSDOT projects that went into effect after the 2015 SMP was approved. Other statutory exceptions in WAC 173-27-044 and WAC 173-27-045 were in the SMP but included among the list of permit-exemptions.	X.2.15: statutory exceptions moved from list of permit exemptions to new section. X.2.17: Created new section consolidating all exceptions into new section based on Ecology example code.

Row	Summary of change	Review	Action
d.	Ecology amended rules clarifying **permit filing procedures** consistent with a 2011 statute.	2015 SMP describes filing procedures for permit by stating "permits shall be filed with Department of Ecology pursuant to WAC 173-27-130." Ecology amendments apply to the city, but no local amendments are needed.	N/A. Note: Administrator amended the *SMP Staff Manual* to clarify concurrent filing of SDPs, CUPs and Variances.
e.	Ecology amended **forestry use regulations** to clarify that forest practices that only involves timber cutting are not SMA "developments" and do not require SDPs.	Not applicable. No commercial forestry in City.	N/A
f.	Ecology clarified the SMA does not apply to lands under **exclusive federal jurisdiction**	Not applicable. No lands with exclusive federal jurisdiction in city limits	N/A
g.	Ecology clarified "default" provisions for **nonconforming uses and development**.	2015 SMP includes tailored nonconforming use and development provisions.	No amendments needed. City will retain existing nonconforming use and development provisions.
h.	Ecology adopted rule amendments to clarify the scope and process for conducting **periodic reviews**.	2015 SMP already referenced statutory obligation to conduct reviews under RCW 90.58.080. City may follow Ecology procedures for conducing reviews without amending the SMP.	No amendments needed.
i.	Ecology adopted a new rule creating an **optional SMP amendment process** that allows for a shared local/state public comment period.	2015 SMP does not address the details of the SMP amendment process. Staff identified minor amendment to Land Use Code ZZ.24.10 defining the local amendment process to include reference to joint notice process for SMP amendments.	No amendment to SMP needed. Minor amendment to Land Use Code ZZ.24.10 added to the docket for amendments in 2019 to ensure the process for shared local/state comment period on SMPs is clear.
j.	**Submittal** to Ecology of proposed SMP amendments.	2015 SMP does not address the details of the SMP submittal process, relies on state rule.	No amendments to SMP needed. NOTE: Staff updated internal procedures manual to clarify SMP amendments are sent via email attachment rather than 2 paper copies.

Row	Summary of change	Review	Action
2016			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structure to comply with the **Americans with Disabilities Act**.	2015 SMP does not include new permit exemption for retrofits to comply with ADA	X.2.15: new permit exemption added consistent with Ecology example code. NOTE: City website and permit application forms were revised with new cost thresholds.
b.	Ecology updated **wetlands critical areas guidance** including implementation guidance for the 2014 wetlands rating system.	City's 2017 Critical Areas Ordinance amended by Ord. 17-012 incorporated Ecology's new rating system and other clarifications. City had incorporated Ecology recommendations on wetlands (Ecology comment letter of July 12, 2017).	X.5.23: Updated date of Critical Areas Code adopted by reference
2015			
a.	The Legislature adopted a **90-day target** for local review of Washington State Department of Transportation (WSDOT) projects.	2015 SMP was adopted prior to effective date of 2015 legislation.	X.3.14: adopted Ecology example code incorporating direction to conduct review consistent with legislative targets.
2014			
a.	The Legislature raised the cost threshold for requiring a Substantial Development Permit (SDP) for **replacement docks on lakes and rivers** to $20,000 (from $10,000).	Incorporated into 2015 SMP.	N/A. Addressed during comprehensive update
b.	The Legislature created a new definition and policy for **floating on-water residences** legally established before 7/1/2014.	The city includes no floating on-water residences.	N/A
2012			
a.	The Legislature amended the SMA to clarify **SMP appeal procedures**.	SMP does not clarify SMP appeal process. City will rely on state laws and rules.	N/A

Row	Summary of change	Review	Action
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved **federal wetland delineation manual**.	Incorporated into 2015 SMP.	N/A. Addressed during comprehensive update
b.	Ecology adopted rules for new commercial **geoduck aquaculture**.	No marine shorelines in city.	N/A
c.	The Legislature created a new definition and policy for **floating homes** permitted or legally established prior to January 1, 2011.	No floating homes in city.	N/A
d.	The Legislature authorizing a new **option to classify existing structures as conforming**.	Incorporated into 2015 SMP.	N/A. Addressed during comprehensive update
2010			
a.	The Legislature adopted **Growth Management Act – Shoreline Management Act clarifications**.	Incorporated into 2015 SMP.	N/A. Addressed during comprehensive update
2009			
a.	The Legislature created new "relief" procedures for instances in which a **shoreline restoration project within a UGA** creates a shift in Ordinary High Water Mark.	City had not incorporated this new statutory option in the 2015 SMP. An applicant had requested use of this process in 2017, and new staff were not aware of the provision. It is not necessary to include these into the SMP but including it will help ensure the option is better understood.	X. 17.3.7: SMP amended to include Ecology example code.
b.	Ecology adopted a rule for certifying **wetland mitigation banks**.	Incorporated into 2015 SMP.	N/A. Addressed during comprehensive update
c.	The Legislature added **moratoria authority** and procedures to the SMA.	Incorporated into 2015 SMP.	N/A. Addressed during comprehensive update

Row	Summary of change	Review	Action
2007			
a.	The Legislature clarified **options for defining "floodway"** as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA.	Incorporated into 2015 SMP.	N/A. Addressed during comprehensive update
b.	Ecology amended rules to clarify that comprehensively updated SMPs shall include a **list and map of streams and lakes** that are in shoreline jurisdiction.	Incorporated into 2015 SMP.	N/A. Addressed during comprehensive update
c.	Ecology's rule listing statutory exemptions from the requirement for an SDP was amended to include **fish habitat enhancement projects** that conform to the provisions of RCW 77.55.181.	Incorporated into 2015 SMP.	N/A. Addressed during comprehensive update

SMP amendment procedural review rules

The Shoreline Management Act (SMA) is a cooperative program of shoreline management between local governments and the state.[1] A key element of the shared responsibility is Ecology review and approval of Shoreline Master Programs (SMP) amendments.[2] The procedures for conducting the public comment and Ecology review process for proposed local amendments are outlined in state rules.

Since the 1970s, Ecology's rules had one approach that required both a local and state public comment period for all SMP amendments regardless of the substance. Effective September 7, 2017, Ecology revised those rules to create a new option that allows for a joint local/state review process.[3]

This document begins with a summary of the 2017 rules, followed by an annotated version of relevant procedural rules in their entirety.

Standard public review process

The standard public review process is still required for comprehensive SMP updates.[4] This process requires a two-stage public review for all amendments *(see Figure 1).*

Counties and cities hold a **local public comment period** on proposed amendments. Elected officials formally adopt the SMP and submit proposed amendments to Ecology.

Ecology then holds a second **state-level public comment period** on the locally approved SMP and sends comments to the local government for their response. The local government may or may not identify areas where their locally approved SMP could be improved in response to comments. Ecology then makes a final determination on whether the SMP is consistent with the SMA and applicable rules.

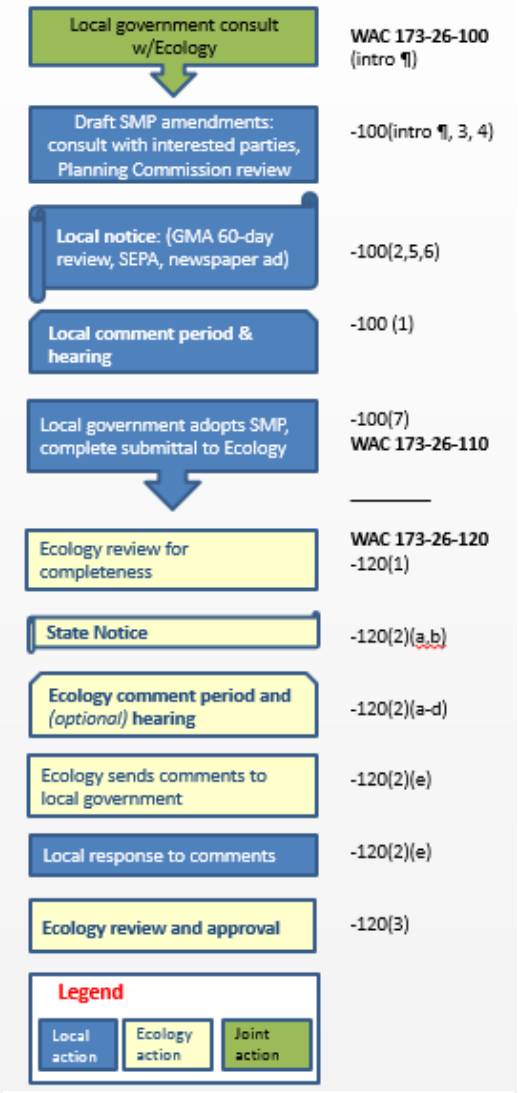


Figure 1. Standard SMP update process

[1] RCW 90.58.050
[2] RCW 90.58.090
[3] WAC 173-26-104
[4] The comprehensive updates are those found in RCW 90.58.080(2). Deadlines were from 2005-2014, with extensions and delays pushing out some approvals beyond the dates set in law. Ecology rules retained this requirement for the two-stage comment period to maintain the same procedural "ground rules" for all jurisdictions that complete the comprehensive update.

Optional joint local and state comment period

Ecology's 2017 rules create an option that allows for joint *(concurrent)* local and state public comment periods *(see Figure 2)*.

Under the optional review process, a county or city considering an amendment would consult with Ecology early in the local adoption process. After this initial consultation, the local government would prepare amendments through the normal local process. Once amendments are drafted, the local government and Ecology would hold concurrent comment periods, using parallel notification and conducting a shared local public hearing.

Local governments would provide notice of the public comment period to local interested parties and Ecology would provide notice to statewide interested parties.

Just like under the standard process, the local government prepares a response to comments. The local government may or may not make changes in response to public comments, and then submits the amendment to Ecology for an initial determination of consistency with the SMA and state rules. This step is intended to improve the transparency of the overall SMP amendment process, because local elected officials would have an initial determination of consistency before taking final action to adopt the amendments.

The 2017 rules make no substantive changes to the final steps in the approval process. After local adoption, Ecology would conduct a final review to ensure that any changes to the draft SMP following from the joint public comment period are consistent with the SMA and applicable rules.

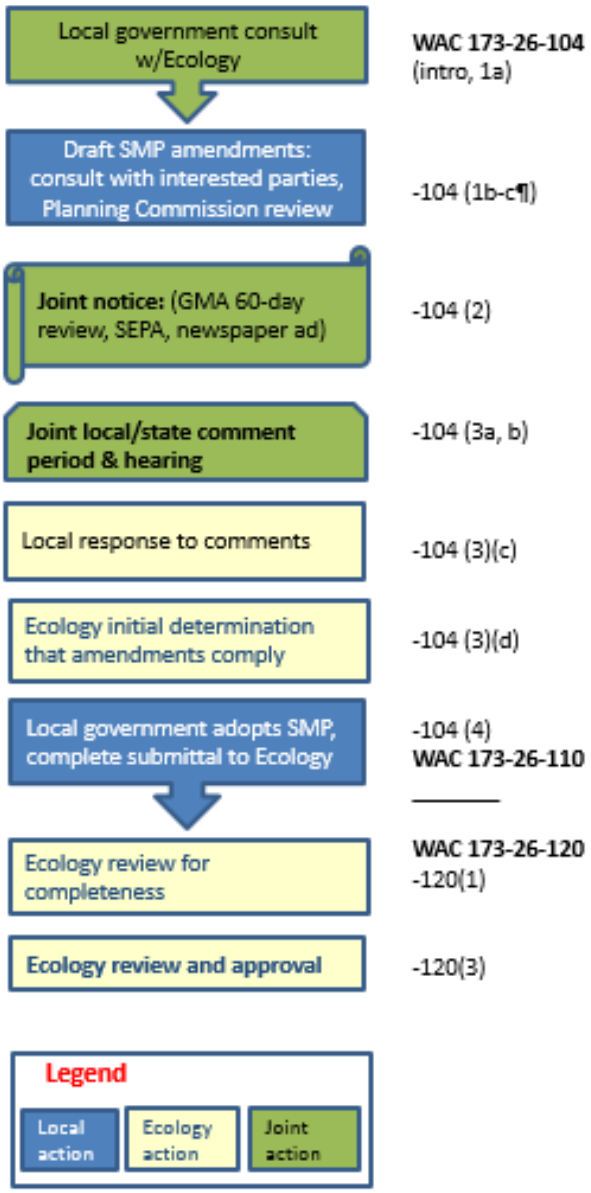


Figure 2. Joint review process

Shoreline amendment procedural rules (annotated)

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

Colored boxes formatted like this are explanatory and are not part of the rules.

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WAC 173-26-100 Standard local process for approving/amending shoreline master programs.

This section establishes local procedures for approving new master programs and preparing comprehensive master program updates required by RCW 90.58.080(2). A local government that proposes master program amendments may follow these procedures or the optional joint review process outlined in WAC 173-26-104.

Section 100 is titled the standard process to distinguish it from the new optional "joint review" process in WAC 173-26-104. The introductory paragraph explains that counties and cities must follow this process in two circumstances: adopting brand new SMPs *(e.g., in case of a new city incorporation)*, and preparing comprehensive master program updates. The term "comprehensive master program update" refers to the one-time updates required under RCW 90.58.080(2) with deadlines set in statute from 2005 – 2014.

Counties and cities have a choice of using either the standard process or the optional joint review process for all other master program amendments, including amendments concluding the periodic reviews required by RCW 90.58.080(4).

Prior to submittal of a new or amended master program to the department, local government shall solicit public and agency comment during the drafting of proposed new or amended master programs. The degree of public and agency involvement sought by local government should be gauged according to the level of complexity, anticipated controversy, and range of issues covered in the draft proposal.

Recognizing that the department must approve all master programs before they become effective, early and continuous consultation with the department is encouraged during the drafting of new or amended master programs. For local governments planning under chapter 36.70A RCW, local citizen involvement strategies should be implemented that ensure early and continuous public participation consistent with WAC 365-196-600.

At a minimum, local government shall:

(1) Conduct at least one public hearing to consider the draft proposal;

(2) Publish notice of the hearing in one or more newspapers of general circulation in the area in which the hearing is to be held. The notice shall include:

(a) Reference to the authority(s) under which the action(s) is proposed;

(b) A statement or summary of the proposed changes to the master program;

(c) The date, time, and location of the hearing, and the manner in which interested persons may present their views; and

(d) Reference to the availability of the draft proposal for public review;

(3) Consult with and solicit the comments of any persons, groups, federal, state, regional, or local agency, and tribes, having interests or responsibilities relating to the subject shorelines or any special expertise with respect to any environmental impact. The consultation process should include adjacent local governments with jurisdiction over common shorelines of the state;

(4) Where amendments are proposed to a county or regional master program which has been adopted by cities or towns, the county shall coordinate with those jurisdictions and verify concurrence with or denial of the proposal. For concurring jurisdictions, the amendments should be packaged and processed together. The procedural requirements of this section may be consolidated for concurring jurisdictions;

(5) Solicit comments on the draft proposal from the department prior to local approval. For local governments planning under the Growth Management Act, the local government shall notify both the department and the department of commerce of its intent to adopt shoreline policies or regulations, pursuant to RCW 36.70A.106;

(6) Comply with chapter 43.21C RCW, the State Environmental Policy Act; and

(7) Approve the proposal and submit for final agency approval as outlined in WAC 173-26-110.

WAC 173-26-104 Optional joint review process for amending shoreline master programs

This section establishes an optional joint review process a local government may elect to use for master program amendments other than comprehensive updates. The process combines the local and state public comment periods required by RCW 90.58.090. Recognizing that the optional review process requires close coordination in conducting a joint public review, early and continuous consultation with the department is required during the drafting of amendments. The department and local government

should work collaboratively to address local interests while ensuring proposed amendments are consistent with the policy of RCW 90.58.020 and applicable guidelines.

WAC 173-26-104 outlines an optional amendment process that consolidates the local and state public comment periods. The rule calling for "early and continuous consultation with the department" is more emphatic here than in the introduction to WAC 173-26-100 because local governments and Ecology will need to coordinate closely to successfully conduct a joint public review. The opening paragraph also articulates a guiding principle for a collaborative approach to addressing both local and statewide interests in crafting SMP amendments (which should apply even for amendments prepared under the standard review process).

(1) Local government solicits early public and agency feedback

(a) Prior to commencing the amendment process, local governments shall notify the department of intent to develop an amendment under the optional joint review process.

The department will provide shoreline master program amendment checklists to help local governments identify issues to address. The checklists will not create new or additional requirements beyond the provisions of this chapter. The checklists are intended to aid in the preparation and review of master program amendments.

§ 1(a) requires local government to start the process with a formal notice to Ecology. Ecology's website includes checklists to help with the amendment process. Ecology has checklists for comprehensive updates and periodic reviews, as well as a submittal checklist that accompanies all amendments. The remainder of this section provides the same direction to involve the public as the standard review process under WAC 173-100.

(b) Prior to submittal of a master program amendment to the department, local government shall solicit public and agency comment during the drafting of proposed amendments.

(i) The degree of public and agency involvement sought by local government should be gauged according to the level of complexity, anticipated controversy, and range of issues covered in the draft proposal.

(ii) Local government shall make all reasonable effort to consult with and solicit comments of any persons, groups, federal, state, regional, or local agency, and tribes, having interests or responsibilities relating to the subject shorelines or any special expertise with respect to any environmental impact. The consultation process should include adjacent local governments with jurisdiction over common shorelines of the state, where applicable.

(iii) For local governments planning under chapter 36.70A RCW, local citizen involvement strategies should be implemented to ensure early and continuous public participation consistent with WAC 365-196-600.

(c) Where amendments are proposed to a county or regional master program which has been adopted by cities or towns, the county shall coordinate with those jurisdictions and verify concurrence with or denial of the proposal. For concurring jurisdictions, the amendments should be packaged and processed together. The procedural requirements of this section may be consolidated for concurring jurisdictions.

(2) Local government and Ecology conduct joint public comment period

At a minimum, local governments and the department shall conduct the following steps:

(a) Local governments planning under the Growth Management Act shall notify the department of commerce of its intent to adopt shoreline policies or regulations, pursuant to RCW 36.70A.106.

(b) Local governments shall comply with chapter 43.21C RCW, the State Environmental Policy Act.

(c) Local governments and the department will provide a formal public comment period.

(i) Provide a public comment period of at least thirty days. The local government will provide reasonable notice and opportunity for written comment to all parties of record who expressed interest regarding the proposal. The department will provide notice to the state interested parties list of persons, groups, agencies, and tribes that have requested in writing notice of proposed master programs or amendments generally or for a specific subject matter.

(ii) Conduct at least one joint local/state public hearing to consider the draft proposal. The local government will publish notice of the joint local/state hearing in one or more newspapers of general circulation in the area in which the hearing is to be held. The notice shall include:

(A) Reference to the authority(s) under which the action(s) is proposed;

(B) The date, time, and location of the hearing, and the manner in which interested persons may present their views;

(C) A statement or summary of the proposed changes to the master program; and

(D) Reference to the availability of the draft proposal for public review.

(d) Local governments shall make available to the public and shall accept comment on the following materials:

(i) Amended text clearly identifying the proposed changes;

(ii) Any amended environment designation map(s), showing both existing and proposed designations, with justification for changes;

(iii) A summary of proposed amendments together with explanatory text indicating the scope and intent of the proposal; and

(iv) An initial submittal checklist and other supporting material indicating how the proposed amendment is consistent with the policy of RCW 90.58.020 and applicable guidelines.

(e) Local governments shall prepare a response to public comments.

(i) Within thirty days after the close of the joint public comment period, the local government shall document the submitted comments and prepare a written response to the public comments. The response may identify changes to the proposed amendment in response to public comments. Any proposed changes shall be evaluated by the local government for consistency with the policy of RCW 90.58.020 and applicable guidelines.

(ii) A local government may request additional time to prepare responses. Such requests will be accompanied by estimates of additional time needed.

The steps in **§ 2** combine the local and state notice and comment periods.

§ 2(c)(i) clarifies that local governments provide notice to local interested parties, and Ecology provides notice to the state interested parties list. The rule provides a minimum local comment period of 30 days. Ecology recommends local governments lets Ecology know when the comment period is anticipated as soon as possible to ensure Ecology meets its obligations to send notice.

§ 2(c)(ii) clarifies public notice requirements for the joint hearing. Ecology's Shoreline Planners Toolbox includes a sample public notice.

§ 2(d) outlines what items must be made available to the public. Ecology's website will direct the public to the local government website and local contacts.

§ 2(e) provides a default timeframe of 30 days, with an option for additional time when needed. Where there are no comments or minor comments, this step can be concluded more quickly.

(3) Local government obtains initial determination from the department

(a) After conducting the joint public comment period, and prior to local government adoption, the local government shall submit the proposed amendment to the department for initial review. In addition to providing the public comment record of materials, initial submittal shall include:

(i) Documentation of all public comments received during the comment period;

(ii) Local jurisdiction responses to public comments;

(iii) Description of any proposed amendments as a result of the public testimony, with findings supporting the consistency of the proposed amendments with the policy of RCW 90.58.020 and applicable guidelines;

(iv) Updated text and map amendments.

(b) The department shall provide the local government an initial determination of whether or not the proposal is consistent with the policy of RCW 90.58.020 and applicable guidelines.

(i) The department will provide the initial determination within thirty days of submittal. For complex proposals, the department may indicate to the local government that a longer review period of up to forty-five days is needed.

(ii) If the department's initial determination is that the proposal is consistent with applicable laws and rules, the department will provide a written statement of initial concurrence.

(iii) If the department concludes that the proposal is not consistent with applicable laws and rules, the department will provide a written statement describing the specific areas of concern.

§ (3) requires local governments to send the draft SMP amendments that incorporate any changes resulting from the comment period to Ecology after the joint public comment period. Ecology is required to reply with an initial determination before local adoption. The intent of this step is to provide local elected officials an opportunity to consider Ecology's analysis before local adoption. Ecology may provide this initial determination in the form of draft "Findings and Conclusions."

(4) Approve the proposal.

After receiving the initial determination from the department, the local government adopts the amendment through resolution or ordinance and submits it for final agency approval as outlined in WAC 173-26-110.

§ 4 simply summarizes the final step of formal adoption and submittal to Ecology.

WAC 173-26-110 Submittal to department of proposed master programs/amendments

A master program or amendment proposed by local government shall be submitted to the department for its review and formal action. Submittals may be in digital format.

This section applies to all formal SMP submittals, whether for a brand new SMP (e.g., for a newly incorporated city), or any kind of amendment (comprehensive update, periodic review, or locally-initiated amendment).

The section applies whether the amendment was prepared under WAC 173-26-100 or the optional joint process under WAC 173-26-104. The 2017 amendments clarify that digital submittals are acceptable, rather than requiring paper copies.

A complete submittal shall include the following, where applicable:

(1) Documentation (i.e., signed resolution or ordinance) that the proposal has been approved by the local government;

(2) If the proposal includes text amending a master program document of record, it shall be submitted in a form that can replace or be easily incorporated within the existing document. Amended text shall show strikeouts for deleted text and underlining for new text, clearly identifying the proposed changes. At the discretion of the department, strikeouts and underlined text may not be required provided the new or deleted portions of the master program are clearly identifiable;

(3) Amended environment designation map(s), showing both existing and proposed designations, together with corresponding boundaries described in text for each change of environment. All proposals for changes in environment designation and redesignation shall provide written justification for such based on existing development patterns, the biophysical capabilities and limitations of the shoreline being considered, and the goals and aspirations of the local citizenry as reflected in the locally adopted comprehensive land use plan;

(4) A summary of proposed amendments together with explanatory text indicating the scope and intent of the proposal, staff reports, records of the hearing, and/or other materials which document the necessity for the proposed changes to the master program;

(5) Evidence of compliance with chapter 43.21C RCW, the State Environmental Policy Act, specific to the proposal;

(6) Evidence of compliance with the public notice and consultation requirements of either WAC 173-26-100 or 173-26-104;

(7) Copies of all public, agency and tribal comments received, including a record of names and addresses of interested parties involved in the local government review process or, where no comments have been received, a comment to that effect.

(8) A summary of amendments made in response to comments received.

(9) A copy of the applicable master program submittal checklist:

(a) For comprehensive master program updates, a checklist completed in accordance with WAC 173-26-201 (3)(a) and (h).

(b) For periodic reviews prepared under RCW 90.58.080(4), a checklist completed in accordance with WAC 173-26-090.

(c) For locally initiated amendments, a checklist and any supporting material demonstrating consistency with RCW 90.58.020 and applicable guidelines.

(10) For comprehensive master program updates, copies of the inventory and characterization, use analysis, restoration plan and cumulative impacts analysis.

The submittal requirements were amended in 2017 to make a few minor clarifications, including:

§ 6 acknowledged that public notice may have occurred per the optional process under WAC 173-26-104.

§ 8 clarified that the submittal includes local responses to public comments.

§ 9(b) added a requirement for a checklist to accompany submittals that address the "periodic review" required under RCW 90.58.040. (Ecology Shoreline Planners Toolbox includes a review checklist.)

§ 9(c) mentions that "locally initiated" amendments must include a checklist to indicate how the proposed amendment meets applicable laws and guidelines. This refers to the Submittal Checklist that simply summarizes the requirements of WAC 173-26-110. The submittal checklist is posted on Ecology's Shoreline Planner Toolbox.

WAC 173-26-120 State process for approving/amending shoreline master programs

Review and approval of master programs and amendments by the department shall follow the procedures set forth below. The state public comment period under subsection (2) of this section does not apply to master programs adopted under the optional joint review process of WAC 173-26-104.

The state rule was amended in 2017 primarily to create three distinct sections: (1) Formal Review for Completeness; (2) State Public Comment Period; and (3) Approval. The introductory paragraph and § 1(a) acknowledge that § 2 is only for local governments that follow the "standard" amendment process under WAC 173-26-100. The section also include numerous edits to acknowledge the optional "joint review" amendment process proposed under WAC 173-26-104.

(1) Formal review for completeness

(a) The department shall review the submitted master program or amendment for compliance with either WAC 173-26-100 or 173-26-104, and 173-26-110. The department shall notify the local government in writing when it determines that a complete submittal has been received.

(b) If the submittal is determined to be incomplete, the department will identify the deficiencies and so notify the local government in writing. The review process will not begin until the department determines the submittal is complete.

(2) State public comment period

For local governments that have followed WAC 173-26-100, the department shall follow the procedures below:

(a) The department shall provide reasonable notice and opportunity for written comment to all parties of record who expressed interest regarding the local government proposal and to all persons, groups, agencies, and tribes that have requested in writing notice of proposed master programs or amendments generally or for a specific subject matter. The comment period shall be at least thirty days, unless the department determines that a lack of complexity or controversy surrounding the proposal supports a shorter period.

(b) For master program or amendment proposals involving local governments planning under chapter 36.70A RCW, the department shall provide notice to the department of commerce of its intent to begin formal review of the local government proposal.

(c) At the department's discretion, it may conduct a public hearing during the comment period in the jurisdiction proposing the master program or amendment.

(d) If the department conducts a hearing pursuant to subsection (c) of this section, it shall publish notice of the hearing in at least one newspaper of general circulation in the area affected by the master program. The public notice shall include:

(i) A description of the proposed master program or amendment;

(ii) Reference to the authority under which the action is proposed;

(iii) The dates, times, and locations of the public hearing, and the manner in which interested persons may obtain copies of the proposal and present their views.

For master program or amendment proposals involving adoption by rule, the notice of the hearing shall be published at least once in each of the three weeks immediately preceding the hearing in one or more newspapers of general circulation in the county in which the hearing is to be held.

(e) Within fifteen days after the close of the department's public comment period, the department shall request of the local government submitting the proposal a review of the issues if any, identified by the public, interested parties, groups, agencies, and tribes, and a written response as to how the proposal addresses the identified issues consistent with the policy of RCW 90.58.020 and the applicable guidelines. Local government shall submit its response to the department within forty-five days of the date of the department's letter requesting a response. If no response is received by the department within the forty-five-day period, the department may proceed with action on the proposal according to subsection (3) of this section. Within the forty-five-day period, the local government may request in writing additional time to prepare a response.

(3) Approval

(a) Within thirty days after receipt of the local government written response pursuant to subsection (2)(e) of this section, or for jurisdictions that followed WAC 173-26-104, after determination of completeness pursuant to subsection (1)(a) of this section, the department shall:

(i) Make written findings and conclusions regarding the consistency of the proposal with the policy of RCW 90.58.020 and the applicable guidelines;

(ii) For amendments adopted under WAC 173-26-100, provide a response to the issues identified in subsection (2)(e) of this section; and

(iii) Either approve the proposal as submitted, recommend specific changes necessary to make the proposal consistent with chapter 90.58 RCW policy and its applicable guidelines, or deny the proposal in those instances where no alteration of the proposal appears likely to be consistent with the policy of RCW 90.58.020 and the applicable guidelines. The written findings and conclusions shall be provided to the local government and made available to all interested persons, parties, tribes, groups, and agencies of record on the proposal.

(A) In reaching its determination of consistency with the policy of RCW 90.58.020 and the applicable guidelines, the department shall approve those parts of a master program relating to shorelines unless it determines that the submitted parts are not consistent with the policy of RCW 90.58.020 and the applicable guidelines.

(B) The department shall approve those parts of a master program relating to shorelines of statewide significance only after determining the program provides for optimum implementation of the statewide interest as set forth in the policy of RCW 90.58.020 and the applicable guidelines.

(b) If the department recommends changes to the proposal, within thirty days after the department provides the written findings and conclusions to the local government pursuant to this subsection (3), the local government may:

(i) Agree to the proposed changes by written notice to the department. The department shall provide written notice of the local government acceptance to all parties of record; or

(ii) Submit an alternative proposal. If, in the opinion of the department, the alternative is consistent with the purpose and intent of the changes originally proposed by the department in this subsection (3) and with the policy of RCW 90.58.020 and the applicable guidelines, it shall approve the alternative changes and provide written notice to all parties of record.

If the department determines the alternative proposal is not consistent with the purpose and intent of the changes proposed by the department, the department may either deny the alternative proposal or at the request of local government start anew with the review and approval process beginning in WAC 173-26-120.

(c) Department notice of final action.

(i) Promptly after approval or disapproval of a local government's shoreline master program or amendment, the department shall publish a notice consistent with RCW 36.70A.290 that the shoreline master program or amendment has been approved or disapproved. This notice must be filed for all shoreline master programs or amendments.

(ii) If the notice is for a local government that does not fully plan under RCW 36.70A.040, the department must, on the day the notice is published, notify the legislative authority of the applicable local government by telephone or electronic means, followed by written communication as necessary, to ensure that the local government has received the full written decision of the approval or disapproval.

(d) Effective date.

(i) A master program or amendment thereto takes effect in such form as it is approved or adopted by rule by the department. The effective date is fourteen days from the date of the department's written notice of final action to the local government stating the department has approved or rejected the proposal.

(ii) For master programs adopted by rule, the effective date is governed by RCW 34.05.380.

(iii) The department's written notice to the local government must conspicuously and plainly state that it is the department's final decision and that there will be no further modifications to the proposal.

§ 3(d) was amended in 2017 to incorporate a 2011 change to the SMA that establishes the effective date of SMPs as fourteen days after Ecology's approval [RCW 90.58.090(7)]. This amendment was adopted to provide local governments two weeks to codify their SMP locally.

GIG HARBOR
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DEVELOPMENT SERVICES

Exhibit D
GHSMP Periodic Review
Planning Commission
September 16, 2021

TO: Reid Ekberg, Chair
Planning Commission

FROM: PK Peter Katich, Senior Planner
Planning Department

SUBJECT: Periodic Review-Gig Harbor Shoreline Master Program

DATE: November 8, 2018

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

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

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

- To assure that the master program complies with applicable law and guidelines in effect at the time of the review; and,

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

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

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

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

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

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

GIG HARBOR
"THE MARITIME CITY"

DEVELOPMENT SERVICES

TO: Reid Ekberg, Chair
Planning Commission

FROM: Peter Katich, Senior Planner
Planning Department

SUBJECT: Periodic Review-Gig Harbor Shoreline Master Program

DATE: January 31, 2019

At the Planning Commission meeting of November 15, 2018, staff provided the Commission with background information on the State of Washington required periodic review for the city's current, adopted Shoreline Master Program. As discussed at that meeting, the Gig Harbor Shoreline Master Program (GHSMP), which was adopted by the city on November 25, 2013 and became effective on December 27, 2013 is now subject to its first periodic review pursuant to Washington Administrative Code (WAC) Section 173-26-090. The review is required to be completed by June 2019.

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

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

- To assure that the master program complies with applicable law and guidelines in effect at the time of the review; and,

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

The review process provides a method for bringing shoreline master programs into compliance with the requirements of the act that have been added or changed since the last review and for responding to changes in guidelines adopted by the department, together with a review for consistency with amended comprehensive plans and regulations. It also provides local

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government with an opportunity to incorporate amendments to reflect changed circumstances, new information or improved data. The review ensures that shoreline master programs do not fall out of compliance over time through inaction.

At the Commission's meeting on February 7, 2019, staff will address the first group of draft amendments to the GHSMP that apply to all non-critical area required amendments. The amendments are included with the Commission's packet for the meeting. Also included, is the city's periodic review checklist that addresses all proposed amendments, including those currently identified for the GHSMP's critical area regulations. The checklist also contains the initial review comments of Kim Van Zwalenburg, Shorelines Specialist, with the Department of Ecology (Ecology). Her comments are under the initials "KV" and are in red-colored font.

The city is currently working with Ecology staff to determine the required scope for all amendments to the GHSMP's critical area regulations. Once that review is completed, staff will update the Commission on the status of that effort and bring forward draft shoreline critical area amendments for review.

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

GIG HARBOR
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DEVELOPMENT SERVICES

TO: Reid Ekberg, Chair
Planning Commission

FROM: P.K. Peter Katich, Principal Planner
Planning Department

SUBJECT: Periodic Review-Gig Harbor Shoreline Master Program-Draft Critical Area Amendments

DATE: March 28, 2019

At the Planning Commission meeting of February 7, 2019, staff provided the Commission with the first group of draft amendments to the Gig Harbor Shoreline Master Program (GHSMP) that apply to all non-critical area required amendments. At the Commission's meeting on April 4, 2019, staff will address the proposed amendments to the GHSMP critical area requirements set forth in GHSMP Subsection 6.2.5.

The proposed amendments address wetland rating categories, and updated habitat scores for determining wetland buffer widths for the four categories of wetlands regulated under the city's program. The proposed habitat scores will align the master program with revisions made to Department of Ecology wetland guidance completed in 2014 and 2018.

The amendments are included with the Commission's packet for the meeting. Also included, is the city's periodic review checklist that addresses all proposed amendments, including those currently identified for the GHSMP's critical area regulations.

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

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TO: Planning Commission

FROM: Peter Katich, Principal Planner
Planning Department

SUBJECT: Periodic Review-Gig Harbor Shoreline Master Program-Overview for new Planning Commission members

DATE: July 18, 2019

At the Planning Commission meeting on July 18, 2019, staff will provide the Commission, including its three new members, with an overview of the purpose for the city's Shoreline Master Program (SMP) Periodic Review amendment process, a review of the draft amendments reviewed and tentatively approved by the Commission to date, and a discussion on the status of remaining draft amendments. Staff will also address the remaining key milestones in the city's review and adoption of the amendments.

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

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

Remaining amendments proposed to the SMP that require Planning Commission review will address revisions to the SMP's critical area regulations (wetlands, streams and critical fish & wildlife habitat area regulations) that will align it with separate, proposed amendments to the city's Flood Hazard Construction Standards Ordinance (Gig Harbor Municipal Code Chapter 18.10) that address FEMA-designated Special Flood Hazard Areas and the review of development activities within those designated areas. It's staff's intention to bring both the remaining SMP amendments, and those proposed to GHMC Chapter 18.10 to the Commission for review at the same time at the Commission's meeting of September 5, 2019.

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

TO: Planning Commission

FROM: Carl de Simas, Senior Planner
Planning Division

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

DATE: March 12, 2021

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

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

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

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

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

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

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

TO: Planning Commission

FROM: Carl de Simas, Senior Planner
Planning Division

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

DATE: June 25, 2021

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

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

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

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

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

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

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.

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.

Exhibit E
GHSMP Periodic Review
Planning Commission
September 16, 2021

CERTIFICATION OF PUBLIC NOTICE

==========

DECLARATION OF PUBLISHING

I, Michelle Thomas (printed name), declare under penalty of perjury under the laws of the State of Washington and the United States of America that the foregoing is true and correct to the best of my knowledge:

On August 17, 2021 I sent a true and correct copy of the **NOTICE OF JOINT PUBLIC COMMENT PERIOD** for publication in the **August 28, 2021** edition of the Tacoma News Tribune for the following:

Project Name: **Shoreline Master Program Periodic Review**

Project Location: **City Wide**

Permit Number(s): **PL-COMP-21-0002**

SIGNED at Gig Harbor, Washington, this 17th day of August, 2021.

Michelle Thomas

DECLARANT (signature)

McClatchy

Beaufort Gazette
Belleville News-Democrat
Bellingham Herald
Bradenton Herald
Centre Daily Times
Charlotte Observer
Columbus Ledger-Enquirer
Fresno Bee
The Herald - Rock Hill
Herald Sun - Durham
Idaho Statesman
Island Packet
Kansas City Star
Lexington Herald-Leader
Merced Sun-Star
Miami Herald
el Nuevo Herald - Miami
Modesto Bee
Raleigh News & Observer
The Olympian
Sacramento Bee
Fort Worth Star-Telegram
The State - Columbia
Sun Herald - Biloxi
Sun News - Myrtle Beach
The News Tribune Tacoma
The Telegraph - Macon
San Luis Obispo Tribune
Tri-City Herald
Wichita Eagle

AFFIDAVIT OF PUBLICATION

Account #	Order Number	Identification	Order PO	Amount	Cols	Depth
23685	119548	Print Legal Ad - IPL0037350		$126.88	2	51 L

Attention: Cindy Andrews

CITY OF GIG HARBOR
3510 GRANDVIEW ST
GIG HARBOR, WA 983351214

CITY OF GIG HARBOR
and DEPARTMENT OF ECOLOGY

NOTICE OF JOINT PUBLIC COMMENT PERIOD

Shoreline Master Program Periodic Review

Permit Number(s): PL-COMP-21-0002
Date of Notice: August 18, 2021
Applicant: City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335
Project Location: City-wide Amendment

Project Description: The City of Gig Harbor is conducting a periodic review of its Shoreline Master Program (SMP), consistent with the state Shoreline Management Act (SMA; RCW 90.58) and Ecology's Periodic Review Rule set forth in WAC 173-26-090. Gig Harbor last updated its SMP in 2013. The SMP is both a planning document that sets policy, and development regulations for the City's shoreline areas, which include adjacent upland areas within 200 feet of designated shorelines. The primary policy objectives of the SMA are to: encourage water-dependent and water-oriented uses; protect the shoreline ecology and natural resources; and promote public access.

SEPA Threshold Determination: A SEPA Threshold Determination has not yet been issued for this non-project action.

PUBLIC HEARING DATE: Planning Commission, **Thursday, September 16, 2021, 6:00 PM**, Virtual Meeting (see City Web Calendar for information on attending the hearing)

The City of Gig Harbor is providing this 30-day joint public comment period together with the Department of Ecology under WAC 173-26-104. Public comments are due no later than the posted date/time below. Interested persons are invited to provide public comment and provide testimony at the public hearing for this proposal. The hearing will be conducted in the manner prescribed by Gig Harbor Municipal Code Chapter 19.05.

Documents pertinent to this application are available for review and inspection at the City of Gig Harbor Community Development Department, 3510 Grandview Street, Gig Harbor, WA 98335, during normal business hours, Monday through Friday, online at the Project Web Page, or the Permit Portal. A copy of the staff report on this proposal will be available approximately seven days prior to the meeting. A copy of the application, all documents and evidence relied upon by the applicant, and applicable criteria are available for inspection at no cost; copies will be provided at the requestor's cost.

Requests for notification or written comments must be submitted to the Community Development Department no later than 5:00 PM on Friday, September 17, 2021.

Questions or comments regarding the above stated application should be made to Carl de Simas, Senior Planner, City of Gig Harbor Community Development Department, 3510 Grandview Street, Gig Harbor, WA 98335, or by calling (253) 851-6170. Additional permit information can also be found at www.cityofgigharbor.net by clicking "Permit Portal" and entering the above permit numbers.

IPL0037350
Aug 18 2021

Calandra Daniels, being duly sworn, deposes and says: That he/she is the Principal Clerk of the publication; The News Tribune, printed and published in Tacoma, Pierce County, State of Washington, and having a general circulation therein, and which said newspaper(s) have been continuously and uninterruptedly published in said County during a period of six months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in The News Tribune, as amended, for:

No. of Insertions: 1
Beginning Issue of: 08/18/2021
Ending Issue of: 08/18/2021

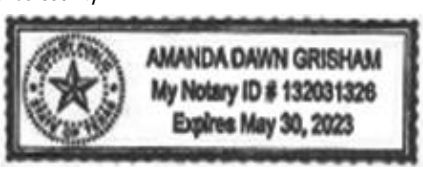


Principal Clerk

Sworn to and subscribed before me this 18th day of August in the year of 2021 before me, a Notary Public, personally appeared before me Calandra Daniels known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that he/she executed the same.



Notary Public in and for the state of Texas, residing in Dallas County



Extra charge for lost or duplicate affidavits.
Legal document please do not destroy!

GIG HARBOR
"THE MARITIME CITY"

COMMUNITY DEVELOPMENT
PLANNING DIVISION

CITY OF GIG HARBOR
and DEPARTMENT OF ECOLOGY

NOTICE OF JOINT PUBLIC COMMENT PERIOD

Shoreline Master Program Periodic Review

Permit Number(s):	PL-COMP-21-0002
Date of Notice:	August 18, 2021
Applicant:	City of Gig Harbor 3510 Grandview Street Gig Harbor, WA 98335
Project Location:	City-wide Amendment
Project Description:	The City of Gig Harbor is conducting a periodic review of its Shoreline Master Program (SMP), consistent with the state Shoreline Management Act (SMA; RCW 90.58) and Ecology's Periodic Review Rule set forth in WAC 173-26-090. Gig Harbor last updated its SMP in 2013. The SMP is both a planning document that sets policy, and development regulations for the City's shoreline areas, which include adjacent upland areas within 200 feet of designated shorelines. The primary policy objectives of the SMA are to: encourage water-dependent and water-oriented uses; protect the shoreline ecology and natural resources; and promote public access.
SEPA Threshold Determination:	A SEPA Threshold Determination has not yet been issued for this non-project action.
PUBLIC HEARING DATE:	Planning Commission, **Thursday, September 16, 2021, 6:00 PM**, Virtual Meeting (see City Web Calendar for information on attending the hearing)

The City of Gig Harbor is providing this 30-day joint public comment period together with the

Department of Ecology under WAC 173-26-104. Public comments are due no later than the posted date/time below. Interested persons are invited to provide public comment and provide testimony at the public hearing for this proposal. The hearing will be conducted in the manner prescribed by Gig Harbor Municipal Code Chapter 19.05.

Documents pertinent to this application are available for review and inspection at the City of Gig Harbor Community Development Department, 3510 Grandview Street, Gig Harbor, WA 98335, during normal business hours, Monday through Friday, online at the Project Web Page, or the Permit Portal. A copy of the staff report on this proposal will be available approximately seven days prior to the meeting. A copy of the application, all documents and evidence relied upon by the applicant, and applicable criteria are available for inspection at no cost; copies will be provided at the requestor's cost.

Requests for notification or written comments must be submitted to the Community Development Department no later than 5:00 PM on Friday, September 17, 2021.

Questions or comments regarding the above stated application should be made to Carl de Simas, Senior Planner, City of Gig Harbor Community Development Department, 3510 Grandview Street, Gig Harbor, WA 98335, or by calling (253) 851-6170. Additional permit information can also be found at www.cityofgigharbor.net by clicking "Permit Portal" and entering the above permit numbers.

CERTIFICATION OF PUBLIC NOTICE

==========

DECLARATION OF PUBLISHING

I, Michelle Thomas (printed name), declare under penalty of perjury under the laws of the State of Washington and the United States of America that the foregoing is true and correct to the best of my knowledge:

On September 2, 2021 I sent a true and correct copy of the **NOTICE OF PUBLIC HEARING** for publication in the **September 5, 2021** edition of the Tacoma News Tribune for the following:

Project Name: **Shoreline Master Program Periodic Review**

Project Location: **City Wide**

Permit Number(s): **PL-COMP-21-0002**

SIGNED at Gig Harbor, Washington, this 2nd day of September, 2021.

Michelle Thomas

DECLARANT (signature)

McClatchy

Beaufort Gazette
Belleville News-Democrat
Bellingham Herald
Bradenton Herald
Centre Daily Times
Charlotte Observer
Columbus Ledger-Enquirer
Fresno Bee
The Herald - Rock Hill
Herald Sun - Durham
Idaho Statesman
Island Packet
Kansas City Star
Lexington Herald-Leader
Merced Sun-Star
Miami Herald
el Nuevo Herald - Miami
Modesto Bee
Raleigh News & Observer
The Olympian
Sacramento Bee
Fort Worth Star-Telegram
The State - Columbia
Sun Herald - Biloxi
Sun News - Myrtle Beach
The News Tribune Tacoma
The Telegraph - Macon
San Luis Obispo Tribune
Tri-City Herald
Wichita Eagle

AFFIDAVIT OF PUBLICATION

Account #	Order Number	Identification	Order PO	Amount	Cols	Depth
23685	130056	Print Legal Ad - IPL0039838		$124.44	2	50 L

Attention: Cindy Andrews

CITY OF GIG HARBOR
3510 GRANDVIEW ST
GIG HARBOR, WA 983351214

CITY OF GIG HARBOR
and DEPARTMENT OF ECOLOGY

NOTICE OF Public Hearing
Shoreline Master Program Periodic Review

Permit Number(s): PL-COMP-21-0002
Date of Notice: September 5, 2021
Applicant: City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335
Project Location: City-wide Amendment
Project Description: The City of Gig Harbor is conducting a periodic review of its Shoreline Master Program (SMP), consistent with the state Shoreline Management Act (SMA; RCW 90.58) and Ecology's Periodic Review Rule set forth in WAC 173-26-090. Gig Harbor last updated its SMP in 2013. The SMP is both a planning document that sets policy, and development regulations for the City's shoreline areas, which include adjacent upland areas within 200 feet of designated shorelines. The primary policy objectives of the SMA are to: encourage water-dependent and water-oriented uses; protect the shoreline ecology and natural resources; and promote public access.
SEPA Threshold Determination: A SEPA Threshold Determination has not yet been issued for this non-project action.
PUBLIC HEARING DATE: Planning Commission, **Thursday, September 16, 2021, 6:00 PM**, Virtual Meeting (see City Web Calendar for information on attending the hearing)
The City of Gig Harbor is providing this 30-day joint public comment period together with the Department of Ecology under WAC 173-26-104. Public comments are due no later than the posted date/time below. Interested persons are invited to provide public comment and provide testimony at the public hearing for this proposal. The hearing will be conducted in the manner prescribed by Gig Harbor Municipal Code Chapter 19.05.
Documents pertinent to this application are available for review and inspection at the City of Gig Harbor Community Development Department, 3510 Grandview Street, Gig Harbor, WA 98335, during normal business hours, Monday through Friday, online at the Project Web Page, or the Permit Portal. A copy of the staff report on this proposal will be available approximately seven days prior to the meeting. A copy of the application, all documents and evidence relied upon by the applicant, and applicable criteria are available for inspection at no cost; copies will be provided at the requestor's cost.
Requests for notification or written comments must be submitted to the Community Development Department no later than 5:00 PM on Friday, September 17, 2021.
Questions or comments regarding the above stated application should be made to Carl de Simas, Senior Planner, City of Gig Harbor Community Development Department, 3510 Grandview Street, Gig Harbor, WA 98335, or by calling (253) 851-6170. Additional permit information can also be found at www.cityofgigharbor.net by clicking "Permit Portal" and entering the above permit numbers.
IPL0039838
Sep 5 2021

Calandra Daniels, being duly sworn, deposes and says: That he/she is the Principal Clerk of the publication; The News Tribune, printed and published in Tacoma, Pierce County, State of Washington, and having a general circulation therein, and which said newspaper(s) have been continuously and uninterruptedly published in said County during a period of six months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in The News Tribune, as amended, for:

No. of Insertions: 1
Beginning Issue of: 09/05/2021
Ending Issue of: 09/05/2021

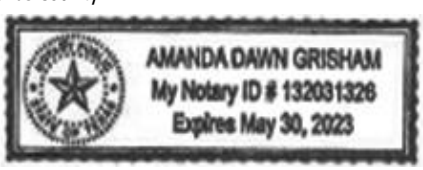


Principal Clerk

Sworn to and subscribed before me this 7th day of September in the year of 2021 before me, a Notary Public, personally appeared before me Calandra Daniels known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that he/she executed the same.



Notary Public in and for the state of Texas, residing in Dallas County



Extra charge for lost or duplicate affidavits.
Legal document please do not destroy!

GIG HARBOR
"THE MARITIME CITY"

COMMUNITY DEVELOPMENT
PLANNING DIVISION

CITY OF GIG HARBOR
and DEPARTMENT OF ECOLOGY

NOTICE OF PUBLIC HEARING

Shoreline Master Program Periodic Review

Permit Number(s):	PL-COMP-21-0002
Date of Notice:	September 5, 2021
Applicant:	City of Gig Harbor 3510 Grandview Street Gig Harbor, WA 98335
Project Location:	City-wide Amendment
Project Description:	The City of Gig Harbor is conducting a periodic review of its Shoreline Master Program (SMP), consistent with the state Shoreline Management Act (SMA; RCW 90.58) and Ecology's Periodic Review Rule set forth in WAC 173-26-090. Gig Harbor last updated its SMP in 2013. The SMP is both a planning document that sets policy, and development regulations for the City's shoreline areas, which include adjacent upland areas within 200 feet of designated shorelines. The primary policy objectives of the SMA are to: encourage water-dependent and water-oriented uses; protect the shoreline ecology and natural resources; and promote public access.
SEPA Threshold Determination:	A SEPA Threshold Determination has not yet been issued for this non-project action.
PUBLIC HEARING DATE:	Planning Commission, **Thursday, September 16, 2021, 6:00 PM**, Virtual Meeting (see City Web Calendar for information on attending the hearing)

The City of Gig Harbor is providing this 30-day joint public comment period together with the Department of Ecology under WAC 173-26-104. Public comments are due no later than the posted date/time below. Interested persons are invited to provide public comment and provide testimony at the public hearing for this proposal. The hearing will be conducted in the manner prescribed by Gig Harbor Municipal Code Chapter 19.05.

Documents pertinent to this application are available for review and inspection at the City of Gig Harbor Community Development Department, 3510 Grandview Street, Gig Harbor, WA 98335, during normal business hours, Monday through Friday, online at the Project Web Page, or the Permit Portal. A copy of the staff report on this proposal will be available approximately seven days prior to the meeting. A copy of the application, all documents and evidence relied upon by the applicant, and applicable criteria are available for inspection at no cost; copies will be provided at the requestor's cost.

Requests for notification or written comments must be submitted to the Community Development Department no later than 5:00 PM on Friday, September 17, 2021.

Questions or comments regarding the above stated application should be made to Carl de Simas, Principal Planner, City of Gig Harbor Community Development Department, 3510 Grandview Street, Gig Harbor, WA 98335, or by calling (253) 851-6170. Additional permit information can also be found at www.cityofgigharbor.net by clicking "Permit Portal" and entering the above permit numbers.

Exhibit F
GHSMP Periodic Review
Planning Commission
September 16, 2021

GIG HARBOR
"THE MARITIME CITY"

Determination of Nonsignificance (DNS)

W.A.C. 197-11-970

Environmental Review Application No.: PL-SEPA-21-0009

Parcel Number: No parcel number – Proposal is not site-specific

Action: City of Gig Harbor Shoreline Master Program Periodic Update

Proposal: The proposal is a nonproject, legislative action to update the Shoreline Master Program in accordance with RCW 90.58.080. The updates include several statutory requirements as well as several amendments/updates proposed by the City.

Location: City-wide

Proponent: City of Gig Harbor, 3510 Grandview Street, Gig Harbor, WA 98335

Lead Agency: City of Gig Harbor

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public upon request.

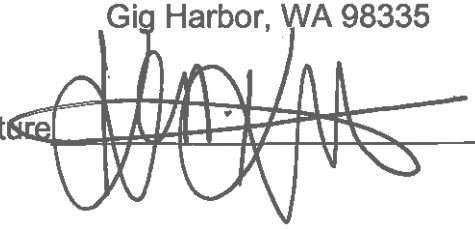
[x] This DNS is issued under WAC 197-11-340(2); the lead agency will not act on this proposal for at least 14 days from the date of this document. **Comments must be submitted by September 8, 2021.**

Any interested person may appeal the adequacy of this SEPA Threshold Determination to the Gig Harbor City Council pursuant to the procedures set forth under Chapter 18.04 of the Gig Harbor Municipal Code if a written request for appeal is received within 7 days after the end of the comment period, or September 15, 2021, whichever is later. The written appeal must be submitted with a filing fee of three hundred and twelve dollars ($312.00).

Contact: Carl de Simas, Principal Planner; Phone: (253) 851-6170

Responsible Official: Katrina Knutson, AICP
Position Title: Community Development Director Phone: (253) 851-6170

Address: City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

Signature:  Date: August 24 2021

NOTICE OF DETERMINATION OF NONSIGNIFICANCE

The City of Gig Harbor issued a Determination of Nonsignificance (MDNS) under the State Environmental Policy Act Rules (Chapter 197-11-WAC) for the following project:

Application PL-SEPA-21-0009 – City of Gig Harbor Shoreline Master Program Periodic Review

> The proposal is a nonproject, legislative action initiated by the City of Gig Harbor to update the City's Shoreline Master Program in accordance with RCW 90.58.080. The updates include several statutory requirements as well as several amendments/updates proposed by the City. The draft amended chapters can be reviewed on the project page of the City's web site.

After review of a completed environmental checklist and other information on file with the agency, the City of Gig Harbor has determined the above proposal will not have a probable significant adverse impact on the environment.

Copies of the DNS are available at no charge from the City of Gig Harbor Community Development Department, 3510 Grandview Street, Gig Harbor, WA 98335. Telephone: (253) 851-6170.

A public hearing on the proposed project is scheduled before the City of Gig Harbor Planning Commission on September 16, 2021 at 6:00 p.m. in the Gig Harbor Civic Center Council Chambers located at 3510 Grandview Street. The public is invited to comment on this DNS at the public hearing, or by submitting written comments to the above address no later than **September 8, 2021**. The deadline for appealing the final SEPA Threshold Determination is **September 15, 2021**.

Publish – Legal Notice – The Tacoma News Tribune – September 26, 2021

NOTICE OF DETERMINATION OF NONSIGNIFICANCE (DNS)

FROM: **City of Gig Harbor, Planning Department**

DATE: **August 25, 2009**

SUBJ: **Request for Comments – DNS – PL-SEPA-21-0009 – Shoreline Master Program Periodic Review**

Pursuant to WAC 197-11-340 a Determination of Nonsignificance (DNS) has been issued for the following proposal:

PROPOSAL:
The proposal is a non-project, legislative action initiated by the City of Gig Harbor to update the City's Shoreline Master Program in accordance with RCW 90.58.080. The updates include several statutory requirements as well as several amendments/updates proposed by the City. The draft amended chapters can be reviewed on the project page of the City's web site.

NOTICE OF SEPA THRESHOLD DETERMINATION:
After review of a completed environmental checklist and other information on file with the agency, the City of Gig Harbor has determined this proposal will not have a probable significant adverse impact on the environment. A DNS has therefore been issued for this proposal. A copy of the DNS, environmental checklist [Part A, C and D as allowed by WAC 197.11.235(3)] and a link to the proposed amendment are enclosed for your review.

COMMENT DEADLINE:
The City of Gig Harbor will not act on this proposal for at least 14 days from the date of issuance of this notice. If your agency has any comments on this proposal, please send them to Carl de Simas, Principal Planner, City of Gig Harbor, Planning Department, 3510 Grandview Street, Gig Harbor, Washington, 98335; (253) 851-6170.

Agency comments must be received by no later than **September 8, 2021** for consideration.

SEPA APPEAL DEADLINE:
The deadline for appealing the SEPA threshold determination, as stated on the enclosed DNS, is September 15, 2021.

PUBLIC COMMENT:
A virtual public hearing before the Planning Commission on this non-project action is scheduled for September 16, 2021 at 6:00 p.m. Please visit the City of Gig Harbor web calendar for information and links to the hearing. If you have any questions on this proposal, you may contact Carl de Simas, Principal Planner, at (253) 851-6170, between the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday.

Thank you for your interest.

Exhibit G
GHSMP Periodic Review
Planning Commission
September 16, 2021

Chapter 10
SHORELINE MANAGEMENT

Introduction

The City of Gig Harbor shoreline consists of a unique mix which varies from the historical fishing industry, the contemporary residential-recreational marinas and the commercial shops and services that border or are proximal to the shoreline.

The City of Gig Harbor, under the authority of the Shoreline Management Act of 1971, adopted a Shoreline Master Program in September of 1975. The Master Program serves as a guide for the use and development of the City's shoreline under the statutory authority of the Shoreline Management Act. The Act applies to Gig Harbor Bay, the city extending south along the Tacoma Narrows to the city limits, the city's shoreline frontage on Henderson Bay (all which are classified as ~~a~~ "shorelines of the state"), and those lands within two-hundred feet land-ward of the Ordinary High Water Mark on marine waters, including any associated wetlands. The City Shoreline Master Program was updated by the City in June of 1994 and again in December of 2013. The 2013 Master Program reflects the changing concerns, goals and objectives of the community and is intended to serve as the framework for shoreline planning and development over the next decade. Pursuant to the Growth Management Act, Master Program Goals and Policies are to be integrated and incorporated into local comprehensive plans. Consequently, as a demonstration of consistency with the 2013 Master Program, the following goals and policies of the Master Program are incorporated into the Shoreline Management Element of the Comprehensive Plan, and by reference, all goals and policies of the Master Program are hereby adopted and incorporated into the Plan.

The Master Program works in conjunction with the City's Comprehensive Plan. By adopting the goals and policies as set forth herein and by reference, it is the City's intent to integrate the shoreline management planning process with its comprehensive plan under the Growth Management Act, as feasible, to ensure consistency between the two plans.

GOAL 10.1: PROTECT NATURAL QUALITY

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.

10.1.1. Habitats

Preserve and protect habitat which provides the shoreline's unique value, including the Crescent Creek and Donkey Creek estuaries, 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.

10.1.2. Water and shoreline quality

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.

10.1.3. Vegetation Conservation and Management

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.

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.

GOAL 10.2: MIXED USE WATERFRONT

Give preference to shoreline uses that are water-oriented (water-dependent, water-related, or water-enjoyment); provide public access and recreational opportunity; or are residential, 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.

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.

10.2.1. Fishing

Preserve the commercial fishing fleet as a significant cultural and economic resource. Retain important fleet supporting services and promote development of additional moorage and docking facilities consistent with the fleet's needs.

10.2.2. Pleasure boating and marinas

Permit uncovered moorage and encourage the development of temporary docking facilities for visiting boats. Retain the maximum open surface water area possible to facilitate safe and convenient watercraft circulation.

10.2.3. Residential uses

Provide for single and multifamily residential uses that maintain public contact with the shoreline and respect valuable waterfront settings and characteristics.

10.2.4. Commercial uses

Encourage development of water-oriented commercial uses in waterfront locations which can be provided adequate and unobtrusive supporting services and improvements, including parking. Require commercial developments to provide public facilities and access to shoreline beaches, docks, walkways, and other facilities including views and vistas.

10.2.5. Recreation

Develop existing publicly owned shoreline properties to provide additional public access where appropriate. Create a mixture of active and passive public facilities that do not intrude on the natural features of the shoreline.

GOAL 10.3: QUALITY URBAN DEVELOPMENT

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.

10.3.1. 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).

10.3.2. Access and visibility

Create an accessible and visible waterfront and shoreline including the development of public beaches, fishing and boating docks, picnic and passive overlooks and viewpoints. Require private developments to provide equivalent access and visibility to the tenants and users of new private developments, to users of the waterway and to the public at large.

10.3.3. 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.

10.3.4. 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.