ORDINANCE NO. 042-21

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, ACCEPTING REVISIONS REQUESTED BY THE WASHINGTON STATE DEPARTMENT OF ECOLOGY TO THE CITY'S 2021 SHORELINE MASTER PROGRAM, WHICH IS CODIFIED UNDER POMC 20.164; PROVIDING FOR SEVERABILITY AND CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, on March 9, 2021, the Port Orchard City Council ("City Council") approved Ordinance 012-21 to adopt the City of Port Orchard ("City") 2021 Shoreline Master Program ("SMP"), which is codified under Chapter 20.164 of the Port Orchard Municipal Code, according to the periodic review and update requirements of Chapter 90.58 RCW (Shoreline Management Act) and Chapter 173-26 WAC, Part III (Shoreline Master Program Guidelines); and

WHEREAS, on March 12, 2021, the City submitted the locally-adopted 2021 SMP to the Washington State Department of Ecology ("Ecology") for review in accordance with the requirements of WAC 173-26-110; and

WHEREAS, on September 2, 2021, the City received a conditional approval of the 2021 SMP from Ecology, which included a number of required and requested revisions for consistency with 90.58 RCW and Chapter 173-26 WAC, Part III, as provided in Exhibit 1; and

WHEREAS, pursuant to WAC 173-26-120(3)(b)(i) and RCW 90.58.090(2)(e), on September 3, 2021, the City provided the Department of Ecology with written notice of its agreement to all of the required and requested revisions in Exhibit 1, and

WHEREAS, pursuant to RCW 90.58.090(7), Ecology's final approval of the City of Port Orchard 2021 SMP will be effective 14 days from Ecology's final approval of the amendment with all of the requested and required revisions, which is September 29, 2021, as provided in Exhibit 2; now, therefore,

THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Recitals**.** The recitals set forth in this ordinance are hereby incorporated as if fully set forth herein.

SECTION 2. Adoption of Final 2021 Shoreline Master Program. The City Council hereby approves amendments to Ordinance 012-21 and the 2021 Shoreline Master Program and Appendix C to incorporate all required and requested changes by Ecology in Exhibit 1, as provided

in Exhibits 3 and 4.

SECTION 3. Conflict. In the event of a conflict between this Ordinance, and any Ordinance or regulation of the City, the provisions of this Ordinance shall control, except that the provisions of the City's critical areas code or any International Building Code shall supersede.

SECTION 4. Corrections. Upon the approval of the city attorney, the city clerk and/or code publisher is authorized to make any necessary technical corrections to this ordinance, including but not limited to the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

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

SECTION 6. Effective Date. This ordinance shall be published in the official newspaper of the city and shall take full force and effect five (5) days after the date of publication. A summary of this ordinance in the form of the ordinance title may be published in lieu of publishing the ordinance in its entirety.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the City Clerk in authentication of such passage this 14th day of September 2021.

Robert Putaansuu, Mayor

ATTEST:

Jenine Floyd, CMC, Deputy City Clerk

APPROVED AS TO FORM:

Charlotte A. Archer, City Attorney

SPONSOR:

Scott Diener, Councilmember

CITY OF PORT ORCHARD INCORPORATED SEAL SEPTEMBER 11, 1890 STATE OF WASHINGTON

PUBLISHED: September 17, 2021

EFFECTIVE DATE: September 22, 2021

EXHIBITS:

1. Ecology SMP Required and Recommended Changes Matrix
2. Ecology Final Approval Letter, 9/9/2021
3. Final 2021 Shoreline Master Program
4. Appendix C – Final 2021 Shoreline Master Program

City of Port Orchard – Ecology Required and Recommended Changes

The changes in red are required for consistency with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III). Changes in blue are recommended and consistent with SMA (RCW 90.58) policy and the SMP Guidelines (WAC 173-26, Part III)

ITEM #	SMP Submittal PROVISION	BILL FORMAT CHANGES (underline = additions; strikethrough = deletions)	RATIONALE
Req-1, Req-2, & Rec-1	**1.6 References to Plans, Regulations, or Information Sources**	B. **Critical Areas Ordinance.** Chapter 20.162 of the Port Orchard Municipal Code, Critical Areas Regulations (Ordinance 019-17, adopted June 23, 2017~~.~~) providing~~es~~ rules, setbacks, mitigation and other regulations for geologically hazardous areas, wetlands, and streams, are incorporated herein as regulations of this Master Program~~etc~~. ~~For regulatory purposes, Chapter 20.162 applies to critical areas within the shoreline jurisdiction, but this Master Program overrides the regulations in Chapter 20.162 within the shoreline jurisdiction~~ The sections of Chapter 20.162 listed below are excluded from the Master Program and shall not apply within shoreline jurisdiction: 1. Article 1. Administration, permitting, enforcement, and nonconforming procedures are in Chapters 8, 9, and 10 of the SMP. 2. Definitions: "Aquaculture practices." 3. 20.162.050 Exempt wetlands. 4. 20.162.056.7 Utilities. ~~i~~If any conflict between the incorporated critical areas regulations~~ordinance~~ and the Master Program ~~shall~~ occurs, the regulations of this Master Program take precedence. … E. **Downtown Subarea Plan (Ordinance 030-21, adopted May 22, 2021)**. The Downtown Subarea Plan provides long-range goals and policies for redevelopment of the City's downtown and county government campus areas, as well as specific goals and policies for current and long-range planning and management of land use, housing, environmental protection and transportation, within the City's designated Downtown Countywide Center.	Required Change 1: Include critical area regulations in the SMP A change is necessary for consistency with RCW 90.58.610 and RCW 36.70A.480, which govern the relationship between CAOs and SMP, and with WAC 173-26-221(2)(a). Pursuant to RCW 36.70A.480(3)(b), CAOs do not apply within shoreline jurisdiction. The City proposes to remove the 2009 CAO and Appendix B; however the SMP must contain critical areas regulations of its own [WAC 173-26-221(2)(a)]. WAC 173-26-191(2)(b) authorizes the incorporation of regulations from other City documents by referencing a specific, dated edition. Conversations with City staff have clarified that City's intent is to incorporate the CAO regulations by reference. This required change is written based on this preference Required Change 2: Exclude sections of CAO that are inconsistent with the SMA Changes are necessary for consistency with the SMA, SMP Guidelines, and WAC 173-27. 1. Article 1 contains several sections that are inconsistent with the permitting framework established in RCW 90.58.140 and WAC 173-27. These include 20.162.032 Exemptions [exemptions in shoreline jurisdiction are listed in WAC 173-27-040], 20.162.034 Exceptions [where provisions interfere with reasonable use, relief should be granted through a shoreline variance], 20.162.036 Variances [applicants should seek a shoreline variance in shoreline jurisdiction]. Other provisions that are inconsistent with WAC 173-27 or internally inconsistent with other SMP provisions include 20.162.038 Nonconforming – Existing structures and 20.162.040 Enforcement – Violation – Penalty. 2. The definition for "aquaculture" in the CAO is inconsistent with WAC 173-26-020(6) and should be excluded from the SMP, as it currently is under the incorporation of the 2009 CAO. 3. Exemptions for small wetlands can result in a loss of wetland functions within shoreline jurisdiction. Ecology's wetland guidance is that these type of exemptions are only appropriate outside of shoreline jurisdiction (see Bunten et al 2016). For consistency with WAC 173-26-221(2)(a)(ii), which requires that protection of critical areas "assures no net loss of shoreline ecological functions," these exemptions should be excluded from the SMP. 4. Allowing new or expanded utility corridors in wetlands and their buffers in inconsistent with the use preferences of the SMA in RCW 90.58.020 and WAC 173-26-201(2)(d). Protecting and restoring ecological functions is preferred over non-water oriented uses, such as utilities. Allowing new/expanded utilities in wetlands and their buffers will negatively impact wetland function. Ecology has identified a limited list of activities that can occur in wetlands and their buffers with minimal impacts (Granger et al. 2005, Bunten et al 2016). Excluding this section is necessary for consistency with WAC 173-26-201(2)(d). Recommended Change: Add a reference to the Downtown Subarea Plan The City has adopted the Downton Subarea Plan, which includes areas that are within shoreline jurisdiction. The City went through a public planning process that included input from Ecology staff during the development of this plan. Because of the overlap of this planning area with the SMP jurisdiction, and because of the reference to this plan in Appendix C (see Required Change 10), we recommend adding the plan to this list of plans.
Req-3	**6.3 Critical Areas**	The shorelines in the City of Port Orchard, and the associated Urban Growth Area, are largely developed. Within shoreline jurisdiction there are many other types of critical areas that have been identified to be protected. All critical areas, including marine shorelines, have been provided regulatory protection with the incorporation~~adoption~~ of ~~Port Orchard Municipal Code Title 20, and~~ relevant regulations of the 2017 update of the Port Orchard Critical Areas Ordinance in Section 1.6.B. With the implementation of the critical areas policies listed below, the Port Orchard Shoreline	Required Change 3: Update references to critical area regulations A change is necessary for internal consistency with Section 1.6.B, which contains the SMP's critical areas regulations incorporated from Chapter 20.162 with important exclusions relevant to wetland protections. Wetlands in shoreline jurisdiction are protected by the SMP, not the CAO [see RCW 36.70A.480].

		Master Program provides for management of critical areas, can be implemented, and is consistent with RCW 90.58.090(4) and WAC 173-26-221. ***G-DR 3*** *All development proposals on lands containing wetlands within shoreline jurisdiction shall follow all regulations regarding the rating, categorization, delineation and protection of wetlands, and the establishment and maintenance of wetland buffers, as set forth in Section 1.6.B~~POMC Title 20, Chapter 20.162 (Critical Areas Regulations)~~.* ***G-DR 4*** *All development proposals on land containing geologically hazardous areas within shoreline jurisdiction shall follow all regulations set forth in in Section 1.6.B~~POMC Title 20, Chapter 20.162 (Critical Areas Regulations)~~.* ***G-DR 10*** *All development proposals within the Blackjack Creek shoreline jurisdiction or the Ross Creek estuary shoreline jurisdiction shall be subject to the provisions of the Section 1.6.B~~POMC Title 20~~regulations for Fish and Wildlife Habitat Conservation Areas.*	
Req-4 & Req-5	**7.13 Residential Development**	Residential development refers to one or more buildings, structures, lots, parcels, or portions of parcels that are used or intended to be used to provide a dwelling for human beings. Residential development includes single-family residences, duplexes, other detached dwellings, multifamily residences, apartments, townhouses, group housing, condominiums, subdivisions, planned unit developments, and short subdivisions. Residential development also includes accessory ~~(aka appurtenant)~~ uses and structures such as garages, sheds, tennis courts, swimming pools, driveways, parking areas, fences, cabanas, saunas, and accessory dwelling units, when allowed by the underlying zoning. Single-family residences are identified as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. Without proper management, single-family residential use can cause significant damage to the shoreline area through cumulative impacts from shoreline armoring, storm water runoff, septic systems, introduction of pollutants, and vegetation modification and removal. ***SU-DR-60*** Single-family homes ~~are~~may be exempt from the Shoreline Substantial Development Permit requirements when consistent with the precise terms of WAC 173-27-040(2)(g).	Required Change 4: Strike phrase in introductory paragraph A change is necessary for constancy with WAC 173-27-040(2)(g). Within shoreline planning, "appurtenance" has a specific meaning for residential uses and is not the same as an "accessory structure." Appurtenances are "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. On a statewide basis, normal appurtenances include a garage; 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." [WAC 173-27-040(2)(g)] Required Change 5: Add clarity to SU-DR-60 A change is necessary for consistency with WAC 173-27-040(2)(g). Not all single family homes are exempt from substantial shoreline development permits. Only those homes landward of the OHWM and wetland boundaries built by the property owner for their own use and that include only the appurtenances listed in WAC 173-26-040(2)(g) may be exempt.
Req-6 & Rec-2	**8.5 Shoreline Substantial Development Permits**	Shoreline Substantial Development Permits ("SDPs") are required for all developments (unless specifically exempt) that meet the legal definition of "substantial development." A "substantial development" is any development which meets the criteria of RCW 90.58.030(3)(e)~~WAC 173-27-040(2)(a)~~ or its successor, or any development which materially interferes with the normal public use of the water or shorelines of the state, or as specifically exempted pursuant to WAC 173-27-040~~RCW 90.58.030(3)(e)~~. SDPs are reviewed and processed by local governments and subsequently sent to Ecology. Under WAC 173-27-150, substantial development permits cannot be approved unless they are consistent with policies and procedures of the Shoreline Management Act, Ecology rules, and the local master program. The City may condition a permit if needed to ensure consistency of the project with the Act and the City's Master Program. Certain proposed development activities and uses may qualify for processing as an administrative SDP subject to Section 8.5~~4~~.1.1. An administrative SDP is a Type II decision per POMC Section 20.22.020. If a development activity or use does not qualify for an administrative SDP, it will be processed as a regular SDP, which is a Type III decision per POMC Section 20.22.020, and requires a public hearing before the City's hearing examiner.	Required Change 6: Update references A change is necessary for consistency with the definition of substantial development in RCW 90.58.030(3)(e). The reference to WAC 173-27-040(2)(a) is an exemption from the definition of substantial development and should not be used to determine whether development is substantial or not. Instead the SMP should refer to RCW 90.58.030(3)(e). A change is also necessary for internal consistency with 8.5.1 (Shoreline Substantial Development Permits – Administrative). The amendment adds a reference to this section, but uses the old section number, which has been revised with the amendment. Recommended Change 2: Refer to WAC 173-27-040 for shoreline exemptions While RCW 90.58.030(3)(e) does list exemptions from the definition of substantial development, we recommend referring to WAC 173-27-040 instead. This provides greater detail on the exemptions and also provides more procedures and rules for implementing exemptions.
Rec-3	**8.5 Shoreline Substantial Development Permits**	**8.5.1.2 Permit Process** Administrative shoreline permits will be processed as an administrative (Type II) permit in accordance with the requirements of POMC 20.22, ~~and~~ RCW 90.58.140, and WAC 173-27, or as hereafter amended. If there is any conflict between the requirements of these regulations, the more stringent requirement shall control. **8.5.2.1. Development Activities.** Substantial development permits that do not qualify for administrative review and approval under 8.4.1 shall be processed as a hearing examiner decision (Type III) permit in accordance with the requirements of POMC 20.22, ~~and~~ RCW	Recommended Change 3: Add reference to WAC 173-27 WAC 173-27 contains more specific procedures for shoreline permits and these procedures apply in addition to RCW 90.58.140. To improve implementation of the SMP, we recommend this include a reference to WAC 173-27.

		90.58.140, and WAC 173-27, or as hereafter amended. If there is any conflict between the requirements of these regulations, the more stringent requirement shall control. **8.5.2.2. Permit Process** Hearing examiner shoreline substantial development permits will be processed as a quasi-judicial (Type III) permit in accordance with the requirements of POMC 20.22~~, and~~ RCW 90.58.140, and WAC 173-27, or as hereafter amended. If there is any conflict between the requirements of these regulations, the more stringent requirement shall control.	
Req-7, Req-8, & Req-9	**8.7 Shoreline Variances**	**8.7.3.1 Criteria for granting administrative (Type II)shoreline variances** A request for an administrative shoreline variance must demonstrate that the development or use meets all of the criteria below, in order to be approved: 1. The development and/or use is located landward of the ordinary high water mark (OHWM) as defined in RCW 90.58.030(2)(c), and/or landward of any wetland as defined in RCW 90.58.030(2)(h); and 2. The maximum relief requested by the variance deviates from the applicable bulk, dimensional or performance standard(s) in the City's master program by no more than 20% of each applicable standard; and 3. The development and/or use meets all of the criteria of WAC 173-27-170(1), (2), (4) and (5). **8.7.4.1 When a hearing examiner (Type III) shoreline variance is required.** A development proposal does not qualify to request an administrative (Type II) shoreline variance if ~~either or both~~any of the criteria below are met, and a hearing examiner shoreline variance must be requested: 1. The development or use will be located waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030(2)(c), or within any wetland as defined in RCW 90.58.030(2)(h); 2. The relief requested by the variance deviates from the applicable bulk, dimensional or performance standard(s) in the City's master program by more than 20% of any applicable standard~~.~~; 3. Any other shoreline variance that does not meet the criteria for an administrative shoreline variance. **8.7.4.2 Criteria for granting hearing examiner (Type III) shoreline variances** A request for a hearing examiner variance must demonstrate that the development or use will meet all of the criteria below, as applicable, in order to be approved: 1. If the development or use will be located waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030(2)(c), or within any wetland as defined in RCW 90.58.030(2)(h), it must meet the criteria of WAC 173-27-170(1), (3), (4) and (5). 2. For all variance requests, the development and/or use must meet all of the criteria of WAC 173-27-170~~(2)~~.	Required Change 7: Include all applicable variance criteria A change is necessary for consistency with WAC 173-27-170. Requests for shoreline variances may only be approved if they are consistent with all applicable criteria in WAC 173-27-170. For variances landward of OHWM and wetland boundaries, this includes subsections (1), (4), and (5), in addition to (2). Required Change 8: Clarify what procedure is required for other shoreline variances that don't meet the administrative shoreline variance criteria. A change is necessary for consistency with RCW 90.58.100(5) and WAC 173-27-170, which allow for an applicant to seek a variance from any bulk, dimensional, or performance standard. Most performance standards do not have a numerical component that can be used to gauge whether the size of the variance is more or less than 20%. To ensure there is a clear process for shoreline variance requests that do not meet any of criteria for an administrative variance and do not meet (1) or (2) of 8.7.4.1, a change to this section is needed. Required Change 9: Include all applicable variance criteria A change is necessary for consistent with WAC 173-27-170. Requests for shoreline variances may only be approved if they are consistent with all applicable criteria in WAC 173-27-170. For variances waterward of OHWM and wetland boundaries, this includes subsections (1), (4), and (5), in addition to (3). For all variances requests, this includes the entirety of WAC 173-27-170.
Req-10	**Appendix C Section E – Redevelopment Within a Shoreline Buffer**	1. Within a shoreline buffer, redevelopment of a site with one or more existing non-water-dependent, legal conforming or nonconforming building(s), or redevelopment of a portion of such building(s), may be allowed subject to the following: … f. Parking in the shoreline buffer may be allowed in the HI environment for redevelopment projects that (1) contain water-oriented uses (i.e., water-dependent, water-related and/or water-enjoyment uses), and/or (2) include parking areas that are identified on the maps shown in the City's adopted Downtown Subarea Plan, Section 3, 3.2.1 (West Downtown Planning Area) and 3.2.2 (East Downtown Planning Area).~~In general, or redeveloped surface parking areas and parking lots included in a redevelopment proposal shall be located outside the shoreline setback (buffer) where feasible. Parking in the shoreline buffer for redevelopment projects containing water-dependent, water-related and water-enjoyment uses may be provided all other provisions of this section are met. Stand-alone structured parking is not allowed in the shoreline buffer.~~	Required Change 10: Do not allow parking in the shoreline buffer A change is necessary for consistency with the use preferences of the Act in RCW 90.58.020 and WAC 173-26-201(1)(d). Parking is non-water-dependent and not a preferred use and should be outside of the shoreline buffer. Protecting and restoring ecological function is a preferred use over parking within shoreline buffers. Allowing parking within shoreline buffers would displace a preferred use for a non-preferred use. City staff provided preferred wording for addressing this required change – Ecology has incorporated that into this change.

Exhibit 2

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

September 9, 2021

The Honorable Rob Putaansuu
City of Port Orchard
216 Prospect Street
Port Orchard, WA 98366

Re: Final Ecology Approval of the City of Port Orchard Shoreline Master Program Periodic Review Amendment

Dear Mayor Putaansuu:

The Washington State Department of Ecology (Ecology) is pleased to announce final approval of the City of Port Orchard's (City) Shoreline Master Program (SMP) periodic review amendment. Congratulations to you, your staff, and the Port Orchard community for completing the periodic review of your SMP. We appreciate your commitment to comprehensive land-use planning for Washington's unique and valuable shorelines.

As you know, the following correspondence regarding the recent SMP periodic review took place between Ecology and the City:

- March 17, 2021 – Ecology accepted your locally-adopted SMP (Ordinance No. 012-21) submittal as complete.

- August 31, 2021 – Ecology conditionally approved the City's SMP periodic review amendment with required and recommended changes.

- September 3, 2021 – The City sent an email to Ecology accepting all Ecology's required and recommended changes.

Ecology therefore approves the City's periodic review amendment, which includes the required and recommended changes. This action represents Ecology's final decision and there shall be no further modifications to the City's proposal.

The effective date of the City's SMP periodic review amendment is 14 days from the date of this letter, Ecology's final approval letter. This 14-day period was established by legislative action in 2011 and is intended to provide lead time for the City to prepare to implement the amended SMP.

Ecology is required to promptly publish notice that your SMP has received final approval. The notice, in the form of a legal ad, will begin a 60-day appeal period. We will provide a copy of the legal ad to the City for its records.

Finally, please integrate the changes referenced in this correspondence into a final clean copy version of the complete approved SMP, including the appendices, within 30 days. When this is complete, please forward one hard copy and one digital copy of the complete approved SMP to Ecology.

Thank you again for your significant work and leadership in completing this SMP periodic review. If you have any questions, please contact our Regional Planner, Maria Sandercock, at Maria.Sandercock@ecy.wa.gov or (425) 256-1372.

Sincerely,

Misty Blair
Shoreline Management Policy Lead

ec: Keri Sallee, City of Port Orchard
Joe Burcar, Ecology
Maria Sandercock, Ecology

Exhibit 3

SHORELINE MASTER PROGRAM
2021

CITY OF PORT ORCHARD

CITY OF PORT ORCHARD

SEPTEMBER 3, 2021

TABLE OF CONTENTS

CHAPTER 1: INTRODUCTION……8

1.1 Requirements of the Shoreline Management Act
1.2 Purpose and Intent of the Shoreline Master Program
1.3 Authority
1.4 Public Trust Doctrine
1.5 Governing Principles and Legislative Findings
1.6 References to Plans, Regulations, or Information Sources
1.7 Severability
1.8 Periodic Review and Effective Date

CHAPTER 2: SCOPE AND SHORELINE JURISDICTION……14

2.1 Applicability
2.2 Port Orchard Shoreline Jurisdiction
2.3 Relationship to Other Plans and Regulations

CHAPTER 3: SHORELINE INVENTORY SUMMARY……18

3.1 Introduction
3.2 Study Area
3.3 Summary of Findings

CHAPTER 4 SHORELINE ENVIRONMENTS……..22

4.1 Applicability
4.2 Official Shoreline Map
4.3 High-Intensity Environment
4.4 Shoreline Residential Environment
4.5 Urban Conservancy Environment
4.6 Natural Environment
4.7 Aquatic Environment

CHAPTER 5 MASTER PROGRAM ELEMENTS AND GOALS ……..…28

5.1 Introduction
5.2 Economic Development
5.3 Public Access
5.4 Recreation
5.5 Transportation
5.6 Shoreline Use

5.7 Conservation
5.8 Historic, Cultural, Scientific, and Educational
5.9 Flood Hazard Reduction
5.10 Climate Change and Sea Level Rise

CHAPTER 6 GENERAL POLICIES AND REGULATIONS……30
6.1 Applicability
6.2 Archaeological, Historic & Cultural Resources
6.3 Critical Areas
a. Wetlands
b. Geologically Hazardous Areas
c. Critical Saltwater Habitat
d. Critical Freshwater Habitat
6.4 Flood Hazard Reduction
6.5 Public Access
6.6 Shoreline Vegetation Conservation
6.7 Climate Change and Sea Level Rise

CHAPTER 7 SHORELINE DEVELOPMENT STANDARDS AND USE REGULATIONS……42
7.1 Shoreline Uses
7.2 Shoreline Development Matrix
7.3 Agriculture
7.4 Aquaculture
7.5 Boat Ramps and Launches
7.6 Commercial Development
7.7 Flood Control Works and Instream Structures
7.8 Industrial and Port Development
7.9 Marinas
7.10 Moorage; Docks, Piers, and Mooring Buoys
7.11 Parking
7.12 Recreation
7.13 Residential Development
7.14 Shoreline Stabilization and Bulkheads
7.15 Signs
7.16 Transportation Facilities
7.17 Utilities

CHAPTER 8 SHORELINE ADMINISTRATION AND PERMIT PROCEDURES……65

8.1 Shoreline Administrator

8.2 Hearing Examiner

8.3 Shoreline Exemptions

8.4 Multiple Permits Required

8.5 Shoreline Substantial Development Permits

8.6 Shoreline Conditional Use Permits

8.7 Shoreline Variances

8.8 Appeals

CHAPTER 9 NONCONFORMING DEVELOPMENT AND USES……..71

9.1 Nonconforming Development

9.2 Nonconforming Uses

9.3 Nonconfoming Structures

9.4 Nonconforming Lots

CHAPTER 10 SHORELINE ENFORCEMENT AND PENALTIES…….…..73

10.1 Shoreline Enforcement

10.2 Penalties

CHAPTER 11 MASTER PROGRAM REVIEW, AMENDMENTS AND ADOPTION……74

11.1 Master Program Review

11.2 Amendments to Shoreline Master Program

11.3 Severability

11.4 Effective Date

CHAPTER 12 DEFINITIONS……75

REFERENCES

APPENDICES

Appendix A – Official Shoreline Maps

A1: Official Port Orchard Shoreline Map

A2: Shoreline Environmental Designation Maps

Appendix B- Restoration Plan

Appendix C - Mitigation and Restoration for Redevelopment Activities in the High Intensity Shoreline Environment Designation

CHAPTER 1: INTRODUCTION

1.1 Requirements of the Shoreline Management Act

Washington's Shoreline Management Act (SMA) (Chapter 90.58 RCW, the Shoreline Management Act of 1971) was passed by the State Legislature in 1971 and adopted by the public in a referendum. The Act was created in response to a growing concern among residents of the state that serious and permanent damage was being to shorelines by unplanned and uncoordinated development. The goal of the Act was "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." While protecting shoreline resources by regulating development, the Act is also intended to provide for appropriate shoreline growth by encouraging land uses that enhance and conserve shoreline function and values.

The State shoreline guidelines (WAC 173-26), updated and adopted in 2003, emphasize the protection and restoration of shoreline natural resources, and give specific guidance to local jurisdictions The guidelines refer to the protection of shoreline ecological processes (such as hydrology and sediment transport) and shoreline ecological functions (provided by water quality, vegetation, and habitat). A major concept in the protection of ecological functions is termed "no net loss."

The Washington Shoreline Management Act (SMA) has three broad policies:

- **Promote preferred shoreline uses:** "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 shorelines…"

- **Promote public access:** "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."

- **Protect shoreline natural resources:** This includes "…the land and its vegetation and wildlife, and the water of the state and their aquatic life…"

In establishing preferred uses of the state's shorelines, the SMA defines "water-dependent," "water-related," and water-enjoyment" uses. These terms are officially defined in Chapter 13 of the SMP. General descriptions and example are included below.

- **Water-dependent use** means a use that requires direct access to the water to accomplish its primary function. It is a use, or a 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 the operation. Example: marina, ferry terminal, boat launch.

- **Water-related use** means a use that does not require direct access to the water, but provides goods or services associated with water dependent uses. A uses or portion of a

use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location. Example: boat repair, kayak rentals.

- **Water-enjoyment use** means a use that does not require access to the water, but is enhanced by a waterfront location. This includes uses that facilitate public access to the shoreline as a primary characteristic of the use; or uses that provide for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people. 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. Example: Restaurants, parks.

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

1.2 Purpose and Intent of the Shoreline Master Program

The primary purpose of the Act is to provide for the management and protection of the State's shoreline resources by planning for reasonable and appropriate uses. The law provides a two-tier planning and regulatory program by the state and local government. By law, the City is responsible for the following:

- Preparation of a Master Program in accordance with the policies and requirements of the Act and the State Shoreline Guidelines (WAC 173-26).

- Development of a permit system in accordance with the requirements of the Act.

Further, the purposes of this Master Program are;

- To carry out the responsibilities imposed on the City of Port Orchard by the Washington State Shoreline Management Act (RCW 90.58).

- To promote uses and development of the Port Orchard shoreline consistent with the City of Port Orchard Comprehensive Plan while protecting and restoring environmental resources.

- To promote the public health, safety, and general welfare by providing a guide and regulation for the future development of the shoreline resources of the City of Port Orchard.

1.3 Authority

Authority for enactment and administration of the Shoreline Master Program is the Shoreline Management Act of 1971, RCW 90.58, Washington's Shoreline Management Act, RCW 90.58, was adopted in 1972. The purpose of the Act is to "prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." It has three broad policies: encourage water-dependent uses on the shoreline; protect shoreline natural resources; and, promote public access.

The Act establishes the concepts of *preferred uses* and *priority uses* in shoreline areas. RCW 90.58.020 indicates that *preferred" uses* are those "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 shorelines." This section further states that *priority uses* include single family residences, ports, shoreline recreational uses, water dependent industrial and commercial developments and other developments that provide opportunities for the public to access the shoreline environment. To the maximum extent possible, the shorelines should be reserved for "water-oriented" uses, including "water-dependent", "water-related" and "water-enjoyment" uses, as defined in the Act.

The overarching policy is that "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.
RCW 90.58.020 and .100 provide goal and policy direction for the SMP, including:

- Protect the natural character and the resources and ecology of the shoreline;
- Increase public access and recreational opportunities;
- Mitigate and restore for habitat impacts to ensure no net loss of habitat function;
- Maintain the public right of navigation;
- Prioritize water-dependent and single-family residential uses and development;
- Coordinate shoreline management with other relevant local, state and federal regulations;
- Prevent and minimize flood damage;
- Protect private property rights;
- Protect and restore sites with historic, cultural or educational value.

1.4 Public Trust Doctrine

The Shoreline Management Act also implements the common law Public Trust Doctrine. The Public Trust Doctrine is a legal principle derived from English Common Law. The essence of the doctrine is that the waters of the state are a public resource owned by and available to all citizens equally for the purposes of navigation, conducting commerce, fishing, recreation and similar uses and that this trust remains relevant even when the underlying land is in private ownership. The doctrine limits public and private use of tidelands and other shorelands to protect the public's right to use the waters of the state. The Public Trust Doctrine does not allow the public to trespass over privately owned uplands to access the tidelands. It does, however, protect public use of navigable water bodies below the ordinary high water mark.

1.5 Governing Principles and Legislative Findings

In the Shoreline Management Act of 1971, RCW 90.58.020, the legislature found the following:

"The legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation. In addition it finds that ever increasing pressures of additional uses are being placed on the shoreline necessitating increased coordination in the management and development of the shorelines of the state. The legislature further finds that much of the shorelines of the state and the uplands adjacent thereto are in private ownership; that unrestricted construction on

the privately owned or publicly owned shorelines of the state is not in the best public interest; and therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest. There is, therefore, a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.
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 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.

The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:

1) *Recognize and protect the statewide interest over local interest;*
2) *Preserve the natural character of the shoreline;*
3) *Result in long term over short term benefit;*
4) *Protect the resources and ecology of the shoreline;*
5) *Increase public access to publicly owned areas of the shorelines;*
6) *Increase recreational opportunities for the public in the shoreline;*
7) *Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.*

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 and their appurtenant structures, ports, shoreline recreation 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. Alterations of the natural condition of the shorelines and shorelands of the state shall be recognized by the department. Shorelines and shorelands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes. Any areas resulting from alterations of the natural condition of the shorelines and shorelands of the state no longer meeting the definition of "shorelines of the state" shall not be subject to the provisions of chapter 90.58 RCW.

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.

1.6 References to Plans, Regulations, or Information Sources

A. **1973 Shoreline Master Program (Amended in 1994).** This SMP was originally adopted as Kitsap County's shoreline document. Port Orchard adopted it by reference. Changes were made in 1992, and again in 1994 that made it more specific to Port Orchard's shoreline.

B. **Critical Areas Ordinance.** Chapter 20.162 of the Port Orchard Municipal Code, Critical Areas Regulations (Ordinance 019-17, adopted June 23, 2017) providing rules, setbacks, mitigation and other regulations for geologically hazardous areas, wetlands, and streams, are incorporated herein as regulations of this Master Program. The sections of Chapter 20.162 listed below are excluded from the Master Program and shall not apply with the shoreline jurisdiction:

1. Article 1. Administration, permitting, enforcement, and nonconforming procedures are in Chapters 8, 9, and 10 of the SMP.
2. Definitions: "Aquaculture practices."
3. 20.162.050 Exempt wetlands.
4. 20.162.056.7 Utilities.

If any conflict between the incorporated critical areas regulations ordinance and the Master Program occurs, the regulations of this Master Program take precedence.

C. **2016 Comprehensive Plan.** The 2016 Comprehensive Plan, (Ordinance 014-16, adopted June 22, 2016) lays out a vision for the future of the City, including land use, housing, and parks needs.

D. **Blackjack Creek Watershed Assessment and Protection and Restoration Plan** (December 29, 2017)**.** The Blackjack Creek plan includes watershed assessment findings, a set of strategies for addressing degraded watershed processes, and recommended actions for the protection and restoration of ecological processes and habitats.

E. **Downtown Subarea Plan (Ordinance 030-21, adopted May 22, 2021)**. The Downtown Subarea Plan provides long-range goals and policies for redevelopment of the City's downtown and county government campus areas, as well as specific goals and policies for current and long-range planning and management of land use, housing, environmental protection and transportation, within the City's designated Downtown Countywide Center.

1.7 Severability

The Act and this Program, as adopted and amended, comprise the basic state and municipal law regulating use of shorelines in Port Orchard. In the event provisions of the Program conflict with other applicable city policies or regulations, the more restrictive shall apply. Should any section or provision of this Program be declared invalid, such decision shall not affect the validity of the Program as a whole

1.8 Periodic Review and Effective Date

The most recent comprehensive update to this Program was approved by the Department of Ecology in March 2013. Subsequent City-initiated minor revisions were approved by Ecology in February 2018.

In accordance with the requirements of RCW 90.58.080, each local jurisdiction is required to review, and, if necessary, revise their Shoreline Master Program at least once every eight years. The purpose of the periodic review is to ensure that Program complies with applicable law and guidelines in effect at the time of the review, and to ensure that the Program is consistent with the local government's comprehensive plan and development regulations adopted under chapter 36.70A RCW, if applicable, and other local requirements. The periodic review process also the method for bringing shoreline master programs into compliance with the requirements of the act that have been added or changed since the last review.

The City of Port Orchard was required to complete its periodic review by June 30, 2021. This Program and all amendments thereto shall become effective fourteen (14) days after written notice of final action is issued by the Department of Ecology. The revisions adopted by the City in response to the periodic review requirement were approved by Ecology and are effective on **, 2021.

CHAPTER 2: SCOPE AND SHORELINE JURISDICTION

2.1 Applicability

Concepts and terms related to the City's shoreline jurisdiction are specific to those described in RCW 90.58.030, WAC 173-26-020, WAC 173-27-030, and WAC 173-22-030.

Under the SMA, the shoreline jurisdiction includes all water areas of the state, the lands underlying them, and areas that are 200 feet landward of the ordinary high water mark (OHWM) of waters that have been designated as "shorelines of statewide significance" or "shorelines of the state." These designations we established in 1971, and are described in RCW 90.58.030. Generally, "shorelines of statewide significance" include portions of Puget Sound and other marine waterbodies, rivers west of the Cascade Mountains that have a mean annual flow of 1,000 cubic feet per second (cfs) or greater, rivers east of the Cascade Range that have a mean annual flow of 200 cfs or greater, and freshwater lakes with a surface area of 1,000 acres or more. "Shorelines of the state" are generally described as all marine shorelines and shorelines of all streams or rivers having a mean annual flow of 20 cfs or greater and lakes with a surface area greater than 20 acres.

The City of Port Orchard and its associated urban growth area (UGA) contains marine shoreline, one stream, and two lakes that meet the criteria for shoreline jurisdiction.

Any person or party wishing to undertake activities constituting "development" (defined in Chapter 12) within the shoreline jurisdiction must conform to the Shoreline Management Act and this Master Program. All uses, even those not meeting the definition of development, are subject to the provisions and development regulations of this SMP, even if a permit is not required.

This Master Program shall apply to every individual , firm, partnership, association, organization, corporation, local, state or federal governmental agency, public or municipal corporation, or any other entity which develops, owns, leases, or administers lands, wetlands or waters that fall under the jurisdiction of the Shoreline Management Act.

The City shall regulate development within the shoreline jurisdiction under its general authority to regulate for the general health, safety, and welfare and its specific authority under the SMA. All uses within shoreline jurisdiction must be consistent with the policies and regulations of the Port Orchard SMP regardless of whether they require development or not. Furthermore, Shoreline Conditional Use and/or variance permits may still be required, even if a development activity is exempt from a shoreline substantial development permit. An exemption from a Shoreline Substantial Development Permit does not constitute an exemption from the policies and regulations of the Shoreline Management Act, this Master Program, or any other applicable city, state, or federal permit requirements.

> *WAC 173-27-140(1): No authorization to undertake use or development on shorelines of the state shall be granted by local government unless upon review the use or development is determined to be consistent with the policy and provisions of the Shoreline Management Act and the Master Program.*

2.2 Port Orchard Shoreline Jurisdiction

Shorelines within the city of Port Orchard include those portions of Puget Sound lying within the city limits and all lands extending landward 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark together with any associated wetlands, river deltas, and floodways associated with tidal waters that are subject to the provision of this chapter and whose locations have been designated by the Department of Ecology. However, the Shoreline Management Act does not apply to lands under exclusive federal jurisdiction.

The City also contains shorelines of statewide significance (SSWS). These SSWS are the marine shorelines from extreme low tide to the middle of Sinclair Inlet, which are adjacent to unincorporated Kitsap County and the City of Bremerton limits. In accordance with the State Shoreline Management Act, the uses of SSWS are in the following order of preference:

1) Recognize and protect the statewide interest over local interest;

2) Preserve the natural character of the shoreline;

3) Result in long term over short-term benefit;

4) Protect the resources and ecology of the shoreline;

5) Increase public access to publicly owned areas of the shorelines;

6) Increase recreational opportunities for the public in the shoreline;

7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

Additionally, Port Orchard shorelines also include Washington Department of Natural Resources Harbor Areas that are reserved for commerce and navigation.

In addition to the marine shorelines described above, the City contains one creek, Blackjack Creek, which meets the threshold of a shoreline of the state. According to information provided by the Kitsap Public Utilities District, which has a stream flow gauge in Blackjack Creek just downstream of the confluence of Ruby Creek, the average discharge for the years 2006 to 2009 was 18 cfs. To make an even breaking point for shoreline jurisdiction the confluence with the unnamed stream that merges underneath State Route 16 was selected as the end of shoreline jurisdiction for Blackjack Creek. The estuarine portion of Ross Creek is also a regulated shoreline of the state.

The City also has portions of two lakes that qualify as shorelines of the state. Big Lake, in the extreme southwest portion of the City, is approximately 22 acres, with four of those acres within City limits. Square Lake is approximately 30 acres, with ten acres within city limits.

Associated wetlands, deltas and floodways that are included in the shoreline jurisdiction are those that influence or are influenced by the regulated waters of Puget Sound. In general, a wetland is

"associated" if all or a portion of the wetland falls within that area that is 200 feet from the OHWM. A wetland outside of this area may also be associated if it is in proximity to the shoreline and there is a demonstrated influence between the wetland and the shoreline. Such influence can include hydraulic continuity, such as surface or groundwater connection.

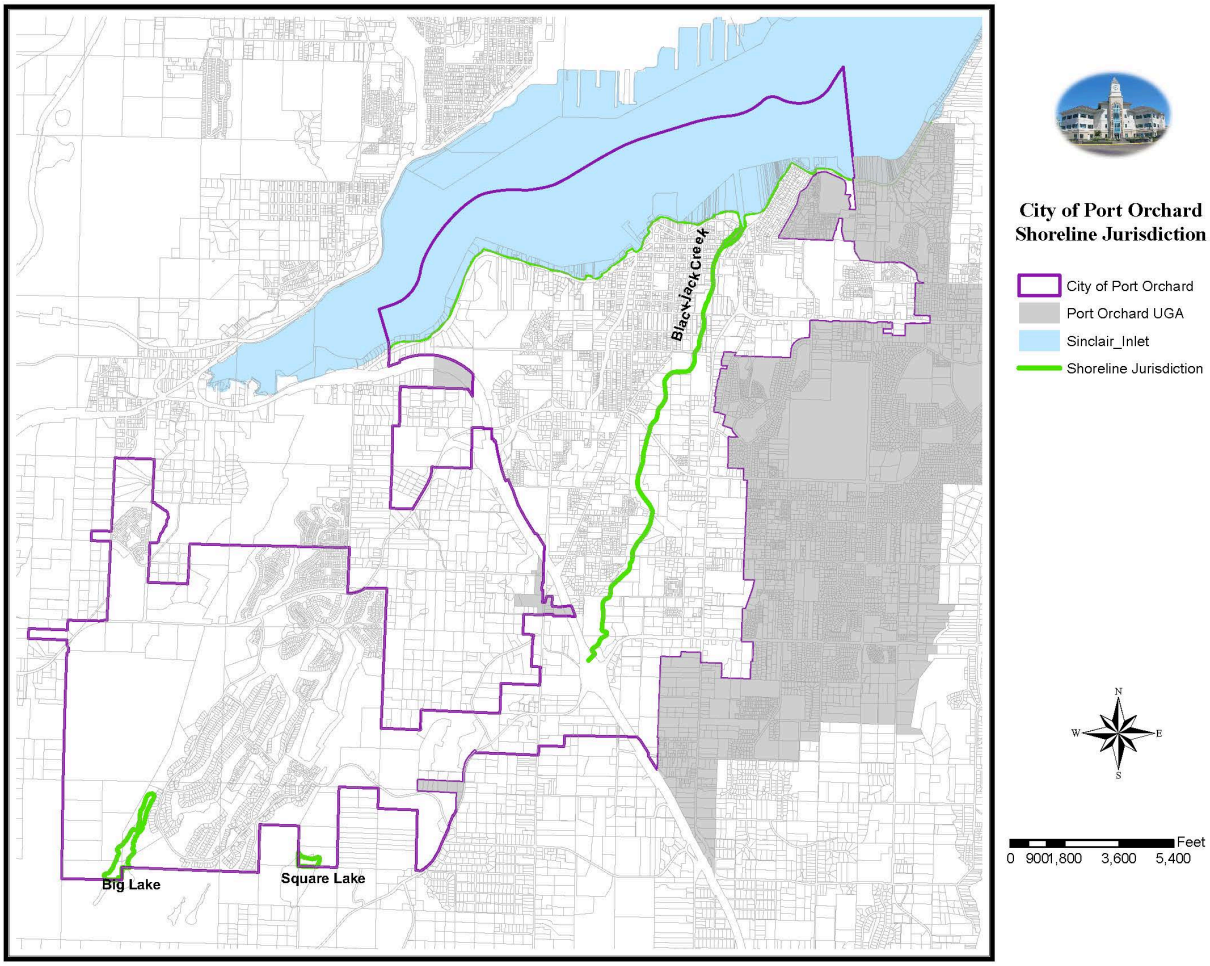


Figure 2.1 – City of Port Orchard Shoreline Jurisdiction

2.3 Relationship to Other Plans and Regulations

Uses and developments regulated by this Program may also be subject to other provisions of the Port Orchard Municipal Code (POMC), the City of Port Orchard Comprehensive Plan, the Washington State Environmental Policy Act (SEPA – RCW 41.21C and WAC 197-11), and other local, state and federal laws. Project proponents are responsible for complying 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. In the event this

Program conflicts with other applicable County policies or regulations, all regulations shall apply and unless otherwise state, the more restrictive provisions shall apply.

The Port Orchard SMP refers to the City's Comprehensive Plan, Zoning Code, Critical Areas Ordinance and other development plans and ordinances for which the SMP has relevance. Development within shoreline jurisdiction must also comply with zoning requirements, any special overlay districts, and the view protection overlay district as outlined in POMC Title 20. In case of conflict between the land use regulatory requirements and the SMP, the stricter requirement applies.

CHAPTER 3: SHORELINE INVENTORY SUMMARY

3.1 Introduction

The City of Port Orchard completed its Shoreline Inventory and Characterization Report in July 2010. The purpose was to describe existing conditions along the Port Orchard shoreline to allow development of goals, policies, and regulations for the Shoreline Master Program. That document, and reference documents included in the Appendix, provide a comprehensive analysis of ecological health and the built environment along Port Orchard's shorelines, and serves as a baseline for measuring no net loss of shoreline ecological functions.

The following are the documents that contain the most information about Port Orchard's shorelines and were relied upon to prepare the Inventory and Characterization Report.

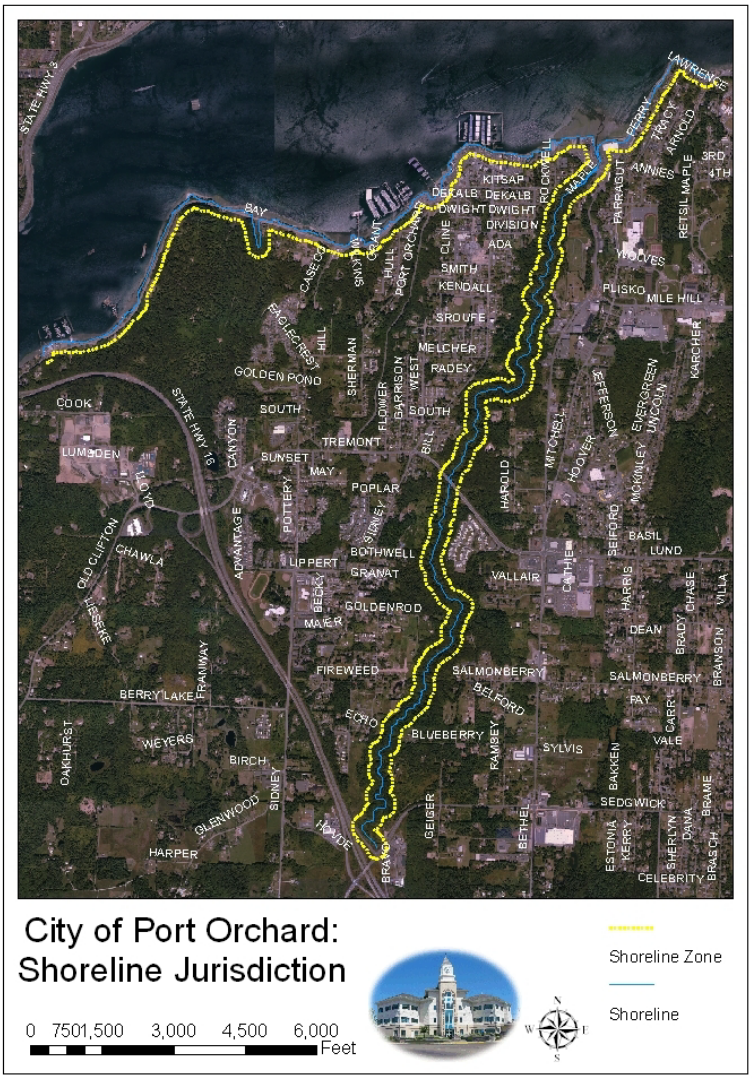
- *City of Port Orchard Comprehensive Plan* (City of Port Orchard, 2008)
- *East Kitsap County Nearshore Habitat Assessment and Restoration Prioritization Framework* Batelle Marine Sciences Laboratory, 2009)
- *City of Port Orchard Shoreline Resource Analysis and Inventory* (Applied Environmental Sciences, 2003)
- *Blackjack Creek Comprehensive Management Plan for the City of Port Orchard* (FishPro, 1989)

Additionally, a list of other data sources are cited in Appendix F of the Shoreline Inventory and Characterization Report, which is available online at www.cityofportorchard.us or at the Department of Community Development.

3.2 Study Area

According to the Shoreline Management Act, found in WAC 173-26, and RCW 90.58, local jurisdictions must create a Shoreline Master Program (SMP) for any "shoreline of the state." These shorelines are generally described as all marine shorelines and shorelines of all other streams or rivers having a mean annual flow of 20 cfs (cubic feet per second) or greater and lakes with a surface area greater than 20 acres.

Within City limits, there are just over three miles of Puget Sound shoreline, over two miles of Blackjack Creek shoreline, and portions of Big Lake and Square Lake, which are over 20 acres. Additionally, in the Urban Growth Area (UGA), there are nearly three miles of Puget Sound shoreline, portions of Blackjack Creek, and a portion of the west side of Big Lake.



3.3 Summary of Findings

3.3.1 Sinclair Inlet Shoreline

In the Inventory and Characterization document, the Sinclair Inlet shoreline was broken into eight segments. Segments 1 through 7 were within City limits, and Segment 8 was the UGA portion of the shoreline.

The Sinclair Inlet shoreline is highly urbanized and physically altered, with approximately 89 percent of the shoreline being armored. There are also State highways, City Streets, and County roads along the entire length of the shoreline, with bridges or culverts constraining the streams that run to the Inlet.

Much of the road bed areas, and most development waterward of the roads were built on fill and are protected by various types of shoreline armoring. Native vegetation has been removed from much of the Sinclair Inlet shoreline as well.

Despite the altered state of the Sinclair Inlet shoreline, it is home to bald eagle perches, blue herons, and other shoreline birds. In addition, Sinclair Inlet has been designated as a nearshore refugia that includes portions of the shoreline. The refugia provides migration, foraging and rearing habitat for multiple salmonid species and other marine wildlife. The nearshore conditions also provide suitable spawning habitat for surf smelt and Pacific sand lance.

3.3.2 Blackjack Creek Shoreline

Unlike the Sinclair Inlet shoreline, the majority of the Blackjack Creek shoreline is relatively intact. The mouth of the Creek, which is also covered in Segment 7 of the Inventory and Characterization report, has been highly altered with shoreline armoring, paving, and channelization. However, just upstream, the Blackjack Creek corridor becomes nearly a wilderness area, with natural vegetation, wildlife corridors, and a healthy salmon stream.

In the Inventory and Characterization, Blackjack Creek was broken up into four segments, along lines determined in the Blackjack Creek Comprehensive Management Plan. Segment S1 is the most urbanized and altered from its natural state.

Blackjack Creek contains important habitat for several salmonid species. Fish use in the creek includes large numbers of early chum salmon, including an early-returning stock that the Washington State Department of Fish and Wildlife considers to be rare. In addition, the creek supports significant numbers of late returning chum, coho salmon, and steelhead, searun cutthroat trout, and resident cutthroat. There has also been documented use of Blackjack Creek by fall Chinook salmon.

The topography of the Blackjack Creek ravine has been a major factor in protecting the vegetation and resources of the Creek. It is extremely steep for the majority of the regulated area, and although it had been logged in the past, it has remained relatively untouched for several decades.

3.3.3 Lake Shorelines

Due to the annexation of McCormick Woods, the City gained parts of two lakes that are big enough to qualify as a shoreline of the state, and must be included in the SMP. Square and Big Lakes are both less than 30 acres, and both share shoreline jurisdiction with Kitsap County. Neither of them are located entirely in the City.

3.3.3.1 Square Lake

Approximately ten acres of Square Lake are located within the City of Port Orchard. The other twenty are entirely within Kitsap County jurisdiction, and are not within the UGA. There is just one property owner in the City within Square Lake jurisdiction, and the property is undeveloped. The area around Square Lake had been historically logged, but mature forests are present , and lack of human activity (there are only two houses that touch the lake, and the rest is State Park), allow for high vegetation function.

3.3.3.2 Big Lake

Big Lake (also known as Big Pond) lies in a shallow depression west of the McCormick Woods housing development. The lake is very shallow, and is long and narrow, heading from the northeast to the southwest, and lies within City limits for four of its 22 acres. The remaining area lies within the South Kitsap UGA and unincorporated Kitsap County. There are two property owners within City shoreline jurisdiction, one of them being the McCormick Woods Homeowners Association, which maintains trails near the lake and its associated wetlands.

Big Lake is inaccessible by car or public transportation, and public access is limited to bikes and walkers who are homeowners (or guests of homeowners) in the McCormick Woods housing development.

CHAPTER 4: SHORELINE ENVIRONMENTS

Shoreline environment designations are required by WAC 173-26-211, and are intended to serve as a tool for applying the statewide policies to local shorelines. Environment designations are assigned to reflect the type of development that has taken place over time, as well as development, or the lack of it, that should take place in the future in order to preserve ecological function.

4.1 Applicability

The City of Port Orchard classification system consists of five shoreline environments that are contained in the recommended classification system identified in WAC 173-26-211(5). The State's Shoreline Master Program Guidelines describe the purpose of environment designations in WAC 173-26-191(1(d)).

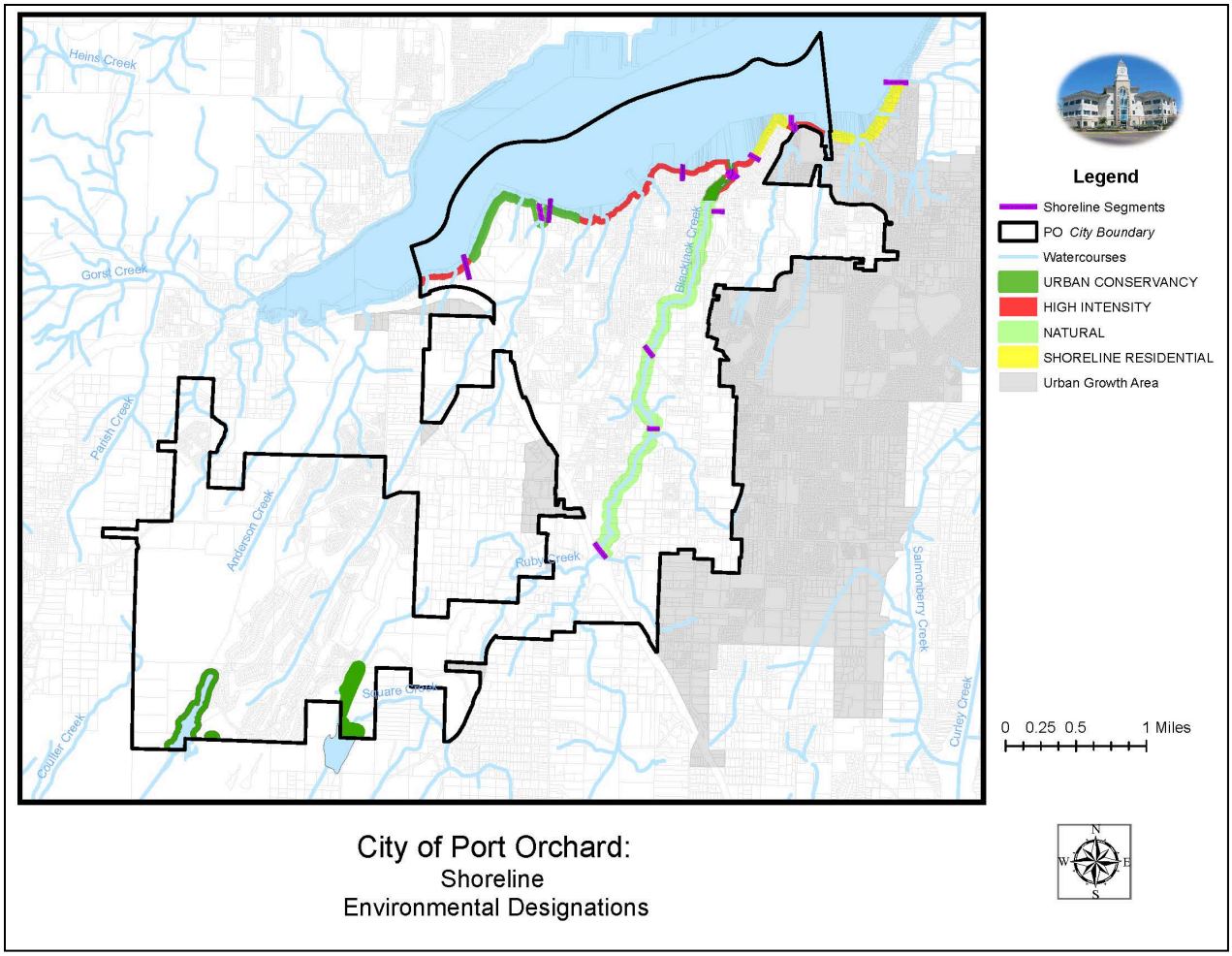
Shoreline management must address a wide range of physical conditions and development settings along shoreline areas. Effective shoreline management requires that the Shoreline Master Program prescribe different sets of environmental protection measures, allowable use provisions, and development regulations for each shoreline segment. Assigning shoreline designations, each with different policies and regulatory measures, provides a regulatory framework for environmental protection and development depending on the development and resources present in specific areas.

The Port Orchard classification system consists of five shoreline environment designations consistent with the SMA (RCW 90.58), the Shoreline Master Program Guidelines (WAC 173-26), and the City of Port Orchard Comprehensive Plan. The five shoreline environments are:

- High-Intensity
- Shoreline Residential
- Urban Conservancy
- Natural
- Aquatic

4.2 Official Shoreline Map

The official Shoreline Environment Designation maps can be found in Appendix A. Pursuant to RCW 90.58.040, the maps illustrate the shoreline environment designations that apply to all shorelines of the state within the City of Port Orchard's jurisdiction. The lateral extent of the shoreline jurisdiction shall be determined for specific cases or development proposals based on the location of the ordinary high water mark (OHWM), floodway, and the presence of associated wetlands. In the event of a mapping error, the City will rely upon the boundary descriptions and the criteria in the sections below.



Overview of Shoreline Designations from Appendix A

4.3 High-Intensity Environment

4.3.1 Purpose

The purpose of the "high-intensity" environment is to provide for high-intensity water-oriented commercial, mixed-use, transportation, and industrial uses while protecting existing ecological functions.

4.3.2 Management policies.

a) First priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses.

b) Full utilization of existing urban areas should be achieved before further expansion of intensive development is allowed. Reasonable long-range projections of regional economic need should guide the amount of shoreline designated "high-intensity." However, consideration should be given to the potential for displacement of non-water oriented uses with water oriented uses when analyzing full utilization of urban waterfronts and before considering expansion of such areas.

c) Policies and regulations should assure no net loss of shoreline ecological functions as a result of new development. Where feasible, new development shall include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.

d) Visual and physical public access should be required as provided for in WAC 173-26-221(4)(d).

e) Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.

4.3.3 Designation Criteria

A "high-intensity" environment designation will be assigned to shoreline areas within City limits, as described by RCW 36.70A.070 if they currently support high-intensity uses related to commerce, transportation or navigation, mixed-use or multi-family residential; or are suitable and planned for high-intensity water-oriented uses.

4.4 Shoreline Residential Environment

4.4.1 Purpose

The purpose of the "shoreline residential" environment is to accommodate residential development and appurtenant structures that are consistent with this chapter. A secondary purpose is to provide appropriate public access and recreational uses.

4.4.2 Management policies

a) Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality shall be set to assure no net loss of shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, and the level of infrastructure and services available.

b) Multifamily and multi-lot residential and recreational developments should provide public access and joint use for community recreational facilities.

c) Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.

d) Commercial development should be limited to water-oriented uses, home professions, or home occupations as described in POMC Title 20, and as allowed by the underlying zoning district.

4.4.3 Designation Criteria

A "shoreline residential" environment designation is assigned to shoreline areas inside city limits or the South Kitsap urban growth area, if they are predominantly single-family or multifamily residential development or are planned and platted for residential development.

4.5 Urban Conservancy Environment

4.5.1 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. It should be applied to those areas where most benefit the public if their existing character is maintained, but can also tolerate limited development.

4.5.2 Management policies.

(a) 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.
(b) Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the "urban conservancy" designation. These standards should ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.
(c) Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.
(d) 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.

4.5.3 Designation Criteria

An "urban conservancy" environment designation is assigned to shoreline areas appropriate and planned for development that is compatible with maintaining or restoring of the ecological functions of the area, that are not generally suitable for water-dependent uses, if any of the following characteristics apply:
(a) They are suitable for water-related or water-enjoyment uses;
(b) They are open space, flood plain or other sensitive areas that should not be more intensively developed;
(c) They have potential for ecological restoration;
(d) They retain important ecological functions, even though partially developed; or
(e) They have the potential for development that is compatible with ecological restoration.

Any shorelines that have been left undesignated shall be assigned an Urban Conservancy designation per WAC 173-26-211(2)(e).

4.6 Natural Environment

4.6.1 Purpose

The purpose of the “natural” environment is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human influence or that include intact or minimally degraded shoreline functions intolerant of human use. These systems require that only very low intensity uses be allowed in order to maintain the ecological functions and ecosystem-wide processes. Consistent with the policies of the designation local jurisdictions should include planning for restoration of degraded shorelines within this environment.

4.6.2 Management policies

Any use that would substantially degrade the ecological functions or natural character of the shoreline should not be allowed.
The following new uses should not be allowed in the “natural” environment:
a) Commercial Uses
b) Industrial uses
c) High-intensity recreational uses

d) Roads, utility corridors, and parking areas that can be located outside of “natural”-designated shorelines.
e) 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 environment.
f) Commercial forestry may be allowed as a conditional use in the “natural” environment provided it meets the conditions of the State Forest Practices Act and the City of Port Orchard Critical Areas Ordinance and its implementing rules and is conducted in a manner consistent with the purpose of this environment designation.
g) Agricultural uses of a very low intensity nature may be consistent with the Natural Environment when such use is subject to appropriate limitations or conditions to assure that the use does not expand or alter practices in a manner inconsistent with the purpose of the designation.
h) Scientific, historical, cultural, educational research uses, and low-intensity water-oriented recreational access uses may be allowed provided that no significant ecological impact on the area will result.
i) New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed. Do not allow the subdivision of property in a configuration that, to achieve its intended purpose, will require significant vegetation removal or shoreline modification that adversely impacts ecological functions. That is, each new parcel must be able to support its intended development without significant ecological impacts to the shoreline ecological functions.

4.6.3 Designation Criteria.

A “natural” environment designation is assigned to most of the Blackjack Creek shoreline, within City limits, but outside of the downtown area. It is also assigned to Blackjack Creek within the South Kitsap Urban Growth Area. Areas assigned the “natural” designation contain the following characteristics:
a) The shoreline is ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity;
b) The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or
c) The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.
d) Such shoreline areas include largely undisturbed portions of shoreline areas such as wetlands, estuaries, unstable bluffs, coastal dunes, spits, and ecologically intact shoreline habitats. Shorelines inside or outside urban growth areas may be designated as “natural.”

Ecologically intact shorelines, as used here, means those shoreline areas that retain the majority of the natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses.

4.7 Aquatic Environment

4.7.1 Purpose.

The purpose of the "aquatic" environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high-water mark.

4.7.2 Management policies.

(a) Allow new over-water structures only for water-dependent uses, public access, or ecological restoration.
(b) The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.
(c) In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple uses of over-water facilities should be encouraged.
(d) All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.
(e) Uses that adversely impact the ecological functions of critical saltwater and freshwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020, and then only when their impacts are mitigated according to the sequence described in WAC 173-26-201(2)(e) as necessary to assure no net loss of ecological functions.
(f) Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

4.7.3 Designation Criteria

An "aquatic" environment designation is assigned to lands waterward of the ordinary high-water mark.

CHAPTER 5: MASTER PROGRAM ELEMENTS AND GOALS

5.1 Introduction

The City of Port Orchard is required to address master program elements, as listed in RCW 98.58.100(2). The Master goal for the shorelines is as follows:

To plan for shoreline uses that enhance, promote, and protect the balance between the sensitive ecology of Port Orchard's shoreline and its urban development.

5.2 Economic Development

To encourage economic development that is sensitive to the shoreline environment, is water-related or dependent, and benefits the community. Enhance Port Orchard's appeal as a boating destination for commercial and pleasure vessels while supporting and encouraging maritime businesses, boatyards, and boat repair facilities, recognizing that Port Orchard is one of few remaining places for boat repair on the west side of Puget Sound.

5.3 Public Access

Enhance public access to City shorelines and preserve views of the shoreline and water, while maintaining safety and respect for adjacent private property. Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

5.4 Recreation

Improve and maintain the publicly owned shorelines dedicated to public recreation and develop their potential for visitors and citizens while recognizing the importance of existing park, trail and recreation areas. Ensure that water-oriented recreational uses are permitted in the shoreline area when consistent with the goals, policies and regulations of this SMP.

5.5 Transportation

To achieve safe, convenient, and diversified circulation systems to provide public access to the shoreline, efficient movement of people and goods, with minimum disruption to the shoreline environment and minimum conflict among shoreline uses and between shoreline users and abutting upland areas, while maintaining vital shoreline rod and ferry links.

5.6 Shoreline Use

Coordinate the regulation for a variety of shoreline uses which result in long-term rather than short-term benefits.

5.7 Conservation

Preserve, protect, and restore shoreline vegetation and wetlands, as practical, to optimize the support of wild, botanic, and aquatic life, as it exists today, with the goal of achieving no net loss of ecological functions.

5.8 Historic, Cultural, Scientific, and Educational

Prevent the destruction or damage of any site having historic, cultural, scientific , or educational value, as identified by the appropriate authorities, including the State Office of Archaeology and Historic Preservation and affected tribes.

5.9 Flood Hazard Reduction

To protect public and private infrastructure and property from loss and damage created by flood events, including increased coastal flooding caused by sea level rise.

5.10 Climate Change and Sea Level Rise

To protect coastal resources, both natural and man-made, from the deleterious effects of sea level rise over time due to climate change, including but not limited to: increased coastal flooding, loss of shoreline habitat, saltwater intrusion, damage to public and private improvements and infrastructure, and mobilization of contaminated sediments.

CHAPTER 6:
GENERAL SHORELINE MASTER PROGRAM POLICIES & REGULATIONS

Development and use proposals may involve a number of uses and shoreline modifications and must comply with the policies and regulations for each. Each project is reviewed for compliance with the applicable "use" policies and regulations in this Chapter and with the applicable policies and regulations in the applicable Chapters of this Master Program. For example, uses associated with a new marina may include boat launches, industrial and port facilities, parking facilities, and recreational facilities. Construction of a marina may involve numerous shoreline modifications, including dredging, dredge spoil disposal, a jetty or breakwater, and perhaps landfill. All shoreline developments and uses must comply with the policies and standards of this Master Program whether or not a shoreline substantial development permit is required

The general policies are to be generally applied to all shoreline areas, without regard to environment designation. The provisions are established in WAC 173-26-221. The policies incorporate much of the existing Shoreline Master Program content, as well as significant incorporation of the "principles" sections that are listed in the WAC.

Specific conditions that ensure such compliance may be attached as a condition of permit approval. Shoreline uses specifically listed are permitted outright or eligible for consideration as a shoreline variance or shoreline conditional use permit. However, if the use is permitted, deviations from the minimum performance standards may be approved under a shoreline variance unless specifically stated otherwise. The performance standards contained herein augment standards established through other land development regulations. Where conflict arises between these and other applicable controls, the regulations that provide more protection to the shoreline area shall apply. All provisions of this Shoreline Master Program are enforceable provided no reasonable alternative exist, or when the alternative would result in unreasonable and disproportionate cost to the landowner. If redevelopment or expansion of a nonconforming structure or use is proposed, or if redevelopment or expansion is proposed to take place within a shoreline buffer, the redevelopment or expansion must comply with the underlying zoning of the property as well as Appendix C of this Master Program.

6.1 Applicability

The provisions in this chapter shall be applied either generally to all shoreline areas or to shoreline areas that meet the specified criteria of the provision without regard to environment designation. These provisions address certain elements as required by RCW 90.58.100(2) and implement the principles as established in WAC 173-26-186.

6.2 Archaeological and Historical Resources

The following provisions apply to archaeological and historic resources that are either recorded at the State Historic Preservation Office and/or by local jurisdictions or have been inadvertently uncovered. Archaeological sites located both in and outside shoreline jurisdiction are subject to RCW 27.44.055 and RCW 27.56 and development or uses that may impact such sites shall comply with WAC 25-48.

Management Policies

SMP-GP-1 *Prevent the destruction or damage of any site having historic, cultural, scientific, or educational value, as identified by the appropriate authorities, including the state office of Archaeology and Historic Preservation and the Suquamish Tribe.*

Development Regulations

G-DR 1 *Developers and property owners must immediately stop excavation work in the immediate vicinity and notify the local government, the Office of Archaeology and Historic Preservation and affected Indian tribes if archaeological resources are uncovered during excavation.*
G-DR 2 *Permits issued in areas with a high probability for unrecorded archaeological resources or that are documented to contain archaeological resources may require a site inspection or evaluation by a professional archaeologist in consultation with the Washington State Department of Archaeology and Historic Preservation and the Suquamish Tribe.*

6.3 Critical Areas

The shorelines in the City of Port Orchard, and the associated Urban Growth Area, are largely developed. Within shoreline jurisdiction there are many other types of critical areas that have been identified to be protected. All critical areas, including marine shorelines, have been provided regulatory protection with the incorporation of relevant regulations of the 2017 update of the Port Orchard Critical Areas Ordinance in Section 1.6.B. With the implementation of the critical areas policies listed below, the Port Orchard Shoreline Master Program provides for management of critical areas, can be implemented, and is consistent with RCW 90.58.090(4) and WAC 173-26-221.

a. Wetlands

Management Policies

SMP-GP-2 Exhibit, at a minimum, no net loss of wetland area and function for wetlands associated with the shoreline and with Blackjack Creek and the Ross Creek estuary.

SMP-GP-3 Grading, filling, draining, flooding, or dredging within regulated wetland areas, including those associated with Blackjack Creek and the Ross Creek estuary, should be prohibited.

Development Regulations

G-DR 3 *All development proposals on lands containing wetlands within shoreline jurisdiction shall follow all regulations regarding the rating, categorization, delineation and protection of wetlands, and the establishment and maintenance of wetland buffers, as set forth in Section 1.6.B.*

b. Geologically Hazardous Areas

Management Policies

SMP-GP-4 New development or the creation of new lots that would cause reasonably foreseeable risk to people or improvements over the life of the development should be prohibited.

SMP-GP-5 Development that would require structural shoreline stabilization over the life of the development should be prohibited in accordance with WAC 173-26-221 (2(c)).

SMP-GP-6 Structural shoreline stabilization measures will be allowed to protect existing primary residential structures and properties in conformance with WAC 173-26-221(ii).

Development Regulations

G-DR 4 All development proposals on land containing geologically hazardous areas within shoreline jurisdiction shall follow all regulations set forth in Section 1.6.B.

c. Critical Saltwater Habitats

Critical saltwater habitats provide important ecological functions, and therefore require a higher level of protection. While Sinclair Inlet does not have known kelp or eelgrass beds, it does have spawning and holding areas for forage fish such as smelt and sandlance, as well as migratory routes for salmon.

Management Policies

SMP-GP-7 Development within areas identified as critical saltwater habitats for anadromous fish habitat, or eagle use and buffer, shall comply with all state and federal regulations for protection of listed species and their habitats.

SMP-GP-8 Repair and reconstruction of existing legal structures or facilities within critical saltwater habitats may be permitted, provided that identified adverse impacts shall be mitigated to encourage no net loss of ecological function.

SMP-GP-9 When development is proposed on a property that includes tidelands or submerged lands designated as critical saltwater habitat, provisions should be included in the development application that address protection, enhancement and potential restoration of habitat areas.

Development Regulations

G-DR 5 Structures, developments, and uses, including marinas, docks, piers, mooring areas, underwater parks, utilities, and shoreline modifications, may not intrude into or be built over critical saltwater habitat unless the applicant can demonstrate that the following criteria can be met:

a. An alternative alignment or location is not feasible.

b. The project is designed to minimize its impacts on critical saltwater habitats and the shoreline environment.

c. Impacts to critical saltwater habitat functions can be mitigated to result in equal or better ecological function.

d. The facility is a public facility and is in the public interest.

G-DR 6 In areas not previously identified as critical saltwater habitat, the project proponent shall submit appropriate studies to determine whether critical saltwater habitats exist, whenever the following two conditions are applicable:

a. The proposed development, use or activity has the potential to cause significant adverse impacts to a critical saltwater habitat; and

b. The beach or saltwater area that may be directly impacted by the proposed development, use or activity is the type of environment in which a critical saltwater habitat has been demonstrated to occur.

G-DR 7 Except as a habitat improvement or restoration measure, aquatic herbicide treatments, mechanical removal of vegetation and aquatic pesticide treatments may not be used on critical saltwater habitats. Use of aquatic herbicide treatments are to be discouraged.

G-DR 8 Sand, gravel, or other materials may neither be added nor removed from critical saltwater habitats, except when part of an approved restoration project or as allowed in G-DR 5 above.

G-DR 9 New outfalls (including stormwater and treated sewer outfalls) and discharge pipes are discouraged from being located in critical saltwater habitats or areas where outfall or discharge will adversely affect critical saltwater habitats unless the applicant can show that the majority of the following can be met:

a. There is no feasible alternative location for the outfall or pipe.

b. The outfall or pipe is placed below the surface of the beach or bed of the water body.

c. The outfall discharges waterward of the subtidal zone.

d. The disturbed area will be revegetated with native plants.

e. The discharge point(s) on the outfall or discharge pipes is located so that the discharges, including nutrients in the discharge and currents, do not adversely affect critical saltwater habitats.

d. Critical Freshwater Habitats

Critical freshwater habitat within Port Orchard City limits is limited to the Blackjack Creek corridor and the estuarine portion of Ross Creek. Ecological functions of streams depend upon continuity and connectivity along the shoreline and the conditions of the surrounding lands on either side of the channel. Improper stormwater, sewer, or industrial outfalls and unmanaged clearing and grading can degrade ecological functions downstream thereby altering hydrographic conditions, raising water temperatures resulting in the corridor being inhospitable to priority species and posing flood risks to human health, safety and property.

Management Policies

SMP-GP-10 The City shall take special care when reviewing and inspecting development projects that discharge stormwater toward Blackjack Creek and the Ross Creek estuary.

SMP-GP-11 Where appropriate, the City should integrate protection of critical freshwater habitat with flood hazard reduction and other stream management provisions.

SMP-GP-12 The City should encourage, assist, and facilitate appropriate restoration projects, as appropriate.

SMP-GP-13 Realignment or rechannelization, clearing of adjacent native vegetation or large woody debris, and water withdrawals and diversion from the Blackjack Creek shoreline should be prohibited except for purposes of habitat restoration and enhancement, recreation and public access.

Development Regulations

G-DR 10 All development proposals within the Blackjack Creek shoreline jurisdiction or the Ross Creek estuary shoreline jurisdiction shall be subject to the provisions of Section 1.6.B.

6.4 Flood Hazard Reduction

Flood hazard reduction may consist of both structural and nonstructural measures. Flood hazard reduction nonstructural measures may include such measures as setbacks, land use controls, wetland restoration, relocation of a use, and stormwater management programs. Further, flood hazard reduction may take the form of structural measures, such as dikes, levee, revetments, flood walls, channel realignment, and elevation of structures.

Management Policies

SMP-GP-14 Discourage future non-water dependent development, including redevelopment and expansion of existing non-water dependent development in areas lying at or below the 100 year flood elevation, unless flood hazard is reduced by removing, moving, elevating, and/or building structures at new, higher elevations. Flood hazard reduction may also include adding freeboard to existing shoreline armor in areas that are frequently flooded (i.e. within a 100-year flood hazard area) landward of existing shoreline armor, in compliance with FEMA requirements for coastal flood protection structures.

SMP-GP-15 Discourage alterations to stream systems' natural hydrological and geomorphological processes.

SMP-GP-16 When feasible, give preference to nonstructural flood hazard reduction measures over structural measures, except that in areas that are frequently flooded (i.e. within a 100-year flood hazard area) landward of existing shoreline armor, hazard reduction measures may include adding freeboard to existing shoreline armor.

SMP-GP-17 Ensure to the greatest extent feasible that flood hazard protection measures do not result in a net loss of ecological functions.

SMP-GP-18 The creation of new lots or tracts that would be located entirely within a 100-year flood hazard area should not be allowed, unless the intent of the subdivision is for the lot or

tract to remain undeveloped for the purposes of ecological restoration and/or development setback, consistent with the City's flood damage prevention and subdivision regulations (POMC Title 20).

SMP-GP-19 Public utility and transportation structures are allowed, provided no reasonable alternative exists, in areas where such structures currently exist, or where the alternative would result in unreasonable and disproportionate costs.

SMP-GP-20 The City shall create and maintain for public reference and planning purposes a coastal flood risk map which shows the City's base 100 year coastal flood elevation areas at the time of map creation, and includes a future projection of any additional areas which have at least a 50% probability of being flooded within 20 years. This map shall be based on best available science provided by the State of Washington and shall be updated, at minimum, with each required periodic and comprehensive update of the City's shoreline master program.

SMP-GP-21 For each required periodic and comprehensive update to the City's shoreline master program, the City shall evaluate the program's coastal flood hazard reduction policies and development regulations, and coastal flood risk map, and shall revise them according to best available science provided by the State of Washington.

SMP-GP-22 The City should map all shoreline locations in which there are known contaminated sediments, and develop a long-term plan to evaluate and address those in need of attention due to risk of mobilization due to coastal flooding.

Development Regulations

G-DR 11 Proposals for new structural flood hazard reduction measures shall be required to provide scientific and engineering documentation that such measures will protect existing structures, that they are consistent with the City's flood damage prevention regulations (POMC Title 20), that nonstructural measures are not reasonable, and that impacts on ecological functions are mitigated to encourage no net loss.

G-DR 12 New or expanded development or uses in the shoreline zone, including the subdivision of land, that would require structural flood control works within a 100 year flood hazard area, a stream, a channel migration zone and/or a floodway are prohibited.

G-DR 13 As part of the City's shoreline permit application review process, all proposed development and redevelopment activities in the City's shoreline requiring a permit shall determine and disclose whether any sediment material on the development site, including fill, is contaminated and requires remediation to prevent spread of contamination through mobilization due to coastal flooding events. This requirement applies whether or not the contaminated area on the site will be disturbed as part of the development process. If contaminated sediment at risk of mobilization is determined to be present, the City shall require a remediation plan as a condition of shoreline permit approval. The City may require independent review at the applicant's expense of findings and recommendations regarding contamination and remediation, by a hydrologist, geologist, engineer or other qualified professional.

6.5 Public Access

Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on waters of the state, and to view the water and the shoreline from adjacent locations. Water views are currently easily accessible to the public from waterfront roadways, including SR 166, Bay Street, and Beach Drive, which are located very close to the shoreline for the entire length of the City and the Port Orchard Urban Growth Area.

Management Policies

SMP-GP-23 Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while protecting private property rights and public safety.

SMP-GP-24 Protect the rights of navigation and commerce, and the space necessary for water-dependent uses.

SMP-GP-25 Protect the public's opportunities to enjoy the physical and aesthetic qualities of the shorelines, including views of the water, to the greatest extent feasible.

SMP-GP-26 Regulate the design, construction, and operation of permitted uses in the shorelines of the state to minimize, insofar as practical, interference with the public's use of the water.

SMP-GP-27 Continue to acquire easements and/or require construction of future segments of the Mosquito Fleet Trail.

SMP-GP-28 The City shall retain and protect existing shoreline parks, trails, and other opportunities for the public to access and enjoy the Sinclair Inlet shoreline and to view the shoreline and water views from public property and roadways.

SMP-GP-29 In compliance with WAC 173-26-221(4), or as subsequently amended, require the dedication and improvement of public access in developments for water-enjoyment, water-related, and water-dependent uses and for the subdivision of land into more than four parcels when either partially or completely within shoreline jurisdiction.

SMP-GP-30 New shoreline development or major redevelopment by public entities, including local governments, port districts, state agencies and public utility districts, shall include public access as part of each development project, unless such access is demonstrated to be incompatible due to reasons of safety, security or environmental impacts.

SMP-GP-31 Pursue funding and acquisition of property and easements for trails serving the shoreline, including the Mosquito Fleet Trail and the Blackjack Creek Wilderness Trail.

SMP-GP-32 The City shall not vacate any public right-of-way that abuts or connects to shorelines, unless the use of such right-of-way for shoreline access is determined to present a public health or safety risk that would prevent such use for access.

SMP-GP-33 Public access and use improvements are encouraged to result in no net loss of ecological function.

SMP-GP-34 The City should encourage conversion into water-enjoyment, public access, or recreational uses of the Department of Natural Resource owned portion of the waterfront parking area within the downtown.

Development Regulations

G-DR 14 All waterfront development proposals within the High Intensity environment shall provide public physical access to the City's waterfront pedestrian boardwalk and/or other public waterfront amenities where feasible, except in cases of public safety, security or impacts to the shoreline environment. If such access is provided, no additional public shoreline physical access will be required. If such access is not feasible, alternative public physical or view access to the shoreline, such as open space or a viewing deck or platform, shall be provided. All new non-water-oriented commercial or industrial uses shall provide public access or ecological restoration, where feasible, to ensure that the proposed use provides a significant public benefit with respect to the Shoreline Management Act objectives.

G-DR 15 Alternatives to on-site, physical access to the shoreline may be approved if the applicant can demonstrate to the satisfaction of the City that shoreline access is infeasible. Alternatives may include, but are not limited to:

a. Publicly accessible rooftop decks.

b. Off-site public access, such as improvement to a nearby street end, an offsite viewpoint, or a trail system, purchase of land or an easement at a location appropriate for future access improvements.

c. A payment in lieu agreement with the City in accordance with RCW 82.02.020.

G-DR 16 When required, public access sites shall be fully developed and available for public use at the time of occupancy or use of the development or activity, except where the City determines an appropriate mechanism such as development agreement for delayed public access implementation is necessary for practical reasons.

G-DR 17 Where deemed necessary to protect ecological functions and ensure no net loss, the easement may encourage a buffer of native vegetation between the OHWM and the public access walkway.

G-DR 18 Public access easements and permit conditions shall be recorded in an appropriate manner with the Kitsap County Auditor's Office.

G-DR 19 If Public access hours are to be limited for access easements, they must be approved by the City Council and are required to include signage installed by the applicant and posted on the site.

G-DR 20 Public access sites are encouraged to be connected directly to the nearest public area (e.g. street, public park, or adjoining public access easement). Where connections are not currently possible, the site shall be designed to accommodate logical future connections.

G-DR 21 Public access sites shall be made barrier free for the physically disabled, where feasible, and designed consistent with the Americans with Disabilities Act.

G-DR-22 Public access landscape design, when required shall use predominantly native vegetation (60 percent or greater), particularly saline tolerant plant species. Landscape buffers may be incorporated where desirable to provide public/private space separation.

G-DR 23 Natural elements such as logs, rocks, shrubs, trees, and elevation separations are encouraged as a means to define the separation between public and private space.

G-DR 24 New multi-family residential development bordering public space designed for shoreline access shall be clearly delineated from adjacent public pathways to provide a visual privacy separation between uses. A grade separation may be a means of delineation and would not be required on the upland side of a development.

G-DR 25 The City may require the installation of benches, bicycle racks, pet waste, garbage and recycling receptacles, educational signage, and other street furniture at shoreline public access points commensurate with the degree of project impact. Where required,

a. Benches shall be set back from a walkway or path so that the path is not encumbered when the benches are in use. Benches shall be at least 4 feet in length.

b. Provisions for maintenance will be encouraged to be required as a condition of permit approval.

6.6 Shoreline Vegetation Conservation

The City of Port Orchard's Sinclair Inlet shoreline has been historically heavily developed. A result of the historical maritime, transportation, and industrial use of the Sinclair Inlet waterfront has resulted in very little native vegetation existing or being preserved. The Blackjack Creek shoreline, however, has remained in a mostly natural state. Shoreline vegetation has been determined to provide shade necessary to maintain cool temperatures required by salmonids, provides food for fish in the form of insects, stabilizes banks, minimizes erosion, and reduces the occurrence of landslides. Vegetation also provides critical wildlife habitat, including migration corridors and feeding, watering, rearing, and refugia areas.

Management Policies

SMP-GP-35 The City shall develop and apply standards and regulations that require shoreline development and uses to meet the no net loss standard for maintenance of shoreline ecological function.

SMP-GP-36 Native vegetation should be preserved to the greatest extent feasible while providing for the removal of noxious weeds and vegetation that poses a risk to property, or safety or ecological function.

SMP-GP-37 Introduction of invasive non-native plants and noxious weeks shall be discouraged.

Development Regulations

G-DR 26 Existing native shoreline vegetation in an Aquatic Environment or within a shoreline buffer, should be preserved and protected, with limited exceptions for water dependent, water

enjoyment, public recreation and public access uses, maintenance of public views, and "reasonable use" on undeveloped parcels located entirely or primarily within the shoreline buffer.

G-DR 27 Land within shoreline and critical buffer areas extending from marine ordinary high water mark, shall be considered vegetation conservation areas. Native shoreline vegetation that has not been otherwise disturbed by legal means shall be preserved to the maximum extent feasible within the vegetation conservation area consistent with safe construction practices, and other provisions of this chapter. Native trees and shrubs shall be preserved, the maximum extent feasible, to maintain and provide shoreline ecological functions such as habitat, shade, and slope stabilization.

G-DR 28 In all cases where clearing is followed by revegetation, native plants shall be preferred. Lawns are discouraged due to their limited erosion control value, limited water retention capacity and associated chemical and fertilizer applications. Non-native plants are to be discouraged.

G-DR 29 The following minimum standards for shoreline and critical area vegetation conservation shall apply:

a. No more than 15 percent of the area with native shoreline vegetation shall be cleared within the vegetation conservation area, without mitigation.

b. All native trees in the vegetation conservation area over 18 inches in diameter at breast height shall be retained. Trees determined by the City to be hazardous or diseased may be removed. Replacement of non-native vegetation with native species shall be done in a manner that will not leave soil bare or vulnerable to erosion.

c. The Shoreline Administrator may allow removal of vegetation exceeding that described above where an applicant agrees to replacement plantings and a mitigation plan.

G-DR 30 All clearing and grading activities shall be limited to the minimum necessary for the permitted development.

G-DR 31 Exposed soils shall be immediately developed or revegetated to prevent erosion.

G-DR 32 Revegetation must be planted such that complete coverage of exposed soils is attained within one growing season.

G-DR 33 Clearing and grading within required shoreline setbacks shall only be permitted upon approval of a detailed landscape plan for revegetation. (The Shoreline Administrator may waive this requirement when potential impacts to shoreline resources are insignificant). The landscape plan shall include:

a. A map illustrating the distribution of existing plant communities in the area proposed for landscaping. The map must be accompanied by a description of the vegetative condition of the site, including plant species, plant density, any natural or man-made disturbances, overhanging vegetation, and the functions served by the existing plan community (e.g., fish and wildlife habitat values, slope stabilization).

b. If applicable, a description of the intertidal shade conditions created by existing vegetation. This description shall include an inventory of overhanging vegetation as well as a

determination of how much shade is created in the intertidal zone by standing trees, during midday at midsummer.

c. A detailed landscape map indicating which areas will be preserved and which will be cleared, including tree removal.

d. Drawings illustrating the proposed landscape scheme, including the type, distribution, and density of plants. Any pathways or nonvegetated portions should be noted.

e. A description of any vegetation introduced for the purposes of fish and wildlife habitat. Significant loss of wildlife habitat shall be mitigated in accordance with Chapter 6 of this master program. If on-site mitigation is not possible, off-site mitigation shall be permitted at a minimum replacement ratio of one-to-one (1:1 habitat lost to habitat replaced).

The revegetation landscaping required by this regulation shall meet the following standards:

f. 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 a mature size. At the time of planting, deciduous trees must be at 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.

g. The applicant may be required to install and implement an irrigation system to ensure survival of vegetation planted. For remote areas lacking access to a water system, an alternative method (e.g., hand watering) may be approved.

h. For a period of two (2) years after initial planting, the applicant shall replace any unhealthy or dead vegetation planted as part of an approved landscape plan. For a minimum of five (5) years after initial planting, the applicant shall mechanically remove any invasive vegetation. The use of herbicides will not be allowed in the control of invasive vegetation.

G-DR 34 Stabilization of exposed erosional surfaces along shorelines shall, whenever feasible, utilize soil bioengineering techniques.

G-DR 35 All shoreline development and activity shall use effect measures to minimize increases in surface water runoff that may result from clearing and grading activity. The applicant must implement best management practices (BMPs) for clearing, grading and erosion control under the City's engineering design standards, and must obtain a site development permit from the City's Public Works Department.

G-DR 36 The City may require a performance bond as a condition of permit approval, to ensure compliance with this Program.

G-DR 37 The City shall require, where feasible, restoration of native shoreline and aquatic vegetation in mitigation and restoration plans and in stormwater management for redevelopment activities within the shoreline area.

G-DR 38 Redevelopment activities in the High Intensity (HI) shoreline environment designation shall comply with the shoreline vegetation conservation and restoration requirements of Appendix E of this plan, in addition to any other applicable City requirements and regulations.

6.7 Climate Change and Sea Level Rise

Management Policies

SMP-GP-38 The City should create specific development and building design standards for the downtown shoreline that address issues related to coastal hazards and impacts from future sea level rise, including but not limited to: coastal flooding, earthquake liquefaction and tsunami risk, saltwater intrusion, mobilization of contaminated sediments, and impacts to geologic hazard areas.

Development Regulations

G-DR-39 During each periodic review of the City's shoreline master program, the City will evaluate its development and building design standards and revise them as needed for the downtown shoreline to protect against risks from sea level rise and coastal hazards including but not limited to: coastal flooding, earthquake liquefaction and tsunami risk, saltwater intrusion, mobilization of contaminated sediments, and impacts to geologic hazard areas.

CHAPTER 7:
SHORELINE DEVELOPMENT STANDARDS AND USE REGULATIONS

The shoreline uses that are addressed below are outlined and required in WAC 173-26-241. The provisions apply to specific common uses and types of development that may occur within the shoreline jurisdiction. This section also includes a matrix outlining which uses are allowed in particular shoreline environments.

7.1 Shoreline Uses

The provisions in this Appendix A for shoreline use and development shall be applied either generally to all shoreline areas or to shoreline areas that meet the specified criteria of the provision without regard to environment designation. These provisions address certain principles as established in WAC 173-26-241. (x = not permitted, p = permitted, a = administrative review, c = conditional use permit, n/a = not applicable)

SHORELINE USE CATEGORIES	NATURAL	URBAN CONSERVANCY	HIGH INTENSITY	SHORELINE RESIDENTIAL	AQUATIC
Agriculture	x	p	a	p	n/a
Aquaculture	n/a	n/a	n/a	n/a	c
Boating Facilities – public or marinas	x	c	p	c	p
Boat launches	x	c	p	p	c
Commercial – water-dependent[1]	x	c	p	c	c
Commercial – water-related[1]	x	c	p	c	c
Commercial – water-enjoyment[1]	x	c	p	c	x
Commercial – non-water oriented	x	x	p	x	x
Float Plane Facilities	x	x	c	c	c
Flood Control Management	x	c	c	p	c
Forest Practices	x	c	p	p	n/a
Industrial – water-dependent	x	c	p	p	c
Industrial – water-related	x	x	p	x	x
Industrial – non-water oriented	x	x	x	x	x
Mining	x	x	x	x	x
Mixed-use (multi-family residential use, along with commercial, public use and/or recreational uses. May include parking to serve residents, customers and tenants of the onsite mixed-use structure(s).	Refer to rows below.				

Mixed use: Non-residential uses(s) are non-water-oriented uses:	x	x	p	x	x
Mixed use: Non-residential uses(s) include one or more water-dependent, water-related or water-enjoyment uses:	x	x	p	c	x
Parking (Accessory to a principal use)	c	c	p	p	x
Parking (Principal use, or commercial paid, or parking to serve offsite uses.)	x	x	p	c	x
Public use (civic use, government-owned non-transportation facility, or similar use.)	x	x	p	c	x
Recreation – water-dependent	p	p	p	p	c
Recreation – water-related	p	p	p	p	c
Recreation – non-water oriented	c	c	p	p	c
Residential – single-family residence	p	p	x[2]	p	x
Residential – other than a single-family residence	x	c	p	a	x
Transportation facilities – water-dependent	c	c	p	c	c
Transportation facilities – water-related	c	c	p	c	c
Transportation facilities – non-water related	c	c	c	c	c
Transportation facilities – trails/boardwalks	p	p	p	p	c
Utilities – above ground, distribution poles	a	p	p	p	c
Utilities – underground	a	p	p	p	c
Utilities – cellular towers	c	c	c	c	c

(x = not permitted, p = permitted, a = administrative review, c = conditional use permit)

[1]Commercial uses are allowed in the Shoreline Residential environment only as a secondary component of a mixed-use development (i.e. a combination of residential and commercial uses in the same building), and only when consistent with the underlying zoning.

[2]Although new single-family residential uses in the HI environment are not permitted, single-family residential uses that were legally established (permitted) prior to the effective date of this SMP shall be considered legal conforming uses for the purposes of this SMP. See footnote 5 in Table 7.2, Shoreline Development Standards Matrix, for additional information.

7.2 Shoreline Development Standards Matrix

DEVELOPMENT STANDARDS SETBACKS (BUFFER) AND HEIGHT REQUIREMENTS	NATURAL	URBAN CONSERVANCY	HIGH INTENSITY	SHORELINE RESIDENTIAL	AQUATIC
Agriculture[1]					
Cultivation / Grazing setback	x	100	x	100	x
Building Setback	x	100	50	50	x

Height limits (See underlying zoning Code or overlay districts – POMC Title 20)					
Aquaculture					
Water-dependent setback	x	0	0	0	0
Water-related setback[2]	x	50	25	35	x
Height limits:					
Upland (See underlying zoning Code or overlay districts – POMC Title 20)					
Over-water	x	x	x	x	15
Boating Facilities & Boat Launches					
Water-dependent setback	0	0	0	0	0
Building setback[2]	x	50	25	25	n/a
Height limits:[3]					
Upland (See underlying zoning Code or overlay districts – POMC Title 20)					
Overwater structures	x	x	x	x	30
Commercial Development[5]					
Water-dependent setback	x	0	0	x	0
Water-related setback[2]	x	100	25	x	0
Non-water oriented setback[2]	x	x	75	x	x
Building height limit (See POMC Title 20)					
Forest Practices					
Setback	x	100	n/a	75	n/a
Industrial Development					
Building Setbacks:					
Water-dependent	x	x	0	x	0
Water-related[2]	x	x	50	x	x
Non-water oriented[2]	x	x	100	x	x
Height Limits (See POMC Title 20)					
Parking					
Accessory use	150	100	10	10	x
Principal use	x	x	25	x	x
Recreational Development					
Water-dependent	n/a	0	0	0	0
Water-related/oriented	10	10	0	0	x
Non-water oriented (unless specified below)[2]	100	75	25	25	x
Access Roads, restrooms, & accessory buildings	x	100	25	25	x
Golf Courses or sports fields	x	200	100	100	x
Trails, boardwalks, or overlooks	0	0	0	0	0
Residential Development[4]					
Building setback - single-family residence	150	100	X[6]	25	x
Building setback - Accessory use(s) to a single-family residence (patios, decks, etc.)	100	50	x	15	x

Building setback – other than a single family residence. [2]	x	x	40[6]	50	x
Building setback – accessory uses to residences other than a single-family residence.[2]	x	x	20	25	x
Transportation					
Arterials, Highways, Railroads	x	200	50	50	x
Multi-use trails, paths	x	0	0	0	0
Secondary/Access Roads	x	100	50	50	x
Utilities					
Buildings, transmission line, tower setbacks	200	100	50	75	0
Distribution pole height limit	36	36	36	36	x
Cellular tower height limit	x	100	100	x	x

(x = not permitted, p = permitted, a = administrative review, c = conditional use permit)

[1] See Policy Regulation SU-DR-7.
[2] Within the High Intensity environment, lawfully constructed non-water-oriented structures and uses that are nonconforming to this SMP because of their location within a shoreline buffer may be redeveloped in accordance with this SMP. Refer to Appendix C for more information.
[3] Height limits are subject to zoning and overlay district regulations found in POMC Title 20.
[4] If a public road lies between a proposed residential use and the shoreline, the regular front yard zoning setbacks shall apply.
[5] Commercial uses are allowed in the Shoreline Residential environment only as a secondary component of a mixed-use development (i.e. a combination of residential and commercial uses in the same building), and only when consistent with the underlying zoning.
[6] With the exception of any residential structure or residential appurtenant structure built over or partially over an aquatic environment, pursuant to RCW 90.58.620 a legally-established (permitted) residential structure and appurtenant residential structure(s) used for a conforming use in the HI environment shall be considered a conforming structure, even if it does not meet this SMP's current standards for setbacks, buffers, yards, area, bulk, height or density. However, such a structure may be added to or enlarged only if such addition or enlargement conforms to the regulations of the zoning district and the shoreline environment designation, provided that the addition or enlargement is consistent with the standards of Appendix C.

7.3 Agriculture

Although agricultural activity is limited within the City of Port Orchard, SMP guidelines require development of policies and regulations for agricultural use.

Management Policies

SMP-SU-1 For purposes of this section, the terms agricultural activities, agricultural products, equipment and facilities and agricultural land shall be defined as provided in WAC 173-26-020.

SMP-SU-2 Agricultural activities should not have a negative impact on water quality or destruction of vegetation.

SMP-SU-3 Agricultural uses and development in support of agricultural uses should be conducted in such a manner as to assure no net loss of shoreline ecological functions and processes and avoid substantial adverse impacts on other shoreline resources and values.

Development Regulations

SU-DR-1 Agriculture uses may only be permitted in the Shoreline Residential, and Urban Conservancy environments, and shall be limited to those agricultural uses permitted in the underlying zoning regulations.
SU-DR-2 Shoreline waters shall not be used for livestock watering, and shall be fenced or otherwise blocked to prohibit livestock access.

SU-DR-3 A buffer of native vegetation may be established and maintained between areas used for cultivation or grazing and adjacent water bodies and wetlands. The buffer should not be less than 20 feet wide, and shall be sufficiently enhanced to retard runoff, reduce sedimentation, and provide riparian habitat. Buffers shall include fencing to prevent encroachment.

SU-DR-4 Application of commercial pesticides within 100 feet of a shoreline is prohibited.

SU-DR-5 Pesticides shall be used, handled, and disposed of in accordance with provisions of the Washington State Pesticide Application Act (RCW 17.21) and the Washington State Pesticide Act (RCW 15.57) to prevent contamination and sanitation problems.

SU-DR-6 Livestock waste shall be disposed in a manner that will prevent surface or groundwater contamination.

SU-DR-7 Agricultural activities and uses are not permitted within the marine (saltwater) shoreline jurisdiction of Sinclair Inlet and the estuarine shoreline jurisdiction of Blackjack Creek.

7.4 Aquaculture

Sinclair Inlet has historically been limited regarding the harvest of shellfish and/or aquaculture, due to heavy historical industrial and military use and the resulting water quality concerns. There are significant industrialized harbors and military areas, and significant requirements for clear navigation of naval vessels, which may preclude the use of large-scale aquacultural facilities within Sinclair Inlet. Regarding any proposed aquaculture facilities, WAC 173-26-241(3)(b) outlines the development of goals and policies within the SMP document.

Management Policies

SMP-SU-4 Aquaculture in areas where it is demonstrated to result in a net loss of ecological functions, proven to adversely impacts eelgrass and macroalgae, or significantly conflicts with navigation and other water-dependent uses, should be prohibited.

Development Regulations

SU-DR-8 Shellfish seeding/culturing when conducted for native population recovery in accordance to government approved requirements, may be permitted.

7.5 Boating Facilities

Boating facilities include both public and private marinas, boat ramps, haulout, launching and infrastructure required to support watercraft, and are vitally important to maintaining public access to the water. Public boating facilities and public boating provisions within private facilities are supported throughout the shoreline.

Management Policies

SMP-SU-5 Boating facilities should be located only at sites with suitable environmental conditions, shoreline configuration, access, and neighboring uses.

SMP-SU-6 Significantly negative aesthetic impacts of new or redeveloped boating facilities should be avoided or mitigated.

SMP-SU-7 The development of boating facilities, and associated and accessory uses, should not result in a net loss of shoreline ecological functions or other significant adverse impacts.

SMP-SU-8 New boating facilities should limit the amount of shoreline modifications to as little as possible to accommodate the permitted uses.

Development Regulations

SU-DR-9 Boat launches for Port, commercial, or public recreational uses are supported in the high-intensity environment and are conditional in the urban conservancy and shoreline residential environments.

SU-DR-10 New boat launches requiring significant shoreline modifications shall be allowed only as conditional uses due to their potentially significant impacts to the shoreline environment.

SU-DR-11 Hand launch sites where improvements are limited to installation of signage and improvements valued at a monetary amount that does not exceed the amount currently established and effective per WAC 173-27-040(2)(a) or its successor shall be exempt from a Shoreline Substantial Development Permit.

SU-DR-12 Reconstruction of an existing launch is permitted and supported.

SU-DR-13 Boat launches and ancillary facilities shall be located, designed, constructed and operated as to:

a. Minimize adverse affects to fish, shellfish, wildlife, water quality and existing geohydraulic shoreline and stream processes.

b. Provide adequate on-shore facilities for waste-disposal, parking, and restrooms.

c. Be compatible with adjacent uses.

d. Should endeavor to avoid negative aesthetic impacts.

SU-DR-14 Associated docks and floats shall conform to the applicable policies and performance standards of this Master Program.

SU-DR-15 Associated parking and loading areas shall:

a. Provide adequate off-road parking and loading areas

b. Facilitate orderly launching and retrieval of boats, as well as the movement of vehicles and trailers in the launching area

c. Be located away from the immediate water's edge and beaches as much as practicable.

d. Be designed in a manner that surface runoff does not pollute adjacent waters or cause soil or beach erosion.

7.6 Commercial Development

Management Policies

SMP-SU-9 Commercial Use provisions of the Shoreline Master Program are intended to be consistent with Comprehensive Plan, zoning, overlay districts, and other development regulations within the City.

SMP-SU-10 Preference shall be given to water-dependent commercial uses over nonwater-dependent uses.

SMP-SU-11 Commercial properties should ensure visual compatibility with adjacent non-commercial properties.

SMP-SU-12 Commercial uses located in the shoreline should provide public access in accordance with constitutional or other legal limitations unless such improvements are demonstrated to be infeasible or present hazards to life and property.

SMP-SU-13 Restoration of impaired shoreline ecological functions and processes should be encouraged as part of commercial development.

SMP-SU-14 Commercial development will not result in a net loss of shoreline ecological functions or have significant adverse impact to other shoreline uses, resources and values, to include navigation, recreation and public access.

Development Regulations

SU-DR-16 Projects located within the Downtown Overlay District must be consistent with regulations in POMC Title 20.

SU-DR-17 Over-water construction of commercial uses is prohibited except as follows:

a. The development of docks, boat launch ramps, boardwalks, marine repair facilities, or other shoreline access facilities.

b. Commercial uses of existing over-water buildings may be allowed to facilitate reuse of existing structures along the waterfront.

c. Minor commercial uses that are accessory and clearly incidental to an allowed use may be provided on publicly owned docks, piers, and properties.
d. Commercial uses of over-water buildings are essential to water dependent industry or use.

SU-DR-18 All commercial development or redevelopment requiring a Substantial Development or Conditional Use Permit within the shoreline jurisdiction shall provide for public visual and/or physical access to the shoreline in accordance with the *Public Access* section of this Master Program. Properties within the Downtown Overlay District must be consistent with the *Public Access* section as well as any additional requirements in POMC Title 20.

7.7 Flood Control Works and Instream Structures

Management Policies

SMP-SU-15 New or expanding development or uses in the shoreline, including subdivision of land, that would likely require structural flood control works within a stream, channel migration zone, or floodway should not be allowed.

SMP-SU-16 Flood control works and instream structures should be planned and designed to be compatible with appropriate multiple uses of stream resources over the long term, especially in shorelines of statewide significance.

SMP-SU-17 Flood control works should only be allowed in the shoreline if they are necessary to protect existing development and where non-structural flood hazard reduction measures are infeasible.

SMP-SU-18 Flood control works to protect existing development should be permitted only when the primary use being protected is consistent with this Program, and the works can be developed in a manner that is compatible with multiple use of streams and associated resources for the long term, including shoreline ecological functions, fish and wildlife management, and recreation.

Development Regulations

SU-DR-19 Flood control works shall be permitted when it is demonstrated by engineering and scientific evaluations that:
a) they are necessary to protect health/safety and/or existing development and,
b) non-structural flood hazard reduction measures are not practicable.

SU-DR-20 New flood control works are prohibited on estuarine shores, on point and channel bars, and in salmon and trout spawning areas, except for the purpose of fish or wildlife habitat enhancement, restoration, or as identified in Development Regulation SU-DR-18.

SU-DR-21 New structural flood control works shall be placed landward of associated wetlands, and designated habitat conservation areas, except for works that improve ecological functions, such as wetland restoration, or as identified in Development Regulation SU-DR-18.

SU-DR-22 Revetments shall not be placed waterward of the OHWM except for weirs and current deflectors where necessary to protect bridges and roads.

SU-DR-23 No motor vehicles, appliances, other similar structures or parts thereof; nor structure demolition debris; nor any other solid waste shall be used for flood control works.

SU-DR-24 Cut-and-fill slopes and back-filled areas shall be stabilized with brush matting and buffer strips and revegetated with native grasses, shrubs, or trees to prevent loss of shoreline ecological functions and processes.

7.8 Industrial and Port Development

Management Policies

SMP-SU-19 Shoreline sites particularly suitable for development such as deep water harbors with access to adequate highway and utility systems should be reserved for water-dependent or water-related industrial and port development.

SMP-SU-20 In order to provide adequate shoreline for future water-dependent and water-related uses, industrial or port development at deep water sites should be limited to those uses that produce the greatest long term economic base.

SMP-SU-21 Industrial and port development that is consistent with this Program should be protected from encroachment or interference by incompatible uses with less stringent siting requirements, such as residential or commercial uses.

SMP-SU-22 Mixed use development, including nonwater-dependent uses, should only be encouraged when it includes and supports water-dependent and/or water-enjoyment uses.

SMP-SU-23 Regional needs for port facilities should be carefully considered in reviewing new port proposals and in allocating shorelines for such development. Such reviews or allocations should be coordinated with port districts, adjacent counties and cities, and the State.

SMP-SU-24 Existing, officially designated State Harbor Areas should be used for new port development to the maximum extent whenever possible.

SMP-SU-25 Multiple use of industrial and port facilities is encouraged to limit duplicative facilities and reduce adverse impacts. New non-water oriented uses should be prohibited on shorelines except when: a) The use is part of a mixed-use project that includes water-dependent and/or water-enjoyment 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 industrial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.

SMP-SU-26 New facilities for water-dependent uses should be considered only after assessment of the potential for shared use of existing facilities.

SMP-SU-27 Industrial and port developments shall provide opportunities for physical and/or visual public shoreline access in accordance with the Shoreline Management Act's public access policies, including recreational use of undeveloped shorelines not needed for port or industry operations; provided that, such uses are safely compatible with facility operations.

SMP-SU-28 Industrial and port development in the shoreline should be located and designed to avoid significant adverse impacts to other shoreline uses, resources, and values, including shoreline geomorphic processes, water quality, fish and wildlife habitat, commercial aquaculture, and the aquatic food chain.

SMP-SU-29 Restoration of impaired shoreline ecological functions and processes should be encouraged as part of industrial and port development.

Development Regulations

SU-DR-25 Over-water construction of non-water dependent industrial uses is prohibited, except as follows :

a. Development of an overwater structure for mixed use of water dependent and water-enjoyment uses;

b. Water-dependent industrial uses of existing over-water buildings may be allowed to facilitate reuse of existing structures along the waterfront

c. Minor industrial uses that are accessory and clearly incidental to an allowed use may be provided on publicly owned docks, piers, and properties;

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

SU-DR-26 Storage and/or disposal of industrial wastes are prohibited within shoreline jurisdiction, unless specifically listed in SU-DR-26 below.

SU-DR-27 The following may be permitted as an accessory use:

a. Storage of oil, fuel, chemicals, or hazardous materials, provided that they are an accessory to the main industrial use on the property and that secondary containment and an emergency spill response plan are included in the proposal.

b. Wastewater treatment and reclamation systems accessory to a permitted use, provided that alternate inland areas are unavailable and the proposed location, design and operation are compatible with existing and planned water-oriented uses.

SU-DR-28 Industrial and port facilities shall be located, designed, constructed, and operated so as to minimize impacts to shoreline resources and unnecessary interference with the right of adjacent property owners, as well as adjacent shoreline or water uses. Proposed industrial or port facilities must demonstrate conformance with the following:

a. Comply with all federal, state, regional, and local requirements regarding air and water quality. No generation of fly-ash, dust, vapors, odors, smoke or other substances shall be permitted that are harmful to health, animals, vegetation or neighboring properties.

b. Adequate buffers shall be installed to protect adjacent non-industrial uses. Buffers may be used for outdoor recreation or public access if consistent with public access provisions. Buffers may not be used for storage or waste disposal.

c. Industrial or port facilities shall be designed and operated to promote joint use of over-water and accessory facilities such as piers, docks, and storage, whenever practicable.

d. Protect public views of harbor areas and other vistas. Certain private views may beprotected within overlay districts as provided in Title 20 of the City's municipal code.

e. A minimum 4-foot vertical separation between the storage floor surface and the highest seasonal water is required where unpaved storage areas are proposed.
f. Compliance with all applicable fire safety and storage laws under South Kitsap Fire & Rescue jurisdiction.
g. Exterior lighting shall be directed away from water bodies or adjacent parcels whenever practicable.

7.9 Marinas

Management Policies

SMP-SU-30 Marinas shall meet federal, state, and local standards for health, safety and welfare.

SMP-SU-31 New marinas or redevelopment projects in existing marinas, shall provide dedicated public access, particularly where water-enjoyment uses are associated with the marina.

SMP-SU-32 Impacts to shoreline resources from live-aboard vessels should be regulated.

SMP-SU-33 The rights of navigation shall be protected and public boating facilities are encouraged.

SMP-SU-34 Accessory uses at marinas should be limited to water-oriented uses, or uses that provide physical or visual shoreline access for substantial numbers of the general public.

Development Regulations

SU-DR-29 New marinas and marina expansions should be located, designed, constructed, and operated so as to minimize impacts to shoreline resources and unnecessary interference with adjacent residential property owners and adjacent shoreline or water uses. Proposals for new or expanded facilities shall:

a. Be located with regard to favorable conditions related to prevailing winds, currents, bathymetrics, and adequate harbor flushing.
b. Comply with all federal, state, regional, and local requirements regarding water quality.
c. Be generally compatible with the general aesthetic quality of the shoreline area. Provide for adequate upland support facilities.
d. Provide accessory parking and loading areas.
e. Facilitate orderly launching, retrieval, and storage of boats as well as circulation of vehicles and pedestrians in the vicinity of the marina.
f. Havean emergency plan to minimize and handle accidental spills of hazardous liquids and wastes.
g. Provide pump-out and on-shore sewage and waste disposal facilities.

SU-DR-30 Marinas shall provide public access in accordance with this Master Program and the Shoreline Management Act.

SU-DR-31 All building materials shall be of a non-reflective material.

SU-DR-32 Individual boathouses are discouraged in new or expanded marinas. Replacement boathouses at existing marinas are supported.

SU-DR-33 On state-owned aquatic lands within marinas, the number of live-aboard vessel slips are limited to the provisions identified within WAC 332-30-171.

7.10 Moorage: Docks, Piers and Mooring Buoys

Management Policies

SMP-SU-35 Moorage associated with a single family residence is considered 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. Moorage for water-related and water enjoyment uses or shared moorage for other types of residential uses should be allowed as part of a mixed use development or where it also provides public access.

SMP-SU-36 New moorage, excluding docks accessory to single family residences, should be permitted only when the applicant/proponent has demonstrated that a specific need exists to support the intended water-dependent or public access use.

SMP-SU-37 Mooring buoys are preferred over docks or floats. Shared moorage facilities are preferred over single-user moorage where feasible, especially where water use conflicts exist or are predicted. New residential developments, including single-family subdivisions and multifamily and mixed-use developments, should provide shared moorage.

SMP-SU-38 Docks, piers and mooring buoysshould avoid locations where they will adversely impact shoreline ecological functions or processes, including currents and littoral drift.

SMP-SU-39 Moorage should be spaced and oriented in a manner that minimizes hazards and obstructions to public navigation rights and corollary rights thereto such as, but not limited to, fishing, swimming and pleasure boating, as well as private riparian rights of adjacent land owners.

SMP-SU-40 Moorage should be restricted to the minimum size 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 principal use.

SMP-SU-41 In general, pile supports are preferred over floats because piles do not displace water surface and intertidal or aquatic habitat and are removable and thus more flexible in terms of long-term use patterns; however, floats may be less desirable than pile structures where aquatic habitat or littoral drift are significant.

SMP-SU-42 The use of buoys for small craft moorage is preferred over piles or float structures because of lesser long term impact on shore features and users; moorage buoys should be placed as close to shore as possible to minimize obstruction to navigation.

SMP-SU-43 Shoreline resources and water quality should be protected from overuse by boaters living on vessels (liveaboards). Boaters permanently living on vessels are restricted to established marinas with facilities to address waste handling and other sanitary services.

SMP-SU-44 Vessels are prohibited from extended mooring on waters of the state unless such moorage is in compliance with the open moorage requirements of WAC 332-30-139.

SMP-SU-45 No vessel being used as a liveaboard residence shall be moored on waters of the state outside a marina.

SMP-SU-46 Piers and docks should be constructed of materials that will not adversely affect water quality or aquatic plants and animals in the long term.

SMP-SU-47 New pier and dock development should be designed so as not to interfere with lawful public access to or use of shorelines. Developers of new piers and shared moorage should be encouraged to provide physical or visual public access to shorelines whenever safe and compatible with the principal use and shore features.

Development Regulations

SU-DR-34 Applications for public mooring buoys should include an enforcement and management plan that describes rules and regulations for public use of state aquatic lands and navigable waters.
SU-DR-35 Private mooring buoys are permitted in Aquatic environments adjacent to Shoreline Residential, High Intensity, and Urban Conservancy environments.

SU-DR-36 Mooring buoys are subject to permitting requirements and Hydraulic Project Approval conditions from the Washington State Department of Fish & Wildlife.

SU-DR-37 Mooring buoys shall be located, designed, constructed, and operated so as to minimize impacts to shoreline resources and unnecessary interference with the right of adjacent property owners, as well as adjacent shoreline or water uses.

SU-DR-38 A mooring buoy shall secure no more than two boats.

SU-DR-39 Washington Department of Natural Resources (DNR) requires registration for mooring buoys placed onto state-owned aquatic lands.

SU-DR-40 No creosote, chromate copper arsenate, or pentachlorophenol treated wood, or other comparably toxic compounds may be used as part of the in-water decking, pilings, or other components of any structures such as docks, wharves, piers, marinas, rafts, floats or terminals. Treated wood may only be used for above water structural framing and is discouraged to be used as decking, pilings, etc. During maintenance, existing treated wood should be replaced with alternative non-toxic materials.

SU-DR-41 Tires are prohibited as part of above or below water structures or where tires could potentially come in contact with the water. Existing tires used for floatation should be replaced with inert or encapsulated materials such as plastic or encased foam, during maintenance or repair of the structure.

SU-DR-42 All foam material must be encapsulated within a shell that prevents breakup or loss of the foam material into the water and is not readily subject to damage by ultraviolet radiation or abrasion. During maintenance, existing un-encapsulated foam material should be removed or replaced.

SU-DR-43 To prevent prop scour, boat mooring areas for new docks, marinas, shipyards and terminals, mooring buoys, rafts and floats should be located where the water will be deeper than 2 meters (7 feet) at the lowest low water, or where it can be shown that prop scour will not adversely impact aquatic vegetation or increase suspended sediment loads.

SU-DR-44 The design, location, and construction of docks, floats, and piers, as well as their subsequent use, should minimize adverse effects on fish, shellfish, wildlife, water quality, and geohydraulic processes.

SU-DR-45 Docks, piers, and floats should be designed, located and operated to minimize interference with adjacent water uses. The maximum length of a pier or dock should be the minimum necessary to accomplish moorage.

Development Standards for new Piers and Docks

Docks, piers, and floats should be designed, located and operated to minimize interference with adjacent water uses and impacts to fish, shellfish and habitat. The maximum length, width and surface area of a pier or dock should be consistent with the requirements of WAC 220-660-380 or its successor, and should be the minimum necessary to accomplish moorage and shore access based on site-specific circumstances as determined by a marine engineer, as well as potential impacts and mitigation requirements. The maximum width of a residential pier or dock is 6 feet. The maximum width of a ramp is 4 feet. Ells are not permitted on single-family residential docks, piers or floats.

Unless otherwise recommended by the Department of Ecology and/or the Department of Fish and Wildlife based on site-specific review, all decking, and floats 6 feet or less in width shall include a minimum of thirty percent (30%) functional grating, floats greater than 6 feet in width shall have a minimum of fifty percent (50%) functional grating, and ramps shall be fully grated. Functional grating shall not be covered or used as a storage area, and must be maintained in a condition free of algae, mud or other debris that may impede light transmission.

The diameter of piling shall not exceed 12 inches and shall be the minimum required for the purpose based on site-specific circumstances as determined by a marine engineer. New or replaced piles or structural members of a pile in direct contact with the water shall be constructed of concrete or steel in accordance with current best management practices and shall not be treated or coated with herbicides, fungicides or pentachlorophenol. No creosote, pentachlorophenol, CCA or comparable toxic compounds not approved for marine use shall be used for any portion of the overwater or in-water structure of a new or replacement pile, or a pile wrapping. ACZA treated wood may be used for overwater pile structures as long as it meets the most recent Post Treatment Procedures established as best management practices by the American Wood Preservers' Association and Western Wood Preservers Institute.

SU-DR-46 Publicly owned dock or pier facilities may not exceed the minimum length required for moorage.

SU-DR-47 Railings, if provided, should be of open framework design and conform to the Uniform Building Code where required.

SU-DR-48 Utility service, if provided on docks and piers, should be placed on or under the deck. Overhead utility service is prohibited. Lighting shall be designed and installed to prevent unnecessary glare.

SU-DR-49 Docks, piers and floats should be marked as necessary to avoid hazardous conditions for surface water users.

SU-DR-50 Structures over three (3) feet in height should not be permitted on a noncommercial pier, dock, or float, except railings, navigational features, hoists, shielded safety lighting, or other safety devices. This does not include floating dock pilings.

SU-DR-51 All piers and docks should be constructed an maintained in a safe condition. Abandoned or unsafe docks and piers should be removed or repaired promptly by the owner. Where any such structure constitutes a hazard to the public, the City may, following proper notice to the owner, abate the structure if the owner fails to do so within 90 days, and may impose a lien on the related shoreline property in an amount equal to the cost of the abatement.

SU-DR-52 Prohibited uses and activities are as follows.

a) Piers, docks, boathouses, and floats used for solely residential purposes (live-aboards are allowed within established commercial marinas).

b) Piers, docks, and floats on streams.

c) Covered moorage or boathouses over water except within established marinas and boat repair yards.

d) Fill waterward of the ordinary high water mark or within a marsh, bog or swamp to accommodate a pier, dock, or float.

7.11 Parking

This section applies to both surface and structure parking facilities. Parking may be a principal use or an accessory use.

Management Policies

SMP-SU-47 Parking lots and/or parking within structures to support permitted and conditionally permitted shoreline uses are not a preferred use in the shoreline jurisdiction, and should only be allowed where no feasible alternatives exist.

SMP-SU-48 The City should explore options for reducing and/or removing publicly-owned parking lots within the shoreline jurisdiction, including conversion to shoreline public access, public water-dependent and water-enjoyment uses, and shoreline recreation facilities such as beaches and fishing areas.

Development Regulations

SU-DR-53 New or redeveloped surface parking areas and parking lots shall be located outside the shoreline jurisdiction where feasible.

SU-DR-54 Parking for redevelopment in the HI shoreline environment shall meet the requirements of Appendix C, in addition to all other requirements of this master program.

SU-DR-55 Surface parking as a principal use, including commercial (pay) parking and/or parking for offsite uses, is not allowed in the Natural, Urban Conservancy, or Shoreline Residential environments.

SU-DR-56 Stand-alone structure parking is not allowed in the shoreline jurisdiction.

7.12 Recreation

Shoreline recreational development provides opportunities for play, sports, relaxation, amusement, or contemplation. It includes facilities for passive recreational activities, such as hiking, photography, and viewing. It also includes facilities for active or more intensive uses such as parks, trails, and fishing. This section applies to both publicly- and privately-owned shoreline facilities intended for use by the public or a private club, group, association, or individual.

Management Policies

SMP-SU-49 Shoreline recreational development should be given priority for shoreline location to the extent that the use facilitates the public's ability to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline. Where appropriate, such facilities should be dispersed along the shoreline in a manner that supports more frequent recreational access and aesthetic enjoyment of the shoreline for a substantial number of people.

SMP-SU-50 Recreational developments should facilitate appropriate use of shoreline resources while conserving them. These resources include, but are not limited to: accretion shoreforms, wetlands, soils, ground water, surface water, native plant and animal life, and shore processes.

SMP-SU-51 Recreational developments and plans should provide the regional population a varied and balanced choice of recreation experiences in appropriate locations. Public agencies and private developers should coordinate their plans and activities to provide a wide variety of recreational opportunities without needlessly duplicating facilities.

SMP-SU-52 Trail links between shoreline parks and public access points should be encouraged for walking or bicycle riding where appropriate. The City of Port Orchard Comprehensive Park Plan and the Mosquito Fleet Trail Plan should be considered in design and approval of public trail systems.

SMP-SU-52 Access to natural areas, including but not limited to shoreline beaches and Blackjack and Ross Creeks, should be a combination of linear shoreline trails or easements and small parking or access tracts to minimize user concentration to small portions of the shoreline.

SMP-SU-53 Recreation facilities should incorporate public education regarding shoreline ecological functions and processes, the role of human actions on the environment and the importance of public involvement in shorelines management. Opportunities incorporating educational and interpretive information should be pursued in design and operation of recreation facilities and nature trails.

SMP-SU-54 Recreation development should be located only where utility and road capability is adequate or may be provided without significant damage to shore features commensurate with the number and concentration of anticipated users.

SMP-SU-55 Cooperative efforts among public and private persons toward the acquisition and/or development of suitable recreation sites or facilities should be explored to assure long-term availability of sufficient public sites to meet local recreation needs.

Development Regulations

SU-DR-57 Recreational facilities shall make adequate provisions for:

a. Vehicular and pedestrian access

b. The prevention of overflows and trespasses onto adjacent properties.

c. Screening, buffer strips, fences, and signs to prevent park overflow and to protect the value and enjoyment of adjacent or nearby private or public properties

d. The enforcement of laws and regulations associated with use of the facilities being proposed

e. Water supply, sewage disposal, parking, and garbage collection.

f. Security

g. Maintenance

SU-DR-58 Valuable shoreline resources and fragile or unique areas, such as wetlands and accretion shoreforms, should be used only for non-intensive recreation activities.

SU-DR-59 Stairways and landings should be located upland of existing bulkheads, banks, and the OHWM unless integral to a water-dependent use or overwater structure permitted by this Master Program.

7.13 Residential Development

Residential development refers to one or more buildings, structures, lots, parcels, or portions of parcels that are used or intended to be used to provide a dwelling for human beings. Residential development includes single-family residences, duplexes, other detached dwellings, multifamily residences, apartments, townhouses, group housing, condominiums, subdivisions, planned unit developments, and short subdivisions. Residential development also includes accessory uses and structures such as garages, sheds, tennis courts, swimming pools, driveways, parking areas, fences, cabanas, saunas, and accessory dwelling units, when allowed by the underlying zoning. Single-family residences are identified as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. Without proper management, single-family residential use can cause significant damage to the shoreline area through cumulative impacts from shoreline armoring, storm water runoff, septic systems, introduction of pollutants, and vegetation modification and removal.

Management Policies

SMP-SU-56 Single family residences are designated as a priority use consistent with RCW 90.58.

SMP-SU-57 New residential development is encouraged to cluster dwelling units together to reduce physical and visual impacts on shorelines and to reduce utility and road costs. Planned unit developments that include common open space and recreation facilities, or a variety of dwelling sizes and types, are encouraged at suitable locations as a preferable alternative to extensive single lot subdivisions on shorelines. Plats and subdivisions must be designed, configured and developed in a manner that assures no net loss of ecological functions from full build-out of all lots.

SMP-SU-58 Structures or development for uses accessory to residential use should preserve shoreline open space, be visually and physically compatible with adjacent shoreline features, be

reasonable in size and purpose, and result in no net loss of shoreline ecological functions and processes.

SMP-SU-59 Building heights must be compatible with POMC Title 20, including any height restrictions required by overlay districts, and any subarea plans adopted in the City's Comprehensive Plan. .

SMP-SU-60 New residential development should be planned and built to minimize the need for shoreline stabilization and flood hazard reduction measures and assures not net loss of ecological functions.

SMP-SU-61 Measures to conserve native vegetation along shorelines should be required for all residential development. 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.

SMP-SU-62 Whenever possible, non-regulatory methods to protect shoreline ecological functions and other shoreline resources should be encouraged for residential development. Such methods may include resource management planning, low impact development techniques, voluntary protection and enhancement projects, education, or incentive programs.

SMP-SU-63 New multi-unit waterfront residential developments, including single-family residential developments of more than four parcels, should provide substantial shoreline access for development residents and the public, unless public access is infeasible due to incompatible uses, safety, impacts to shoreline ecology or legal limitations.

SMP-SU-64 Development should provide open space corridors between structures, and along site boundaries, so as to provide space for outdoor recreation, preserve views, and minimize use conflicts.

Development Regulations

SU-DR-60 Single-family homes may be exempt from the Shoreline Substantial Development Permit requirements when consistent with the precise terms of WAC 173-27-040(2)(g).

SU-DR-61 Residential development shall be located and designed to avoid the need for structural shoreline armoring and flood protection.

SU-DR-62 Subdivisions or development of more than four dwelling units adjacent to the waterfront shall dedicate, improve, and provide maintenance provisions for a pedestrian easement that provides area sufficient to ensure usable access to the shoreline for residents of the development and the general public. When required, public access easements must comply with the Public Access section of this Master program.

7.14 Shoreline Stabilization and Bulkheads

Shoreline stabilization includes actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind or wave action. These actions include structural and nonstructural methods. Shoreline stabilization measures can

include a wide range of works varying from hard vertical walls to vegetation conservation and enhancement.

Management Policies

SMP-SU-65 New development should be located and designed to avoid the need for future shoreline stabilization to the extent feasible.

SMP-SU-66 New structural stabilization should only be allowed to protect existing principal structures or in support of new water-dependent uses.

SMP-SU-67 New shoreline stabilization should result in no net loss of ecological functions

SMP-SU-68 The size of stabilization measure should be limited to the minimum necessary. Soft approaches should be used unless demonstrated not to be sufficient to protect principal structures, dwellings and businesses.

Development Regulations

SU-DR-63 Subdivisions of land must ensure the lots created will not require shoreline stabilization in order for reasonable development to occur, based on geotechnical analysis of the site and shoreline characteristics.

SU-DR-64 New bulkheads will be allowed only if a geotechnical analysis and report demonstrates danger and structural damage is likely to a legal principal structure.

a. New or enlarged structural shoreline stabilization measures for an existing principal structure, including residences, shall not be allowed unless there is conclusive evidence, documented by a qualified professional, that the structure is in danger within three (3) years from shoreline erosion caused by currents or wave action. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The analysis must evaluate onsite drainage issues and address drainage problems before considering structural shoreline stabilization.
b. Supplementary or non-structural stabilization must be shown to be impractical or non-effective, as demonstrated by a geotechnical report.
c. The report(s) must determine that the stabilization structure will not result in a net loss of shoreline ecological functions.
d. The report(s) must evaluate the following alternatives in order of preference: soft, hybrid, and hard shoreline stabilization (bank protection) measures. The least impacting alternative that is feasible must be selected.

SU-DR-65 Replacement bulkheads will be allowed, if soft armoring alternatives are not feasible. Replacement bulkheads should be placed landward of the OHWM, and will not be allowed waterward of the existing bulkhead.

SU-DR-66 Alternatives for shoreline stabilization shall be based on the following hierarchy of preference:

a. No action.
b. Relocating at-risk structures landward if feasible; enhancement of shoreline with native shoreline vegetation; management of upland drainage.
c. Flexible stabilization constructed of natural materials incorporating measures such as soft shore protection and bioengineering, including beach nourishment, protective berms, or vegetative stabilization.
d. Flexible stabilization, as described above, with rigid works, constructed as a protective measure.
e. Rigid works constructed of artificial materials such as riprap or concrete.

SU-DR-67 A seawall or bulkhead protecting state or local roads, may be rebuilt or repaired if deemed necessary by the City Engineer and Shoreline Administrator.

7.15 Signs

The City of Port Orchard recognizes the constitutional right for property owners to communicate using signs on their property. These policies are intended to ensure that signage within shoreline areas is consistent with the purpose and intent of the Act and this Program by addressing impacts to ecological functions, public safety and visual aesthetics.

Management Policies

SMP-SU-69 Signs should be located, designed and maintained to be visually compatible with local shoreline scenery as seen from both land and water, especially on shorelines of statewide significance.

SMP-SU-70 Sign location and design should not substantially impair shoreline views.

SMP-SU-71 All signs shall meet the requirements of POMC Title 20.

SMP-SU-72 Communities, districts, and/or multi-use or multi-tenant commercial developments are encouraged to erect single, common use gateway signs to identify and give directions to local premises and public facilities as a preferable alternative to a proliferation of single purpose signs.

SMP-SU-73 Off-premise signs are prohibited. Signs that are not water-dependent or that reduce public enjoyment of or access to shorelines are not encouraged. Such signs should not be located on shorelines except for approved community gateway or directional signs.

SMP-SU-74 Free-standing signs should be located to avoid blocking scenic views and be located on the landward side of public transportation routes which generally parallel the shoreline.

SMP-SU-75 To minimize negative visual impacts and obstructions to shoreline access and use, low-profile, on-premise wall signs are preferred over free-standing signs or other wall signs.

SMP-SU-76 Moving or flashing signs should be prohibited on shorelines.

SMP-SU-77 Artificial lighting for signs or security should be directed or beamed away from the water, public streets or adjacent properties.

Development Regulations

SU-DR-68 Signs shall conform to all provisions in POMC Title 20.

7.16 Transportation Facilities

Transportation facilities are those structures and developments that aid in land and water surface movement of people, goods, and services. They include roads and highways, bridges and causeways, ferry terminals, railroad facilities, and boat and floatplane terminals. The shoreline areas within the City of Port Orchard and the South Kitsap Urban Growth Area are dominated by transportation facilities. Major State Highways and local roads are adjacent to the entire length of the marine shoreline, parallel to the Sinclair Inlet, and multiple private docks and public passenger-only ferry docks are located in the area. Transit interchanges and transportation hubs are vital to the shoreline connection to major cities and transportation infrastructure that is vital to the local and regional economy.

Management Policies

SMP-SU-78 New transportation facilities should be located so as to not interfere with existing public access areas and significant natural, historic, archaeological or cultural sites.

SMP-SU-79 New or expanded public transportation facility route selection and development within the shoreline should be coordinated with related local and state government land use and circulation planning.

SMP-SU-80 Transportation system route planning, acquisition, and design in the shoreline should provide space wherever possible for compatible multiple uses such as utility lines, public access, pedestrian shore access or view points, or recreational trails.

SMP-SU-81 Transportation system plans and transportation projects within shorelines should provide adequate, safe, and compatible space for non-motorized traffic such as pedestrians and bicyclists. Space for such uses should be required along roads on shorelines, where appropriate, and must be considered when shoreline rights-of-way ends are being vacated or abandoned.

SMP-SU-82 Public access should be provided to shorelines where safe and compatible with the principal and adjacent use, or should be replaced where transportation development substantially impairs lawful public access. Viewpoints, parking, trails and similar improvements should be considered for transportation system projects in shoreline areas, especially where a need has been identified.

SMP-SU-83 Public transportation routes, particularly arterial highways and railways within the shoreline, should be located, designed, and maintained to permit safe enjoyment of adjacent shore

areas and properties by other appropriate uses such as recreation or residences. Vegetative screening or other buffering should be considered.

SMP-SU-84 Efforts to implement waterfront trails including the Mosquito Fleet Trail and Blackjack Creek Trail should accompany any shoreline transportation projects.

SMP-SU-85 Maintenance and repair of existing roadways and transportation facilities within the shorelines should not be unduly encumbered by Shoreline Master Program implementation.

Development Regulations

SU-DR-69 When feasible, major new transportation facilities should be located away from the shoreline.

SU-DR-70 Roads shall be located to avoid critical areas where possible.

SU-DR-71 Roads and waterway crossings are discouraged within wetlands or critical fish and wildlife conservation areas except when all upland alternatives have been proven infeasible and the transportation facilities are necessary to support uses consistent with this program.

SU-DR-72 Roads, bridges, culverts and similar devices are encouraged to afford maximum protection for fish and wildlife resources.

SU-DR-73 New transportation facilities should be located in a manner to and encouraged to be designed to minimize or prevent the need for shoreline protective measures such as riprap or other bank stabilization, landfill, bulkheads, groins, jetties or substantial site regrading.

SU-DR-74 Maintenance, repair, and replacement of existing road facilities is encouraged.

SU-DR-75 Road routes shall make provisions for pedestrian, bicycle, and other non-motorized modes of travel whenever feasible.

7.17 Utilities

Utilities are services and facilities that produce, transmit, carry, store, process, or dispose of electric power, water, sewage, communications, oil, gas, stormwater, and the like. The provisions in this section apply to principal use and activities such as sewage treatment plants, sewer lift pumps, stormwater outfalls and fuel storage facilities. On-site utility features serving a principal use, such as water, sewer or gas line to a residence, are "accessory utilities" and shall be reviewed as appurtenances to the principal use (in this example, the residential use).

Management Policies

SMP-SU-86 New public or private utilities should be located inland from the land/water interface, preferably out of the shoreline jurisdiction, unless:

a. Perpendicular water crossings are unavoidable; or

b. Utilities are required for authorized shoreline uses consistent with this Program.

SMP-SU-87 Utilities should be located and designed to avoid public recreation and public access areas and significant natural, historic, archaeological or cultural resources.

SMP-SU-88 Utilities should be located, designed, constructed, and operated to result in no net loss of shoreline ecological functions and processes with appropriate mitigation.

SMP-SU-89 All utility development should be consistent with and coordinated with all local government and state planning, including comprehensive plans and single purpose plans to meet the needs of future populations in areas planned to accommodate growth. Site planning and rights-of-way for utility development should provide for compatible multiple uses such as shore access, trails, and recreation or other appropriate use whenever possible; utility right-of-way acquisition should also be coordinated with transportation and recreation planning.

SMP-SU-90 Utilities should be located in existing rights-of-way and corridors whenever possible.

SMP-SU-91 Utilities serving new development should be located underground, wherever possible.

SMP-SU-92 Development of pipelines and cables on aquatic lands and tidelands, particularly those running roughly parallel to the shoreline, and development of facilities that may require periodic maintenance which would disrupt shoreline ecological functions should be discouraged except where no other feasible alternative exists.

Development Regulations

SU-DR-76 Utility development should provide for compatible, multiple uses of sites and rights-of-way.

SU-DR-77 Replacement of existing wires, utility poles, and similar existing infrastructure are permitted and are exempt from shoreline substantial permit requirements.

SU-DR-78 Utilities shall be located adjacent to or within existing utility or circulation easements or rights-of-way whenever feasible. Joint use of rights-of-way and corridors is encouraged.

SU-DR-79 Utilities shall be located, designed, constructed and operated so as to document no net loss of shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses.

SU-DR-80 Utility distribution lines serving new development including electricity, communications and fuel lines should be located underground, except where the presence of bedrock or other obstructions make such placement infeasible. Existing above-ground lines should be moved underground during normal replacement processes.

SU-DR-81 Land filling in shoreline jurisdictions for utility facilities or line placement is prohibited.

SU-DR-82 Clearing of vegetation for the installation or maintenance of utilities should be kept to a minimum.

SU-DR-83 Within the shoreline jurisdiction, new utility mounting and transmission poles are limited to 35 feet in height, or the height limit provided for the zone by Title 20, whichever is less.

CHAPTER 8:
SHORELINE ADMINISTRATION AND PERMIT PROCEDURES

This chapter provides information on the City's processes and permit procedures regarding the Shoreline Management Act and the City of Port Orchard Shoreline Master Program.

8.1 Shoreline Administrator

The City of Port Orchard's Community Development Director, or his/her designee, shall serve as the Shoreline Administrator. The Shoreline Administrator shall determine the proper procedure for all shoreline permit applications, and shall have the authority to grant, condition, or deny shoreline exemptions and administrative shoreline permits.

8.2 Hearing Examiner

The Hearing Examiner shall have authority to conduct open record public hearings and to grant, condition, or deny applications for shoreline substantial use, variance, and conditional use permits, subject to final approval by the Department of Ecology.

8.3 Shoreline Exemptions

A shoreline exemption is a Type I administrative decision, per POMC Section 20.22.020. The Shoreline Administrator shall promptly issue a letter of exemption if a proposed action meets the criteria required by WAC 173-27-040(2), or is specifically exempted pursuant to RCW 90.58.030(3)(e).

Additionally, requirements to obtain a Substantial Development Permit (SDP), 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.

Per WAC 173-27-040, 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 SDP process. An exemption from the SDP process is not an exemption from compliance with the Shoreline Management Act or the City's Shoreline Master Program, nor from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of this Master Program and the Act. 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 an SDP 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 Act and the Master Program.

8.4 Multiple Permits Required

Certain shoreline development or use proposals may require more than one shoreline permit or decision type (substantial development permit, shoreline conditional use permit, shoreline variance), and/or may also require additional land use permit approvals such as preliminary plat, conditional use permit, variance, binding site plan, etc. When more than one permit type is required for a shoreline development or use, all permit applications will be processed and reviewed concurrently according to the highest permit type (Types I-V) as specified in POMC 20.20 and 90.58.140, or as hereafter amended. If there is any conflict between the requirements of these regulations, the more stringent requirement shall control.

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8.5 Shoreline Substantial Development Permits

Shoreline Substantial Development Permits ("SDPs") are required for all developments (unless specifically exempt) that meet the legal definition of "substantial development." A "substantial development" is any development which meets the criteria of RCW 90.58.030(3)(e) or its successor, or any development which materially interferes with the normal public use of the water or shorelines of the state, or as specifically exempted pursuant to WAC 173-27-040.

SDPs are reviewed and processed by local governments and subsequently sent to Ecology. Under WAC 173-27-150, substantial development permits cannot be approved unless they are consistent with policies and procedures of the Shoreline Management Act, Ecology rules, and the local master program. The City may condition a permit if needed to ensure consistency of the project with the Act and the City's Master Program.

Certain proposed development activities and uses may qualify for processing as an administrative SDP subject to Section 8.5.1.1. An administrative SDP is a Type II decision per POMC Section 20.22.020. If a development activity or use does not qualify for an administrative SDP, it will be processed as a regular SDP, which is a Type III decision per POMC Section 20.22.020, and requires a public hearing before the City's hearing examiner.

8.5.1 Shoreline Substantial Development Permits - Administrative

8.5.1.1 Development Activities

Development activities that meet one or more of the following criteria and exceed the exemption thresholds shall be processed as an administrative SDP:

(a) The remodel, rehabilitation, or other development activities that significantly alter the exterior of an existing building (e.g., adding a fire escape to a building exterior). Minor modifications such as roof replacement, changes in window or door openings, or new siding may qualify as a shoreline exemption;

(b) Expansions of existing buildings that do not exceed a total of 1,000 square feet, will not exceed one-story in height, and will not increase the height of an existing roof;

(c) Temporary buildings or other activities that do not qualify as an exemption because they may have a temporary adverse impact on public views, aesthetics, or public access;

(d) Public access and other associated amenities that are located landward of the OHWM and the fair market value does not exceed $50,000;

(e) Underground utility improvements, including utility extensions, within an existing right-of-way;

(f) Installation of public art.

8.5.1.2 Permit Process

Administrative shoreline permits will be processed as an administrative (Type II) permit in accordance with the requirements of POMC 20.22, RCW 90.58.140, and WAC 172-27, or as hereafter amended. If there is any conflict between the requirements of these regulations, the more stringent requirement shall control.

8.5.2 Shoreline Substantial Development Permits – Hearing Examiner

8.5.2.1. Development Activities.

Substantial development permits that do not qualify for administrative review and approval under 8.4.1 shall be processed as a hearing examiner decision (Type III) permit in accordance with the requirements of POMC 20.22, RCW.90.58.140, and WAC 173-27, or as hereafter amended. If there is any conflict between the requirements of these regulations, the more stringent requirement shall control.

8.5.2.2. Permit Process

Hearing examiner shoreline substantial development permits will be processed as a quasi-judicial (Type III) permit in accordance with the requirements of POMC 20.22, RCW 90.58.140, and WAC 173-27, or as hereafter amended. If there is any conflict between the requirements of these regulations, the more stringent requirement shall control.

8.6 Shoreline Conditional Use Permits

8.6.1 Description

A Shoreline Conditional Use Permit (SCUP) is a Type III (quasi-judicial) decision per POMC 20.22.020, and requires a public hearing and decision by the City's hearing examiner. An SCUP allows greater flexibility in applying use regulations of the shoreline master program.. A development or use that is listed as a

conditional use in the use table in 7.1, or that is not listed in the use table in 7.1, must obtain an SCUP even if the development or use does not require a substantial development permit or is otherwise exempt from permit requirements. A development or use that is listed as “prohibited” in the use table in 7.1 cannot be approved through an SCUP.

8.6.2 Criteria for Granting Shoreline Conditional Use Permits

Uses which are classified or set forth in the applicable master program as conditional uses may be authorized provided that the applicant demonstrates all of the following:

1. That the proposed use is consistent with the policies of the SMA (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; and
5. That the public interest suffers no substantial detrimental effect.
6. Conditional uses must also meet criteria in WAC 173-27-140 which apply to all development.

Some proposals may require both a shoreline substantial development permit (Type I administrative or Type II hearing examiner) and a shoreline conditional use permit. Other proposals that are not a "substantial development" and are exempt from receiving an SDP might require a shoreline conditional use permit.

8.6.3 Permit Process

Shoreline Conditional Use Permits are subject to processing under POMC 20.22.050, RCW 90.58.140 and WAC 173-27-160. . They are administered by the Shoreline Administrator or his/her designee, and are subject to public notice, public comment, a public hearing and SEPA requirements. City-approved SCUPs are sent to Ecology at the end of the local appeal period. Ecology must either approve, deny or condition every SCUP within 30 days of receiving a complete permit application.

8.7 Shoreline Variances

8.7.1 Description

Shoreline variances are requests to adjust the applicable setback and/or bulk and dimensional requirements of the SMP where there are extraordinary or unique circumstances relating to the subject property such that the strict implementation of the SMP requirements would impose unnecessary hardship on the applicant or thwart the policies set for in RCW 90.58.020. When a development and/or use is proposed that does not comply with the bulk, dimensional and performance standards of the master program, such development can only be authorized by approval of a variance. A variance cannot be approved to permit a use that is listed as “prohibited” in the use table in 7.1.

Certain variance requests may qualify for processing as an administrative variance subject to Section 8.7.2. An administrative variance is a Type II decision per POMC Section 20.22.020. If a variance request does not qualify for an administrative variance, it will be processed as a regular variance, which is a Type III (quasi-judicial) decision per POMC Section 20.22.020, and requires a public hearing and a decision by the City's hearing examiner.

8.7.2 Criteria for Granting Shoreline Variances

Any variance request must meet the requirements listed below, depending on whether an administrative (Type II) or hearing examiner (Type III) variance is requested.

8.7.3 Shoreline Variances - Administrative

8.7.3.1 Criteria for granting administrative (Type II)shoreline variances

A request for an administrative shoreline variance must demonstrate that the development or use meets all of the criteria below, in order to be approved:

1. The development and/or use is located landward of the ordinary high water mark (OHWM) as defined in RCW 90.58.030(2)(c), and/or landward of any wetland as defined in RCW 90.58.030(2)(h); and
2. The maximum relief requested by the variance deviates from the applicable bulk, dimensional or performance standard(s) in the City's master program by no more than 20% of each applicable standard; and
3. The development and/or use meets all of the criteria of WAC 173-27-170(1), (2), (4) and (5).

If the administrative variance request meets the criteria for 3. above, but does not meet the criteria for both 1. and 2., an administrative variance cannot be granted, but a hearing examiner (Type III) shoreline variance may be requested.

8.7.4 Shoreline Variances – Hearing Examiner

8.7.4.1 When a hearing examiner (Type III) shoreline variance is required.

A development proposal does not qualify to request an administrative (Type II) shoreline variance if any of the criteria below are met, and a hearing examiner shoreline variance must be requested:

1. The development or use will be located waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030(2)(c), or within any wetland as defined in RCW 90.58.030(2)(h);
2. The relief requested by the variance deviates from the applicable bulk, dimensional or performance standard(s) in the City's master program by more than 20% of any applicable standard.
3. Any other shoreline variance that does not meet the criteria for an administrative shoreline variance.

8.7.4.2 Criteria for granting hearing examiner (Type III) shoreline variances

A request for a hearing examiner variance must demonstrate that the development or use will meet all of the criteria below, as applicable, in order to be approved:

1. If the development or use will be located waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030(2)(c), or within any wetland as defined in RCW 90.58.030(2)(h), it must meet the criteria of WAC 173-27-170(1), (3), (4) and (5).
2. For all variance requests, the development and/or use must meet all of the criteria of WAC 173-27-170.

8.7.5 Permit Process

Requests for a shoreline variance (Type II or Type III) are administered by the Shoreline Administrator or his/her designee, and are subject to public notice, public comment, a public hearing (Type III only) and SEPA requirements. City-approved shoreline variances are sent to Ecology at the end of the local appeal period. Ecology must either approve, deny or condition every shoreline variance within 30 days of receiving a complete permit application.

8.8 Appeals

The granting, denying or rescinding of a shoreline substantial development permit, shoreline conditional use permit or shoreline variance may be appealed to the state shoreline hearings board as provided in RCW 90.58.180.

CHAPTER 9: NONCONFORMING DEVELOPMENT AND USES

Nonconforming development includes shoreline uses and structures which were lawfully constructed, established, or created prior to the effective date of the Shoreline Management Act or the Master Program, or amendments thereto, but which do not conform to present regulations or standards of the Master Program or policies of the Act. In such cases, the standards of this Chapter shall apply. Redevelopment or expansion of nonconforming development and uses located within the High Intensity shoreline environment may occur consistent with the requirement of Appendix C.

9.1 Nonconforming Uses

Nonconforming uses include shoreline uses which were lawfully established prior to the effective date of the Act or the Master Program, or amendments thereto, but which do not conform to present regulations or standards of the Master Program or policies of the Act. The continuance of a nonconforming use is subject to the following standards:

a. Change of ownership, tenancy, or management of a nonconforming use shall not affect its nonconforming status, provided, that the use does not change or intensify.
b. Additional development of any property on which a nonconforming use exists shall require that all new uses conform to this Master Program and the Act.
c. If a nonconforming use is converted to a conforming use, no nonconforming use may be resumed without a shoreline variance.
d. If a nonconforming use is discontinued for a period of 365 or more consecutive calendar days, it shall lose its nonconforming status, and the continued use of the property shall be required to conform to the provisions of this Master Program and the Act, or obtain a shoreline variance.

A use which is listed as a conditional use but which existed prior to adoption of the Master Program for which a Conditional Use Permit has not been obtained shall be considered a nonconforming use.

9.2 Nonconforming Structures

1) Nonconforming structures include shoreline structures which were lawfully constructed or placed prior to the effective date of the Act or the Master Program, or amendments thereto, but which do not conform to present bulk, height, dimensional, setback, or density requirements. Nonconforming structures may continue even though the structures fail to conform to the present requirements of the environmental designation in which they are located. A nonconforming structure may be maintained as follows:

a. Necessary repairs and alterations that do not increase the degree of nonconformity may be made to nonconforming structures.
b. A nonconforming building or structure may be repaired and maintained, and replaced as provided in and as limited by this section and by Appendix C. Any maintenance or repair shall be within the existing building or structure footprint and shall not increase the degree of nonconformity.
c. Changes to interior walls or non structural improvements may be made to nonconforming buildings or structures.

d. A nonconforming building or structure that is located within the High Intensity shoreline designation, and that is nonconforming as to the bulk, dimensional and density requirements of this Master Program, may be added to or enlarged if such addition or enlargement conforms to the regulations of the zoning district and the shoreline environment designation, provided that the addition or enlargement is consistent with the standards of Appendix C.
e. 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.

2) Residential structures shall be deemed "conforming" and not subject to the provisions of this Section 9.2 under the following conditions:

a. the residential structure or appurtenant structure was legally established and used for a conforming use when established;
b. the residential structure or appurtenant structure is not an over-water structure;
c. the residential structure or appurtenant structure is non-conforming solely because it no longer meets the current standards for: setbacks, buffers, or yards; area; bulk; height; or density; and
d. redevelopment, expansion, change of occupancy class, or replacement of the residential structure is consistent with the master program, including requirements for no net loss of shoreline ecological functions.

For purposes of this provision, "appurtenant structures" means garages, sheds, and other legally established structures. "Appurtenant structures" does not include bulkheads and other shoreline modifications or over-water structures. Nothing in this section affects the application of other federal, state, or local government requirements to residential structures.

9.3 Nonconforming Lots

Undeveloped lots, tracts, parcels or sites located landward of the ordinary high water mark that were established prior to the effective date of the Act and this Master Program, but that do not conform to the present lot size or density standards are considered nonconforming lots of record and are legally buildable subject to the following conditions:

a. All new structures or additions to structures on any nonconforming lot must meet all setback, height, and other construction requirements of this Master Program, the Act, and the underlying zoning requirements, and must also comply with the City's applicable design, building, and engineering standards.
b. Lot or boundary line adjustments must be reviewed and approved by the City of Port Orchard Planning Department, so as not to create further nonconformities.

CHAPTER 10: SHORELINE ENFORCEMENT AND PENALTIES

10.1 Shoreline Enforcement

The choice of enforcement action and the severity of any penalty should be based on the nature of the violation and the damage or risk to the public or to public resources. The existence or degree of bad faith of the persons subject to the enforcement action, the benefits that the violator enjoys, and the cost of obtaining compliance should be considered. The City's Shoreline Administrator and the City's Code Enforcement Officer, or his/her designees, are authorized to enforce the City's shoreline master program.

10.2 Penalties

Any person found to have willfully engaged in activities on the City's shorelines in violation of the Shoreline Management Act of 1971 or in violation of the City's Master Program, rules or regulations adopted pursuant thereto shall be subject to the enforcement and penalty provisions of POMC Chapter 20.02, or as amended hereafter.

CHAPTER 11:
MASTER PROGRAM REVIEW, AMENDMENTS AND ADOPTION

11.1 Master Program Review

This Master Program shall be periodically reviewed and adjustments shall be made as are necessary to reflect changing local circumstances, new information, improved data, and changes in State statutes and regulations. This review process shall be consistent with WAC 173-26 requirements and shall include a local citizen involvement effort and public hearings consistent with state and local requirements.

11.2 Amendments to the Shoreline Master Program

Any provisions of this Master Program may be amended as provided for in RCW 90.58.120 and 90.58.200 and WAC 173-26. Amendments or revision to the Master Program, as provided by law, do not become effective until approved by the Washington State Department of Ecology.

Proposals for changes to shoreline environment designations must demonstrate consistency with the criteria set forth in WAC 173-22-040

11.3 Severability

If any provisions of this Master Program, or its application to any person or legal entity or parcel of land or circumstances is held invalid, the remainder of the Master Program, or the application of the provisions to other persons or legal entities or parcels of land or circumstances, shall not be affected.

11.4 Effective Date

This Master Program shall take effect on ***, 2021 and shall apply to new applications submitted on or after that date and to incomplete applications submitted prior to that date.

CHAPTER 12: DEFINITIONS

Accessory Building – A separate building attached to or detached from the principal building and used for purposes customarily incidental to the use of the principal building. Accessory buildings can include, but are not limited to: garage, shed, playhouse, cabana, hobby room, etc.

Accessory Dwelling Unit (ADU) – A separate, complete swelling unit attached to or contained within the structure of the principal dwelling; or contained within a separate structure that is accessory to the principal dwelling unit on the premises.

Accessory Use – A use on the same lot with, and of a nature customarily incidental and subordinate to, the principal use.

Accretion – The growth of a beach by the addition of material transported by wind and/or water. Included are such shoreforms as barrier beaches, points, spits, and hooks.

Act – The Shoreline Management Act of 1971, as amended (RCW Chapter 90.58).

Activity – An occurrence associated with a use; the use of energy toward a specific action or pursuit including, but not limited to fishing, boating, swimming, shellfish harvest, etc.

Administrator – The Shoreline Administrator is the City of Port Orchard Development Director, or designee, charged with administering the Shoreline Master Program.

Agriculture - The cultivation of soil, production of crops, and/or raising of livestock.

Agricultural activities – Agricultural uses and practices including, but not limited to: producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as the 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.

Agricultural products – Agricultural products includes, but is not limited to, horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, see, 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, mean, upland finfish, poultry and poultry products, and dairy products.

Agricultural equipment and agricultural facilities – Includes, but is not limited to:

a) 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.

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

c) Farm residences and associated equipment, lands, and facilities

d) Roadside stands and on-farm markets for marketing fruit or vegetables

Agricultural land – Those specific land areas on which agricultural activities are conducted as of the date of adoption of a local master program pursuant to these guidelines 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.

Amendment – A revision, update, addition, deletion and/or reenactment to the Port Orchard SMP.

Anadromous Fish – Species, such as salmon, which are born in fresh water, spend a large part of their lives in the sea, and return to freshwater rivers and streams to spawn and reproduce.

Approval – An official action by the City of Port Orchard agreeing to submit a proposed SMP or amendments to the Department of Ecology for review and official action pursuant to the SMA.

Appurtenant Structure or Building – A structure or building that is secondary to or which supports the use of the principal structure or building on the site, serving a purpose customarily associated with and incidental to the principal structure. Examples: decks, garages, parking lots and patios.

Aquaculture – The culture and 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 or upland finfish.

Aquatic - All water bodies, including marine waters, lakes, rivers, and streams and their respective water columns and underlying lands, which are defined as shorelines of the state.

Archaeology – The systematic recovery by scientific methods of material evidence remaining from human life and culture in past ages, and the detailed study of this evidence.

Assessed Value – The value of land and/or improvements as determined by the Kitsap County Assessor.

Associated Wetlands – Those wetlands that are in proximity to and either influence, or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act.

Backshore – The shore area wetted by storm tides but normally dry between the coastline and the high tide line. It may be a narrow gravel berm below a sea bluff or a broader complex of berms, marshes, meadows, or dunes landward of the high tide line.

Bathymetry, Bathymetrics - The measurement of water depth at various locations in a body of water, and; the information derived from such measurements.

Beach – The zone of unconsolidated material that is moved by waves, wind and tidal currents, extending landward to the coastline.

Beach feeding – A process by which beach material is deposited at one or several locations in the updrift portion of a driftcell. The material is then naturally transported by a wave's downdrift to stabilized or restore eroding beaches or berms.

Benthic – Of or having to do with the bottom of oceans or seas.

Berms – A linear mound of sand or gravel that is placed parallel to the shore at or above ordinary high water mark. It may be a natural or a manmade feature.

Best Management Practices (BMPs) – BMPs are methods of improving water quality. BMPs encompass a variety of behavioral, procedural, and structural measures that reduce the amount of contaminants in stormwater runoff and in receiving waters. The term "best management practices" is typically applied to nonpoint source pollution controls.

Bioengineering – The practice of using natural vegetative materials to stabilize shorelines and prevent erosion. This may include use of bundles of stems, root systems, or other living plant material, soft gabions, fabric, or other soil stabilization techniques, and limited rock toe protection where appropriate. Bioengineering projects often include fish habitat enhancement measures in project design. The use of bioengineering is seen as an alternative to riprap, concrete, or other structural solutions.

Biofiltration System – A stormwater or other drainage treatment system that utilizes as a primary feature the ability of plant life to screen out and metabolize sediment and pollutants. Typically, biofiltration systems are designed to include grassy swales, retention ponds, and other vegetative features.

Biota – Animals and plants that live in a particular location or region.

Boat House – A structure designed for storage of vessels located over water or in upland areas. Boat houses do not include any sort of residential development (i.e. houseboats).

Boat Launch – Graded slopes, slabs, pads, planks or rails used for launching boats by means of a trailer, hand, or mechanical device.

Boat Lift – A mechanical device that can hoist vessels out of the water for storage, repair, or maintenance.

Boat Ramp – See "boat launch" above.

Boating Facilities – Boating facilities include marinas, both backshore and foreshore, dry storage and wet-moorage types, covered moorage, and marine travel lifts.

Boatyard – A service business that builds, repairs or maintains small vessels:

- At least 85 percent of which are 65 feet or less in length; or
- More than 85 percent of the gross receipts come from working on vessels.

Breakwater – A structure, either rigid or floating, constructed offshore to protect beaches, bluffs, dunes or harbor areas from wave action.

Buffer – A parcel or strip of land that is designed and designated to permanently remain vegetated in an undisturbed and natural condition to protect an adjacent aquatic or wetland site from upland impacts, or to provide habitat for wildlife.

Building - Any structure having a roof and walls, used or built for the housing, shelter or enclosure of persons, animals or property of any kind.

Building Height – The vertical height or distance from the uphill elevation of the lower or either the existing or finished grade at the foundation or slab to the highest point of the roof of the building. If the uphill elevation line is not level, the average uphill elevation shall be the basis for the measurement.

Bulkhead – A solid or open pile wall usually constructed parallel to the shore whose primary purpose is to contain and prevent the loss of soil by erosion, wave, or current action. Bulkheads are used to protect marine bluffs by retaining soil at the toe of the slope or by protecting the toe of the bank from

erosion and undercutting. Bulkheads are typically constructed of concrete, steel or aluminum sheet piling, wood, or wood and structural steel combinations.

Buoy – A floating device anchored in a waterbody for navigational purposes or moorage. See also "mooring buoy."

Campground – An outdoor area established for recreational overnight accommodations.

Channel – An open conduit for water either naturally or artificially created.

Channel Migration Zone – An area in a floodplain where a stream or river channel can be expected to move naturally over time in response to gravity and topography.

City – The City of Port Orchard, Washington.

Clearing – The destruction or removal of vegetation, ground cover, shrubs and trees including, but not limited to, root material removal that affects the erosive potential of soils.

Covered Moorage – Boat moorage, with or without walls, that has a roof to protect vessels.

Commercial – Commercial developments are those uses that include wholesale, retail, service, office or business trade activities. A mixed-use development that contains commercial uses and residential uses within the same building or buildings shall be regulated as a commercial use according to the requirements of this Master Plan, including but not limited to setbacks, height and public access.

Comprehensive Plan – The document, including maps, adopted by the City Council that outlines the City's goals and policies relating to the management of growth, and prepared in accordance with RCW 36.70A.

Conditional Use – A use, development, or substantial development which is classified as a conditional use or a use which is not classified within the Master Program.

Conservancy – An area with valuable natural, cultural, or historical resources.

County – Kitsap County, Washington.

Creek – A small stream, often a shallow or intermittent tributary to a river.

Critical Areas – Aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas and critical drainage corridors, geologically hazardous areas, wetlands and streams.

Cumulative Impacts – The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

Development – For the purposes of this Master Program, 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 this chapter at any state of water level. Development does not include dismantling or removing structures if no other work is being performed.

Dike – An embankment usually placed within or near the edge of a flood plain to protect adjacent lowlands from flooding.

Dock – A landing and moorage facility for watercraft that abuts the shoreline and does not include recreational decks, storage facilities, or other appurtenances.

Downdrift – The direction of movement of beach materials.

Dredging – The removal of earth, sand, gravel, silt, or debris from the bottom of a stream, river, lake, inlet, bay, or other water body and associated wetlands.

Drift Cell – A geographic unit along the shore. Each begins at a sediment source along an eroding shoreline, often at the base of "feeder bluffs." Sediment is transported within the drift cell by currents and wind-blown waves, finally being deposited at an accretion shoreform (e.g. spits, sandbars, accretion beach) marking the end of the drift cell.

Dwelling unit – One or more rooms designed for occupancy by a person or family for living and sleeping purposes, containing kitchen facilities, lavatory, and closet, and rooms with internal accessibility, for use soley by the dwelling's occupant; including but not limited to bachelor, efficiency and studio apartments, modular and manufactured homes.

Dwelling unit – multifamily – A residential structure designed for occupancy by more than one family household that is built in combination with other residential structures. Each dwelling unit in the structure is built exclusively for occupancy by a single family with no other uses except accessory activities. However, a multifamily structure may share one or more common walls and stack units on multiple floors. Multifamily residential structures may be clustered on a site, located on a lot line (zero lot line), and include stacked multiplex, garden apartments, and other prototypes.

Ecological Function – 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.

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

Enhancement – An action approved by the Shoreline Administrator and taken with the intention on probably effect of improving the condition and function of a shoreline area, such as improving environmental functions in an existing, viable shoreline habitat by means of increasing plant diversity, increasing wildlife habitat, installing environmentally compatible erosion controls, or removing nonindigenous or invasive plant or animal species. Enhancement may include alteration of an existing resource to improve or increase ecological characteristics and processes without degrading other existing functions. Any fish habitat enhancement project must meet the criteria of one or more actions included in RCW 77.55.181(1)(a).

Environmental Impacts – The effects or consequences of actions on the natural and built environments.

Erosion – The group of natural processes including weathering, dissolution, abrasion, corrosion, and transporting by which earth or rocky material is removed from any part of the earth's surface. Erosion can be exacerbated by human action, such as earth-moving or clearing activities.

Esplanade – A level stretch of ground, especially a public walk or walkway.

Estuary – The portion of a shoreline in which marine water is measurably diluted with fresh water from streams and/or land drainage.

Exaction – The act or process of exacting; extortion; something exacted; especially a fee, reward or contribution demanded or levied with severity or injustice.

Exemption – Development activity exempt from the requirements of the substantial development permit process of the SMA. An activity that is exempt from the substantial development provisions of the SMA must still comply with the policies and standards of the Act, and this Master Program. Condition use and/or variance permits may also be required even though the activity does not need a substantial development permit.

Extreme Low Tide – The lowest line of the land reached by a receding tide.

Fair Market Value – The open market bid price of a property and associated improvements. Fair market value for a proposed development is the open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services, materials, and labor 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, and equipment and facility usage, transportation and contractor overhead and profit. The fair market value of a development shall include the fair market value of any donated, contributed, or found labor, equipment, or materials.

Feasible – An action such as a development project, mitigation, or preservation requirement, that meets all of the following conditions: a) the action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results; b) the action provides a reasonable likelihood of achieving its intended purpose; and c) the action does not physically preclude achieving the project's primary intended legal use.

Feeder Bluff – A bluff or cliff experiencing periodic erosion from waves, sliding or slumping, whose eroded earth, sand or gravel material is naturally transported (littoral drift) via a driftway to an accretion shoreform.

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

First Class Tidelands – The beds and shores of navigable tidal waters lying within or in front of the corporate limits of any city, or within one mile thereof, upon either side and between the line of the ordinary high tide and the inner harbor line, and within two miles of the corporate limits on either side and between the line of ordinary high tide and the line of extreme low tide.

Fish Habitat Enhancement – see "Enhancement"

Float – A floating structure, not connected to the shoreline, that is moored, anchored, or otherwise secured in the water. A float may be accessible via a ramp connected to the shore.

Flood Control – Any undertaking for the conveyance, control, and dispersal of floodwaters caused by abnormally high precipitation or stream overflow.

Floodplain – The one-hundred year flood plain, or land area susceptible to being inundated by stream derived waters with a one percent chance of being equaled or exceeded in any given year. The limits of

this area are based on flood regulation ordinance maps or a reasonable method that meets the objectives of the SMA.

Floodway - 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.

Footprint, Building - The area covered by a building on the ground. For the purposes of this Master Program, this definition does not include cantilevered portions of a building, or those portions of a site that have only surface development without walls and a roof (such as a deck or patio) or development located solely underground (such as a below-ground basement).

Functions and Values – See "Ecological Functions."

Forest Practices – Any activity conducted on or directly related to forest land and related to growing, harvesting, or processing timber. These activities include, but are not limited to; road and trail construction, final and intermediate harvesting, precommercial thinning, reforestation, fertilization, prevention and suppression of disease and insects, salvage of trees, and brush control. Forest practices that only involve timber cutting are not considered "development" under the Shoreline Management Act, and do not require shoreline development permits; however, other permits may be required.

Freeboard – For the purposes of this Master Plan, it is the difference between the height of a shoreline armor structure and the water depth at the ordinary high water mark, measured at the seaward toe of the structure.

Gabions – Structures composed of masses of rocks, rubble or masonry held tightly together usually by wire mesh so as to form blocks or walls. Sometimes used on heavy erosion areas to retard wave action or as foundations for breakwaters or jetties.

Geomorphology – The science dealing with the relief features of the earth and the processes influencing their formation.

Growth Management Act (GMA) – The Washington State Growth Management Act of 1990 and amended thereto. Codified in RCW 36.70A.

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

Grassy Swale – A vegetated drainage channel that is designed to remove pollutants from stormwater runoff through biofiltration.

Groin – A barrier-type structure extending from the backshore or streambank into a water body for the purpose of the protection of a shoreline and adjacent uplands by influencing the movement of water and/or deposition of materials.

Guidelines – Those standards adopted by the state prior to adoption of master programs. Such standards shall also provide criteria for local governments and the department in developing and amending master programs.

Habitat – The place or type of site where a plant or animal naturally or normally lives and grows.

Habitat Enhancement – see "Enhancement"

Harbor Area – The area of navigable tidal waters as determined in Section 1, Article 15 of the Washington State Constitution, which shall be forever reserved for landings, wharves, streets, and other conveniences of navigation and commerce.

Hard Shoreline Stabilization – see "Shoreline Stabilization".

Hearing Examiner – The Hearing Examiner of the City of Port Orchard.

Hearings Board – The Shoreline Hearings Board established by the Shoreline Management Act.

Height, Building – See "building height."

Hook – A spit or narrow cape of sand or gravel which turns landward at the terminal end.

Hybrid Shoreline Stabilization – see "Shoreline Stabilization".

Hydraulic Project Approval (HPA) – The permit issued by the Washington Department of Fish and Wildlife pursuant to RCW 75.20.100-140.

Hydric Soil – Soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper soil horizon(s), thereby influencing the growth of plants.

Industry – The production, processing, manufacturing, or fabrication of goods or materials. Warehousing and storage of materials is considered part of the industrial process.

Inner Harbor Line – A line located and established in navigable tidal waters between the line of ordinary high tide and the out harbor line and constituting the inner boundary of the harbor area.

In-kind Replacement – To replace natural or man-made features with features whose characteristics closely match those which were destroyed, displaced, degraded or removed by an activity.

Intertidal – The vertical zone between the average high and average low tides. The intertidal zone of a stationary structure or bank is subject to alternate wetting and drying.

Jetty – A structure projecting out into the sea at the mouth of a river for the purpose of protecting a navigational channel, a harbor, or to influence water currents.

Landfill – The creation of dry upland areas by the deposition of sand, soil, or gravel into a body of water or wetland.

Levee – A large dike or embankment which is designed as part of a system to protect land from floods.

Littoral Drift – The mud, sand, or gravel material moved parallel to the shoreline in the nearshore zone by waves and currents.

Marina – A facility that provides launching, storage, supplies, moorage, and other accessory services for six or more pleasure and/or commercial water craft.

Master Program – See "shoreline master program."

May – Means the action is acceptable, provided it conforms to the provisions of WAC 173-26.

Mitigation – The process of avoiding, reducing, or compensating for environmental impact(s) of a proposal.

Mixed-Use – A mixed-use development contains a multi-family residential use, and commercial, public and/or recreational uses within the same building(s).

Moorage – Any device or structure used to secure a vessel for temporary anchorage, but which is not attached to the vessel (such as a dock or buoy).

Mooring Buoy – A floating object anchored to the bottom of a water body that provides tie up capabilities for vessels.

Must – Means a mandate; the action is required.

Navigable Waters – Those waters lying waterward of an below the line of navigability on lakes not subject to tidal flow, or extreme low tide mark in navigable tidal waters, or the outer harbor line where harbor area has been created.

Non-conforming Use or Development, Legal – A shoreline use or structure or portion thereof which was lawfully constructed or established prior to the effective date of the SMA or local Shoreline Master Program or amendments, but no longer conforms to the policies and regulations of the Master Program.

Non-water-oriented Use – A use which has little or no relationship to the shoreline and is not considered a priority use under the SMA. All uses which do not meet the definition of water-dependent, water-related or water-enjoyment are classified as non-water-oriented uses. Examples may include, but are not limited to professional offices, gas stations, auto dealerships, convenience stores, general retail, etc.

Normal Maintenance – Those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition.

Normal Repair – To restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction, except where repair involves total replacement which is not common practice or causes substantial adverse effects upon the shoreline resource environment.

Noxious Weed – Any plant that is invasive, and is listed on the state noxious weed list in WAC 16-750.

Offshore – The sloping subtidal area seaward from low tide.

Offshore Moorage Device – An offshore device anchored or otherwise attached to the sea bottom used to moor watercraft.

Off-site Compensation – Compensation for lost or degraded wetlands or other shoreline environmental resources by creating or restoring these areas on lands other than the site on which the impacts were located.

OHWM – See Ordinary High Water Mark

On-site Compensation – Compensation for lost or degraded wetlands or other shoreline environmental resources by creating or restoring these areas at or adjacent to the site on which the impacts were located.

One-hundred Year Flood Elevation – The elevation in feet of the area which has a one percent chance or greater of being flooded in any given year.

One-Hundred Year Flood Hazard Area – An area which has a one percent chance or greater of being flooded in any given year.

One-Hundred Year Flood – The maximum flood expected to occur during a one-hundred year period.

Open Space – A land area allowing view, use or passage that is almost entirely unobstructed by buildings, paved areas, or other manmade structures.

Ordinary High Water Mark (OHWM) – 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 the Department of Ecology; provided that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water.

Outer Harbor Line – A line located and established in navigable waters as provided in Section 1 of Article 15 of the Washington State Constitution, beyond which the State shall never sell or lease any rights whatsoever.

Over-water Structures – Structures built waterward of the OHWM including, but not limited to, piers, docks, jetties, dwelling units, and breakwaters.

Permit – A shoreline substantial development permit, variance, or conditional use permit, permit revision, or any combination thereof.

Person – An individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, agency of the state, or local government unit, however designated.

Pier – A fixed, pile-supported structure built over the water, used as a landing place for marine transport or for recreational purposes.

Pocket Beach – An isolated accretion beach bordered by shoreline modifications.

Pollutant – Any substance that has been or may be determined to cause or tend to cause injurious, corrupt, impure, or unclean conditions when discharged to surface water, air, ground, sanitary sewer system, or storm drainage system.

Priority Habitat – A habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes;

- Comparatively high fish or wildlife density
- Comparatively high fish or wildlife species diversity
- Fish spawning habitat
- 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 of dependent species
- 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 – 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.

a) Criterion 1. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), 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 & Wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.

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

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

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

Priority Use – The Shoreline Management Act and this Master Program give preference to shoreline uses that are water-dependent or water-related, provide public access and recreational use of the shoreline, as well as other uses which provide an opportunity for substantial numbers of people to enjoy the shoreline and to single-family residences.

Provisions – Policies, regulations, standards, guideline criteria or environment designations.

Public Access – A means of physical approach to and along the shoreline available to the general public. This may also include visual access. Provision of public access is a non-profit activity.

Public Interest – The interest shared by citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected such as an effect on public property or on health, safety, or general welfare resulting from a use or development.

Public Use – To be made available daily to the general public on a first-come, first-served basis.

RCW – Revised Code of Washington

Recreational Facilities – Facilities such as parks, trails, pathways, campgrounds, and swim rafts that provide a means for relaxation, play, or amusement.

Redevelop, Redevelopment - "Redevelop" or "redevelopment" means the replacement of an existing structure or part of an existing structure, or demolition of the structure, with development of a new and/or remodeled structure or structures in its place.

Revetment – A sloped shoreline structure built to protect an existing eroding shoreline or newly placed fill against currents and wave action. Revetments are most commonly built of randomly placed boulders (riprap) but may also be built of sand cement bags, paving, or building blocks, gabions, or other systems and materials.

Riprap – A loose assemblage of broken rock or concrete erected in or near water for protection from wave and current action.

Rock Weir – A structure made of loose rock that is designed to control sediment movement, water flow, or both. A rock weir adjacent to a shoreline is typically formed by placing rock in a line outward from the shore, with the top of the rock embankment below the water level to restrict current movements parallel to the shore without completely blocking flow.

SEPA – State Environmental Policy Act

SEPA Checklist – A form, available at the City, which is required of some projects to identify the probable significant adverse impacts on the environment. The checklist will assist the responsible official with making a determination of significance or nonsignificance.

Sea Wall – A bulkhead, for the primary purpose of armoring the shore from erosion by waves, which also may incidentally retain uplands or fills. Sea walls are usually larger than bulkheads because they are designed to resist the full force of waves.

Setbacks – The distance between buildings or uses and their lot lines as established in the Land Use Regulatory Code or the Shoreline Master program.

Shorelands – Those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark, including all wetlands associated with the shoreline which are subject to the provisions of the Shoreline Management Act and this Master Program, and to determination by the Department of Ecology.

Shoreline Administrator – The Shoreline Administrator for the City of Port Orchard is the Director of the Department of Community Development, or his/her designee.

Shoreline Permit – See "Permit."

Shorelines – All the water areas within the state, including reservoirs, and their associated wetlands, together with all underlying lands, EXCEPT 1) shorelines of statewide significance; 2) shorelines on segments of streams upstream of a point where the mean annual flow is 20 cubic feet per second or less, and the associated wetlands; and 3)shorelines on lakes of less than 20 acres in size and their associated wetlands.

Shorelines of Statewide Significance – Shorelines designated by the Shoreline Management act of 1971. Sinclair Inlet and adjacent saltwaters lying seaward of the extreme low tide are identified as a Shoreline of Statewide Significance.

Shorelines Hearings Board – A state-level quasi-judicial body, created by the Shoreline Management Act, which hears appeals by any aggrieved party on the issuance of a shoreline permit, enforcement penalty and appeals by local government of DOE approval of master programs, rules, regulations, guidelines or designations under the SMA.

Shorelines of the State – The total of all shorelines and shorelines of statewide significance.

Shoreline Stabilization - Actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind or wave action.

These actions include structural and nonstructural methods. Nonstructural methods, for example, include approaches such as building setbacks, structure relocation, groundwater management, and land use planning. Structural methods can be "hard" or "soft." "Hard" structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads, while "soft" structural measures rely on less rigid materials, such as bioengineering vegetation measures or beach enhancement. "Hybrid" structures are a composite of both soft and hard elements and techniques along the length of the armoring.

If any portion of a proposed development contains a measure or measures related to those defined as "hard" shoreline stabilization, except hard measures necessary to protect the connection to existing hard stabilization on adjoining properties, the whole development must be considered a 'hybrid'. Beach nourishment used for compensatory mitigation does not reclassify a hard structure as a hybrid structure. Generally, the harder the construction measure, the greater the impact on shoreline processes including sediment transport, geomorphology, and biological functions. Hard elements may be incorporated into Hybrid bank protection if those elements are used only for anchoring large wood and will not significantly impact shoreline processes such as erosion, wood recruitment, or littoral drift. Hard elements must not function as bank protection, groins, or beach grade control. A maximum of 15% of the hybrid bank protection project length may include hard armor features; if more than 15% of the bank protection project length includes hard armor features, the bank protection project will be considered "hard" and not "hybrid". The Washington State Department of Fish and Wildlife or the Department of Ecology may be consulted by the City to help determine whether hard anchoring elements will impact shoreline processes or function as bank protection, groins, or beach grade control.

There are a range of measures for shoreline stabilization varying from soft to hard that include, but are not limited to:

A. Soft.

1. Vegetation enhancement;
2. Beach enhancement;
3. Bioengineering measures;
4. Anchor logs and stumps; and
5. Gravel placement/beach nourishment.

B. Hard.

1. Rock revetments;
2. Gabions;
3. Groins;
4. Bulkheads; and
5. Seawalls; and
6. Pile walls.

Sign – Any visual communication device, structure, fixture, placard, painted surface, awning, banner, or balloon using graphics, lights, symbols, and/or written copy designated specifically for the purpose of

advertising, identifying, or promoting the interest of any person, institution, business, event, product, goods, or services; provided, that the same is visible from any public right-of-way or waterway.

Single-Family Residence – A detached dwelling unit designed for and occupied by one family, including those buildings, structures and developments within a contiguous ownership which are of a normal appurtenance (WAC 173-27-040(2)(g)). This definition does not prevent a single-family residence from containing an accessory dwelling unit provided that the requirements of POMC Title 20 for this use are met.

SMA – See Shoreline Management Act.

Soft Shoreline Stabilization – see "Shoreline Stabilization".

State Environmental Policy Act (SEPA) – SEPA requires state agencies, local governments and other lead agencies to consider environmental impacts when making most types of permit decisions, especially for development proposals of a significant scale. As part of the SEPA process, EISs may be required to be prepared and public comments solicited.

Stream – A body of running water that moves over the land surface in a channel or bed.

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

Structure or Building, Principal – The structure or building associated with the principal use of the property. In some circumstances, such as multi-building commercial or multifamily residential development, there may be more than one principal structure on a property. This definition shall not include nonhabitable, accessory structures and buildings such as storage sheds, decks, patios, greenhouses, swimming pools, and parking lots.

Substantial Development – Any developments of which the total cost or fair market value exceeds the amount currently established and in effect per WAC 173-27-040(2)(a), or any development which materially interferes with the normal public use of the water or shorelines of the state; EXCEPT as specifically exempted pursuant to RCW 90.58.030(3)(e).

Taking – The act of one who takes; something taken, as a catch of fish; informal receipts, especially of money; a government action assuming ownership of real property by eminent domain.

Upland – The area above and landward of the ordinary high water mark.

Use – The purpose or activity for which the land, or building thereon, is designed, arranged or intended, or for which it is occupied or maintained and shall include any manner of performance or operation of such activity with respect to the provision of this title. The definition of "use" also includes the definition of "development."

Utility – A service or facility that produces, transmits, stores, processes, or disposes of electrical power, gas, water, sewage, communications, oil, and the like. Utilities have been categorized as principal, accessory, and personal wireless facilities.

a) Principal utilities are services and facilities that produce, transmit, carry, store, process or dispose of power gas, water, sewage, communications (except wireless facilities), oil and the like.

b) Accessory utilities are small-scale distribution services directly serving a permitted shoreline use.

c) Personal wireless facilities include any unstaffed facility for the transmission and/or reception of personal wireless services. This can consist of an equipment shed or cabinet, a support structure, or an existing structure to achieve the necessary elevation, and the antenna or antenna array.

Variance – To grant relief from 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 Removal – The removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes impacts to functions provided by such vegetation. The removal of invasive or noxious weeks 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.

Vessel – Means ships, boats, barges or any other floating craft that are designed for navigation in order to transport people or goods over water, are used for or capable of being used for navigation, and do not interfere with the normal public use of the water. A vessel is considered capable of being used for navigation even if it is not used for navigation due to actions or inactions of the vessel owner(s) or due to conditions affecting the use of the vessel for navigation, which include, but are not limited to, broken engines, lack of an engine, hull damage, physical modifications, or missing sails. Vessel also means historic ships that do not have means of self-propulsion and steering equipment.

Water-dependent Use – A use which cannot exist in any other location than on the water and is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses may include, but are not limited to:

1) Public or private terminal/transfer facilities
2) Ferry terminals
3) Ship construction and repair facilities
4) Marinas and boat moorages
5) Tug and barge companies
6) Water transport dependent industries (e.g. pulp and lumber mills)
7) Fish processing plants requiring water transport
8) Float plane facilities
9) Aquaculture
10) Sewer outfalls

Water-enjoyment Use – A use providing passive and active recreation for a large number of people along shorelines. Through location, design, and operation, the use also provides the ability for the public to interact with the shoreline. To qualify as a water enjoyment use, the use much be open to the public with most, if not all, of the shoreline devoted to fostering human interaction with the shoreline. Water enjoyment uses include, but are not limited to:

1) Public waterfront parks
2) Public Beaches
3) Aquariums
4) Public restaurants
5) Resorts and convention centers with facilities open to the public

6) Retail and mixed commercial developments designed to enhance a waterfront location through expanse of views, amenities oriented to pedestrians, and other aesthetic design features.

Water-oriented Use – Any one or a combination of water dependent, water related, or water enjoyment uses.

Water-related Use – A use or a portion of a use which is not intrinsically dependent on a waterfront location but whose operation cannot occur economically without a waterfront location. Water-related uses include, but are not limited to:

1) Warehousing of goods transported by water
2) Seafood processing plants
3) Gravel storage when transported by barge
4) Log storage

Wetlands or Wetland Areas – Areas that are inundated or saturated by surface or ground water 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; and (11). The definition set forth in Chapter 90.58 shall also apply as used herein.

Wireless Facilities – See "Utilities."

Exhibit 4

APPENDIX C –

Mitigation and Restoration for Redevelopment Activities in the High Intensity Shoreline Environment Designation

Revised: September 3, 2021

Shoreline redevelopment, as defined in this Master Plan, shall be designed and conducted in a manner that protects the current ecological condition of the shoreline, and prevents or mitigates adverse impacts, while encouraging revitalization and improvements within the City's waterfront areas. Redevelopment proposals shall preserve existing native habitat and shoreline functions to the maximum extent feasible, and shoreline restoration may be required for redevelopment within the shoreline buffer.

A. Applicability.

The provisions of this Appendix must be referenced in conjunction with other requirements of this Master Program and with other city policies and regulations. If a conflict appears to exist between this Appendix and another section of this Master Program or other city policies or regulations, the redevelopment proposal shall comply with the more stringent requirement, unless otherwise indicated herein.

B. Mitigation Sequencing

1. When redevelopment is proposed that could result in adverse impacts to the shoreline, mitigation measures shall be applied in the following sequence of steps, listed in order of priority:
a. Avoid the impact altogether by not taking a certain action or parts of an action;
b. Minimize impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
c. Rectify the impact by repairing, rehabilitating or restoring the affected environment;
d. Reduce or eliminate the impact over time by preservation and maintenance operations;
e. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments, including utilization of the in-lieu fee process where appropriate; and
f. Monitor the impact and the mitigation projects, and take appropriate corrective measures.

2. Application of the mitigation sequence shall achieve no net loss of ecological functions for each redevelopment proposal.

3. After mitigation sequencing is applied in accordance with 1. and 2. above, compensatory mitigation selection shall be guided by the following sections of this Appendix.

4. Failure to demonstrate that the mitigation sequencing standards have been met may result in permit denial, or the city may restrict or reduce development or uses, or impose additional conditions.

C. Mitigation Standards

1. Some redevelopment projects may result in multiple types of impacts to shoreline ecological functions, each of which may require compensatory mitigation.

2. Mitigation is not required outside of the standard shoreline buffer established for the relevant use and shoreline environment in Table 7.2 of this Master Program, unless the redevelopment impact is to aquatic lands, critical saltwater or freshwater habitat, or water quality. All other requirements of this Master Plan are applicable to the site, as are all other applicable city policies and regulations, including but not limited to, the land use and zoning code, critical areas ordinance, stormwater regulations, clearing and grading ordinance, and permit requirements.

3. A Shoreline Mitigation Plan shall be prepared for any redevelopment project that will result in adverse impacts to the shoreline, including removal of native vegetation within the shoreline buffer. If the project will also involve restoration, a combined Shoreline Mitigation and Restoration Plan may be submitted by the applicant.

4. Shoreline Mitigation Plans shall be prepared using site-specific data according to the requirements of WAC 173-26-201(2)(e) and WAC 197-11-660, to ensure no net loss of shoreline habitat values and functions or impacts to priority species. If critical areas will be impacted, the applicable requirements of the city's critical areas ordinance shall also be addressed in the mitigation plan.

5. Mitigation plantings or other mitigation options shall occur adjacent and parallel to the ordinary high water mark of the shoreline as a first preference. Depending on site conditions, mitigation may be allowed away from the shoreline edge, if the actions are replacing in-kind functions and would achieve greater ecological benefit.

6. All mitigation activities shall protect the integrity of adjacent natural resources, including critical areas, aquatic habitats and water quality, and shall be compatible with adjacent shoreline uses.

7. Removal of vegetation within a shoreline buffer shall comply with the following replacement ratios based on the area measurement of the vegetation to be removed, unless an alternative proposal can be demonstrated to have greater ecological benefit:

a. Removal of grass/lawn: 1:1 replacement with native vegetation.

b. Removal of non-native landscaping (groundcover other than lawn, shrubs, trees): 2:1 replacement with native vegetation.

c. Removal of native vegetation: 4:1 replacement with native vegetation.

D. Restoration Standards

1. Restoration of ecological functions and processes shall be carried out in accordance with a city-approved Shoreline Restoration Plan and the requirements of this Master Program. Shoreline Restoration Plans shall be prepared using site-specific data according to the requirements of WAC 173-26-201(2)(e) and WAC 197-11-660, to ensure no net loss of shoreline habitat values and functions or impacts to priority species. If critical areas will be impacted, the applicable requirements of the city's critical areas ordinance shall also be addressed in the restoration plan.

2. All restoration activities shall protect the integrity of adjacent natural resources, including critical areas, aquatic habitats and water quality, and shall be compatible with adjacent shoreline uses.

3. Covered Activities. The following actions, individually or in combination, are allowed under this section:

a. Establishment or enhancement of native vegetation;

b. Removal of nonnative or invasive plants upland of the ordinary high water mark, or hard or impervious surfaces such as pavement or other existing structures, and replacement with native vegetation.

c. Conversion of existing hard structural shoreline stabilization to permitted soft shoreline stabilization, including associated clearing, dredging and filling necessary to implement the conversion; provided, that the primary purpose of such actions is clearly restoration of natural character and the ecological functions of the shoreline and that the actions are consistent with the requirements of this Master Program and this Appendix.

E. Redevelopment Within a Shoreline Buffer (Setback)

1. Within a shoreline buffer, redevelopment of a site with one or more existing non-water-dependent, legal conforming or nonconforming building(s), or redevelopment of a portion of such building(s), may be allowed subject to the following:

a. The shoreline designation of the redevelopment site is High Intensity.

b. The redevelopment proposal shall not extend further waterward than the footprint of the existing primary building or the portion of such primary building to be redeveloped. Areas located between existing primary buildings, including planted landscaping and lawn, pavement and similar surface coverage, may be developed if the development will not extend further waterward than the existing primary buildings.

c. Any shoreline impacts anticipated to result from the redevelopment shall be subject to mitigation sequencing as provided in this Appendix, and addressed in a Shoreline Mitigation Plan.

d. Regardless of whether a Shoreline Mitigation Plan is required, the redevelopment proposal shall include a Shoreline Restoration Plan consistent with subsection C. above and with Section 6.6 (Shoreline Vegetation Conservation) herein that will provide a substantive, measurable improvement to shoreline

conditions within the site or in aquatic areas adjacent to the site, unless the site has an interrupted buffer pursuant to this chapter.

e. The redevelopment proposal shall not result in the loss of public access to the shoreline, including undeveloped easements or right of way.

f. Parking in the shoreline buffer may be allowed in the HI environment for redevelopment projects that (1) contain water-oriented uses (i.e., water-dependent, water-related and/or water-enjoyment uses), and/or (2) include parking areas that are identified on the maps shown in the City's adopted Downtown Subarea Plan, Section 3, 3.2.1 (West Downtown Planning Area) and 3.2.2 (East Downtown Planning Area).

g. Redevelopment within a shoreline buffer is not allowed in areas of special flood hazards as established according to POMC Section 20.170.060, or in geologic hazard areas as defined in POMC Section 20.162.044.

h. All portions of the shoreline buffer that will not be developed shall be maintained or replanted in native vegetation. Removal of existing native vegetation to accommodate development is not allowed within the shoreline buffer unless it is required for the water-related or water-dependent uses and accompanied by mitigation according to this Master Plan.

i. The city may request that the applicant submit studies by qualified professionals, or that a submitted study, impact analysis, and/or shoreline mitigation or restoration plan be peer-reviewed by qualified professionals at the applicant's expense, in order to determine compliance with the mitigation and/or restoration requirements of this Appendix.

j. The redevelopment proposal shall be consistent with other applicable city policies and regulations, including but not limited to the land use and zoning code, critical areas ordinance, stormwater regulations, clearing and grading ordinance, and permit processing requirements.

k. If the applicant is unable or unwilling to comply with subsections a. – j. above, the standard shoreline buffer for the shoreline environment designation of the site shall apply and all new development or redevelopment on the site shall be located outside the shoreline buffer unless otherwise allowed by the Act and this Master Plan.

F. Monitoring and Maintenance of Mitigation and Restoration Activities

1. Mitigation and restoration activities are subject to the requirements of Section 6.6 – Development Regulations G-DR-33.h. and G-DR-36 of this Master Program.

2. Mitigation and restoration activities that are unpermitted, are inconsistent with an approved mitigation plan or restoration plan, or are not maintained in accordance with subsection 1. above, are subject to enforcement per Chapter 10 of this Master Program.